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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. SNOWBARGER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 22, 1997.

I hereby designate the Honorable VINCE SNOWBARGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With grateful hearts we laud and praise every person who uses the talents and abilities You have given, O God, in ways that promote justice and serve the common good.

May Your good blessing, O God, be with the men and women who serve in this place and encourage them along the way. Give them vision to see the way of justice, give them grace to withstand all the pressures of the day, and give them patience and understanding to demonstrate the spirit of unity in their words and in their actions.

Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California [Ms. SANCHEZ] come forward and lead the House in the Pledge of Allegiance.

Ms. SANCHEZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act. Allowing property owners their day in court to defend their constitutional rights should be an easy vote. Why should property owners face enormously expensive hurdles in attempting to defend their Federal rights in court?

Some opponents of the bill are now standing as defenders of federalism and local decisionmaking. I hope their faith in State and local officials and their ability to make responsible decisions carries over to future discussions about block granting various Federal programs.

The fact is that H.R. 1534 does not impose any new limit on the ability of local governments to make decisions affecting zoning or any other land use controls. Those limits are imposed by the Constitution, not H.R. 1534. H.R. 1534 simply allows an individual who feels their fifth amendment rights have been violated the opportunity to have the facts of their case heard without fighting bureaucratic hurdles for years.

Mr. Speaker, I urge a ''yes'' vote on H.R. 1534.

CONGRESS SHOULD NOT GIVE UP ON PUBLIC SCHOOLS

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, just two weeks ago Speaker GINGRICH forced this House to pass a publicly-financed private school voucher program in the D.C. appropriations bill. This provision initially failed to pass the House, but the Speaker held the vote open and basically twisted his fellow Republicans' arms to change their vote.

In spite of this near failure, Speaker GINGRICH will take another step at cutting public education. He will bring to the floor this week another bill to pour taxpayer dollars into private and religious schools. It is called an education savings account, but would primarily benefit wealthy families.

Democrats have an alternative that would use the money for school construction bonds to help public schools that are in disrepair or in need of new construction.

Mr. Speaker, let us improve public education rather than siphon Federal dollars for private schools. Mr. Speaker, I urge my colleagues: Do not give up on the public schools.

FOR EFFECTIVE EDUCATION PARENTS SHOULD BE IN CONTROL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from New Jersey [Mr. PALLONE] and let me simply, gently correct the gentleman.

The proposed legislation we will bring to the floor of the House will help every American family by empowering every parent with the choice of how best to educate their child, whether in

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public schools or in an alternative setting.

Also, the bill we will bring to the House with a tax-free, interest-bearing account will allow those parents of children with special needs to have the ability to find a way to educate their children and, moreover, there will be no time limit on those children with special needs because we understand full well the challenges they will face, the special needs they have.

Mr. Speaker, what this bill does instead is allow parents the dignity to decide how best to educate their children, free from the Washington bureaucrats and the notion of centralized planning. It is as elementary as ABC.

Mr. Speaker, for an effective education, parents need to be in control.

$13,000 TOILETS BUILT BY PARK SERVICE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the U.S. Park Service built a $500,000 outhouse. That is right. This Taj Mahal has a slate roof, a porch, and a cobblestone foundation. The paint cost $80 a gallon. The wildflower seed was $720 a pound.

Unbelievable. To boot, it is earthquake proof, able to withstand the shock of 6.5 on the Richter, either from without or within.

Mr. Speaker, if that is not enough to warm your globe, there is no running water and the special high-technology self-composting toilets cost $13,000 each. The Park Service said, ''We tried to cut costs desperately.''

Mr. Speaker, I have a suggestion. Why do they not cut those $13,000 toilets in half to better accommodate all those half-passed bureaucrats at the U.S. Park Service?

DANGERS OF TRANSPORTING NUCLEAR WASTE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, in the upcoming debate over H.R. 1270, many of my colleagues will make the unfortunate statement that the shipment of the world's most deadly material, nuclear waste, is safe. That is wrong. It is absolutely and totally wrong.

The Sandia National Laboratories found that terrorists using a small amount of military explosives could blow just a 6-inch hole in a container, releasing 2,000 to 10,000 curies, a deadly amount of radiation.

Furthermore, a 1985 Department of Energy contractor report stated that the release of only 1,380 curies could be sufficient to contaminate, get this, 42 square miles, an area that could take up to 460 days to clean up at a price tag for the taxpayers of more than $620 million.

Mr. Speaker, another DOE contractor estimated that that could cost up to $19.4 billion, that is with a B, billion, to clean up.

Mr. Speaker, we are aware of the real threat of terrorism and accidents in this country. I say to my colleagues, if it could happen in their district, there is no reason to transport nuclear waste.

Mr. Speaker, I urge my colleagues to vote ''no'' on H.R. 1270.

SAY NO TO FAST TRACK

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, those of lesser intellect might question the wisdom and efficacy of our trade policy. After all, our deficit rose last month. In fact, the $10.4 billion deficit in August was the worst in 7 months. We are headed toward a $114 billion budget deficit this year, eclipsing last year's record of $111 billion.

Mr. Speaker, we are headed toward an all-time high deficit with China and our deficit with our NAFTA, free-trade partners increased once again. There was only one spot on the horizon that looked a little dark. We are actually running a surplus, a trade surplus with Central and South America. Imagine that. That is against the principles of free trade.

But do not worry, Mr. Speaker. This administration and the Republican leaders want to fix that. They want to jam through a fast track trade agreement so we can have free trade and the same principles with Central and South America that we do with the rest of the world. That means trade deficits for the United States, job exports for the United States, and disaster for the American workers.

Mr. Speaker, I urge my colleagues to say no to fast track and let us get a real trade policy that makes sense for American workers in this country.

TIME IS NOW FOR CAMPAIGN FINANCE REFORM

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, with the failure of the Senate to address the problem of campaign finance reform, the spotlight has returned to the House to create momentum for this effort.

As a conservative editor, Bill Kristol, recently suggested, there is a conservative grassroots hostility to the massive soft money donations and the apparent influence such donations buy for big businesses and unions.

Mr. Speaker, we must not let the American people down and shuffle aside reform. Do not forget that unlike the Senate, we must face the voters next year. To oppose this reform effort is not only bad policy, but it is bad politics.

In 1992, the voters abandoned the Republican and Democratic Parties in significant numbers, attracted by the reform platform of Ross Perot, who understood that the people are tired of the Washington status quo.

Mr. Speaker, we cannot surrender control of Congress to the multinational corporations and unions, which pump millions of dollars of soft money into the system. We must return power and influence to the grassroots, to the people who sent us here.

Mr. Speaker, as a conservative, I came to Washington with just such an agenda; to return authority to the people back home. To abandon that reform would be to abandon that effort. I cannot do so.

''RADICAL REPUBLICANS'' NOT A MODERN MONIKER

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, often, very often, we have heard the Republicans and their ideas called derogatory names, names like ''extremist,'' ''far right,'' ''radical,'' ''radical Republicans.'' But this is not the first such occasion this has happened.

In fact, Mr. Speaker, it was about 130 years ago when in this very room the defenders of the status quo called a group of Republicans radical. During Reconstruction, it was radical Republicans who were criticized 130 years ago.

So what were these radical ideas 130 years ago that caused the radical Republicans to be so chastised by their critics? It was full citizenship for black Americans, not just abolishment of slavery, full voting rights, owning of property, full citizenship. Now it is commonly accepted here in America.

So, Mr. Speaker, when we hear today's radical Republican ideas like scrapping the IRS Tax Code, like school vouchers and competition, like regulation reform and individual responsibility, remember the critics of radical Republicans not long ago. It is not new; it is just the entry fee for the bright future of our country.

CONGRATULATIONS TO DEBORAH TAMARGO, WINNER IN FLORIDA DISTRICT 58 ELECTION

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, yesterday in Florida we had a special election in Florida State House District 58. The incumbent Democrat, Elvin Martinez, had retired to take a judgeship.

Mr. Speaker, I rise today to congratulate Republican Deborah Tamargo, the new State Representative from District 58. This now moves

the Republican majority in the State House of Florida to 65 versus 55.

Mr. Speaker, as most people know, 1996 was the year for the first time since Reconstruction that the Republican Party had taken the State House in Florida, and now the State House majority is 65. My congratulations go out to Deborah and to all the Republicans who got involved in that race.

Mr. Speaker, I would like to read a quote from Tom Slade where he said, ''Perhaps a key moment came in the endorsement of Martinez,'' the Democrat, ''by one of the local editorial boards.'' The endorsement favored the Democrat in the race because of her willingness to raise taxes.

Mr. Speaker, Deborah Tamargo won on Republican principles of less taxes and less government.

□ 1015

IRS REFORM: WELCOME ABOARD, MR. PRESIDENT

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, during the congressional recess I was back home meeting with constituents at townhall meetings. A recurring frustration expressed to me was, ''you Republicans are the ones that proposed tax cuts, and you got them through; the President, who opposed them all along the way, now is taking credit for it. You Republicans proposed balancing the budget; the President opposed it all along the way, and now he is taking credit for it.''

I always smile at such comments, because I view it as proof that the Republican agenda and ideals are winning.

Now, with IRS reform at the top of our agenda, we Republicans have pledged to the people of this country that we are going to overhaul from top to bottom the way the IRS conducts business. We are going to simplify the Tax Code, and make what is left of the IRS accountable to taxpayers. Since we made this proposal, the President and his advisers said they were going to oppose us. They defended the IRS and claimed it was running satisfactorily now.

Lo and behold, today, I picked up the Los Angeles Times. The front page story reports that ''after weeks of vehement opposition,'' the President ''has made an abrupt reversal'' and is now supporting our call for IRS reform.

Mr. Speaker, I have no doubt that in the near future the President will forget his original position, and will be taking full credit for our IRS proposals, too. When I think of President Clinton's tendencies in this regard, I am reminded of the sign Ronald Reagan kept on his desk: ''There is no end to what a person can accomplish if they do not mind who gets the credit.''

IRS reform. Welcome aboard, Mr. President.

SUPPORT PUBLIC EDUCATION IN AMERICA

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute.)

Mr. MCGOVERN. Mr. Speaker, the success of America is a direct result of its public school system. We were among the first nations in the world to provide for universal public education for all our children. I would venture to say that the majority of Members of this House and the overwhelming majority of their staff are products of the public school system in this country.

Why then, Mr. Speaker, is the Republican leadership of this House so hostile to our public schools. Let me say a word about the public school system in the Third Congressional District of Massachusetts, which I represent. In the city of Worcester, the families and community enthusiastically embrace the public school system. Eighty-seven percent of the children eligible for grades K through 12 attend public schools.

Working together as a community, Worcester School Superintendent Jim Garvey, teachers, parents, business leaders, area colleges and universities, and neighborhood groups have created a school district with topflight teachers providing education to every child.

This effort deserves our respect and our praise. Mr. Speaker, I will not support the majority's plan to dismantle our public education system. I urge my colleagues to reject these efforts on the House floor this week.

EDUCATION

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, reading, writing, and arithmetic are the basic building blocks of education. Today, I would like to talk about an education issue that just does not add up, no matter how we do the math.

A recent study found that 14 billion is allocated to the Department of Education for elementary and secondary programs. Of that $14 billion, $2 billion never reaches local school districts. This must be some crazy form of new math, because I cannot quite see how this adds up.

The Department of Education is spending our tax dollars on something our children never see in the classroom. We can apply algebra, geometry, calculus, but no matter how we look at this equation, we get the wrong answer.

That is why I support House Resolution 139, the Dollars to the Classroom resolution. This measure puts 90 percent of the Department of Education's elementary and secondary funds where they belong, in the classroom. It is pretty simple. Subtract the money from the Washington bureaucracy and add it to the local school districts. That equals better education for our students and a better buy for taxpayers.

REFORM OF THE IRS AND TAX CODE

(Ms. GRANGER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GRANGER. Mr. Speaker, when I was first elected to Congress, people told me that to be successful in Washington I had to know how to count my votes. I did not come to Congress to count votes. I came to make my vote count. One issue I want to speak out on today is the IRS.

Recent hearings in the Senate have only confirmed what millions of Americans have always known, the IRS is outdated, out of touch and out of control. Mr. Speaker, it is no wonder the American people are growing frustrated with the way the IRS does business. The IRS recently spent $4 billion on a computer program which was completely unable to function because it was literally overwhelmed by a Tax Code which is too complicated and too convoluted.

How can we expect the American people to comprehend a Tax Code when a $4 billion computer cannot?

Mr. Speaker, I raise these issues not because I wanted to indict the IRS. I raise them because I want to improve it. We owe the American people more, much more. We owe them an IRS that is reasonable and we owe them a that is readable. Mr. Speaker, the world's freest people deserve the world's fairest tax system.

I do not think that is too much to ask. Let us tear down the Tax Code and build up the American people.

CHARTER SCHOOLS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, in 1992, there was one charter school in the United States of America. Today, there are over 1000. In the next 3 years, there are expected to begin 3,000 more. What.

Is a charter school and why do they seem to be growing and seem to be so popular? A charter school is a public school. It is publicly funded, but unlike most public schools these days that have all their rules and regulations dictated by Washington bureaucrats, charter schools have their own rules, their own goals and their own set of regulations. That is why they are so popular.

Every day when I speak to a teacher, she or he tells me about the paperwork that they must do, 2 to 3 hours' worth each week to send off to Washington or to Atlanta to the State Capitol. They tell me about going to seminars where they are told not to hug children, not to touch children, never to walk into a bathroom alone with a kid because of

harassment and so forth. I talked to parents who will no longer go to PTA meetings because they say it does not matter. We have no control anymore.

Mr. Speaker, charter schools return local control to those parents and those teachers and that classroom. That is why charter schools are so important and that is why the Republican conference is supporting them.

CONGRATULATIONS TO REV. JESSE JACKSON

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to pay tribute to the Reverend Jesse Jackson. The reason I do so is because I am delighted that the President of the United States has decided to select this man for all seasons to be Special Envoy to Africa.

Many of us have seen the works of Reverend Jackson and know full well his compassion and intellect, his commitment to world peace and humanity. What better position than to assign him as a Special Envoy to Africa, working with this great continent on humanitarian issues, on issues of peace, economic development, and social justice. It was Reverend Jackson who was at the pivotal point of working against apartheid in South Africa, one of the strong, eloquent agitators who provided for the freedom of the now distinguished statesman, President Nelson Mandela. Certainly a child of the movement and of the civil rights era, a protege of Dr. Martin Luther King, he was raised in the arena of understanding how to achieve peace.

We wish him well and he will make us very proud. Reverend Jackson is an American, but he is a world leader and we are delighted to have his leadership as a Special Envoy to Africa. Congratulations, Rev. Jesse Jackson.

ANNOUNCEMENT ON RULE FOR H.R. 1270, THE NUCLEAR WASTE POLICY ACT OF 1997

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet on Friday, October 24, this Friday, to grant a rule which may restrict amendments for consideration of H.R. 1270, the Nuclear Waste Policy Act of 1997. Any Member contemplating an amendment to H.R. 1270 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than 5 p.m. on this Thursday, tomorrow, October 23. The Committee on Rules office, for those who are not aware of it, is upstairs in H–312.

Members should draft their amendments to the Committee on Commerce reported version of the bill, which the Committee on Rules intends to make in order as the base text for the purpose of amendment. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the distinguished Parliamentarian to be certain that their amendments comply with the rules of the House.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes. The joint resolution shall be considered as read for amendment. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SNOWBARGER). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA [Mr. MOAKLEY], the distinguished ranking minority member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule makes in order House Joint Resolution 97, which makes further appropriations for fiscal year 1998. It is a closed rule providing 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The continuing resolution made in order by this rule is very simple and noncontroversial. It simply extends until November 7, funding for those agencies and programs that have not received permanent appropriations on the terms and conditions imposed by the previously adopted continuing resolution, which as we all know, expires tomorrow.

As we all know, approval of this continuing resolution is necessary to prevent a Government shutdown since only 5 of the 13 appropriations bills have been signed into law, although 2 more are pending Presidential action right now. Hopefully, by November 7, differences over the remaining appropriations bills can be resolved, and the Government will be operating under more normal conditions.

I also know that a number of my colleagues are troubled that the continuing resolution extends section 245(I) of the Immigration and Nationality Act.

□ 1030

I share their concern that in its current state section 245(I) may continue to encourage illegal immigration, although it is not the source of our illegal immigration program, and I am not convinced that allowing it to totally expire is the right solution. The issue needs to be resolved, preferably through compromise language that both opponents and proponents of the law can agree on.

My Committee on Rules colleague, the gentleman from Sanibel Island, FL, [Mr. GOSS], has a thoughtful solution, and I hope it will be part of any discussions we have. Our Republican leadership is also working with both sides to resolve the differences.

But this rule, and the continuing resolution it makes in order, are not the appropriate vehicles for settling this dispute. It is totally appropriate to grant section 245(I) a 2-week extension because this and other issues pertaining to the Commerce, Justice, State appropriations bill are still being addressed in conference with the Senate.

Let us debate section 245(I) and all of the other differences that have yet to be resolved, but let us do it at the appropriate time and the appropriate place.

Mr. Speaker, I urge adoption of this rule, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume, and I thank my very dear friend, my colleague, the gentleman from California, Mr. DAVID DREIER, for yielding me the customary half hour.

Mr. Speaker, we are doing the second continuing resolution because, despite the late date, despite the President's very clear decisions, my Republican colleagues still have not done their job and they still insist on playing politics.

The 13 appropriation bills should have been sent to the President for signature 3 weeks ago, but 4 of them are being stalled because my more radical Republican colleagues insist on attaching very controversial provisions to these bills. And as far as the President is concerned, those partisan provisions just beg his veto.

Mr. Speaker, the Government shutdown looming on the horizon may sound very familiar to us. Last Congress, when my Republican colleagues picked politics over pragmatism, they closed the Federal Government several times to the tune of hundreds of millions of wasted tax dollars.

For the sake of veterans and for the sake of Social Security recipients, Mr.

Speaker, I hope they are not planning to do that again. But, Mr. Speaker, it is sure starting to look that way.

Today's temporary funding bill will keep the Government from shutting down for another week. We need this bill, Mr. Speaker, because my Republican colleagues have refused to pass the rest of the appropriation bills. Some Members, unbelievable as it may sound, some Members would rather watch these appropriation bills go down in flames rather than work with President Clinton and their Democratic colleagues to make sure they become law.

For instance, Mr. Speaker, my Republican colleagues are using the Commerce, Justice, State appropriation bill to stop the Census Bureau from using a technique called sampling, which most experts agree will give us a more accurate census count. But that accuracy, Mr. Speaker, will come mostly from improved counts of people in inner cities and rural areas, and as far as my Republican colleagues are concerned, those people are better off not counted because their presence might hurt Republicans at the polls.

My Republican colleagues are also forcing a showdown on President Clinton's national education standards. President Clinton is hoping to set standards for fourth grade reading and eighth grade math, but my Republican colleagues just do not agree with him. And over that issue, and over that issue alone, the Labor, Health and Human Services appropriation bill may never see the light of day.

On a better note, Mr. Speaker, I am glad my colleagues have included the extension of section 245(I) of the Immigration and Naturalization Act in this continuing resolution. This provision will allow immigrants the opportunity to stay in this country while their applications are being processed. And those are only the immigrants that are eligible for citizenship. Mr. Speaker, these people are hard working. They have families here, and we should not be uprooting them from their families and jobs while they are waiting in line, legally, to become citizens.

Mr. Speaker, I hope this provision does not stop with the continuing resolution. I hope it will be permanently extended when we take up the Commerce, Justice, State appropriation conference report, if we take it up at all.

So Mr. Speaker, despite my opposition to the choice of politics over substance, I will support the continuing resolution. The American people deserve a government that is open for business, no matter how childish we get here in Washington, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Huntington Beach, CA, [Mr. ROHRABACHER], my very good friend with whom I have worked closely on a wide-range of issues, including the problem of illegal immigration.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER]. He and I have worked on a number of issues over the years and we have a close relationship, but I might add the issue I will be talking about today is a bipartisan issue that crosses both sides of the aisle.

I had been planning to oppose this rule. I had been planning to stand up today and ask my colleagues to join me in opposing this continuing resolution because it included in it a provision which would grant amnesty to 500,000 to 1 million illegal aliens who are currently residing in the United States of America.

That issue is a significant issue. It is something that I did not receive an agreement on until just a few moments ago, that there would be an up and down vote other than on this rule. So today, while not opposing the rule, I am announcing to my colleagues and to those people who are listening that there will be an up and down vote.

The reason why we will not be opposing this rule is that there will be an up and down vote on 245(I) next Wednesday in the form of a motion to instruct conferees on the Commerce, Justice, State appropriation bill to insist on the House's, that means this body's, disagreement with the Senate's permanent extension of 245(I).

Now, we all know in the House a motion to instruct conferees is not a binding motion. It does not actually secure the change in law that we are trying to gain. But if we win that vote, we then have been assured by the leadership that there will be a binding vote in this body on the issue of 245(I). So between now and Wednesday this issue of 245(I) will be discussed.

Just a preview of how much I disagree with my good friend, the gentleman from Massachusetts [Mr. MOAKLEY] on this issue, is that we passed an illegal immigration reform bill last year with the intent of restoring respect for America's immigration law. By taking half a million to a million people who are in this country illegally, and permitting them to stay in this country for $1,000, we are breaking down the respect for our immigration law that we attempted to build last year in our immigration reform bill. It is totally contrary to that process.

What we are talking about is an amnesty, a new amnesty for 500,000 to 1 million illegal immigrants. I strongly oppose that. It is in the Senate's bill already, in their Commerce, State, and Justice appropriation bill. Again, this provision has been snuck into law. We will have a chance to vote on it.

There has only been one vote in the Congress of the United States on the issue of 245(I). That vote was a resounding no. And then 3 years ago it was, instead, snuck into another larger piece of legislation without a vote for even a conference report, that was not voted on by either the House or the Senate. So the only vote that we have ever had on 245(I) has been against it.

We owe it to the American people not to have a policy in place that is so controversial and so contrary, actually contrary to the wishes and contrary to the interests of American citizens and legal immigrants into our country, without having a direct vote in the House. We have now been guaranteed that there will be an up and down vote. The first vote on this will be Wednesday on the motion to instruct conferees. And if we win that, there will be a binding vote.

So I will be supporting this rule and ask my colleagues to join me and look forward to the debate on this issue next week.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to including the provision on section 245(i) to extend amnesty to Illegals. Although, I accept the public commitment made by the House leadership on allowing an up or down vote on this issue next week. I stand with our colleague Representative ROHRABACHER on this commitment to an up or down vote. When that vote comes, I urge my colleagues to vote against any extension.

Section 245(i) of the Immigration and Naturalization Act should not be extended. This rewards illegal immigrants who knowingly violated the law and permits them to remain in the United States and gain permanent status.

What message does this send to people around the world? It tells them that they are better off to break the law than to follow it. It sends the wrong message to law-abiding people in other countries who have legally applied for entry into the United States while remaining in their homelands for their visas to become available. It tells them to come to this country illegally and then adjust the residence status. Section 245(i) inundates the INS another endless set of applications, further creating a backlog to delay conducting background checks and investigating fraudulent applications.

I am concerned today that our benefits system acts as a magnet for many illegal immigrants. For example, many children of illegal immigrants receive a free education in U.S. public schools at the expense of American taxpayers, driving up the cost of education and taking resources away from U.S. children. The State of New Jersey alone spends an estimated $146 million a year to educate about 16,000 children of illegal aliens.

The argument has been made that by allowing section 245(i) to stay on the books, the INS makes up to $125 million in revenue received from the $1,000 fee that aliens pay to obtain legal status. But, this money pales in comparison to the multi-billion dollar cost imposed on taxpayers as a result of the devastating consequences of illegal immigration.

The cost associated with providing Federal benefits to illegal immigrants is astronomical. While as a society, we should not turn people away from an emergency room or deny food to the hungry; but I do not believe we should reward illegal immigrants by allowing them to stay. While millions of others wait their turn in line, year after year to enter legally.

Although I understand that there are extenuating circumstances in some cases, I believe that anyone who is in the country illegally should be held to the letter of the law.

I urge my colleagues not to support any extension of section 245(i) and to vote against any extension at the appropriate time next week.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], the chairman of the Permanent Select Committee on Intelligence and the Subcommittee on Legislative and Budget Process.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my friend from greater metropolitan downtown San Dimas, CA, the distinguished vice chairman of the Committee on Rules for yielding me this time, and I rise to support his rule.

By allowing the House to consider this 2-week extension of the existing continuing resolution, this rule helps to ensure that current government functions remain operational while the Congress completes the work on next year's funding measures. We all know that and we all know why we are doing this.

Mr. Speaker, we will hear much discussion today of one provision of the law that is still very highly controversial and that may be extended for 2 weeks under this CR. I oppose a long-term extension of that provision of the immigration law, known as section 245(I), which has been discussed already this morning, which allows aliens who are in this country illegally to pay a fee and then adjust to permanent legal resident status.

This provision was, in fact, slipped into permanent law 3 years ago without hearings, without public discussion, or without debate on this floor. That is not the way laws should be made.

As part of the immigration reform of the 104th Congress, section 245(I) was set to expire on September 30. In other words, we had a phaseout of that provision, to be fair to all people who were put on notice. However, Congress extended the deadline for 3 weeks in the first continuing resolution this year to allow time for Members and the public to consider ramifications.

As that discussion is still continuing without resolution, the second CR includes another brief extension. I will support this one last extension in the hopes that a consensus can be achieved, and I believe it can. But I will not support a blanket extension, and I urge the House leadership to set aside time for full debate and vote on this issue.

In my view, indefinitely extending the 245(I) provision flies in the face of the reforms we passed last year by negating the consequences of illegally entering the United States. A permanent extension would further damage the credibility of our immigration system, which has for too long had its priorities reversed. For years, illegal immigration has been quick, while following the rules has been a slow and difficult process. Those who did it right, paid a penalty; those who did it wrong, got the rewards. That is backward.

In addition, a permanent extension would perpetuate an inherent conflict of interest for the INS, which is both tasked with deporting illegal aliens and requiring to process these people for legal residency. That is a tough decision for them.

While it seems there is no obvious middle ground, I have a proposal, which I understand the distinguished ranking member has spoken to already, to mitigate the impact on children under 18, who rely on section 245(I) to become legal permanent residents. In other words, reduce the impact on the families, which is a major concern for those of us in congressional offices who have been hearing about this.

□ 1045

This proposal would grandfather in minors already present in the United States and who have approved pending petitions. But it would not contradict the reforms we enacted last year. This is an important debate and there are many issues involved. We simply cannot have a policy that tells people who have abided by the lawful, established procedures that they would have been better off to simply have come across the border illegally or to ignore our laws. That is not good governance, it is not what the people of this country are asking us to do. I urge support for this rule.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleague across the way said that it is not amnesty. It allows illegals to remain in this country. That is amnesty. I do not care what semantics are, but it allows them to stay here and we are opposed to that. If you are here illegally, if you come into the United States illegally, we will legally deport you to whatever country of origin that you have, and that is our position. That is what we are sticking to.

I would also say to the gentleman when he talks about extreme Republicans that cause the President to veto bills, we passed Medicare over to the President. It was vetoed. The DNC through the unions and the White House, thousands of negative ads on the Medicare, and the Government shut down. It is the same Medicare bill that was passed in the balanced budget, but there are still extremists on the other side that do not want the Medicare reform. The same was true with the welfare reform, vetoed, and Government shut down, but yet welfare reform untraps people and we passed that.

I would also look at direct lending. The President wanted 100 percent of direct student loans in 1 year capped at 10 percent. It cost $7 billion annually more through the President's direct lending. But that was a pet program, so the Government shut down and the President said, ''We're not going to let the Government go until the extremists allow me to have 100 percent of the direct loans.'' There was a negotiation. Forty percent went forward. In 1 year, they could not account, the Department of Education, for $50 million, and we said, ''That's wrong.'' Also capped at 10 percent, $7 billion additionally a year. What happened with the 40 percent? We just so happened to put it in where you cannot grow the bureaucracy. We saved $10 billion. We increased IDEA, we increased Pell grants to the highest level ever. And you call those extremist ideas, but you want to keep adding big Government, you want big bureaucracy. It takes higher taxes to go forward and support it. We are not going to allow that to happen.

When you talk about a rule that allows illegals to stay in, that is also not an extreme position. Legals, yes. Illegals, no. I will support this rule. I had planned like the gentleman from California [Mr. ROHRABACHER] on Friday to vote against the rule because of 245(i). But I would also say to my colleague on the other side, for whom I have a lot of respect, when they want to get up and demagogue about the misinformation of the left, 100,000 cops. There are not 100,000 cops out there. You know it and I know it. But yet you say it over and over. When the DNC fights Medicare and welfare reform and a balanced budget was vetoed twice by the President and then comes forward and supports it, yes. But do not call us extremists for a balanced budget, for welfare reform and tax relief for the American people.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. Again I cannot let Members use the term ''amnesty.'' ''Amnesty'' is a definite term used in immigration. One-week, 2-week extension of deportation is not amnesty. I would hope that people would just use that term the way it is meant to be used.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume. As has been pointed out on both sides, this is a very simple, clean continuing resolution which allows us to ensure that the government will not shut down. Yes, it does have that 2-week extension of 245(i). The main reason it does is that we are in the process of working on negotiations.

The gentleman from Miami, FL [Mr. DIAZ-BALART] has just walked onto the floor and he is in the midst of working on those, along with others who feel very strongly about addressing this issue. The gentleman from California [Mr. ROHRABACHER] has said that we will have a vote next Wednesday on the floor. So the issue is, in fact, moot at this juncture. We should support this rule and support the continuing resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 269, I call up the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 97 is as follows:

H.J. RES. 97

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(3) of Public Law 105–46 is amended by striking ''October 23, 1997'' and inserting in lieu thereof ''November 7, 1997'', and each provision amended by sections 118, 122, and 123 of such public law shall be applied as if ''November 7, 1997'' was substituted for ''October 23, 1997''.

The SPEAKER pro tempore [Mr. SNOWBARGER]. Pursuant to House Resolution 269, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 97 and that I might include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the initial fiscal year 1998 continuing resolution expires tomorrow night. Currently 5 of the 13 appropriations bills have been enacted into law and 2 others are pending at the White House. We have concluded conference on one additional bill which is pending in the Senate, leaving five left to finish in the House. Because these remaining bills will not be completed by tomorrow night, it is necessary now to proceed with an extension of the current short-term continuing resolution so that government can continue to operate while we finish our work.

The joint resolution now before the House merely extends the provisions of the initial continuing resolution until November 7. The basic funding rate would continue to be the current rate. We retain the provisions that lower or restrict those current rates that might be at too high a level and would therefore impinge on final funding levels. Also, the traditional restrictions such as no new starts and 1997 terms and conditions are retained. The expiration date of November 7 should give us time to complete our work.

Mr. Speaker, while I am disappointed that we have to be here asking for another extension of the current continuing resolution, this is the right kind of action that we should be taking under these circumstances. It will be signed, and I hope that we can get on with completing our work by the end of this proposed continuing resolution. I urge the adoption of the joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, there is absolutely no reason for this continuing resolution to be here and for that matter there is absolutely no reason for this Congress to continue to be in session. To the best of my understanding, we are continuing to be in session past the leadership's original target date for adjournment for two reasons.

One, there appears to be a Senate Republican Campaign Committee dinner with a fundraising target of $5 million which is to take place on November 5 or 6, and I guess certain folks would like to keep the Congress around for that so there is good attendance at that dinner.

The second reason is because there are essentially four issues remaining on four appropriation bills which reasonable people ought to be able to resolve and which if left to this committee could be resolved within a week. There is no reason whatsoever why appropriation bills could not be finished yet this week or certainly early next if this committee were allowed to do its work on appropriation items. But we have four issues which are still hanging out there. Until somebody at a higher level than the committee decides which way this boat is going to go, we are going to be continuing to go in circles.

Virtually nothing has happened since we passed the last CR with the exception, I believe, of one or two noncontroversial appropriation bills. But we are still being held up on the issue of education testing. It would seem to me reasonable people could come to a compromise on that agreement. We are still being held up on Mexico City policy because the right-to-life folks in the Republican caucus will brook no compromise whatsoever and some of the population groups on the other side of the issue will also brook no compromise whatsoever.

Again, it seems if this House is willing to take back its duty and do what it thinks right rather than listening to outside lobby groups, this Mexico City issue could be resolved in about 5 minutes.

On the District of Columbia bill, we have those folks on the other side of the aisle who would rather see, as they have already been quoted in the newspaper as saying—and I am not talking about all the folks but some of the folks—we see some of those folks saying that they would rather see the entire District of Columbia budget held up for months rather than to compromise on the issue of $7 million for vouchers.

And then on the Interior bill, we have language which was inserted by the conferees with respect to Lake Clarke which was certainly not in either bill and which in my view is a huge threat to that spectacular piece of property, and that is holding up agreement. And so is the fact that the administration has come in with a number of items late in the day expressing their objections about those items when in fact many of them were not raised when we had top level discussions with the leadership on those issues. And so it seems to me that there is no reason whatsoever to continuing this session or to pass this CR except for the fact that we have a few folks around this town and in two cases a few folks in the other caucus in this House who would rather hold their breath and turn blue than get the people's work done.

There is not a whole lot we can do about that, but we are essentially getting paid each day between now and the end of this session for doing nothing. It seems that sooner or later, we ought to tell both the hardheads in this House and the Johnny-come-latelies in the administration that we are not interested in their continuing to hold up our ability to finish this session of the Congress. It seems to me that granting further extensions only encourages people to refuse to cooperate.

It appears to me that we are not going to be able to shut this place down until the extreme elements in this House on at least two issues have demonstrated that they are willing to go right through the end of the continuing resolution period before they are going to be willing to compromise. As long as we are around here, the administration is going to be continuing to ask for other items that they had not thought of before.

It just seems to me what we ought to do is pass this CR and say, ''Boys and girls, no more. No more. Get your work done. Come up here and compromise, recognize that you are not just elected to define differences, you are also elected to resolve differences once those differences are defined.''

As I said earlier, on the Appropriations Committee I am convinced the gentleman from Louisiana and I could reach agreement in about 2 days, maybe 2 hours on these items. It just seems to me it is ludicrous to pretend to the public that anything useful is going on because hardheads will not be reasonable.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much of what the gentleman from Wisconsin has said, I have to agree with. I think we could wrap up our business very rapidly, but for other reasons, we are not. I would say we are making progress. We are not sitting around doing nothing. The fact is we expect that today, for example, the Interior bill will be resolved and filed with the House, and the Labor-Health bill by the end of the week will, for all intents and purposes, be finalized and be ready for House action next week.

But in addition to appropriations matters, let me say that the Congress still has yet to complete action on the ISTEA legislation, which deals with funding of transportation projects. That will have to be done between now and the time that we adjourn, and a matter of great importance to the President, if not to the other side of the aisle, is this whole matter of fast track, which deals with the authorization of the President to negotiate trade deals with our Latin American friends and allies.

The President has said that it is very important to him and to the future of the country, and I tend to agree with him. However, if you do a nose count at this point, the fact is that the President has been very unpersuasive with his Members of his own party. Very few Members of the Democrat Party as of this moment seem to support that fast-track legislation, and it would fall on the shoulders of the Republicans to pass the legislation, which, frankly, puts us in an awkward position, because some of our Members do not favor it. And the last thing in the world that would be good for this country, and, in fact, for this administration, is if the matter were brought up to the floor and had an insufficient number of votes to pass.

So I expect that the President, if he is listening or if he reads the proceedings of debate on this resolution, should get busy and start calling Members of his own party to encourage them to support an initiative which he has advocated and proposed and backed for the last couple of years.

That is an important piece of legislation, and that must be tackled before we leave. If we do not have the votes, however, it will not be.

With that, Mr. Speaker, I have no additional requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, a small point, but I would ask the gentleman when he refers to my party to refer to it as the Democratic Party. That is, in fact, the name of our party. We do not call the Republican Party the ''Republic Party.'' It has been a practice of some Members of the Republican Party for a generation to call us the ''Democrat Party,'' but, in fact, it is the Democratic Party, and I would appreciate it if they would remember that.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, having grown up in Louisiana where the Democratic Party was of paramount significance throughout my entire life, I would only say that was what I was taught by my friends, neighbors, peers, allies, and Democratic friends. So that is why I used the term ''Democrat.''

Mr. OBEY. Mr. Speaker, reclaiming my time, the name of the party is ''Democratic.''

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, first I want to rise in support of the continuing resolution and to congratulate both the Chair and the ranking member of the committee for the extraordinary work they do on this whole process. If everything went as they wanted, I think we would be moving through this whole process quite quickly.

But I took this time and came to the floor after listening to some really flagrant misrepresentations about one aspect of the continuing resolution and of the appropriations process, and that is the question of the extension of section 245(I).

I have heard it discussed as an amnesty provision and stay of deportation provision. Section 245(I) has nothing to do with that.

Section 245(I) of the law, in the immigration law, is only available to people who are already eligible to become permanent residents. It is not an amnesty, it only applies to people who, under our legal immigration system, are now eligible at the particular time to adjust status.

The only issue it deals with is where they can adjust status, whether they can adjust status in this country or whether they have to go back to their home country, take the airline, pay the airline, go into our consular office at our embassy or one of the Consulates in the foreign country, go in that morning, show their papers, pick up their visa, and in many cases on the very next flight.

What we did back 3 or 4 years ago is say this is crazy. We are pushing a great deal of resources into our beleaguered embassies abroad for work that is not particularly relevant to anything in our national interests. We are giving money to the airlines. Let us raise the fees for that adjustment.

Let the agency that is most equipped to deal with it, the Immigration and Naturalization Service, deal with it, in-country, for those people who are eligible. It simply permits these people who are eligible, who are in line, whose time has come, to adjust to legal status in this country as a permanent resident, to do that in the United States.

It does not give illegal immigrants the right to live in the United States. It is not a defense to an action for deportation. It is not a stay of deportation. It is not an American necessity. It does not declare as legal people who have come here illegally. It does not change the order in which a person's claim is adjudicated.

There is one single worldwide line for everyone who is waiting for their immigrant visa. There are category limits, there are country limits, and only when that person's number comes up and that person's time in line, he gets to the front of the line, can he then adjust his status.

Mr. Speaker, we produce now $200 million a year in revenue, essentially by processing the people in-country rather than giving even greater amounts of that money to the airlines and costing our State Department far more to process them overseas. This frees up our consular officials to do the key work of screening applicants for visas in those countries, looking for terrorists, looking for people with criminal backgrounds, ensuring they do not come into this country. It has them doing the work we should be wanting them to do, not simply processing the paperwork for people whose turn has come through the legal immigration system.

It is for that reason that an incredible array of organizations, almost every major business organization in the country, wants to do this. This is the most expeditious and sensible fashion for processing legal immigrants.

So, I just hope as the appropriators go to a decision on the Commerce-State-Justice bill, as we deal with this continuing resolution, that all of the scare tactics about amnesty and stays of deportation are seen for what they are. They are an effort to cloud the real issue in the 245(I) debate.

Section 245(I) produces $200 million a year by allowing people whose time has come to adjust status through the legal immigration system to adjust in the United States. Eighty percent of that money goes for enforcement of our borders and to keep illegal immigrants from entering the United States, and it makes a tremendous amount of sense from every point of view and from every type of analysis. I urge its adoption.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 269, the previous question is ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call

up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows.

H. RES. 271

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except a further amendment in the nature of a substitute offered by Representative Conyers of Michigan or his designee, which shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. If that further amendment is rejected or not offered, then no other amendment shall be in order except the amendment printed in part 2 of the report of the Committee on Rules, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 271 is a modified closed rule providing for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary, and waiving points of order against consideration of the bill for the failure to comply with clause 2(L)(6), relating to the 3-day availability of committee reports.

Additionally, House Resolution 271 makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment, modified by the amendments printed in part 1 of the Committee on Rules report. Moreover, the rule provides that the committee amendment in the nature of a substitute shall be considered as read.

Additionally, House Resolution 271 provides for an amendment in the nature of a substitute, if offered by the gentleman from Michigan [Mr. CONYERS] or his designee. The rule provides that this amendment, if offered, shall be considered as read, shall be debatable for 30 minutes equally divided and controlled by the proponent and opponent, and shall not be subject to amendment. If the gentleman from Michigan [Mr. CONYERS] or his designee does not offer the amendment or if the amendment is rejected, no other amendment shall be in order except the amendment offered by the gentleman from New York [Mr. BOEHLERT], which shall be considered as read, shall be debated for 30 minutes, equally divided between the proponent and opponent of the amendment.

□ 1115

Likewise, this amendment shall not be subject to amendment.

Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions. House Resolution 271 was reported out of the Committee on Rules by voice vote.

Mr. Speaker, House Resolution 1534, the Private Property Rights Implementation Act of 1997, is an attempt to address procedural hurdles which currently prevent property owners claiming a violation of the fifth amendment's takings clause from having fair and equal access to Federal court. H.R. 1534 attempts to remedy this situation by defining when a final agency decision takes place and prohibiting Federal judges from invoking the abstention doctrine to avoid cases that revolve on the fifth amendment takings claims. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This important legislation seeks to provide a clear end to the process of resolving land use disputes which, under the current administrative and judicial system, can drag on for years.

While this legislation seeks to give property owners their day in court, it does not change the statutory underpinnings that define takings, it does not change environmental laws, and it does not mandate compensation. What it does do, Mr. Speaker, is to provide a much more expeditious remedy to land use and property rights disputes arising from Federal statutes and constitutional law.

In spite of my support for the legislation, Mr. Speaker, I must oppose this rule which provides for its consideration. The Committee on Rules majority has recommended a rule which denies the House the opportunity to fully debate the matter. This rule, in effect, forces Democratic Members to barter among themselves for which amendment to the bill might be included as a part of a Democratic substitute.

In addition, an amendment relating to homeowners and their property rights, which was brought to the committee by the gentleman from Minnesota [Mr. VENTO] was rejected by the committee Republicans. The excuse offered by the Republican majority was that there was not sufficient time to consider amendments before the House completes is business for the year. This is a very poor excuse, Mr. Speaker, for denying Members the opportunity to fully debate a matter of such importance.

I support this legislation and I will urge all Members to vote for its passage, but I am of the opinion that the consideration of one or two additional amendments would not have tied up the House and delayed our departure. Perhaps it would have been wise for the Republican leadership to have scheduled more legislative days this month and fewer district work period days. We have important business to attend to in Washington, and H.R. 1534 is just one of those important matters that should be heard and should be passed.

I have no doubt, Mr. Speaker, about the outcome of the vote on this rule, but I would like to remind my Republican colleagues once more of their pledge to open the process in this House. This legislation is seeking to clear away hurdles encountered by property owners who seek to assert their rights in court. Why then cannot the Republican majority do the same for Members of this House, and clear away the hurdles that they have erected which prevent Members from expressing their points of view?

Mr. Speaker, again, I support H.R. 1534. It is a bill which enjoys bipartisan support, and is a far cry from the takings legislation passed by this House 2 years ago. This legislation is a procedural bill which clarifies how the Federal courts should address Federal property rights claims. It seeks to bring relief to property owners, who now can spend an average of 10 years

jumping through the administrative and judicial hurdles that currently exist in order to be allowed to use their property. It is relief that is long overdue, and which can be remedied through passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I appreciate the support of the bill offered by the gentleman from Texas [Mr. FROST].

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE REFORM OF THE INTERNAL REVENUE SERVICE

(Mr. MCINNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCINNIS. Mr. Speaker, I have this opportunity today to talk about the Internal Revenue Service. As we know, it is great gratitude that I express to the White House, and thank the President for changing his mind, thank him for coming on board with this Republican majority here, and frankly being helped by a lot of Democrats, to force reform in the Internal Revenue Service. This is a charge that has been led by the Republican Party. It is a charge that will be seen through by the Republican Party. Now it is a charge that is going to be supported by the White House.

Why do we need reform in the Internal Revenue Service? Because that is one of the few exceptions in the judiciary process in this country where you are assumed guilty and you have to prove yourself innocent. That is one of the agencies the gentleman from Texas, Mr. ARCHER, who should receive lots of merit and lots of commendation for his leadership on this, is going to change.

It is about time that the Internal Revenue Service, when they come to your house, you are assumed innocent until the IRS proves you guilty. There are some other very basic and fundamental reforms that we are going to put through on the Internal Revenue Service. This is a great day for the taxpayers of this country. Finally they are going to have accountability from the Federal Government that works for them.

THE PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of the rule that was just considered. I want to thank the Committee on Rules, particularly the gentleman from New York, Chairman SOLOMON, for the very fair approach that has been taken on this bill. The rule will allow full and open debate on a policy dispute of great significance. Again, I offer my appreciation and my support.

What is the policy dispute that is at the center of H.R. 1534? It comes down to this: Do Members of this body want to interfere for the first time with the most basic sorts of local zoning decisions? I say we should not do that, that any problems that exist with local zoning procedures ought to be remedied by State law, not by the intrusion of Federal judges.

I am more than a little bit surprised to see some of my more conservative colleagues throwing overboard their professed belief in Federalism to allow Federal judges to intrude early on in these extremely local matters.

This is not just my view. I do not stand alone in the well of this House. The bill is opposed by the National Governors' Association, by 40 States Attorneys General, including Attorney General Lundgren of California, Attorney General Vacco of New York.

The list goes on and on. It is opposed by the Judicial Conference of America, chaired by Chief Justice Rehnquist of the Supreme Court of the United States; it is opposed by the National League of Cities; by the U.S. Conference of Mayors; by all the environmental groups who, incidentally, are going to double score this bill, because of the significance of what is being proposed. The list of opponents of H.R. 1534 goes on and on. I think it is very important for all of my colleagues to really give full focus to what is being proposed.

I am not sure how anyone could claim with a straight face that this bill is ''noncontroversial''; anything but. The manager's amendment represents a decided improvement in the bill, but it does not remedy the fatal flaw. The bill still would let Federal judges interfere with far more local zoning decisions. Think about that. Do we want everything kicked upstairs to the Federal Government, where all decision-making is made here? I think the answer to that is clearly no.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Speaker, my substitute, the Boehlert substitute, is the only way to correct that flaw, because it would eliminate the portion of the bill dealing with local zoning laws.

Let me reemphasize what we are talking about. We are talking about local decisions made in local communities on whether or not, for example, to deny a permit for building in an area, if when that permit were granted it would bring in unnecessary intrusion in terms of heavy traffic, where adequate infrastructure does not exist. It happens in our home towns every single day.

Do we want decisions made for us in our home towns by Washington, DC in every single zoning issue? I think the answer is clearly no, so we have to deal with it in a different way.

We would expedite Federal court access for property owners with a claim against a Federal agency. I think that is very appropriate. I urge support of the rule and support for the Boehlert substitute. I thank the Chair for being so indulgent.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 1534.

□ 1127

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentlewoman from California [Ms. LOFGREN] will each control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1534 is about Congress' duty to implement the 5th and 14th amendments to the Constitution. The U.S. Constitution protects individuals from having their private property ''taken'' by the Government without receiving just compensation.

To file a claim of a violation of that fundamental right, plaintiffs encounter several high obstacles which must be

negotiated or crossed prior to the Federal courts hearing the cases on their merits. Plaintiffs alleging violations of other fundamental rights oftentimes do not encounter the same hurdles before gaining access to the Federal courts.

Plaintiffs filing taking claims in Federal court are met with steep requirements prior to their case being considered to be ripe. A plaintiff must show both that there has been a final decision by the State or local governmental entity which has authority over land use, and that the plaintiff has requested compensation by exhausting all possible State remedies.

□ 1130

Ironically, it may be impossible to then get any Federal remedy because the case has been forced to be heard in the State court and a case cannot be tried twice in most instances. Deprivation of a Federal remedy goes against what our Founding Fathers saw as a uniquely Federal matter, it seems to me.

Lower courts attempting to interpret when a final decision has occurred have reached conflicting and confusing decisions which are not instructive to takings plaintiffs trying to determine when their cases are ripe. H.R. 1534 defines when a final decision has been reached in order to give takings plaintiffs some certainty in the law so that their fifth amendment rights may be properly reserved.

Takings plaintiffs also confront the barrier of the abstention doctrine when filing a claim in Federal court. This doctrine gives Federal judges the discretion to refuse to hear cases that are otherwise properly before the court. Judges often avoid land use issues based on the abstention doctrine, even when the case involves only a Federal fifth amendment claim.

H.R. 1534 remedies this by prohibiting district courts from abstaining from or relinquishing jurisdiction when the case alleges only a violation of Federal law. H.R. 1534 would not affect the traditional abstention doctrines, Younger, Pullman, and Burford, used by the Federal courts because it allows a Federal court to abstain from hearing any case that alleges a violation of a State law, right, or privilege.

H.R. 1534 does not remove State court jurisdiction, even over Federal claims. Plaintiffs with Federal takings claims will still be able to file in State courts. H.R. 1534, the bill before us, simply assures plaintiffs with a 5th or 14th amendment takings claim that a meaningful Federal option exists.

This bill has undergone many improvements already since its introduction. For example, amendments included at the subcommittee and full committee levels addressed the special concerns of opponents that the bill was too broad and that it would circumvent local elected officials. At the subcommittee markup, an amendment making it clear that H.R. 1534 applies only to cases involving real property was offered by the gentleman from California [Mr. GALLEGLY], the primary author of the bill, and approved.

At the full committee markup, the amendment of the gentlewoman from California [Ms. LOFGREN], who will be handling the bill for the minority, which required a land use applicant to seek review of a denied appeal, or waiver from a local elected body if that procedure is available, was approved. And I say to the gentlewoman from California, I think that was a sound proposal and I think improved the bill.

Mr. Chairman, the bill includes a manager's amendment which will further address concerns expressed to the committee by other Members. These provisions narrow the scope of terms that could be construed more broadly than intended. It will include a provision that ensures local agencies an opportunity to offer suggestions to an applicant that must be taken into account or consideration in resubmitting the application before the applicant may seek an administrative or judicial appeal and subsequent Federal court litigation.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1534, the first takings proposal which specifically targets our State and local elected officials.

This legislation would mandate a series of rules granting expedited access to the Federal courts for property takings claims. In addition to providing developers with special procedural advantages, the bill could alter the substantive law of takings in favor of developers.

The net result would be legislation which does unbalance the playing field as between State and local governments and developers. Even worse, the bill elevates the rights of real property owners above all other categories of persons having constitutional claims against the Government, which would include civil rights victims and the like. We believe that this is being propounded in the absence of any quantitative evidence that justifies this massive intrusion into States rights.

Under H.R. 1534, for example, if a corporation, say Wal-Mart, seeks to establish a very large, some would say even oversized commercial development in a small town, and the town says no because of the massive development and Wal-Mart is dissatisfied, they would have the opportunity to immediately threaten to bring suit and to march down to Federal court, forcing the town to incur a large amount of legal expenses.

Mr. Chairman, in that situation, I will add I spent 14 years in local government having to deal with difficult issues of zoning and land use. It has to be a factor for local governments who are constantly facing financial shortfalls to know that if they decide in favor of neighbors, they may face humongous legal expenses. That has to be factored into the decision-making process.

That is why this bill really does tilt the playing field in favor of developers and away from neighbors and homeowners who enjoy the benefit of zoning protection that local governments do impose.

Mr. Chairman, let me pose this issue because it comes from my own experience. A number of years ago when I was on the board of supervisors we established regulations, because we could not outlaw the pornography businesses that were established in part of our jurisdiction. We, the board of supervisors, were ultimately sued.

Mr. Chairman, in that case, under this law, we would elevate the rights of the pornographers in that case to immediately go to Federal court to challenge the zoning regulations that the local government had imposed. I do not think such a result is intended by the authors or proponents of the bill, but it is an outcome that is predictable and will happen in towns and counties around the country.

Mr. Chairman, it is no wonder that H.R. 1534 has drawn such diverse and strenuous opposition. The Attorney General, the Secretary of the Interior, the Administrator of the EPA, and the Chair of the Council of Environmental Quality have recommended a veto and the President has given strong signs that he would veto this bill.

The National Governors' Association, the Conference of Mayors, the League of Cities have come out in strong opposition to the bill as of yesterday. A bipartisan group of 37 State attorneys general opposes the bill because in their words it invades the province of State and local governments. They are joined by a broad array of environmental groups as well as The New York Times and the Washington Post.

Mr. Chairman, I think we must make sure that we understand that the manager's amendment does not really fix the problems, the many problems in this legislation. Even after the third rewrite of this bill, it still allows developers to bypass local administrators in State courts and imposes significant new costs on local government. It would still impose on the Federal courts to decide cases based on inadequate records, and it still elevates the claim of real property developers above ordinary civil rights claimants.

In some respects the manager's amendment has made the bill even worse by creating a series of complex and vague new procedural requirements and by allowing developers to proceed to Federal court without even waiting for a final answer.

Mr. Chairman, I urge a ''no'' vote on H.R. 1534 so we can continue to allow democratically elected local officials to protect their citizens, to protect neighborhoods and to protect homeowners from unwise development through the prudent use of zoning.

I would like to note also that I do understand there are occasions when

overzealous zoning and regulation can, in fact, lead to takings. In those cases it is fair that justice be brought to the land developer. I do believe in the fifth amendment and its clause providing for due compensation in the case of such takings. However, this is the wrong remedy for those cases and I would urge my colleagues to join me in voting ''no.''

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the gentleman from Florida [Mr. CANADY], a member of the Committee on the Judiciary.

Mr. CANADY of Florida. Mr. Chairman, I rise today in strong support of H.R. 1534, the Private Property Rights Implementation Act. This bill has the simple purpose of streamlining the process by which property owners petition for compensation when their property has been taken by a unit of government.

Mr. Chairman, the fifth amendment of the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The intent of this constitutional protection is being thwarted by the current state of confusion regarding when and where a takings claim may be filed. Property owners are subjected to an inefficient and unnecessary legal maze of appeals back and forth between local boards, State courts, and Federal courts.

To illustrate the hurdles which face property owners who seek to defend their property rights, I will cite today the efforts of a couple in Florida who challenged the rezoning of their land. Their 13-year odyssey, 13 years, Mr. Chairman, through numerous layers of bureaucracy is, I am afraid, typical, all too typical of the struggle endured by countless property owners every day in this country.

In 1984, Richard and Ann Reahard inherited 40 acres of land in Lee County, FL, an area not far from the district I represent in central Florida. The land was zoned for high density residential development. Two weeks later the county adopted a land use plan which restricted use of the Reahards' land to a single house. That is a single house on a 40-acre tract. With this rezoning, the county reduced the value of the parcel by 96 percent, yet the county had no plans to compensate the Reahards for their loss.

Among the many zoning petitions filed by the Reahards with local authorities were: An application for an administrative determination of error, a request for plan amendment, and an application for determination of minimum use. These appeals were made variously to the county planning and zoning commission, the county board of commissioners, and the county attorney's office with differing results.

In 1988, that is 4 years from when this odyssey started, the planning and zoning commission approved the building of up to six units per acre on 35 of the acres and the remaining acres to be set aside as a buffer. But the board of commissioners rejected that plan.

In 1989, the county attorney determined that the Reahards could build four homes, but the board of commissioners decided again only to allow one home on the 40-acre tract. The Reahards filed a complaint in Florida State court, but the attorneys in Lee County removed the case to Federal court.

In 1990, the Federal district court decided in favor of the Reahards. The court ruled that the Reahards had exhausted all the administrative remedies, that their claim was ripe for adjudication, and that a taking had occurred. The jury awarded the couple $700,000 for the lost use of their land and for their legal costs.

But, Mr. Chairman, this is not the end of the story. Between 1992 and 1994, Lee County twice appealed the case to the U.S. Court of Appeals for the 11th Circuit. The first time, the circuit court remanded the case to the district court to revisit the ripeness issue. The district court again found that the issue was ripe and the jury award was reinstated.

Lee County again appealed to the 11th Circuit. On the second appeal, the circuit court decided that the Reahards had not exhausted their State court remedies and that the district court should not have heard the case in the first place.

By 1997, the Reahards' case was back in State court. The Lee County Circuit Court ruled that a taking had occurred and the jury awarded the Reahards $600,000 plus $816,000 in interest dating back to 1984.

□ 1145

In addition, the jury awarded attorney's fees and other costs to the Reahards. Lee County has appealed the case to Florida's Twentieth Judicial Circuit Court of Appeals where it is now pending. If the appeals court upholds the lower court's ruling and jury award, Lee County will owe the Reahards close to $2 million. Was this 13-year-long costly legal battle really necessary?

A major issue in this case was whether a final decision had been reached by the local authorities and if the case was, therefore, ripe or ready for review by a Federal court. The bill we have before us today, H.R. 1534, clarifies this issue by defining what constitutes a final decision, yet it leaves intact several layers of review by local authorities.

Under H.R. 1534, a property owner with a takings claim will have received a final decision when, upon filing a meaningful application for property use, a definitive decision regarding the extent of the permissible uses of the property is made. That is, the final decision will occur when the property owner has received a final decision, upon the filing of a meaningful application for property use, a definitive decision regarding the extent of permissible uses of the property.

When local law provides for an appeal process by administrative agency, the applicant must receive one denied appeal to have a final decision. If the local authorities render an opinion on what the applicant was turned down for, the applicant must then reapply incorporating those comments.

In addition, where local law provides for review by local elected officials, the applicant must also receive a decision from those officials. A clarification of this issue with regard to ripeness will reduce legal costs for both property owners and local governments who will now, under this law, know when and where to file these cases.

The suggestion has been made that this is a partisan bill. This is not a partisan bill. This is a bipartisan bill. There are nearly 50 Democratic cosponsors. This is addressing a very real problem that affects property owners all across this country. I urge my colleagues to support the bill.

Just to conclude on the point, this is a very real issue that is affecting property owners all across the country. In most zoning cases, this sort of abuse does not occur. But it occurs all too often. And when it takes place, it imposes an unreasonable burden on the property owner. It can end up imposing significantly greater costs on the taxpayers who end up having to pay the interest costs that are incurred while these cases drag on, and drag on, and drag on.

I believe that the House has a responsibility to address this issue. This is being addressed in a bipartisan way.

The manager's amendment, as I understand it, has attempted to address the concerns that have been raised by various folks who have raised issues about the bill. I believe that the bill that is before the House strikes a balanced approach that takes into account the concerns of local governments, but also recognizes that the property owner has some rights that need to be protected and the property owner has to be able to get to court to do that.

I thank the gentleman for yielding me the time. I urge my colleagues to support the bill.

Ms. LOFGREN. Mr. Chairman, Mr. Butterworth, the attorney general of Florida, does oppose this bill. The prior speaker may not have been aware of that.

Mr. Chairman, I yield 4 minutes and 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman, a member of the Committee on the Judiciary and Representative from California, for yielding me the time.

This is an important issue. None of us, Mr. Chairman, would in any event be opposed to the fairness as it relates to the fifth amendment and the whole

question, if you will, of property rights. But let me rise to share my concerns concerning H.R. 1534, the Private Property Rights Implementation Act of 1997.

It is not a sheer case, as the previous speaker has indicated, of vindicating those property owners who want to pursue their goals of development. It is a question of sidestepping State and local governments, very compelling interests of zoning and protecting the rights and interests of their citizens who would be less empowered to fight intrusion and development that they may not want.

Let me also say how supportive I am of my friends in the building industry and the many good works that they have done dealing with building housing and my intent is to work with them through this process. However, I think this legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal courts with respect to claims made under the takings clause of the fifth amendment and in doing so increases the ability of Federal courts to accept jurisdiction over local land use matters.

This is a difficult proposition to propose. This says that the local elected officials, the people duly elected by the State's citizens and the city's citizens can be usurped. Proponents of this legislation argue that this bill is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that under current law landowners trying to defend their property rights are frequently snarled up in courts for years. Sometimes this is burdensome. I am concerned, however, that the bill may not correct a solution.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primary powers of local and State officials in land use matters by effectively taking control of local land use away from State and local governments and, if Members will, putting a speeding train across the finish line into Federal courts.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities. As a former member of a city council, local government, we have on many occasions been able to dialog and compromise on some of these very ticklish issues. This would be hampered by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis.

For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to go to Federal court. The cost of litigating this issue would overwhelm many small towns, counties, and cities.

Under this bill, the case could even proceed if negotiations regarding the alternative developments were ongoing. This smacks right in the middle of disrupting local government and their ability to reason and to work with the developers and others in these very difficult issues.

Right now I am facing a situation where there is major pollution by a large corporation in my community and obviously they are in Federal court, and it puts the burden on these neighborhoods who are trying to fight against this pollution. This bill is likely to result in a significant increase in Federal judicial workload, a particular problem given the high number of vacant judgeships.

According to a recent Congressional Research Service report, there is a sound argument that H.R. 1534 will result in a significant increase in the caseload of the Federal courts particularly from takings litigation. I believe the Boehlert amendment will improve this legislation.

This amendment limits the effect of the bill to takings claims brought about against the Federal Government and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In doing so, the Boehlert amendment answers some of the concerns of those Members who are concerned about the burdensome legal process. So I am supporting the Boehlert amendment.

Let me also acknowledge that this does not give the same kind of protection to those who are fighting civil rights violations. Therefore, I find this to be contradictory and hypocritical at best. Also, I wanted to note that in the Washington Post and the New York Times, both of these have labeled this legislation as undermining local government.

We find that the League of Cities, Conference of Mayors, and 40 State attorneys general are against this and this gives developers and property owners who have a wealth of money an imbalance against small towns and counties and cities who fight every day to protect their citizens. I think we can work out some of these problems. This is not the right legislation to go forward.

Mr. Chairman, I would offer to say that my colleagues should oppose this legislation. Let us go back to the drawing boards and really work out a solution.

Mr. Chairman, I rise today to share my concerns regarding H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal Courts with respect to claims made under the takings clause of the fifth amendment and in so doing increases the ability of Federal courts to accept jurisdiction over local land use matters.

Porponents of this legislation argue that H.R. 1534 is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that, under current law, landowners trying to defend their property rights are frequently snarled up in court for years. I agree with my colleagues that such a delay is overly burdensome. I am concerned, however, that H.R. 1534 may not be the correct solution to this problem.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primacy of local and State officials in land use matters by effectively taking control over local land use away from State and local governments and putting that power into the hands of the Federal Government.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities, by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis. For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to bring suit against that town in Federal court. The costs of litigating this issue would overwhelm many small towns and counties. Under this bill, the case could proceed even if negotiations regarding alternative developments were ongoing, even if there was an insufficient record available for the Federal court to make a reasoned takings decisions, and even if there were important unresolved State legal issues.

H.R. 1534 is also likely to result in a significant increase in the Federal judicial workload, a particular problem given the high number of vacant judgeships. According to a recent Congressional Research Service report on the legislation, ''There is a sound argument that H.R. 1534 will result in a significant increase in the Federal courts, particularly from takings litigation.''

Another very important concern with H.R. 1534 is that it unfairly identifies one type of action for violation of Federal rights—property takings under the fifth amendment—for favored consideration in Federal courts, while ignoring all other types of procedures where abstention may apply. For example, abstention has been held appropriate in section 1983 actions involving the sixth amendment right to counsel, conditions of confinement at a juvenile facility, the denial of Medicare benefits, gender-based discrimination, and parallel State-court criminal proceedings. Are the rights of property developers more important then the life, liberty, and other civil rights of Americans including claims regarding personal property and intangible property? If not then why should the claims of land developers be given priority treatment in our Federal courts when Federal courts abstain from deciding other civil rights claims that are at least as valid and important?

In light of these problems with H.R. 1534, I urge my colleagues to join me in supporting the Boehlert amendment in the nature of a substitute. The amendment limits the effect of the bill to takings claims brought against the Federal Government, and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In so doing, the Boehlert amendment answers the concerns of those Members who are concerned about the burdensome legal process that many landowners have encountered and yet have long advocated the importance of State and local government authority.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I want to thank my friend from North Carolina for his work on this legislation.

Let me assure everyone that this legislation received a full hearing in Committee on the Judiciary. The concerns that have been expressed have been adequately addressed in the legislation and I rise in strong support of the Private Property Implementation Act. I believe it is important. There are two fundamental principles that are at issue and are at stake in this legislation.

First of all, there is the constitutional principle that the Government cannot take your property without just compensation. This was learned when we studied the Constitution at an early age. It has been preserved in our history and it is one of the most important constitutional principles that we have. The second principle that is at issue in this legislation is that constitutional rights are to be protected in Federal court.

As an attorney in private practice for almost 20 years, I brought into Federal court due process claims, first amendment claims involving freedom of speech, freedom of association, freedom of religion. In Federal court they deal with constitutional claims regarding unlawful seizure. The Federal courts, though, have set up a particular burden for anyone who is asserting the constitutional principle that property should not be taken without just compensation. That is the abstention doctrine, that the Federal courts have to refrain from that, they refer it back to State court.

It creates a tremendous burden on the homeowner, the property owner who desires to protect their rights. So the constitutional principle of private property rights has been diminished and I believe put below other constitutional rights because of this doctrine and the hesitancy of Federal courts to consider this type of case.

The purpose of this legislation is to restore the protections to the property owner. In Arkansas, I assure my colleagues, this is an important constitutional right that must be protected. This legislation maintains an appropriate balance, protecting the rights of the city and the municipality in their zoning laws, but yet at the same time looking out at the protection of the homeowner. Under the bill the landowner must go through the usual appeal process, but when court action is necessary, then they are assured of access to the Federal courts.

The objection that has been raised today is the Federal courts are too busy. It will result in a crowded docket. I believe that the Federal court should never be too busy to hear constitutional cases, to hear constitutional claims, claims that involve constitutional rights, whether it be freedom of speech, whether it be freedom of association, or whether it be the protection against unlawful taking of private property.

For that reason, I support the legislation. It preserves important constitutional principles. It preserves a balance between the desire to zone property, but the desire to give homeowners the property protection from unlawful taking. For that reason I support this legislation.

Ms. LOFGREN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, this is an extraordinary day. My Republican colleagues are trying to federalize a whole bunch of State activities and State procedures and to impose Federal law both on the subject of rights and on the subject of procedure upon local units of government, a remarkable activity in view of all the talk I have heard on this side about devolution.

Here are the questions that are potentially to be brought into the Federal court. Whether a community is going to permit a house of ill-repute, a place for nude dancing or adult book stores to be established in a particular area, whether there will be glue factories, slaughterhouses, nuclear waste dumps or hazardous waste dumps or, indeed, ordinary municipal dumps established at a particular place.

These are hardly rights that should be litigated in a Federal court. This includes whether bars, crack houses, opium dens and places where narcotics, illegal drugs and illegal activities of all sorts are conducted. The question of whether activities which constitute a clear public nuisance, as interpreted by the States and the local units of government, will be permitted in a particular area, and if the person or the entrepreneur who wishes to engage in these kinds of activity feels he is not going to get fair treatment in a State court or in the State-administered procedure, he rushes to Federal court where the Federal judiciary has then got to take up the important question, for example, of whether nude dancing should be permitted near a church or whether a bar may be located within 100 yards of a school or whether some other kind of action, long known and long viewed as being noxious and obnoxious to the public interest and to the concerns of the people in the area will be permitted.

□ 1200

And it will be done in Federal Court, not the State court, not in the court where people are closest to the people in the community.

Now, the Constitution protects the rights of all, the property rights and other rights. There is a long history of how these rights are protected in State and Federal court, and there is an intelligent and a sensible way in which these questions have been and can be reviewed.

The procedure and the jurisprudence is clear. The courts have defined this process for years, and the process is defined to protect the property owner, to permit him to use his property in an intelligent and beneficial manner. It is, however, also arranged so that the rights of honest citizens who might live in the neighborhood will receive protection.

Now, let us vision this. An individual wishes to create a deep injection well into the subsoil. The citizens object. The question under this legislation is federalized. Citizens cannot go through the normal procedure. And the result is that the Federal courts all of a sudden have a question of great local concern without any real awareness or any real sentiment of closeness to the people who are involved.

Is that a good result? Is that the result we want? And is that a result which we want at a time my Republican colleagues are telling us how important it is that these matters should be decided at the local level? I think this is insane.

The question of whether or not the local governments are proceeding correctly now under the laws and the Constitution is settled, clear, understood and sound jurisprudence. They decide the question on the basis of appropriate proceedings where all parties are afforded an opportunity to be heard, then the matter can be elevated and is subject to suitable and appropriate judicial review. And the people in the process, if they deal with it incorrectly, either in the administrative process or in the courts, the courts then are subject to having the matter reviewed in Federal court. This is sensible, intelligent protection of the rights of all.

But remember that we are addressing questions which involve a difficult balancing of the rights of the property owner and the rights of the citizen. What my colleagues are saying to the citizens, if we adopt this legislation, is that the question of whether a nuclear waste dump or a slaughterhouse or a glue factory or a rendering plant or a nuclear waste dump or a house of ill repute is now a matter of Federal concern; that a bar or a place where illegal activities are a public nuisance, or a place where nude dancing is permitted is a question that is an essential Federal right that goes immediately to the Federal courts for consideration by the Federal judiciary.

I think this is the worst and most intolerable kind of invasion of the rights of communities, the rights of States and the rights of ordinary citizens that this body could construct.

Mr. COBLE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. GALLEGLY], the principal author of the legislation before us.

(Mr. GALLEGLY asked and was given permission to revise and extend his remarks.)

Mr. GALLEGLY. Mr. Chairman, government bodies may have legitimate reasons for restricting the use of private property, for local zoning, environmental protection and other purposes. Most government agencies use these powers very responsibly. However, sometimes they do not. And when a government body infringes on an individual's rights as guaranteed under the Constitution, that person should have their day in court to defend those rights.

That is what this bill is all about, giving property owners their day in court, not on choosing sides in takings.

I think the need for this bill is also demonstrated by the broad support we have received here in the House. H.R. 1534 to date has 239 bipartisan cosponsors. Of these, 44 Members happen to be Democrats.

The bill specifically states that nothing in H.R. 1534 would change the legal arguments or whether a landowner deserves to be compensated for the loss of economic value of their land. Judges would use the same current standards to evaluate the merits of these cases. However, people would not have to wait for years and years to get those merits considered.

The bill applies only in cases in which a Federal claim has been made, not to State cases. The language of the bill makes certain that the Federal courts may continue to abstain their jurisdiction if there is a case pending in a State court arising out of the same operative facts. This provision ensures that H.R. 1534 absolutely does not affect in any way proceedings in the State courts.

Circumstances involving other Federal rights or legislation are given a fair chance to be heard in the Federal courts. For example, Federal environmental laws are readily enforced in the Federal courts. First amendment claims against local governments have no trouble getting a hearing in the Federal courts. Only property rights are routinely dismissed or delayed because of abstention or ripeness.

Let me give my colleagues one example that illustrates this problem extremely well. Earlier this year the Supreme Court ruled on a case brought by Mrs. Bernadine Suitum. Mrs. Suitum was basically denied 99 percent use of her property, which is in Lake Tahoe, CA. She was told she could not build her retirement home or anything else on her lot.

For 8 years, Mrs. Suitum sought to have her request for compensation heard in the Federal courts. However, year after year the Federal judges ruled that her case was not ripe. Only now, after the Supreme Court ruled unanimously in her favor, are the merits of her case being heard.

It never should have taken that long. If Mrs. Suitum could not get the merits of her case heard for 8 years, what chance do other property owners have? Few people have the time or money to fight all the way to the Supreme Court to defend their constitutional rights. So this bill is about equal access to justice for the ordinary landowners and property owners of America.

Mr. Chairman, it is often said that justice delayed is justice denied. I urge my colleagues to support H.R. 1534 to simplify the process our constituents must navigate to defend their personal property rights and their constitutional rights.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL].

(Mr. HALL of Texas asked and was given permission to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Chairman, I rise in support of the private property owners and in support of H.R. 1534.

Mr. Chairman, the fifth amendment to the Constitution guarantees certain private property rights and protections that have been subject to various interpretations by the courts over the years, often at great expense and a great waste of time to private property owners.

For many years the Congress has attempted to secure the rights of private property owners and to clarify the intent of the fifth amendment. In the 104th Congress the House passed legislation that would have curtailed judicial interpretation of the takings clause in the amendment and would have established a formula for the Federal Government to compensate private property owners from Federal agencies limited use of their property. Unfortunately, the Senate did not act on the bill, and private property disputes were left to the discretion of the courts.

However, today we will try again to provide some long-sought relief for private property owners through a bill, H.R. 1534, that would expedite disputes between private property owners and Federal agencies in Federal court. Under current law, property owners often spend years in court—at the local, State and Federal level—in an attempt to prove their case. This bill will give property owners the right to have their case heard in Federal court in a more timely manner, and it clarifies other provisions that will facilitate legal action. The bill does not usurp the authority of State and local governments—but it does help speed up the resolution of State issues.

Mr. Chairman, we have an opportunity to help eliminate the impediments that the courts have placed on the protections offered under the fifth amendment. This legislation will help restore the rights of property owners to due process of law and a timely determination of just compensation for property that has been seized for public use. This is not an issue of States' rights—States will still have authority over State issues. This is a constitutional issue, and I ask my colleagues to join me today in support of H.R. 1534 to help guarantee these constitutionally protected private property rights.

Ms. LOFGREN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in opposition to this bill, and I wish to talk for a minute or two about what this bill is not about, because there is a lot of misinformation out there.

This is not about whether people will be compensated for the taking of their property. People always have been, will continue to be compensated for a taking of property, and that is a right under the Federal Constitution. But this is not about whether the Federal courts only can decide that. State courts have and do and should continue to decide Federal constitutional issues based on who has jurisdiction over those issues and where the lawsuit is filed.

For the Republicans to say to us that somehow we should direct the Federal courts to do this seems to me completely inconsistent with everything that they have said that they stand for. First of all, they have told us that they believe in the devolution of power back to the State and local level. This bill is absolutely counter to that proposition.

Second of all, they have told us that they believe in disputes being resolved at the level of conflict closest to the people. This is absolutely contrary to that proposition.

Third, they say they want these things resolved quickly. Well, we have a backlog in the Federal courts unlike any State in this Union, because the Senate will not let the Federal judges be appointed, and so we are getting further and further and further behind. So to put these cases in Federal Court is going to prolong the process, not shorten the process.

This is a bad idea. State courts can and should resolve these disputes. Federal courts can and should resolve these disputes. The current law allows that to happen right now and we ought to leave it alone.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I thank the gentleman for yielding me this time.

I am here in Congress because I am absolutely committed to communities being able to achieve livable futures. I was present at the inception of Oregon's landmark land use planning laws, and I spent the last 18 years of my life in local government implementing some of the best and most far-reaching environmental protections in America and, as such, I would like to offer some observations about today's legislation.

First, I am happy that so many of my Republican and business friends acknowledge that there is a legitimate Federal role in local and State land use planning. This is an important milestone for Congress. But I do fear that a number of people are avoiding the true circumstance that occurs in development in many parts of our country.

In the absence of comprehensive land use plans developed by local government with the help of their citizens and business interests, we have a patchwork system that too often employs as a central part legal maneuvering and political pressure. I believe

from the bottom of my heart this is the wrong way to go.

Just because communities have not yet decided to have a comprehensive plan in place does not mean that people can do anything they technically or legally want with their property. Instead, there is an elaborate political legal tangle in most communities. This is an exceedingly inefficient and often unfair way to resolve the important public policy decisions attendant to development.

There needs to be a way to provide incentives to State and local governments to carefully codify their planning objectives in terms of zoning and development requirements, along with cost and fee structures that require development to pay its own way. A combination of sound land use planning and appropriate user fee structures makes good development possible.

I do not fear a wholesale legal assault on behalf of the development community. My experience is that State and local government have at least as many legal resources and opportunities as the private sector. In fact, over the years, I have seen local government better able to defend itself in this fashion than the private sector. We in local government pay our attorneys by the year rather than by the hour.

I look forward to working with the development interests, local governments, and the environmental community as this bill works its way through the legislative process. I do see it as a step forward in the discussion of how we are going to direct and manage growth without undo legal and political wrangling.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume, and note that the Attorney General of Oregon does oppose the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this bill. In doing so, I do not stand alone. I am reflecting not only my own position but that of the National Governors' Association, most State Attorneys General, 40 at last count, the Judicial Conference of the United States, chaired by Chief Justice Rehnquist, the National League of Cities, the U.S. Conference of Mayors, and every single environmental group who view this issue as of such magnitude that they are going to double score it.

It is an unusual coalition and they have come together on this for good reason. The reason is simple: This bill violates the most basic principles of federalism. That is just as true of the manager's amendment as it is of the original text. That is not, as some say, a narrow procedural fix. Far from it. Would all these groups be arrayed against powerful developers if the bill was a narrow procedural bill? I doubt it.

The bill would fundamentally alter the balance between localities and the Federal Government, between developers and neighborhoods, between the legislative and the judicial branches. The bill would overturn a 7-to-1 Supreme Court decision, a decision in which all the conservative justices of the time, Burger, Rehnquist, O'Connor, concurred.

Make no mistake about it, H.R. 1534 represents a fundamental shift in American law and will rob communities of the opportunity to determine their own destinies.

□ 1215

Forget about legal doctrine for a minute. Let us look at the practical impact of the bill. It basically removes any incentive for a developer to negotiate with a community because the developer will always be able to threaten to take the community immediately into Federal court. That will change the look of every single community in this country. Think about it.

Now, supporters of the bill sometimes say, ''We're just making sure that the fifth amendment claims can get to Federal court.'' We think fifth amendment cases should get to Federal court, but the Federal court cannot determine if the fifth amendment has been violated until they know exactly what a zoning board would allow, exactly how much a local action reduced property values and exactly what compensation was offered. Bringing Federal courts in prematurely, as this bill does, simply allows Federal judges to substitute their judgment for the locality's before all the facts are in.

Again, do not take my word for it. Here is what the Judicial Conference of the United States says: ''The bill would alter deeply ingrained federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local levels.''

Here is what the National Governors' Association wrote in a letter signed by Governor Voinovich of Ohio: ''The result will be substantially more Federal involvement in decisionmaking on purely local issues.'' Listen to the experts who do not have a financial interest in the outcome of this bill. This bill says we do not trust local governments. This bill says devolution; that is, sending authority from the Federal Government to the State and local governments, is a cockamamie idea. This bill says all wisdom is vested in Federal courts, not in State and local courts. I urge opposition to H.R. 1534 unless the sensible Boehlert amendment is passed.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman for yielding me this time. There is some controversy on this bill. I was able to pass an amendment when it was offered on the floor 2 years ago. People may argue about limiting, causing damage to private property and wanting to compensate them for it. I believe when the Federal Government takes an action which limits the use of or damages the property of a citizen, the Federal agency should in fact be responsible for ensuring they be made whole. No action do them.

I support the bill, but I do not believe this bill in its current form really is in the total best interests of all of the people we represent. Not all of our constituents have accountants and attorneys. If this bill becomes law, those big corporations and all those people have all those legal eagles and they are going to advise them exactly what to do and what is available to them and how to go about it, but the average citizen may not even know there is an action taken which may have in the future caused them to lose money.

My amendment says that when a Federal agency takes an action that causes an American to have their property use restricted or to lose value, that the agency shall give notice to the owners of that property explaining their rights under the law and then, second of all, the procedures that they can use for obtaining any compensation if they are eligible for it.

Now, if this is not fairness, I want someone to tell me what fairness is. This language was accepted overwhelmingly on the House floor during the debate 2 years ago. It ensured that every private citizen and property owner would be afforded the same types of procedural rights and protections as do those people that can afford to hire attorneys and accountants. I would like to ask the Congress that, in the wisdom of the Congress, under unanimous-consent order to allow this amendment to be offered on the floor for an up or down vote. That, I ask. I hope that that opportunity would be made available. It makes the bill better. From what I understand, the sponsor of the bill is in support of that language and I see no opposition.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in opposition to this bill. I want to speak specifically to some of those cosponsors, because I got close to cosponsoring this bill until I read it. Frankly what this bill is is a fast track for developers. It is a fast track that allows them to bypass the local zoning process.

Look at this. This bill is opposed by the National League of Cities, by the National Mayors, and by the National Governors' Association. Why? It is because this bill allows that usurpation or that bypassing of the local process. What does that do? First, it is going to cost local governments a lot more money to have to defend these cases.

Remember, this case is driven by the property owner and the property owner in this case is sponsored by the Homebuilders Association. This is not the little lady in tennis shoes who we often talk about that may have conditions placed on the development of her house and therefore you have got a takings issue. What the sponsor did not tell you is that in California, the State he represents, there is in the State constitution a protection of takings issues. There is a protection in the national Constitution.

So there is nothing here that is broken. The only thing that is broken is the fact that people do not like zoning conditions, use permits, and conditions placed upon those use permits on their property.

As the gentleman from Michigan [Mr. DINGELL] indicated, you could do all kinds of things. You could complain that if you were a liquor store owner that you wanted to put your liquor store next to a high school because that local zoning may prohibit that. You could complain because you would not be allowed to put your waste dump in a residential neighborhood. Those are all issues that would generate takings issues.

I think that this body ought to wake up and listen to a former Speaker who said all politics is local. In this case, leave those politics local. Oppose this legislation, join the National League of Cities, the U.S. Conference of Mayors, the National Conference of State Legislatures, and the Judicial Conference of the United States and the President, who will veto this bill if enacted the way it comes to the floor. I oppose H.R. 1534.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in support of this bill. I want to bring to Members' attention a single case in Louisiana, 20 years old now, a Corps of Engineers levee project. The corps denied the project in 1976. The landowners overturned it. It went to court over and over again. Eventually the EPA exercised veto authority in 1985, denying the landowners' rights. When the landowners finally filed suit following that veto exercise in 1985, which they contested in court additionally, the court ruled that the 6-year statute of limitation had passed and they no longer had a right to file a claim for takings.

Now, get this. They were in court for all these years, from 1976 to 1985. When they finally lose their case in 1985, EPA vetoes the project and therefore their land is taken from them, all viable use has been taken away. The court then rules that the 6-year statute of limitation is over and they should have filed years ago for the taking when they did not know a taking had yet occurred. They eventually had that decision overturned.

It is 20 years and these property owners have not yet received relief. This bill is vital. It will end litigation, consolidate it and protect procedural rights of property owners in America.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I appreciate the gentlewoman yielding me this time. Mr. Chairman, I served as a city counselor in Portland for 6 years and as mayor of the city of Portland. I was also an attorney. So I have a perspective, I think, on this issue that I want to share with other Members.

First of all, in cities like mine, we have perfectly appropriate and sound local zoning practices. I would argue that most communities, a great many communities in this area, do very well. Second, I would say this. Although if you look around the country there is a variation between how quickly you can move through State court and how quickly you can move through Federal court, at least in my State it is more time consuming, more expensive to go to Federal court, more complicated.

I would just say to Members of this House, we have heard over and over again the urging of Members of this House to push more responsibility back to the State and local governments. We have also heard concerns about the Federal courts. What are we doing with this bill? We are pushing local land use disputes into the Federal courts so they can be dealt with there.

That is why the National Governors' Association, the National League of Cities and the U.S. Conference of Mayors are all in opposition to this bill. This bill, as they say, would give parties to a local property dispute immediate access to Federal courts before State and local processes have a chance to work. I do not think that yields better government for us here in the Congress or for our taxpayers back home.

The distinguished gentleman from California, the sponsor of this bill, said it would provide equal access to justice for ordinary landowners. I dispute that. I agree with the gentleman from California [Mr. FARR], who said this bill is fast track for developers. We should not pass this bill. The Founding Fathers never intended the Federal courts as the first resort in resolving community disputes among private property owners.

Mr. Chairman, I include for the RECORD the letter dated October 21, 1997 from those three groups, the National League of Cities, the National Governors Association, and the U.S. Conference of Mayors.

The text of the letter is as follows:

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS,
October 21, 1997.

DEAR MEMBER OF CONGRESS: We are writing to express our strong opposition to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997. We assure you that state and local elected officials are deeply committed to the protection of private property rights. However, by preempting the traditional system for resolving community zoning and land use disputes, this bill would undermine authorities that are appropriately the province of state and local governments and create a new unfunded mandate on state and local taxpayers. We urge you to vote against H.R. 1534.

This bill would give parties to a local property dispute immediate access to federal courts before state and local processes have had a chance to work. The result will be substantially more federal involvement in decision making on purely local issues. This represents a significant infringement on state and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to state and local governments as we are forced to resolve disputes in the federal judiciary instead of through established state and local procedures.

In our view, the Founding Fathers never intended the federal courts as the first resort in resolving community disputes among private property owners. Rather, these problems should be settled as close to the affected community as possible. By removing local disputes from the state and local to the federal level, H.R. 1534 violates this principle and undermines basic concepts of federalism.

For these reasons we urge you to oppose H.R. 1534.

Sincerely,

GOV. GEORGE V. VOINOVICH,
Chairman, National Governors' Association.

MARK SCHWARTZ,
Councilmember, Oklahoma City, President, National League of Cities.

MAYOR PAUL HELMKE,
City of Fort Wayne, President, U.S. Conference of Mayors.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, I rise in strong support of this bill. Today we have an opportunity to open the courthouse doors to America's private property owners who are clamoring outside, hoping to gain entrance merely to exercise their constitutional rights.

At one time in our Nation's history the property rights of individuals were sacred. In our Constitution the Founding Fathers provided that that no person shall be denied of life, liberty, or property without due process, nor shall private property be taken for public use without just compensation.

But increasingly local, State, and Federal Governments have overlooked the Constitution and placed more and more restrictions on land use in a manner that ignores rather than protects the interests of those who own the land. In these situations, it is only right that landowners have a fair opportunity to challenge the decisions of governmental bodies in court. But instead their access to justice is routinely denied. In fact, only 20 percent of takings cases successfully weave their way through the procedural obstacles that await them in a journey that takes an average of 9½ years to navigate.

Mr. Chairman, this bill sends a message to Federal courts that they can no longer willingly ignore takings cases. In effect, the bill will give private property owners their day in court and finally put the decision within their view.

Ms. LOFGREN. Mr. Chairman, noting that the attorney general of Ohio is opposed to the bill, I yield 1½ minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlewoman for yielding me this time. I wonder if we might send the Sergeant at Arms out around the House buildings to search for conservatives. We seem to have lost our conservative grounding in this Congress, after all of the protests that we have heard over the last, almost 3 years, about the importance of returning power to the States, about mistrust of Federal judicial activism and on and on and on. Here we have this piece of legislation that will run exactly counter to the presumed doctrine of the majority party, inviting judicial activism by the Federal courts, interposing Federal intervention as the first resort rather than the last.

□ 1230

I am absolutely bewildered by this. I wonder whether the subtitle of this legislation ought to make some reference to the fact that Lewis Carol has been installed as honorary chairperson of the Committee on the Judiciary. This bill certainly represents Congress through the looking glass, in which all notions of what had been true and upright have been turned on their heads. And we are now presented with this proposal from the majority that really makes a mockery of what we thought they stood for, and what really most of us stand for, in terms of local control, the determination of local matters of land use by the authorities that are most competent to deal with the issue.

Mr. Chairman, after carefully reviewing H.R. 1534 as reported by the Judiciary Committee, I've come to the conclusion that it is not a good bill, and that we should not pass it.

It's true that this bill takes a different approach than did the so-called private property or takings legislation considered in the last Congress. This bill, at least in form, is a procedural measure, not one to revise the basic substantive law in this area. But that's about the best that can be said for it. Just because it's procedural doesn't mean that it's not a far-reaching bill. In fact, it's a radical measure.

It's radical in the way it would nationalize decisions about matters that directly affect our constituents—decisions about every neighborhood and every community.

It's radical in the way it would take those decisions out of the hands of legislators and even State judges and entrust them to Federal judges—even though some of our colleagues who are supporting it have been outspoken about their fervent desire to reduce, not enlarge, the role of the Federal Government.

And it's radical in the way it would promote Federal litigation, rather than encouraging local resolution of these local issues in ways that emphasize accommodation and that don't involve the considerable expense—including legal fees and other costs—of going into Federal court.

It's because it is such a radical measure that it's opposed by the attorney generals of 37 States. As they've written to Chairman HYDE, the bill invades the province of State and local governments and * * * literally compels Federal judges to intrude into State and local matters.

The bill is also opposed by many other groups, including the National League of Cities and the U.S. Conference of Mayors. I have received letters in opposition from the mayor of the city of Boulder, CO, and every member of the Denver City Council. Under general leave, I will include those letters at the end of my statement; for the moment, I'll just share two of the points they make.

In her letter, Mayor Durgin says:

> The city of Boulder works very hard to balance the controls it must place on private property owners, creating win-win situations. . . . In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder. . . . By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces the incentive for private property owners to participate in negotiated land use solutions. . . . Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare. . . . This is a grave threat to the delicate balance of public and private interests which the state and federal court system has struck in the land use arena.

The letter from the Denver Council members also puts it well. As it says, ''our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to State courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a State with a particularly powerful tradition of local control and home rule on land use matters. The bills currently before the House and Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado and would also contradict the recent trend in Congress to devolve power to State and local government.''

For another perspective, last week I asked Judge John L. Kane, one of the senior judges of the U.S. District Court in Colorado, to take a look at this bill and tell me how it would affect him and his colleagues.

His response made some very telling points about the language of the bill, parts of which he described as ''the sort of statutory language that gives judges fits and subjects them to accusations of 'judicial activism' when they try to determine what, if anything such language means.''

For example, he asked, ''what is 'one meaningful application'? Is it one that complies with the rules and regulations of the agency to which it is addressed? Is it one that is grammatically sensible? or decipherable? Or filed on time? Who determines whether the prospects for success are 'reasonably unlikely'? What does reasonably unlikely mean? Courts do not intervene. What is meant by 'intervention by the U.S. Court of Federal Claims is warranted to decide the merits''? Who decides what is warranted and by whom? What is meant by 'merits'? These and other terms appear throughout the proposed legislation and no definitions of procedures are presented.''

''I think,'' he said, ''the proposed legislation needs to go back to the drawing boards.''

As to how the bill might work in practice, should it actually become law, Judge Kane said that even if Congress were ready to destroy time-honored concepts of federalism, separation of powers, and finality of judgments, by passing this bill, it would not achieve its goal for what he called ''very pragmatic reasons.'' Here's what he told me:

''First, there aren't enough Federal judges and magistrates in the country to handle the anticipated caseload for the zoning cases alone that would come into Federal court, even if they did nothing else. In addition, the present wording of H.R. 1534 would encompass State forfeiture cases, condemnation cases, and nuisance cases.'' * * *

''Second, these anticipated cases would have to take their turn in waiting to be heard: Congress has already decided that criminal cases must receive priority. Given the so-called war on drugs, there are some Federal courts where scarcely any civil cases are tried. Other civil cases including civil rights, employment, and diversity jurisdictional claims must also wait their turn.''

In summary, about the effectiveness of the bill, this senior, experienced Federal judge said, ''The result which has a safe degree of predictability is more, not less, judicial gridlock.''

I think we should pay careful attention to the very serious objections to this bill raised by the attorneys general of so many States and territories.

I think we should listen closely to the many local elected officials who oppose this bill.

And I think we should pay attention to Judge Kane's analysis, and heed his advice. We should not pass this bill—instead, we should send it back to the drawing board.

CITY OF BOULDER
LESLIE L. DURGIN, MAYOR,
October 7, 1997.

Hon. DAVID E. SKAGGS,
Longworth House Office Building, Washington, DC.

Re: House Bill 1534: The Private Property Rights Implementation Act.

DEAR REPRESENTATIVE SKAGGS: I am writing to you on behalf of the Boulder City Council to request that you vote against House Bill 1534, the Private Property Rights Implementation Act, and any similar takings initiatives.

The City of Boulder is extremely sensitive to the impacts that local government actions can have on the rights of neighbors and the rights of property owners to use their land in a manner which suits their needs. The City of Boulder works very hard to balance the controls it must place on private property owners, creating win-win solutions. Often, striking the proper balance between the rights of individual property owners and the interest of the public at large entails thoughtful negotiations between community representatives and private landowners. Boulder's present vested rights and land preservation agreement with IBM is an outstanding example. In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder.

Takings legislation, such as House Bill 1534, threatens to undermine the current relationship between private land owners and local governments. By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces

the incentive for private property owners to participate in negotiated land use solutions. This includes the opportunity to address takings claims through local administrative procedures. Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare against the private actions of individual landowners. This is a grave threat to the delicate balance of public and private interests which the state and federal court system has stuck in the land use arena.

Finally, the City of Boulder notes that the federal government has given a great deal of attention in recent years to the notion of federalism. This is the principle that the federal government should only interject its authority in matters which are of a peculiar interest to national concerns. Clearly, the individual disputes between local governments and private landowners rarely have national implications, and the federal courts are properly loathe to become local planning boards of appeal. The Hamilton Bank precedent that House Bill 1534 seeks to overturn stands for that very proposition. Local administrative procedures and state court actions are sufficient to rectify most improper limitations on private property rights. It is at these levels that takings claims should first be adjudicated, with the federal courts serving to hear appeals of cases which are mishandled in the local and state processes. To permit landowners to skirt state and local remedies in favor of the federal court system runs completely contrary to federalist principles.

For the above reasons, the City of Boulder asks you to vote against House Bill 1534 and to oppose any similar takings legislation.

Sincerely,

LESLIE L. DURGIN,
Mayor.

CITY COUNCIL,
CITY AND COUNTY OF DENVER,
October 14, 1977.

Re: S. 1204 ''Property Owners Access to Justice Act of 1997''; H.R. 1534 ''Private Property Rights Implementation Act of 1997''.

DEAR MEMBERS OF THE COLORADO CONGRESSIONAL DELEGATION, As members of the Denver City Council, we are urging your opposition to S. 1204 and H.R. 1534, bills which stand for the extraordinary proposition that federal courts should be much more involved in local land use decisions.

As you know, debates over land use, growth management, and property rights are raging all over Colorado at the moment. Municipal officials are doing their best to balance the rights of developers and the desires of current residents to preserve existing communities and our treasured quality of life, even as growth proceeds at a break neck pace in many jurisdictions. Often our officials find themselves squeezed between two equally sincere factions, both of whom argue for protection of their property values and rights, and both whom may threaten to sue if their rights are not vindicated.

As you are also undoubtedly aware, our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to state courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a state with a particularly powerful tradition of local control and home rule on land use matters.

The bills currently before the House and the Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado, and would also contradict the recent trend in Congress to devolve power to state and local governments.

Before granting plaintiffs and their attorneys easier and earlier opportunities to haul Colorado local governments (and by implication their taxpayers) into Federal courts, please ask yourself one simple question: Where is the empirical evidence to show that local political institutions and state courts have been insufficient to protect the rights of property owners in Colorado?

Thank you for your attention to our concerns. Please let us know if you would like to discuss the matter with us.

Cathy Reynolds, Council President; Dennis Gallagher, Council District 1; Joyce Foster, Council District 4; Bill Himmelmann, Council District 7; Edward Thomas, Council District 10; Ted Hackworth, Council District 2; Polly Flobeck, Council District 5; Hiawatha Davis, Jr., Council District 8; Happy Haynes, Council District 11; Ramona Martinez, Council District 3; Susan Casey, Council District 6; Debbie Ortega, Council District 9; Susan Barnes-Gelt, Council At-Large.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, first of all, I thank the chairman of the subcommittee for yielding me time.

Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation is necessary to protect a basic civil right for all Americans: Protection against governmental confiscation of homes, farms, and businesses.

Today, the fundamental liberties of all of our citizens are threatened by a regulatory regime imposed by Government officials. The Government is able to confiscate the property of workers, farmers, and families without providing compensation.

Adding insult to injury, is a landowner's inability to have their day in court. Not only is the Government taking the private landowner's property, but is using a legal maze to prevent landowners from presenting and receiving a fair hearing on the merits of their case. Without H.R. 1534, property owners will continue to find themselves trapped in a legal nightmare from which they are unable to escape.

Mr. Chairman, I urge my colleagues to support this bill.

Ms. LOFGREN. Mr. Chairman, noting that the Attorney General of Texas opposes the bill, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to express to my colleagues that may be observing this debate that this really is what the gentleman from Colorado referred to as a world turned upside down. This legislation is absolutely outrageous. The unintended consequences are limitless.

I would perfectly agree, especially with the gentleman from Louisiana [Mr. TAUZIN] that if someone's property rights are hindered by a Federal action, that individual should have an expedited process to get to Federal court. But this bill goes way beyond that. This legislation deals with local zoning laws that have nothing to do with Federal action, and they have a major impact on State land use that has nothing to do with Federal action. So what we are doing here is completely taking out of the hands of your local planning commission, their right to decide zoning and land use and what is best needed for their community.

Mr. Chairman, we all want expedited Federal process when a Federal action impedes private property, but this takes the right of a local planning board in a community to have their say about how land is supposed to be used.

Land use, is it to be controlled by the Federal Government, or is it to be controlled by the State? If you think land use is a State issue and a local zoning issue, then you must vote against this legislation.

The idea that if your property is taken away for the public good, you should be compensated, that is absolutely, 100 percent for sure. But if the local government wants to regulate your property and regulate land to prevent public harm on other property, they should have a right to do that.

Mr. COBLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. PRYCE of Ohio) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534), to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENT AND PERMISSION TO POSTPONE VOTES DURING FURTHER CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 1534 in the Committee of the Whole, pursuant to House

Resolution 271, first, it be in order to consider the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] in the form I have placed at the desk, after the disposition of the amendment offered by the gentleman from Michigan [Mr. CONYERS], as though printed in part 2 of the House Report 105–335, which shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent; and, second, the Chairman of the Committee of the Whole may, (a) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and, (b) reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT.

OFFERED BY MR. TRAFICANT OF OHIO

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. COBLE (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BOEHLERT. Madam Speaker, reserving the right to object, I would like to ask a question of the Chair. I have no objection to the Traficant amendment, but I just want to make certain it is clarified when that will occur. Will that amendment come after the Boehlert substitute? If it does, I have no objection. If it does come before the Boehlert substitute, then we have a problem.

The SPEAKER pro tempore. The Chair understands the amendment would be made in order before the Boehlert substitute.

Mr. BOEHLERT. Madam Speaker, I object, I reserve the right to object.

Mr. TRAFICANT. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Madam Speaker, if the gentleman's substitute is passed, then his substitute would pass, with or without. This was approved unanimously. It is the only measure that gives notice to people who do not have accountants and attorneys of some protections, and has been worked out by leadership on both sides. I believe that position would not be in the best interests of our taxpayers and property owners of our country.

Mr. BOEHLERT. Madam Speaker, maintaining my reservation of objection, as I have made clear, I have no objection to the gentleman's amendment, I am in support of that amendment. I do have some serious reservations about when it would appear.

Mr. COBLE. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from North Carolina.

Mr. COBLE. Madam Speaker, I want to ask a question of the gentleman from Ohio [Mr. TRAFICANT] in an effort to clear the cloud.

Would the gentleman from Ohio be willing for his amendment to follow that of the gentleman from New York [Mr. BOEHLERT] since it appears he will object if it does not?

Mr. TRAFICANT. Madam Speaker, if the gentleman will yield further, I do not, as long as if my amendment passes it would be in order to either of the actions taken here today that might pass, if it would be amendable to both.

Mr. BOEHLERT. Madam Speaker, reclaiming my time, maybe we can resolve this. I have had some conversations away from the microphone.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Ms. LOFGREN. Madam Speaker, reserving the right to object, and I will not object. I just want to clarify that the minority supports the desire of the gentleman from Ohio [Mr. TRAFICANT] to debate this amendment. That does not necessarily mean we support the amendment itself, but the gentleman from Ohio's right to offer it, subsequent to the Boehlert amendment.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the request is granted.

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1534.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 1534.

□ 1240

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from North Carolina [Mr. COBLE] had 3 minutes remaining in debate, and the gentlewoman from California [Ms. LOFGREN] had 2 minutes remaining.

Ms. LOFGREN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, what happened to the Federalists in the Congress? We were going to empower the States. This is the most extraordinary preemption of local and State laws in my 11 years in the Congress.

This is unbelievable. We heard horror stories from people from States that do not have a regular land use process. Those States should adopt a land use process. Those local jurisdictions should adopt a land use process, and it should be regular. It should have process of appeal and litigation through their States. But not the Federal Government.

Do we want the Federal Government wading into every single local land use dispute? Peep shows next to schools, liquor stores next to high schools? I think not.

I do not think the people on that side of the aisle really believe that. They are playing here to an audience of special interests, very well-funded special interests. This is horrible legislation for small town America. It is horrible legislation for our States and States' rights. Reject this legislation.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe in the fifth amendment and the minority believes in the fifth amendment. I believe there ought to be compensation when there is a taking, and there ought to be due process. There is no dispute about that. But what we dispute is this remedy. We have heard a lot of discussion about widows who have been abused by the heavy-handed Government. But we need to get beyond that appealing image to what is really going on here.

Zoning protects neighborhoods, zoning protects homeowners, and what this bill does is allow developers rights that are much greater than those that would attach to neighborhoods and to homeowners.

These rights will attach, whether it is 20,000 housing units being built, or whether a town is trying to regulate the hours of operation of a topless bar or pornographic bookstore. That is what is so terribly flawed with this legislation.

Mr. Chairman, I urge my colleagues to oppose this and to search for a more rational response to this problem.

□ 1245

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from Kansas [Mr. RYUN].

The CHAIRMAN. The gentleman from Kansas [Mr. RYUN] is recognized for 3 minutes.

Mr. RYUN. Mr. Chairman, I rise in support of H.R. 1534. Mr. Chairman, one of the pillars of our democracy is the right of every individual to own private property. In 1792, James Madison said this, and I quote: ''That is not a just government nor is property secure under it where the property which a man has in his personal safety and personal liberty is violated by an arbitrary seizure of one class of citizens for the service of the rest.''

Because our Founding Fathers understood this very important principle, they included a guarantee in the Bill of Rights to protect private property owners from politicians and bureaucrats who believe that they know best how to use someone else's lands.

The fifth amendment to the Constitution assures the Government cannot take a person's private property without first providing the owner due process and just compensation. Unfortunately, the fears which motivated our Founding Fathers to include this property guarantee are being realized today.

For example, in the first 10 years after the enactment of the 1983 Rails to Trails Act, trails groups and State governments used that law to take the property from 62,000 landowners. Yet, not one of those aggrieved farmers and homeowners has received a single penny in compensation for their loss.

While courts have ruled that compensation must be paid to the property owners, endless bureaucratic redtape would first require a small Kansas farmer to retain a high-priced Washington lawyer to begin jumping over administrative hurdles. This lawyer would then need almost 10 years of expensive court time before securing a farmer's compensation for his strip of land that was taken to create a recreational trail for others to use.

All we have to do is do a little math, and if the value of a farmer's confiscated land is about $30,000 but a Washington lawyer would charge the farmer $100,000 to pursue the farmer's claim, there is no farmer who will be able to afford any compensation. That is why this private property rights bill, this one particularly, H.R. 1534, is so important. It is our duty as Members of this House, the peoples' House, the House of Representatives, to protect private property owners from arbitrary actions and guarantee their right to due process.

Mr. Chairman, I urge my colleagues to vote ''yes'' for property rights, to vote ''yes'' for due process, and to vote ''yes'' on H.R. 1534.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to H.R. 1534, the Private Property Rights Implementation Act.

Mr. Chairman, last night I brought a germane amendment to the Rules Committee and asked that it be made in order. My amendment seeks to balance this bill with adequate protection for the 65 million Americans that own their own homes. It would have limited the application of H.R. 1534 to States that provide adequate protection for homeowners in this country. All I asked for was 30 minutes to make my case to the Members of this House. My request was denied.

This measure, H.R. 1534, is an end of the session effort to avert full debate on a very important issue, property rights, the rights of special interests not the property rights of homeowners, yet on the floor today the rule was again expanded to accommodate another unheard, unrequested amendment.

I don't know for the life of me why the leadership in this House of Representatives is not willing to spend 30 minutes on the concerns of homeowners. H.R. 1534 is not a purely procedural, noncontroversial bill, as supporters of this bill would have you believe, they are wrong. This bill sides with developers who have made their views clear and, of course, generously contribute to the campaigns of those who support them. This is a new judicial superhighway that places the decisions in Federal courts, out of the hands of local government and State courts.

Ironically, the underlying bill we are considering today does not protect the property of homeowners—the most important investment made by the American family—from adverse actions by State and local government and others. This bill protects developers that may have been unjustifiably or justifiably stymied by local and State courts that are carrying out their own laws and rules. Under H.R. 1534, Congress rearranges this authority and moves it away from local and State governments. It's ironic that a Congress emblematic of devolution initiatives over the past several years are suddenly moving to superimpose such a national policy. The Federal courts, with this new guideline, will be no doubt more friendly to the interests of developers than State and local courts. The handwriting is on the wall as to the expense and policy change that this bill gives developers to easier access, and assure more profitable treatment in the Federal courts.

The real motive I believe is apparent, to first remove local decisionmaking power from communities, States, and the respective courts. And in the future create a wholly new class of takings which will hamstring the United States both State and Federal with a new class of taxpayer payments whenever zoning and the limits of common interest for the common good guide the use of real property to stop pollution, to enhance—their community they would be forced to buy theoretical development rights—this turns the local decisionmaking on its head.

I have drafted an amendment which is very important and seeks to balance this newly proposed policy path. I must admit, Mr. Chairman, I have some interests to worry about, too. They are the property homeowners of St. Paul, of Minnesota, and the Nation—the families that work hard every day and believe in the importance of neighborhoods and communities and their only property is their family homes. My amendment would have sought to at least protect them and their homes. It would have prevented this bill from going into effect in States that have not passed laws that protect homeowners' property rights. These laws will have to provide families with adequate notice when adverse development is moving in to affect their property. The intent was to provide homeowners with guaranteed access to the courts when their property is devalued by harmful developments nearby. I'm not sure anybody would oppose such an amendment. It will significantly improve H.R. 1534 and insures protection of the rights of American families and homeowners. We all have homeowners in our districts, and they deserve this right a priori.

All I asked for, Mr. Speaker, was 30 minutes. Claims have been made we simply don't have time to consider all the amendments that are in order. What I want to know is why we are wasting floor time on legislation that is opposed not just by all the environmental groups. But, Mr. Chairman, this bill is opposed by the National League of Cities, the Conference of Mayors, 40 State attorneys general, and is headed for a certain veto by the President. With a list that long you have to wonder who supports this bill and why. The point is, however, that we are engaged in a futile exercise. If we have the time to consider this bill on the floor, we certainly have time to consider the property rights of homeowners in this country, but the advocates of this legislation obviously feared this germane amendments; that placed homeowners property rights on a par with developer's for who this measure will benefit.

This procedure for debate silences the voices of the 65 million Americans who own their own homes and are concerned about reckless activities that could cause their

most precious investment to lose its value. For these reasons, I urge my colleagues to resoundingly defeat this measure and maintain the protections accorded homeowners by State and local governments, they are far better served at the local level where they have a place at the table than being shut out by this redefined property rights effort in the Federal courts where they are for all practical purpose excluded.

Nr. NADLER. Mr. Chairman, I rise to strongly oppose this bill which would override local zoning procedures, undermine local governments, burden Federal courts, and weaken efforts to protect public health, welfare, and the environment. It is bad policy and ought to be soundly rejected.

The current judicial procedures, which may appear cumbersome, have in fact served to protect communities across the Nation from misguided property use which may have been detrimental to the society at large. This bill will allow those who seek to risk public health, safety, and welfare for private gain to go over the heads of local officials and appeal directly to Federal judges, some of whom may have less understanding and expertise in the issues and concerns of the local community.

We learned while considering this bill in committee that this bill is specifically designed to undermine legitimate efforts to protect pubic health and safety. During consideration of this bill in committee, I offered an amendment to ensure that in cases where public health and safety are involved, the plaintiff cannot circumvent State and local courts to get the Federal courts. And the bill's sponsor rejected it. It appears then that supporters of this bill would deliberately seek to undermine the health and safety of our Nation's communities. That is simply wrong, and more than that, it is shameful.

I also want to mention that it appears that this bill could be used to undermine rent regulation in cities like New York, because it may allow landlords to challenge rent regulation and public housing laws and rulings in expedited fashion in Federal court. Tenants may lack the financial resources, the legal know-how or standing to appear in Federal court to defend their rights. Some have argued that this bill could undermine tenants' rights and threaten to eliminate low- and moderate-income housing in some of our biggest cities.

I urge my colleagues to oppose this bill that would jeopardize pubic health, destroy the environment, and put citizens' lives in danger.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997.

This bill would streamline the court procedures when a case is brought by a private property owner to protect their legal and civil rights as guaranteed in the fifth amendment of the U.S. Constitution. This is a bill that is sorely needed.

As chairman of the Committee on Resources, we have documented in our hearings the many cases where governments assert the right to set aside private lands for the protection of wildlife.

When a landowner wants to sell land and the Government pays for the land, that is legal and an acceptable manner for the Government to protect wildlife.

However, as is happening more frequently, the Government sometimes finds it inconvenient to find the funds to buy the land, so they designate it as habitat for an endangered species.

When that happens, landowners find that they cannot use their land. In the last 2 years, under extreme pressure from this Republican Congress, the Government is beginning a process to allow landowners to use land designated as habitat, but only at a very high cost to landowners.

When landowners cannot afford to go to court to protect their legal and civil rights, the Government can use pressure to take the land from the landowner.

We need to give landowners a more level playing field. We need to ensure that going to court is not so expensive that only the biggest and richest landowners can afford to protect their rights.

A case in point is the Headwaters Forest in California. For years the Government tried to use various forestry laws and the ESA to force the landowner off a portion of its land.

The landowner filed a takings suit in the court of claims and now the Government has come to the bargaining table and offering to pay for the property. This would not have happened if this landowner had not been a large, wealthy corporation with the resources to fight a long and an expensive court battle.

Now some environmentalists are arguing that this bill would increase the number of Federal lawsuits. Some environmentalists are now in the business of filing lawsuits. In the last 10 years, environmentalists have received over $10 million in payments from the Federal Treasury for filing endangered Species Act lawsuits. I believe many of these lawsuits are frivolous and an abuse of the courts, and their numbers are increasing dramatically. For environmentalists to argue against allowing average citizens to sue at the same time they are making a living off their lawsuits is hypocrisy of the highest order. I have a list of environmentalists who have received payments for lawsuits and would ask that it be entered into the RECORD with my testimony.

Let's ensure that the smallest and poorest landowner can have the same rights as the biggest corporation or the environmental groups. Let's pass H.R. 1534 and protect our constitutional rights.

ATTORNEY FEES AWARD BY ORGANIZATION

Name	Court No.	District	Amount
Alaska Wilderness Recreation and Tourism Assoc. v. Gary A. Morrison, et al. (Tongass Nat'l Forest)	94–033	Alaska	$853.20
Bay Institute of San Francisco v. Lujan—Delta Smelt	92–2132	California East	60,000.00
Bay Institute of San Francisco, et al. v. Babbitt—Delta Smelt	94–0265	California East	5,000.00
Biodiversity Legal Foundation v. Babbitt (Categroy 2 Species)	96–641	District of Columbia	10,000.00
Biodiversity Legal Foundation v. Babbitt	95–601	Colorado	1,000.00
Biodiversity Legal Foundation v. Babbitt	95–382	Colorado	8,000.00
Biodiversity Legal Foundation v. Babbitt	95–1815	Colorado	3,500.00
Biodiversity Legal Foundation v. Babbitt (Pending see above)—N. Am. Wolverine	95–816	Colorado	500.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	5,000.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	3,815.00
Biodiversity Legal Foundation, et al. v. Babbitt—Western Boreal Toad	94–1086	Colorado	1,408.19
Biodiversity Legal Foundation v. Babbitt—Selkirk Mountain Woodland Caribou	94–02441	District of Columbia	4,000.00
Biodiversity Legal Foundation v. Babbitt	95–2509	Colorado	3,435.61
California Trout, et al. v. Babbitt (Santa Ana Speckled Dace) (Pending see above)	95–3961	California North	40,000.00
California Native Plant Society v. Manuel Lujan, Jr. (Pending see above)—Plant listings	91–0038	California East	16,678.25
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	2,000.00
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	9,500.00
Citizens Cmte to Save Our Canyons, et al v. USFS, Bernie Weingardt, Dale Boswort (John Paul Area)	95–68	Utah	145.50
Clemmys Karmorata v. USFWS—Western Pond Turtle, Red Legged	93–6135	Oregon	2,522.30
CLR Timber Holdings, Inc. et al v. Bruce Babbitt, et al (Marbled Murrelet)	94–6403	Oregon	40,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	5,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	31,351.90
Colorado Environmental Coalition v. J. Turner—Razorback Sucker	91–1765	Colorado	5,168.40
Conservation Council for Hawaii, et al v. Manuel Lujan and John F. Turner	89–00953	Hawaii	44,635.25
Defenders of Wildlife v. Thomas—Strychnine	Strychnine	Minnesota	122,500.00
Desert Tortoise, et al. v. Lujan—Ward Valley—Tortoise	93–0114	California North	69,000.00
Dioxin/Organi-chlorine Center and Columbia River United v. Dana Rasmussen	91–1442	Washington West	61,500.00
Earth Island Institute, et al v. Manuel Lujan—5 Year Review	91–6015	Oregon	32,338.70
Edward Wilkinson Mudd Jr. v. William Reilly Admin., EPA—CWA/ESA consultation	91–1392	Alabama North	39,000.00
Energy and Resource Advocates, et al vs. Kenneth R. Quitoriano, et al and James D. Watkins (Energy Dept.)—(Purex Waste)	90–2479	California North	10,000.00
Environmental Defense Center v. Babbitt—Red Leggedfrog/salamander	94–0743	California Central	4,074.75
Environmental Defense Center v. Babbitt—Fairy Shrimp	94–0788	California Central	3,815.00
Environmental Defense Center v. Bruce Babbitt—Western Pond Turtle	93–1847	California Central	4,700.00
Environmental Defense Center v. Babbitt—Red Legged Frog	95–2867	California Central	44,511.53
Environmental Defense Center v. Lujan—Tidewater Goby	92–6082	California Central	7,500.00
Environmental Defense Center v. Babbitt—California Tiger Salamander	93–3379	California Central	4,300.00
Environmental Defense Center v. Bruce Babbitt—Southwestern Willow Flycatcher	93–1848	California Central	4,700.00
Environmental Defense Fund v. Lujan—Desert Tortoise	89–2034	District of Columbia	2,237.50
Florida Key Deer, et al v. Robert H. Morris—Fema/Flood Insurance	90–10037	Florida South	130,000.00
Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, Inc., et al. v. Babbitt—Bull Trout Listing	94–0246	District of Columbia	4,500.00
Friends of Walker Creek Wetlands v. Dept. of the Interior—Nelson's Checker Mallow	92–1626	Oregon	12,000.00
Fund for Animals v. Manuel Lujan, et al. (Pending see above) ESA Listings	92–800	District of Columbia	67,500.00
Fund for Animals v. Manuel Lujan (Pending see above) (ESA Listings)	92–800	District of Columbia	24,500.00
Fund for Animals, Swan View Coalition, D.C. ''Jasper'' Carlton (Director, of Biodiversity Legal Foundation) v. Turner—Grizzly Bears	91–2201	District of Columbia	36,000.00
Greater Gila Biodiversity Project v. USFWS—Pygmy Owls	94–0288	Arizona	2,048.91

ATTORNEY FEES AWARD BY ORGANIZATION—Continued

Name	Court No.	District	Amount
Greater Gila Biodiversity Project v. USFWA—Loach Minnow	93–1913	Arizona	11,000.00
Greater Yellowstone Coalition, et al. v. F. Dale Robertson (USFWS)—Grizzly bears	93–1495	District of Columbia	32,750.00
Greenpeace v. Baldridge	86–0129	Hawaii	88,794.01
Hawaiian Crow v. Manuel Lujan—Hawaiian crow	91–00191	Hawaii	195,000.00
Hughes River Watershed Conservancy, et al v. Dan Glickman, et al	1–94–113	West Virginia North	63,367.71
Idaho Department of Fish and Game v. NMFS—hydro transfer/salmon	93–1603	Oregon	8,405.06
Idaho Conservation League v. Manuel Lujan, et al.—Bruneau Hot Springs Snail	92–0260	Idaho	21,166.00
Idaho Conservation League v. Babbitt—White Sturgeon	94–0351	Idaho	5,000.00
Idaho Conservation League, et al. v. Lujan—Idaho Springsnail	92–0406	Idaho	8,000.00
Jeffrey Mausolf, William Kullberg, Arlys Strehlo; Minnesota United Snowmobilers Association v. Babbitt (Wolf/Eagle) (Pending see above)	95–1201	Minnesota	28,821.50
La Compania Ocho Inc., et al v. USFS, et al (Carson Nat'l Forest)	94–317	New Mexico	303,635.67
Marbled Murrelet et al v. Manuel Lujan (Pending see above)—Listing and critical habitat for marbled murrelet	91–522	Washington West	61,109.47
Mountain Lion Foundation v. Babbitt—Santa Ana Mountain Lion	94–1165	California East	6,500.00
National Audubon Society et al. v. Babbitt et al.—Guam species	93–1152	District of Columbia	22,500.00
National Audubon Society v. Lujan—Least Bell's vireo	92–209	California South	7,348.75
National Audubon Society v. Babbitt, et al.—Snowy Plover	94–0105	California South	7,540.61
National Wildlife Foundation, et al. v. Endangered Species Committee, et al	79–1851	District of Columbia	20,000.00
National Wildlife Federation, et al v. Robert Mosbacher (Commerce)	89–2089	District of Columbia	42,500.00
Native Plant Society of Oregon v. U.S. DOI—Oregon Plants	93–180	Oregon	13,046.19
Natural Resources Defense Council, et al. v. Bruce Babbitt—Desert Tortoise	93–0301	California North	262,096.76
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	57,000.00
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	518,000.00
Northern Spotted Owl, et al v. Donald Hodel, et al.—Spotted Owl Listing	88–573	Washington West	56,718.00
Northwest Forest Resource Council v. Dan Glickman (Emergency Salvage Timber Sale)(Pending see above)	95–6244	Oregon	298,144.36
Northwest Coalition for Alternatives to Pesticides v. Babbitt	94–6339	Oregon	10,500.00
Oregon Council of the Federation of Fly Fishers v. Brown (Cutthroat Trout)(Pending see above)	95–1969	Oregon	24,706.49
Oregon Trout Inc., et al v. USFS (Trout Creek Salvage Sale)	96–1460	Oregon	21,400.00
Oregon Natural Resources Council v. Babbitt—Western lily	94–666	Oregon	4,000.00
Oregon Natural Resources Council v. Department of Commerce	93–293	Oregon	16,200.00
Oregon Natural Resources Council v. Schmitten (Steelhead Trout)(Pending see above)	95–3117	California North	120,952.54
Pacific Rivers Council v. Thomas (Pending see above)—Salmon/Umatilla Forest	92–1322	Oregon	165,000.00
Resources Limited Inc., et al v. F. Dale Robertson, et al (Pending see above)—Flathead Forest/Grizzlies	89–41	Montana	47,000.00
			90,000.00
Restore: The North Woods v. Babbitt (Pending see above)—Atlantic salmon	95–37	New Hampshire	5,400.00
Save Our Springs Legal Defense Fund, Inc. v. Babbitt (Barton Springs Salamander) (Pending see above)	95–230	Texas West	72,500.00
Save our Ecosystems, et al. v. Federal Hwy Admin. (West Eugene Parkway)	96–6161	Oregon	2,560.80
Sierra Club and League for Coastal Protection v. John Marsh, et al	86–1942	California South	44,774.16
Sierra Club Legal Defense Fund v. Manuel Lujan	89–1140	District of Columbia	9,000.00
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer** same case but Justice split the fee in four portions	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.66
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	1,550,000.00
Sierra Club, et al. v. Bruce Babbitt, et al.—10 species of plants and animals	93–1717	California South	11,368.76
Sierra Club, et al v. James A. Baker, et al—Turtles??	89–3005	District of Columbia	18,583.72
Sierra Club, et al v. Richard Lyng (Pending see above)—Southern Pine Beetle and Red Cockaded Woodpecker	85–69	Texas East	149,647.50
Sierra Club, et al. v. David Garber, et al	93–069	Montana	55,000.00
Silver Rice Rat, et al v. Manuel Lujan—Silver Rice Rat Listing	89–3409	District of Columbia	19,500.00
Southern Utah Wilderness Alliance v. Bruce Babbitt—Virgin River Club	93–2376	Colorado	8,500.00
Southern Utah Wilderness Alliance v. Morgenweck—Virgin Spinedace	94–717	Colorado	4,200.00
Southwest Center for Biological Diversity v. Babbitt (SW Willow Flycatcher)(Pending see above)	94–1969	Arizona	15,509.11
Southwest Center for Biological Diversity, et al. v. USFWS—Loach Minnow/spinedace	94–0739	Arizona	1,000.00
Southwest Center for Biological Diversity v. Babbitt (Pending see above)	94–2036	Arizona	40,000.00
Southwest Center for Biological Diversity v. Babbitt	94–1946	Arizona	1,971.01
Southwest Center for Biological Diversity, et al. v. USFWA—Jaguar listing	94–0696	Arizona	1,665.00
Southwest Center for Biological Diversity v. Babbitt—Arizona Willow	94–1034	Arizona	5,145.00
Southwest Center for Biological Diversity v. Babbitt (Laguna Mtn Skipper)	96–1170	California South	17,000.00
Dr. Robin Silver et al. v. Babbitt (Pending see above)	94–0337	Arizona	4,000.00
Dr. Robin Silver v. Thomas (USFWS) (Mexican Spotted Owl) (Pending see above)	94–1610	Arizona	231,393.75
Dr. Robin Silver, et al. v. Babbitt (Pending see above)—Mexican spotted owl	94–0337	Arizona	102,418.86
Steven Krichbaum (w/Virginias for Wilderness) & Michael Jones v. USFS, William Damon (GW Nat'l Forest)	96–0108	Virginia West	345.00
Swan View Coalition Inc v. USFS (Flathead Forest/Grizzlies)(Pending see above)	93–7	Montana	23,700.00

Mr. DOOLEY of California. Mr. Chairman, I rise today to express my support for H.R. 1534, the Private Property Implementation Act. I believe this bill takes a new, more modest approach to the issue of property rights and has received widespread bipartisan support. The legislation helps property owners by clearing some of the legal and procedural hurdles that make it both excessively time consuming and expensive to assert their claims. This bill proposes to do nothing except clarify the jurisdiction of Federal courts to hear and determine issues of Federal constitutional law.

H.R. 1534 is vastly different from previous property rights bills. It does not attempt to define for a court when a taking has occurred nor does it change or weaken any environmental law. The bill would have no budgetary impact because, unlike previous bills, it contains no compensation requirement or trigger. Simply put, the legislation amends Federal procedural laws governing the jurisdiction of the U.S. district courts. H.R. 1534 would provide more straightforward access to Federal courts for property owners seeking redress of their fifth amendment rights.

There has been a lot of controversy generated surrounding this bill. More of the criticism of this legislation is based upon the assumption that the bill cuts local governments out of the decisionmaking process when it comes to land use. Nothing could be further from the truth.

The truth is that H.R. 1534 applies only to Federal claims based on the 5th and 14th amendments that are filed in Federal court. The bill creates no new cause of action against local governments. H.R. 1534 is only a procedural bill, clarifying the rules so a decision can be reached faster on the facts of the case instead of wasting taxpayer money on jurisdictional questions.

Local governments will have no new limits on their ability to zone or regulate land use. Local agencies will get at least two, maybe three, chances to resolve a land use decision locally before their decision will be defined as ''final''—once on the original application, once on appeal, and yet again on review by an elected body.

H.R. 1534 doesn't provide a ticket to Federal court—individuals already have a right to go to Federal court. The bill simply provides an objective definition of when ''Enough is Enough,'' so that both parties in a land use dispute can participate in meaningful negotiations. I believe H.R. 1534 represents a moderate approach that Members can and should support. Let's not miss an opportunity to do something that will provide a direct benefit to our constituents.

Mr. NEUMANN. Mr. Chairman, I rise today in support of H.R. 1534—the Private Property Rights Implementation Act. I strongly believe land use decisions should be made at the local level to the greatest degree possible. In fact, this Congress has fought hard to move more Federal programs out of the hands of Washington bureaucrats and into the control of the folks back home. The folks in Wisconsin and other States are better suited to make decisions that affect local areas than bureaucrats in Washington. Nevertheless, there are limitations that exist on local governments to ensure they do not trample on the rights of individuals. Those limitations are embodied in the Constitution and the Bill of Rights.

H.R. 1534 allows a property owner, who feels his or her constitutional rights have been violated, a chance to seek protection in Federal court—the same chance that anyone else would have. H.R. 1534 simply puts fifth amendment protections on par with other constitutional rights.

Those who argue that H.R. 1534 would ''federalize local land use decisions,'' have long supported Federal land use controls to protect the environment. Where is the consistency? Support H.R. 1534 and support the right of all Americans to be treated equally under the Constitution—even property owners.

Mr. GOSS. Mr. Chairman, this is a tough subject, involving the need to balance protection of constitutionally guaranteed private property rights with other constitutional guarantees of public health, safety, and welfare as traditional, legitimate functions of Government.

While I agree this is a subject that needs our attention, and I commend Mr. GALLEGLY for his work in bringing the matter forward, I do have some concerns about the bill we are about to consider.

As a former mayor and county commissioner, I'm particularly interested in H.R. 1534. While the current system we have of layering government an division of authority isn't perfect, I believe it works well and ensures a balanced role for all three levels of government involved in these decisions. We ought to trust the local officials to work through the zoning issues. They're the ones on the frontlines—they deal with these questions every day and are in the best position to be directly responsive to the needs and concerns of the community. Of course, there are poster child examples of the extreme development abuses and cases of egregious takings without compensation.

If there are questions of State law that need to be resolved, we need State courts to decide those issues. If a legitimate takings claim exists, it is critical we ensure landowners their day in court.

We need to maintain for local officials a meaningful opportunity to work with the landowners and other constituents to craft a compromise. In my view, it is not appropriate to have the Federal Government deciding or pressuring local land use questions. In addition, some critics of this bill have argued that the Federal judiciary would be flooded with claims and simply could not handle the caseload that would result if this bill were enacted. For example, the Federal district court for the area of Florida that I represent is already short handed and has a backlog of cases that is measured in years, not just months. I think we need to ensure that any changes to the current system take these concerns into account.

In the end, Mr. Speaker, balancing the right of a landowner to develop his property within the bounds set by the health, safety, and welfare interests of the community is a difficult question—I, for one, do not believe there's any particular magic a Federal court has that can solve these problems and make them go away.

Mrs. TAUSCHER. Mr. Chairman, I am a cosponsor of H.R. 1534, the Private Property Rights Implementation Act of 1997 because I believe that relief needs to be provided to property owners who are seeking finality to their land use plans, and I have become convinced that reform is necessary.

Since cosponsoring the measure, I have heard from opponents, especially many of the local elected officials from the 10th Congressional District, whom I'm proud to represent. I have continued to meet with both advocates and opponents to discuss in depth many of the concerns raised and fully explore the various interpretations of the bill as amended. Earlier this week, I wrote to Chairman HYDE of the House Judiciary Committee with several of my questions and urged him to postpone floor consideration of the bill until these issues are sufficiently resolved. Unfortunately, this measure is before the full House for consideration today and I, despite my support for reform, cannot vote for a measure with such important and potentially far-reaching implications without the time needed to fully explore the ramifications of this amended bill.

As I stated, I want to see a more streamlined and fair process for property owners, and I wish that this body had taken the time necessary in developing a needed reform measure, without overburdening our cities and counties. It is my hope that we can continue to work on this issue in the future to develop a consensus bill that can be supported by a coalition of involved parties.

Mr. PORTER. Mr. Chairman, while I realize that it is too late to formally remove my name as a cosponsor of H.R. 1534, I want to indicate that I do not support this bill in its current form. My initial understanding of this legislation was that its central thrust was to facilitate the ability of aggrieved parties to have Federal question claims adjudicated by Federal judges. However, it is now clear that the bill would significantly alter the abstention doctrine and more importantly, would allege to alter the Supreme Court definition of ripeness. I am concerned that a legislative effort to alter such a constitutional doctrine may be unconstitutional. I support the effort of my colleague, Mr. GALLEGLY, to make reasonable changes to unfair impediments to the consideration of takings claims but, acknowledging the two concerns outlined above, I cannot support this legislation.

Mr. COBLE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, as modified by the amendments printed in part 1 of House Report 105–335, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute, as modified by the amendments printed in part 1 of House Report 105–335, is as follows:

H.R. 1534

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 ''Private Property Rights Implementation Act of 1997''.

SEC. 2. JURISDICTION IN CIVIL RIGHTS CASES.

Section 1343 of title 28, United States Code, is amended by adding at the end the following:

''(c) Whenever a district court exercises jurisdiction under subsection (a) in an action in which the operative facts concern the uses of real property, it shall not abstain from exercising or relinquish its jurisdiction to a State court in an action where no claim of a violation of a State law, right, or privilege is alleged, and where a parallel proceeding in State court arising out of the same operative facts as the district court proceeding is not pending.

''(d) Where the district court has jurisdiction over an action under subsection (a) in which the operative facts concern the uses of real property and which cannot be decided without resolution of an unsettled question of State law, the district court may certify the question of State law to the highest appellate court of that State. After the State appellate court resolves the question certified to it, the district court shall proceed with resolving the merits. The district court shall not certify a question of State law under this subsection unless the question of State law—

''(1) will significantly affect the merits of the injured party's Federal claim; and

''(2) is patently unclear and obviously susceptible to a limiting construction as to render premature a decision on the merits of the constitutional or legal issue in the case.

''(e)(1) Army claim or action brought under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to redress the deprivation of a property right or privilege secured by the Constitution shall be ripe for adjudication by the district courts upon a final decision rendered by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State of territory of the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken

''(ii)(I) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism for appeal to or waiver by an administrative agency; or

''(II) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the disapproval explains in writing the use, density, or intensity of development of the property that would be approved, with any conditions therefor, and the party seeking redress has resubmitted another meaningful application taking into account the terms of the disapproval, except that—

''(aa) if no such reapplication is submitted, then a final decision shall not have been reached for purposes of this subsection, except as provided in subparagraph (B); and

''(bb) if the reapplication is not approved, or if the reapplication is not required under subparagraph (B), then a final decision exists for purposes of this subsection if the party seeking redress has applied for one appeal or waiver with respect to the disapproval, which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism of appeal or waiver by an administrative agency; and

''(iii) in a case involving the use of real property, where the applicable statute or ordinance provides for review of the case by elected officials, the party seeking redress has applied for but is denied such review.

''(B) The party seeking redress shall not be required to apply for an appeal or waiver described in paragraph (1)(B) if no such appeal or waiver, is available, if it cannot provide the relief requested, or if the application or reapplication would be futile.

(3) For purposes of this subsection, a final decision shall not require the party seeking redress to exhaust judicial remedies provided by any State or territory of the United States.

''(f) Nothing in subsections (c), (d), or (e) alters the substantive law of taking of property, including the burden of proof borne by the plaintiff.''.

SEC. 3. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but

was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2) For purposes of this subsection, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile.

''(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''

SEC. 4. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

''(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile. Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except a further amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS], or his designee. That amendment shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

If that further amendment is rejected or not offered, no other amendment is in order except, No, 1, the Traficant amendment made in order by the House today; and, No. 2, the amendment printed in part 2 of the report, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on the Traficant amendment made in order today by the order of the House, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows that recorded vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in that series of questions shall not be less than 15 minutes.

The Conyers amendment not being offered, for what purpose does the gentleman from Ohio rise?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support, in principle, the fact that when a Federal agency takes an action that limits the use of private property or causes the damage in property values that compensation is in order, and proper procedures affecting those goals shall be implemented.

In essence, I support H.R. 1534. I want to commend the sponsor, the gentleman from California, Mr. GALLEGLY, and the gentleman from North Carolina, Chairman COBLE, for this measure. I have supported it in the past. I support it today.

My measure was added as an amendment the last time this legislation was offered on the floor, and unanimously accepted. Here is what it says: When a Federal agency takes an action that limits the use of or causes property damage, the agency shall give notice to that prisoner explaining the rights they have and where they go for compensation, if they qualify.

Let me say this: The average private property owner does not have accountants and attorneys that monitor legislation. This is the right thing to do.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I say to the chairman and to the gentleman from Ohio [Mr. TRAFICANT] and to the body, Mr. Chairman, that I have reviewed the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] and I am supportive thereof.

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished sponsor of the legislation that I support, the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I join with my colleague, the chairman of the subcommittee, after having reviewed the amendment, and stand in strong support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. I think it adds to the bill.

Mr. TRAFICANT. Mr. Chairman, I appreciate that, and I reserve the balance of my time.

The CHAIRMAN. Is the gentlewoman from California [Ms. LOFGREN] opposed to the amendment?

Ms. LOFGREN. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California [Ms. LOFGREN] is recognized for 5 minutes.

Ms. LOFGREN. I yield myself such time as I may consume, Mr. Chairman.

Mr. Chairman, I recognize the motivation of the author of the amendment, and I think the motivation is entirely honorable and one that I concur with. I do, however, have grave reservations about the actual language of the amendment and the implications and unintended consequences that might occur. This is a very broad duty that is being imposed by the amendment on the Federal Government. Let me just give an example of why I think it is problematic.

In the Clean Water Act we, the National Government, make some very stringent findings about what may and may not be discharged into a stream. For example, discharging arsenic into a river is something that we have tried to control and avoid. Under this amendment, control of the discharge of arsenic into a stream would or could qualify as a taking, because if you are

in a business that uses arsenic in manufacturing, and you are constrained from using arsenic and discharging it, you have, in fact, been impaired in the full utilization of your property. It could be a taking under the act. There would be a duty to provide notice to the business under the amendment.

I think that would be a very difficult thing for the Federal Government to do. I would also like to make an additional point, which is that there is no burden under the amendment to notify other private property owners who are disadvantaged by the failure to proceed with the Government regulation.

In the example I have previously outlined, for those downstream from the polluter, if there is arsenic in the water, their right to use the water for home consumption is going to be impaired. There is no duty under the amendment to notify the downstream users that the pollution is going to continue to be coming at them. I think that is a problem.

I do not plan to ask for a recorded vote on this amendment, but I would think that narrowly drafting this amendment to cover land regulation activities that are directly aimed at use of property might go a long way toward perfecting this amendment and reaching what the author hopes to do.

But in its current form, I think it is a massive new obligation for the Federal Government. It will be impossible, actually, to accomplish. Therefore, it will lead to litigation and further costs and expenses that none of us can afford, and all of us would like to avoid. These are all unintended consequences but nevertheless, severe ones. Therefore, I would urge opposition to this well-intentioned amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

I could understand the grave reservations that the gentlewoman from California has, but she cited as an example the discharge of arsenic into a stream. If the Federal Government or one of its agents or agencies has discharged such a pollutant into our stream, the Traficant amendment says that any private property owner affected by it would not only be eligible under the bill, but they would be notified by the Traficant amendment that it has occurred.

Mr. Chairman, the Traficant amendment is very clear. It says if a Federal agency, a Federal agency takes an action. If a Federal agency is responsible for discharging arsenic, the Traficant amendment says they shall notify all of the people. That is why it is so drafted, so everyone downstream in fact would have to be notified; would they not? There would have to be a notice, and if there was damage that was created from that, they would be eligible for compensation, and what are their procedures where they can go for such compensation.

That is why it was unanimously accepted. This is the language that ensures that an average private property owner has some basic notification, more than anything else. That is the trouble around here. We pass laws at times that the legal eagles understand, identify, distill, and digest, and then come back and lobby to amend them, but the average American may not even know there is a protection that exists, or they are even eligible for compensation for an action that was taken wrongly; maybe not intended to be wrongful action, but it certainly was, such as arsenic in the river.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would note that the amendment says, whenever a Federal agency takes an agency action limiting the use of private property.

In the example I used earlier, if the Environmental Protection Agency limits a business from discharging arsenic into the creek, they have impacted and limited the use of that private property, if the arsenic is important to the manufacturing process.

Therefore, the polluter, the arsenic deliverer to the stream, would, under this amendment, be required to be notified of the limitation on the use of his or her property. And arguably also be entitled to compensation for the limitation of the use of their property.

We will not, however, under the amendment be required to notify downstream users that the upstream user and deliverer of arsenic to the stream is not going to be constrained from so polluting because of the implication of this amendment, that essentially will stay action because of access to court.

I understand that the gentleman from Ohio [Mr. TRAFICANT] wants the average American to have notice. I do, too. But as a lawyer and prior professor of law, we also need to look at the plain language that we adopt. This will lead to unintended consequences certainly that the gentleman from Ohio [Mr. TRAFICANT] very clearly from his prior comments does not intend, nor do I. That is the problem with the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if there is any language that needs to simplify this, that expresses the legislative intent in debate here today, I will not oppose it in conference. But the legislative intent and history is clear. Anybody downstream that would be subject to arsenic from the gentlewoman's debate here today would be eligible for notification and for compensation.

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That is the purpose. If there is language in here that is so nebulous that the gentlewoman from California [Ms. LOFGREN] feels that it may in fact negate that intention, then certainly, my request is to make those small minor adjustments to effect that legislative intent.

But, Mr. Chairman, let me say this: When an average citizen's property is being limited or, in fact, the value is being diminished therein, they should get notice that such action is being taken and where they go for proper procedures. And if this amendment does not do that, then I do say to the drafters of the bill for those additional substantive language to be placed in there to, in fact, express that concern.

With that, I would hope that the gentlewoman would take that in good faith and help to construct that language.

The CHAIRMAN pro tempore (Mr. FOLEY). The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BOEHLERT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Property Rights Implementation Act of 1997''.

SEC. 2. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2) For purposes of this subsection, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.''.

SEC. 3. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

''(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a

final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

''(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the 120th day after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 271, the gentleman from New York [Mr. BOEHLERT] and the gentleman from North Carolina [Mr. COBLE] will each control 15 minutes.

The Chair recognizes the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my substitute. Here is what the substitute would do. It would allow those who sue the Federal Government over property rights to get to Federal court more rapidly. It does that in language that is virtually identical to sections 3 and 4 of the manager's amendment.

Mr. Chairman, here is what the substitute would not do. It would not interfere in any way with local government. It does that by eliminating section 2 of the manager's amendment. That is the section that allows Federal judges to intrude on local decision-making.

As Federal officials, we ought to limit ourselves to effecting Federal decisions. That is what my substitute does.

Mr. Chairman, I urge support for the Boehlert amendment. It is the moderate approach to property rights. It grants relief without trampling on Federalism. It helps property owners without preventing local communities from deciding their own future. I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Boehlert amendment in the nature of a substitute to H.R. 1534. Very frankly, Mr. Chairman, the amendment will effectively gut the bill.

The fifth amendment to the Constitution prohibits the government from taking private property without just compensation. This prohibition is applicable to local governments through the 14th amendment. H.R. 1534 addresses the procedural difficulties encountered by property owners alleging the local or Federal Government has taken their property.

Currently, property owners claiming a fifth amendment taking by local governments do not have a realistic option to file in Federal court. Under current case law, a takings plaintiff must meet both the ripeness standard, meaning have a final decision regarding the permissible uses on the property and exhaust all State remedies and overcome the well-documented abuse of the abstention doctrine which Federal judges use to avoid takings cases. Federal judges routinely abstain from takings cases even when the claim alleges only a Federal fifth amendment claim based on action by a local government.

H.R. 1534 addresses this problem by prohibiting Federal judges from abstaining when the claim involves only a Federal fifth amendment claim, even when the taking was done by local governments.

Mr. Chairman, the Boehlert amendment strikes the provisions of the bill which are applicable to local governments, leaving in the provisions which apply to the United States as a defendant. Mr. Chairman, this would exempt the vast majority of private property owners from the relief and assistance that H.R. 1534 provides.

If the United States is a defendant, a takings claimant will have very little trouble getting into Federal court. However, claimants alleging a Federal fifth amendment taking by local government will continue to operate without any certainty as to when their case is ripe for Federal adjudication and continue to be routinely dismissed by Federal judges avoiding takings cases.

Mr. Chairman, during the past couple of weeks, our staff and the staff of the gentleman from California [Mr. GALLEGLY], the sponsor of the bill, have worked tirelessly with the staff of the gentleman from New York [Mr. BOEHLERT] to come to an agreement on several issues, and I think the gentleman from New York will admit to that.

On October 15, 1997, the staff of the gentleman from New York handed a list of amendments that needed to be made in order to gain the gentleman's support for the bill. The manager's amendment incorporated each one of these items, either precisely as requested or in spirit. It is not an exaggeration to say that we bent over backward to accommodate the gentleman's concerns about H.R. 1534. The Boehlert amendment does not reflect the concerns raised in those meetings, but a complete gutting of the bill.

Mr. Chairman, I urge my colleagues to vote ''no'' on the Boehlert amendment in the nature of a substitute for H.R. 1534.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, it has been alleged that the manager's amendment accommodates all of our objections to the bill. This simply is not so. The fundamental flaw in this bill is not addressed in the manager's amendment. It does now say that if a zoning board offers alternatives, a developer must appeal one more time. That is good. But the bill still removes all incentives to negotiate because a developer can go to Federal court rather than follow the zoning board's instructions. Moreover, the bill still explicitly takes State courts out of the process.

Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Boehlert amendment and, contrarily, I do not believe that this guts the bill; it enhances it.

Mr. Chairman, there is clear evidence that we do need something to ensure that the property owners are afforded their day in court. Several Law Review articles agree that the current takings ripeness barriers are unreasonable and that the obstacles confronting property owners are often insurmountable.

However, I fear, in fact I am convinced, that this bill, H.R. 1534, swings the pendulum too far in the other direction. I commend to my colleagues a quote from a recent letter sent by the National Governors' Association, the National League of Cities, and the Conference of Mayors. And I quote, ''This represents,'' meaning the bill, ''a significant infringement on State and local sovereignty.'' Mr. Chairman, I do not know why Republicans want to do that. But State and local sovereignty, ''and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to State and local governments as we are forced to resolve disputes in the Federal judiciary instead of through established State and local procedures.''

Mr. Chairman, it is for this reason, all these reasons, of course, that I urge support of the Boehlert amendment.

Mr. Chairman, I would say to my colleagues, by the way, I have always lived under the rule that all politics is local and there is nothing more local than private property and zoning questions. Let us make sure that we are not shifting the balance from our local communities to the Federal Government. I urge my colleagues to support the Boehlert amendment.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I rise today in support of H.R. 1534, the Private Property Rights Implementation Act. As a Member representing California, as well as a member of the Western Caucus, I am acutely aware of the need for legislation to protect priority property owners, especially those who have fallen victim to the current administration's ongoing war with the West.

H.R. 1534 is fair legislation. It simply allows property owners injured by Government action equitable access to the Federal courts. Currently, 80 percent of Federal property claims are thrown out of the court before their merits can be debated. With a statistic like that no one can argue that the current process is fair.

No matter what reason the Government has for restricting private property use, and there are many legitimate reasons, there is no excuse for denying landowners their day in court.

Mr. Chairman, I urge my colleagues to oppose all weakening amendments to H.R. 1534, especially the Boehlert amendment. This amendment would eliminate the bill provisions allowing landowners to take their appeals to Federal court. Instead, the amendment states it would help landowners get to court ''more quickly.'' But what does that mean, more quickly?

It currently takes an average of 9½ years for the process to be resolved. ''More quickly'' could mean 8 or maybe 7 years, but it does not make that timeframe any more acceptable. This is not an issue about taking power away from the States and localities, as the Boehlert amendment would lead my colleagues to believe. H.R. 1534 is about the rights of property owners to have their claims considered fairly and in a timely manner.

Mr. Chairman, I urge my colleagues to oppose the Boehlert amendment and support H.R. 1534.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out to the gentleman from California [Mr. CALVERT] that his State attorney general, Attorney General Lungren, a good Republican, is opposed to this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I would like to address my colleagues with this concept: how many Members on this House floor are in favor of judicial activism where the unelected will determine land use and local zoning ordinances in their community? Who is in favor of that? If Members are in favor of judicial activism and if they are in favor of the unelected judicial judges determining local zoning in their area, then they will vote against the Boehlert amendment.

If, however, Members are in favor of expedited process to the Federal courts whenever a Federal action impedes or regulates private property, then they will vote for the Boehlert substitute.

The Boehlert amendment in the nature of a substitute expedites the process to Federal courts whenever a Federal action regulates Federal property. What the bill does without the Boehlert amendment is make Federal action control local land use and local zoning. That is the unintended consequences. The bill would send to Federal courts cases to decide local zoning and local land use.

Now, Mr. Chairman, the small community might be able to afford State courts, but there is no way they are going to be able to afford Federal courts. We all believe in the fifth amendment. We strongly believe that if property rights are taken away for the public good, constitutionally landowners should be compensated and they will be compensated.

However, if the local zoning board, the planning commission, decides in their management of their community that someone's property is going to cause public harm, that is a different story.

Mr. Chairman, I urge an ''aye'' vote on the Boehlert substitute.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say to the gentleman from New York [Mr. BOEHLERT], my good friend, I did not mean to mislead, when he said that the manager's amendment did not address all of his problems, what I said was that it addressed them either precisely or exactly or in spirit. And I think that is probably an accurate statement, although the gentleman's amendment did go a little farther than during the discussion.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the spirit is one thing, but reality is something altogether different. There still is a fundamental flaw, as the gentleman from North Carolina would acknowledge.

Mr. COBLE. Mr. Chairman, reclaiming my time, we will talk about that another day.

Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I rise in opposition to the Boehlert amendment and in strong support of the passage of H.R. 1534.

Mr. Chairman, I want to thank the gentleman from North Carolina [Mr. COBLE] and the gentleman from California [Mr. GALLEGLY] and the other cosponsors for their leadership on this very vital issue that is so important to so many of our constituents across the country.

Mr. Chairman, many of us here today were elected so that we could make the Federal Government smaller and give more power to State and local governments, and I am proud that we are making progress in that regard. But all of us were elected and are sworn to protect and defend the Constitution. We should never waiver from that protection.

Mr. Chairman, as we continue to move toward a larger role for State and local government, the protection and defense of the Constitution must remain in the forefront of our minds, and perhaps no element of the Constitution is more important than the Bill of Rights.

□ 1315

House Resolution 1534 goes far toward ensuring that as local governments rightfully play larger roles, the rights of the citizenry do not fall prey to overzealous regulation. This bill does not infringe on the rights of States or localities to regulate land use. It merely ensures that the citizen will receive final decisions on those legitimate principles of governance in an expeditious manner.

Even now, before the goal of devolution is fully achieved, takings claims brought under the fifth amendment are lengthy and time consuming. They are treated, as Justice Brennen of the U.S. Supreme Court said, like stepchildren to the Bill of Rights. The bipartisan authors of House Resolution 1534 have recognized that this current situation, already a problem, needs to be addressed before the laudable goal of devolution exacerbates the situation. As Robert F. Kennedy once said, back in 1964, justice delayed is democracy denied.

Some elements of State and local government oppose this bill because House Resolution 1534 will, as the U.S. Conference on Mayors writes, lead to increased liability for municipalities. What more blatant admission is there than that this bill is needed? If the municipalities are engaging in activities for which the courts would find them liable, they should cease or pay in a timely manner without forcing the citizens into costly administrative procedures. The Constitution requires no less. House Resolution 1534 ensures that that will happen.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Chairman, I rise in support of the Boehlert amendment. I am particularly pleased to hear so many Members on the other side speak to the issues of States rights, devolution. It was the authors of the Contract With America that said they wanted to return power to the people through State and local governments. Yet the bill, H.R. 1534, that is before this Congress would take local land disputes that have always been decided by State and local authorities and turn them over to the Federal courts. Whatever happened to devolution and State rights?

It also was the authors of the Contract With America that said they wanted to limit judicial activism. Yet the bill sweeps away the abstention doctrine which in effect restrains judicial judges. It also eviscerates the ripeness doctrine which prevents premature Federal involvement in such cases. It invites the Federal courts to strike down the actions of zoning boards and city councils across the land.

Mr. Chairman, let us give federalism, devolution, and States rights another

chance and let us support the Boehlert amendment.

Mr. COBLE. Mr. Chairman, may I inquire of the Chair the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. FOLEY). The gentleman from North Carolina [Mr. COBLE] has 7 minutes remaining, and the gentleman from New York [Mr. BOEHLERT] has 7½ minutes remaining.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, this bill does not give property owners any new authority to sue the cities in Federal court. They have it. I believe that the Boehlert substitute would gut this bill and would treat property owners differently. That is my concern.

Let me say this, the great Vince Lombardi was loved by everybody, but when they asked Mr. Willie Davis why they loved him, here is what he said, because he treats us all alike, like dogs at times, but all alike.

I think that the gentleman's substitute would put and inflect some differences in the way property owners would be treated.

Local officials still govern this. The process would be expedited under this bill. I think the bill is, in essence, good.

I would like to see the gentleman work in conference for some of the ideas in his substitute which are good.

Mr. BOEHLERT. Mr. Chairman, I would like to point out to my distinguished colleague from Ohio that this simply says that Federal courts deal with Federal issues. Local courts, State courts deal with local and State issues. Washington is not the source of all wisdom.

Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], former Governor.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me the time.

This is a very interesting bill. It is very conflicted in terms of the usual beliefs that we have here. We basically have private property rights versus local decisionmaking. The Republican Party which sides with local decisionmaking does not in this particular case.

I can understand the argument for private property rights, but then to give it to the Federal judiciary, which is not exactly an entity that is supported readily by Republicans, strikes me as being highly unusual. I do not know how they are really qualified to handle these kinds of decisions on a regular, simple appeal at an early process. And that is what this is all about.

Could we argue that eventually the appeal could go up to Federal court? It is very unlikely. Now, it is very likely that the Federal court is going to spend about half of its time handling these local property appeals. They are totally ill equipped to do this. It just is not going to work.

Do we want to expand the Federal judiciary to do this? We should note that the National Governors Association, as has been stated, 39 State attorneys general, the Judicial Conference of the United States have all come out against this bill. They have serious problems with it and they rightfully should.

This amendment is a pretty simple amendment. I support the amendment. Sections 3 and 4 basically are being changed here. It eliminates the direct appeal to the Federal courts on local property decisions, which really, in my judgment, absolutely should be done. But if one exhausts everything, they could still do it. If one is dealing with a Federal agency, they could still do it. So it still leaves the essence of the bill.

Yes, I understand the concern. I have a lot of respect for the sponsor of the legislation because I believe there are some private property concerns that need to be addressed out there. But this unfortunately is not the right answer. The bill goes too far. Now that we have had a chance to really study that, I think we need to understand it.

The best thing we can do today is to pass the Boehlert amendment, a good amendment which adjusts the bill and makes it correct, and then go on and pass the rest of the legislation at that point. I would urge everybody to look at this carefully. These are significant issues and the burden that we are shifting over to the Federal courts is something we should not do. I encourage support of the Boehlert amendment.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 1534 and in stronger opposition to the Boehlert amendment. The bill, the base bill is an equitable solution aimed at balancing the rights of private property owners with increased environmental, economic, and land use concerns. The fifth amendment states that private property shall not be taken for public use without just compensation. The legislation before us today is a bipartisan and moderate approach that guarantees the protection of the fifth amendment. The Boehlert amendment guts the heart of H.R. 1534 by removing equal access to Federal courts for property owners.

The base bill is a targeted limited bill that does not define when a taking has occurred. Consequently, the proper trigger point for compensation does not need to be debated. The Boehlert amendment creates a dangerous precedent by forcing Federal courts to deal differently with property rights cases depending on who the defendant is. The base bill does not give Federal courts new authority on questions that should be answered in State courts, rather, it provides an expedited way to resolve State issues.

Furthermore, this bill does not amend environmental law or regulation which was a point of contention in previous debate. Simply put, this legislation would provide for quicker and more straightforward access to Federal courts. The Boehlert amendment micromanages the Federal courts.

I would like to commend the gentleman from California [Mr. GALLEGLY] and other supporters of H.R. 1534 for their efforts to find a new way of reconciling the difficult issues addressed here. This legislation is balanced and fair. I urge my colleagues to support the base bill and oppose strenuously the Boehlert amendment which guts the base bill.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], a member of the Committee on the Judiciary and primary sponsor of the bill.

(Mr. GALLEGLY asked and was given permission to revise and extend his remarks.)

Mr. GALLEGLY. Mr. Chairman, I stand in strong opposition to this amendment. I would just like to respond to the gentleman from Massachusetts [Mr. DELAHUNT] and his comments. I am also very pleased to see the number of Democrats we have in strong opposition to the Boehlert amendment.

As a former mayor, I could not agree more with those who have argued for local control and decisionmaking. What we are trying to do is to provide some certainty to a process that can otherwise be very open-ended. What the bill now says is that the property owner must take a meaningful application, then if the locality chooses to deny that application, they should explain why in writing. If they do not approve that application, they should explain what type of development they would accept.

Mr. Chairman, I ask my colleagues to strongly oppose this amendment. It guts the bill. I hope the Members will join me in helping to preserve the reforms that are intended in this legislation.

I rise in opposition to the amendment by the gentleman from New York. Although the gentleman has made a number of positive suggestions about the bill recently, the amendment he is offering today is quite severe.

The amendment on the floor today will gut an extremely important part of H.R. 1534.

It is very important that we do not lose sight of the central point of this bill: Federal Constitutional property rights do not empower Federal judges to make land use decisions. H.R. 1534 would not empower Federal judges to decide whether a certain piece of land should be used for a grocery store or for a hair salon. Local governments will continue to have their traditional powers to make and enforce zoning regulations.

Some of the people who are screaming the loudest about local control of all land-use decisions have also been big supporters of having

Federal environmental laws micromanage how land is used. Federal endangered species protections certainly interfere with how land is used. No locality can regulate land use in a way that does not comply with Federal wetlands protections. There are probably many other environmental laws, enforceable in Federal court, that directly impact local governments or lands use decisions.

H.R. 1534 provides ample opportunity for the local process to work so that appropriate zoning and land use regulation can proceed.

What we are trying to do is provide some certainty to a process that can be otherwise very open-ended. What the bill now says, is that the property owner must make a meaningful application. Then, if the locality chooses to deny that application they should explain why, in writing. If they will not approve the application, they should explain what type of development they would accept.

Taking into account this information, the landowner must reapply. If that application is not approved, then he or she must appeal the decision or seek a waiver.

As a former mayor, I could not agree more with those who have argued for local control and decision-making. I might also note that many of the cosponsors of H.R. 1534 bring to this debate extensive knowledge of State and local government—133 of the members supporting the bill previously served as mayors, city council members, or State legislators. They bring to this debate a very practical understanding of what is at stake, and they support this legislation.

The question before us today is whether Americans should have reasonable access to the Federal courts to enforce Federal rights. I hope the Members of the House will support H.R. 1534 to provide legal protections that are fair and effective.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. POMBO].

(Mr. POMBO asked and was given permission to revise and extend his remarks.)

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding me this time.

Basically what we have here is the age-old debate, the debate of whether or not we have power to the government or power to the people. We get down to this basic debate many times over different issues, especially over private property issues. Whether the argument is to protect the power that the government controls over its citizens at the Federal level, the State level, or the local level, that is a debate that we continually hear from this particular side on this issue. They want to maintain that power over the citizenry.

On the other side of this issue what we have is people who are arguing in favor of the private property owner, of the individual citizen, of the individual that we all represent. I think that that is one of the important distinctions in this debate.

The importance of this underlying legislation is an attempt to give private property owners their so-called day in court. That is the effort that is being made. I admit that this bill does not go as far as I would like it to. I admit that the underlying legislation is a moderate attempt to achieve a very worthwhile goal. The Boehlert amendment guts even a moderate attempt to try to achieve that.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for those who say that my substitute guts the bill, I would point out that my substitute retains section 3 and 4 of the manager's amendment. Are the sponsors saying that those sections of the bill are meaningless? I do not think so.

To the previous speaker who says there is a choice, do we have power to the Government or power to the people? I say the choice is, do we have all power vested in Washington, DC, in the Federal Government, or do we leave to State and local governments power that they so jealously guard that they want to preserve, the power to make the decisions at the local level about local zoning issues?

Should the Federal Government determine whether or not we will have a pornographic parlor on some corner in some small hamlet in some State in America? I do not think so. I think the local communities can deal very effectively with that issue.

I would point out that the National Governors Association has spoken eloquently to this bill. Let me read an excerpt from their letter which has been addressed to all of our colleagues here:

> We are writing to express our strong opposition, strong opposition, to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997.

Continuing, the Governors letter says,

> the result will be substantially more Federal involvement in decisionmaking on purely local issues.

□ 1330

> This represents a significant infringement on State and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community.

Now, that is an excerpt of a letter from the National Governors' Association signed by Gov. George Voinovich, chairman of the National Governors' Association, Mark Schwartz, councilmember, Oklahoma City, president, National League of Cities, and Mayor Paul Helmke, city of Fort Wayne, president, U.S. Conference of Mayors.

As a matter of fact, my bill is the sensible approach to this issue because the basic bill, H.R. 1534, is not just opposed by me, not just opposed by a couple of Representatives of this great institution, it is opposed by the National Governors' Association, most State attorneys general, 40 at last count, including Dan Lungren, the attorney general of the State of California, including the attorney general of the State of New York, including the attorney general of the State of Texas, including the attorney general of the State of Connecticut, of Delaware, of Florida, of Georgia, of Hawaii, of Idaho, of Indiana, of Iowa, of Louisiana, of Maine, of Maryland, of Massachusetts, of Michigan, of Minnesota, of Mississippi, of Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, the attorney general of the Virgin Islands, the attorney general of Guam, the attorney general of the State of Washington, the attorney general of the State of Wisconsin.

The list goes on and on. Not only the attorneys general but the Judicial Conference of the United States, chaired by the Chief Justice of the Supreme Court of the United States, a very conservative Republican, Chief Justice Rehnquist. It is opposed by the National League of Cities, the U.S. Conference of Mayors, and every single environmental group in America.

Why do they oppose it? Because it simply does not make sense. The Republicans, my colleagues, my friends, are saying they favor devolution. They want to send more authority back to State and local governments, and I think that makes a lot of sense. This bill does just the opposite.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to rise in support of the gentleman's amendment and in opposition to the underlying bill.

I think the gentleman has done good work in terms of this. This helps the bill. It does not completely fix it, but I think it does respect the issue of restraint, in terms of the Federal Court, which is something that I think others have spoken to.

So I thank the gentleman, commend him for his work, and support his amendment.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I point out what the Judicial Conference of the United States says, and keep in mind we are talking about a basic issue decided by the Supreme Court that this bill proposes to overturn. That issue was decided 7 to 1 by the Supreme Court, with all the conservative justices voting in favor of Williamson County versus The Bank of Hamilton. Williamson County in Tennessee.

The Judicial Conference of the United States says the judicial conference expresses concern with the Private Property Rights Implementation Act of 1997. The bill would alter deeply ingrained Federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local level.

Finally, let me point out to my colleagues that it has been said repeatedly that my concerns have been mainly accommodated, some directly, some in spirit. Well, in spirit, that leaves a lot for interpretation.

The basic fact of the matter is, there is a fatal flaw in this bill. It does now say that if a zoning board offers an alternative, a developer must appeal one more time. But the bill removes all incentives for negotiations.

I urge support of the Boehlert substitute and opposition to the basic bill unless it is properly amended.

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. CAMPBELL].

(Mr. CAMPBELL asked and was given permission to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Chairman, the States are the issue in this debate, and so the Boehlert amendment, the amendment of my good friend, will destroy the purpose of this bill. The debate is over States. Not Federal Government encroachment, but State government encroachment.

That is why we are here. It is because when individual plaintiffs with objections under the fifth amendment to the Constitution complain that State governments have interfered with their rights, they are kept from getting an adjudication in Federal court in anything like an expedited or appropriate time frame. So if we remove from the bill all those provisions that deal with the States and local government, which is what the Boehlert amendment does, we do not have a bill worth discussing.

We are not here because of Federal Government takings, we are here because of allegations against State governments and local governments. So, really, voting for the Boehlert amendment is voting against the bill. Do not make any mistake about it, that is what it is.

I do not think we should vote against the bill, and here is why. Think what the Federal courts are supposed to do in the protection of constitutional rights. We do not tell Federal court plaintiffs to go somewhere else and wait their time when they are complaining of voting rights, when they are complaining of discrimination, of poll tax, illiteracy tax, being told they cannot have a right to the ballot. We do not say go take it to the board of election commissioners.

When there is a restrictive zoning, keeping someone out of an area because of their race, we do not say, well, take it to 20 different appeals to the zoning commissioners of the particular State, county, or locality.

And we deal with school desegregation. The day the Governor stands in the school and says someone may not come in there because of their race, that day the plaintiff goes into Federal court.

Why is the fifth amendment less? Why are plaintiffs under the fifth amendment to our Constitution not entitled to that same access to the Federal courts that are available to those who plead under the other provisions that I have cited?

The managers of the bill have accepted my amendment. I conclude by quoting it. ''Nothing in this bill alters the substantive law of takings of property, including the burden of proof borne by plaintiff.'' Vote for the bill, oppose the Boehlert amendment.

The CHAIRMAN pro tempore (Mr. ROGAN). The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 242, not voting 14, as follows:

[Roll No. 518]

AYES—178

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Blagojevich
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dixon
Doyle
Ehlers
Engel
Eshoo
Etheridge
Ewing
Farr
Fattah
Fawell
Filner
Foglietta
Forbes
Fox
Frank (MA)
Frelinghuysen
Furse
Ganske
Gephardt
Gilchrest
Gilman
Goss
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hinchey
Horn
Jackson (IL)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Obey
Olver
Owens
Pastor
Payne
Pelosi
Pomeroy
Porter
Portman
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Stupak
Sununu
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NOES—242

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Evans
Everett
Fazio
Flake
Foley
Ford
Fowler
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kennelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sandlin
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Brown (CA)
Chambliss
Cubin
Gonzalez
Jackson-Lee (TX)
Lantos
Martinez
McIntosh
Parker
Schiff
Shays
Stark
Strickland
Weldon (PA)

□ 1358

Messrs. HINOJOSA, HOEKSTRA, GUTKNECHT, CLYBURN and PEASE changed their vote from ''aye'' to ''no.''

Mrs. McCARTHY of New York, Mr. MOAKLEY and Mr. GANSKE changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Mr. Chairman, on rollcall No. 518, I was unavoidably detained. Had I been present, I would have voted ''yes.''

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall 518, the Boehlert amendment to H.R. 1534, I had a malfunctioning beeper and was in meetings where there was no detection that the vote was going on and so I missed that vote. Had I been present, I would have voted ''yes.''

□ 1400

PREFERENTIAL MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore [Mr. ROGAN]. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. FRANK of Massachusetts. Mr. Chairman, I read today that Roger Ebert, I guess it was today, has an article in which he says there should be a new category of Nobel Prize for Movies.

Well, I am going to add one. We should immediately ask that they institute a Nobel Prize for Inconsistency, because you would win it. There would be a problem: Under the rules, you could not accept the money, but maybe we can put it to the deficit. Because I do not think in recorded parliamentary history there has ever been a greater gap between people's professed principles and what they have voted for than there is in this bill.

The last speaker for the bill, against the amendment offered by the gentleman from New York [Mr. BOEHLERT], said it is about States. He was absolutely right. The premise of most of this bill is that States cannot be trusted to deal fairly with property rights; not State local officials, not State zoning boards, and, God forbid, State courts. Because what you are about to vote for is a bill that says let us tell every unelected life-tenured Federal judge in the country that they have not been sufficiently activist.

This bill says to all those guys sitting on the bench, what are you doing, sitting back and letting controversies be decided by State officials? How dare you leave things to the electorial process? What are we paying you for? How come you have life tenure? Intervene. Do not let these State zoning boards work out their will. Do not let State courts decide these issues.

In fact, it even says to them there is a State issue? You Federal judges, decide it. What do we pay you for? You have got life tenure.

Never in history have people denounced activism so much and promoted it even more.

The bill says this. And do we respect property rights? Yes. But what you are saying by this bill is we cannot trust State government. It is not a question about property rights, it is a question about whether State governments can be trusted, and it says we are not getting enough nonelected, life-tenured Federal judges intervening in the local process.

Somebody has a zoning fight in his or her State, and we say, all right, we will give the zoning board one shot. They get one appeal. Stay away from the State courts, go right into Federal Court. We do not want the Governor, the mayor, mucking around in here. What do all these elected officials know?

It also says, by the way, we do not decide enough judicially in America. It says that courts are sitting back and waiting for the political process. Let us intervene earlier.

There is a Federal doctrine known as ''ripeness'' which says the courts should not rush in; the courts should defer. Do you know what this bill says? Enough of that stuff. Earn your money. Do not wait for these disputes to be worked out, do not wait until the local officials debate it more and get factual information. Decide it. What do you have life tenure for? Ignore those local people. Do not pay attention to the State judges.

Let us be very clear: This bill says we need the Federal judges to be a lot more active than they have been. They should stop waiting for these things to be ripe. They should stop deferring to State courts to decide issues. They should stop letting local officials work these things out. We will solve it.

You passed a bill that restricted the right of habeas corpus in Federal court so we will not have habeas corpus. What we will have now is ''habeas propertius.'' What you will do, if your life is at stake, why not take three more State appeals? But you did not like the zoning, where is the Federal judge? You can get right into it.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware of any city or State organizations that support the Gallegly bill, himself a former mayor?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I do not know. I would have to say to my friend apparently there are some cities somewhere where people, having voted for the mayor, city council and to establish a zoning board, found they cannot trust them, and want the Federal courts.

There may be some municipality somewhere that wants unelected Federal judges to ride to the rescue from the zoning boards. Maybe we should be playing the William Tell Overture, because here come the Federal judges riding to the rescue, protecting you from these local officials.

Mr. Chairman, let me say in closing, I can understand people saying the Federal courts ought to do more, and if you think that you cannot trust the local people, okay. But, please, can I ask my colleagues on the other side, could you wait a week before you get up and denounce judicial activism? Can you wait a week before you pretend to be for States' rights? I do not think we can ban inconsistency, but let us have a waiting period.

Mr. GALLEGLY. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I thank my good friend from Massachusetts for yielding.

I would like to respond to the gentleman from Michigan [Mr. CONYERS], my good friend and neighbor, every mayor I have talked to in my district has signed a letter supporting it, cities over 100,000 people. I have not had one say no.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I think there have been cases where mayors do not like what the Governors do. I do not doubt that. But if there is any respect left in this body for consistency, this bill will be voted down.

Mr. COBLE. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, we believe in Federal protection in Federal courts for Federal fundamental rights. States protect State and Federal rights, but our Founding Fathers put this right in the Federal Constitution for attention by the Federal Government with a Federal remedy. So I do not see any inconsistency there.

Previously, Mr. Chairman, I said the Boehlert amendment would gut the Gallegly bill. I now say to my friend, the gentleman from Massachusetts [Mr. FRANK], that his motion to strike the enacting clause will emasculate the bill. It does great damage to the bill.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Illinois.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, under the bill with the manager's amendment, you do not get immediate access to the Federal court. You have to apply to the local land use agency. You get a ruling, you reapply, taking the conditions of the denial into account. Then you must appeal the application, or as much as necessary, to reach a body of elected local officials, if available.

If all of the above are denied, you have concurrent jurisdiction. You may go the State route or you may go the Federal route.

Now, I hasten to point out what we are vindicating here is a constitutional right, and the Federal courts exist to vindicate constitutional rights. The fifth amendment discusses the taking and the rights of property owners; the seventh commandment talks about thou shalt not steal.

The real problem is delay. Data indicates nine years it takes to wend your way through the maze of local jurisdiction. The Federal judges are local people. These cases are not too tough for them to decide. Concurrent jurisdiction is given, and there are many civil rights cases that get expedited treatment under the statute.

Why is not the right to have your property treated properly and legally a civil right? It is a human right. I simply say the Federal courts are not some exotic bizarre branch of justice only taking a few cases. Those judges can handle these cases. They are not tough. They handle a lot tougher cases.

But give the property owner some relief before 9 years have elapsed. Justice is what the court systems are all about, and concurrent jurisdiction gives the property owner an opportunity to get his Federal right, his constitutional right, vindicated in a Federal court.

I do not think there is anything improper with that.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I seriously appreciate having the chairman of the Committee on the Judiciary give this testimony to the important role of Federal district judges. We have heard too little of that. While I disagree with him on the specific bill, I am glad to have him reaffirm the importance of the local resident Federal district judges having a major role in defending constitutional rights.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, then the gentleman agrees with me and ought to withdraw his motion.

Mr. FRANK of Massachusetts. Mr. Chairman, I will withdraw my motion.

Mr. HYDE. God bless you.

Mr. FRANK of Massachusetts. I will ask unanimous consent to withdraw my motion, but the gentleman will lose his debate time. Does the gentleman want me to do it now, or wait?

Mr. HYDE. Mr. Chairman, you know, it is very unfair debating BARNEY FRANK, because he can get 20 minutes into 3 minutes. Never forget, this is a Federal constitutional right we are seeking to vindicate, and if the Federal courts do not want to hear these cases, this is a shame.

□ 1415

That is denying justice. Justice delayed 9 years is not justice, and we ought to seek a remedy. This bill provides a remedy, and I urge its support.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to withdraw the motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HANSEN] having assumed the chair, Mr. ROGAN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, pursuant to House Resolution 271, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. LOFGREN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. LOFGREN moves to recommit the bill to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 178, not voting 8, as follows:

[Roll No. 519]

AYES—248

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Berry
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Fazio
Foley
Ford
Fowler
Fox
Franks (NJ)
Frost
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sanchez
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—178

Abercrombie	Gilman	Neal
Ackerman	Goss	Oberstar
Allen	Greenwood	Obey
Andrews	Gutierrez	Olver
Barrett (WI)	Hastings (FL)	Owens
Bass	Hefner	Pallone
Becerra	Hinchey	Pastor
Bentsen	Hooley	Payne
Bereuter	Horn	Pelosi
Berman	Jackson (IL)	Pomeroy
Bilbray	Johnson (CT)	Porter
Blagojevich	Johnson (WI)	Portman
Boehlert	Johnson, E. B.	Poshard
Bonior	Kanjorski	Price (NC)
Borski	Kaptur	Rahall
Boucher	Kelly	Ramstad
Brown (CA)	Kennedy (MA)	Rangel
Brown (FL)	Kennedy (RI)	Reyes
Brown (OH)	Kennelly	Rivers
Capps	Kildee	Rodriguez
Cardin	Kilpatrick	Roukema
Carson	Kind (WI)	Roybal-Allard
Castle	Kleczka	Rush
Clay	Klink	Sabo
Clayton	Klug	Sanders
Clyburn	Kucinich	Sanford
Conyers	LaFalce	Sawyer
Costello	Lampson	Saxton
Coyne	Lazio	Schumer
Cummings	Levin	Serrano
Davis (FL)	Lewis (GA)	Shays
Davis (IL)	Lipinski	Sherman
DeFazio	Lofgren	Skaggs
DeGette	Lowey	Slaughter
Delahunt	Luther	Smith (NJ)
DeLauro	Maloney (CT)	Smith, Adam
Dellums	Maloney (NY)	Snyder
Dicks	Manton	Spratt
Dingell	Markey	Stabenow
Dixon	Matsui	Stark
Doggett	McCarthy (MO)	Stokes
Ehlers	McCarthy (NY)	Stupak
Engel	McDermott	Tauscher
Eshoo	McGovern	Thurman
Evans	McHale	Tierney
Ewing	McKinney	Torres
Farr	McNulty	Towns
Fattah	Meehan	Velazquez
Fawell	Meek	Vento
Filner	Menendez	Visclosky
Flake	Millender-McDonald	Walsh
Foglietta	Miller (CA)	Waters
Forbes	Minge	Watt (NC)
Frank (MA)	Mink	Waxman
Frelinghuysen	Moakley	Wexler
Furse	Mollohan	Wise
Ganske	Moran (VA)	Woolsey
Gejdenson	Morella	Wynn
Gephardt	Nadler	Yates
Gilchrest		

NOT VOTING—8

Chambliss	Jackson-Lee (TX)	McIntosh
Cubin	Lantos	Schiff
Gonzalez		Strickland

□ 1437

Mr. FLAKE changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall vote 519, final passage of H.R. 1534, I had a malfunctioning House beeper and was not able to get to the vote. Had I been present, I would have voted ''no.''

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1534, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1534.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. SHAYS. Mr. Speaker, on rollcall vote No. 518, the Boehlert substitute, I was, believe it or not, in the Capitol chapel and missed my first vote since I became a Member of this body in 1987. Unfortunately, the battery in my pager was dead, and I was unaware that there was a vote. I know, ''My dog ate it.'' Had I been present, I would have voted ''aye.''

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2646, EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105–336) on the resolution (H. Res. 274) providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMTRAK REFORM AND PRIVATIZATION ACT OF 1997

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and an amendment in the nature of a substitute by Representative Oberstar of Minnesota. The amendment by Representative Oberstar may be offered only after the disposition of the amendments printed in the report of the Committee on Rules, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. The amendments printed in the report may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore [Mr. FOLEY]. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 270 is a modified closed rule providing for consideration of H.R. 2247, the Amtrak Reform and Privatization Act of 1997.

Mr. Speaker, the rule provides for 1 hour of general debate, equally divided, and makes in order the Committee on Transportation and Infrastructure's amendment in the nature of a substitute.

Further, the rule makes in order two amendments printed in the report of the Committee on Rules as well as the Democratic substitute.

To expedite floor proceedings, the Chairman of the Committee of the Whole may be allowed to postpone votes during the consideration of H.R. 2247 and to reduce votes to 5 minutes, provided they follow a 15-minute vote.

Finally, the rule also provides the minority with the customary motion

to recommit with or without instructions.

□ 1445

Many of my colleagues may recall that last Congress the House considered and passed an Amtrak reform bill. In fact, that bill is virtually identical to the legislation before us today and it passed the House by an overwhelming vote of 406 to 4 with the support of both political parties, the administration, and organized labor. So one would think that without much debate the House could again easily pass this compromise legislation. But oddly things have changed.

Last night, in the Committee on Rules we heard testimony to the effect that organized labor has had a change of heart and no longer finds the Amtrak reform bill to their liking. While the reason for this mood swing was not made fully clear, the Committee on Rules voted to make in order two amendments that had the support of organized labor, a bipartisan amendment offered by my colleagues, the gentlemen from Ohio [Mr. LATOURETTE], and [Mr. TRAFICANT], as well as an amendment offered by the gentleman from New York [Mr. QUINN], which will be offered as a substitute to the LaTourette-Traficant amendment. Each amendment will be debatable for 20 minutes.

In a further effort to alleviate recent concerns, the Committee on Rules agreed to allow the ranking Democrat on the Committee on Transportation and Infrastructure to offer an amendment in the nature of a substitute which will be debatable for 30 minutes. That means that under the rule, two Democrats and two Republicans will have the opportunity to offer amendments to the Amtrak reform bill. In addition, the minority has the opportunity to offer a motion to recommit with or without instructions.

I would submit to my colleagues that the rule before us is very balanced and, given the easy passage of virtually identical legislation in the 104th Congress, I think the rule provides adequate time to debate the substance of the legislation, including the new concerns that have cropped up.

Mr. Speaker, not only is the rule before us fair, but the underlying legislation it allows the House to debate is critical. Amtrak's financial state is rapidly deteriorating. In April of this year, the Committee on Transportation and Infrastructure appointed a panel of outside experts to study Amtrak. The panel reached the unanimous conclusion that Amtrak is facing a severe financial crisis with bankruptcy looming the next 6 to 12 months.

In response, the Committee on Transportation and Infrastructure reintroduced legislation to implement a number of long-awaited reforms that will stave off bankruptcy and put the railroad back on track, ready to serve the many passengers who rely on its services. H.R. 2247 will eliminate the Federal Government's micromanagement of Amtrak and provide Amtrak with needed flexibility in managing its work force.

For example, H.R. 2247 will restructure Amtrak's management by removing the current board of directors and providing for the appointment of an emergency reform board which will recommend a plan to restructure Amtrak. The bill also creates a seven-member advisory council of business experts having no affiliation with the railroad industry, Amtrak, or the U.S. Government who will be charged with evaluating Amtrak's business plan, cost containment measures, productivity improvements, and accounting procedures. The council would then recommend to Congress how best to proceed toward partial or complete privatization of the railroad.

In addition, the bill gives Amtrak the option of contracting out work which will provide for desperately needed capital savings. Contracting out the work to repair and modernize Amtrak's facilities alone would save taxpayers an estimated $262 million. The bill also makes some reasonable changes to onerous labor protection requirements that will allow Amtrak to streamline and reassign its work force in line with commonsense business practices.

Other reforms in the bill will provide options for private financing and encourage States to continue their financial support of Amtrak in cooperation with other States to ensure their citizens have continued access to valued intercity rail services. These and other reforms in H.R. 2247 promise to continue Amtrak's service for passengers in the short term and set the railroad on a course to financial solvency and self-sufficiency in the long run.

While these changes are dramatic by necessity, they are carefully designed in fairness to the American taxpayers and Amtrak's employees.

Mr. Speaker, time is of the essence. Our constituents who rely on intercity rail services and all American taxpayers are looking to Congress to address Amtrak's crisis in a reasonable, responsible, and timely manner. Therefore, I urge my colleagues to adopt this fair and balanced rule without delay so that the House can move on to debate the important issues surrounding Amtrak's future.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague, the gentlewoman from Ohio [Ms. PRYCE] for yielding me the customary half hour.

Mr. Speaker, Amtrak is one of the foundations of our national transportation system and it is a crucial part of our economic infrastructure. But this bill will hurt Amtrak. It will hurt Amtrak workers far more than it will help Amtrak. For that reason, I urge my colleagues to oppose this modified closed rule.

Mr. Speaker, millions of Americans rely on Amtrak. They take the train to work. They take the train to meet their customers. They take the train to meet their clients. They take the train to college. They take the train to visit family and friends.

The people who work on the railroad do an excellent job of making sure that the trains run on time.

Mr. Speaker, rail travel is the transportation of the future. It is fast. It is convenient. It is energy-efficient, and it enables everyone to travel regardless of whether or not they can afford an automobile.

The Northeast corridor is the most traveled rail route in the country. This corridor stretches from Boston to Washington, DC, and carries over 100 million passengers a year. Without Amtrak, Mr. Speaker, our infrastructure would be much more overloaded than it already is. Our air would be more polluted, and most people would have a much more difficult time getting from one destination to another.

Mr. Speaker, we all recognize that Amtrak, despite the great improvements that have been made over the last few years, is still not working at its best. According to the General Accounting Office, Amtrak's equipment, Amtrak's facilities, its stations, its tracks, its rolling stock are all starved for capital investment. Without capital investment, services are less reliable, trains are less comfortable, and the American rail system falls further and further behind those of other developed countries.

Mr. Speaker, today's bill is designed to help solve these problems by making Amtrak more commercially viable. For example, today's bill forbids Federal micromanagement of Amtrak's routes and incorporates transport industry expertise from the private sector. It also triggers up to $2.3 billion in tax credits for desperately needed capital expenditures.

But despite the great improvements this bill will make in our national rail system, I urge my colleagues to oppose the rule and oppose the bill.

This bill contains some very dangerous provisions which will hurt Amtrak, hurt Amtrak employees, and hurt Amtrak's passengers. It is unfair and it is antiworker.

This bill ends the statutory wage protection for displaced or downgraded workers which Amtrak employees have had since the 1930s. It also ends the remaining protections Amtrak employees have against the contracting out of their jobs to outside vendors.

Amtrak's labor protection costs are minimal. Over the last couple years, when Amtrak has laid off 4,000 workers, they have paid only $100,000 on labor protection. And this is out of an entire budget of nearly $1 billion a year.

My Republican colleagues will argue that these protections drive up costs and cripple attempts to make passenger rail commercially and financially viable.

Mr. Speaker, that is totally untrue. In fact, the cost of statutory protections is tiny compared to total operating subsidies and even tinier when compared to Amtrak's total cost. So removing these statutory protections will do very little to make Amtrak more efficient, but it will do a lot more to make workers' lives more difficult.

The lives of the people on Amtrak's management team do not seem to be suffering much. Amtrak has paid $3.5 million in management buyout costs. I do not hear my Republican colleagues complaining about that.

Mr. Speaker, outside contracts do nothing to help keep the costs down either. Amtrak already has considerable leeway to make outside contracts, but its own workers are much more efficient. For example, Amtrak has not been able to find an outside vendor capable of delivering food and beverage services more economically than Amtrak workers already deliver those services at the present time.

Mr. Speaker, my Republican colleagues appear to be obsessed with the idea of contracting things out. But in this case they are really putting politics before the national interest. The facts show Amtrak employees just can do it better. If organized Amtrak workers can do the job better for less money, why on Earth would anybody try to stop them?

Mr. Speaker, Amtrak workers are not exactly living high on the hog. Over the last 16 years, Amtrak workers' standard of living has declined by over 33 percent. In most cases, their wages have not even kept abreast of inflation.

Mr. Speaker, I come from a railroad family. All of my uncles also worked for the railroad, so I have always respected and saw firsthand the hard work that these people do. Today it is no different. The 20,000 Americans who work so hard for Amtrak deserve some protection in this bill. Unfortunately, the way it stands now, they just will not get it.

Meanwhile, this bill's attacks on Amtrak employees workers just do not stop at cutting statutory wage protection and increasing outside contracts. Mr. Speaker, this bill completely ends the wage protection aspect of collective bargaining agreements, and it is not as if these agreements were forced on anyone. These agreements were freely agreed to by unions and management under the established law. To overturn them is completely unwarranted and, once again, smacks of unjustified attack on organized labor.

Finally, Mr. Speaker, this bill hurts Amtrak passengers by limiting the liability of freight railroads for causing accidents and by tying the calculation of damages to an arbitrary economic formula. It sets up an unfair double standard under which the liability of freight carriers is restricted, but under which Amtrak's liability is not restricted.

Mr. Speaker, despite the much-needed improvements this bill will make in our national passenger rail system, the harm it will do, the harm it will cause Amtrak employees is far worse. I urge my colleagues to oppose this bill, oppose the rule.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI], a member of the Committee on Transportation and Infrastructure.

Mr. PETRI. Mr. Speaker, I rise in support of House Resolution 270. This rule is a fair rule especially in light of the history of this legislation. In the 104th Congress, the House passed virtually the same bill that we have before us today. That legislation enjoyed the bipartisan support of 406 House Members and the full endorsement of organized labor. In fact, labor participated in drafting the labor reforms that it is opposing today. This rule allows for a Democratic substitute amendment and for one Republican amendment with a substitute. Members will have the opportunity to vote on these amendments. Amtrak reform legislation must be enacted. Anyone who has been paying attention to Amtrak knows that it is about to enter into bankruptcy.

The General Accounting Office has confirmed this as well as the Committee on Transportation and Infrastructure's bipartisan Blue Ribbon Panel on intercity rail.

Mr. Speaker, today's vote is about the future of intercity rail in the United States. If we want to continue to have rail service as a transportation option, then we must enact reform legislation dealing with Amtrak. There is no way Amtrak can survive without it. In addition, the reform legislation will free up $2.3 billion that was provided in the Taxpayer Relief Act for badly needed capital investment in Amtrak.

Mr. Speaker, I urge a ''yes'' vote on this rule and on the legislation to follow.

□ 1500

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I oppose this rule, and let us just get to the heart of one of the things we are going to hear, and that is the mantra, over and over, 406 to 4, 406 to 4. My colleagues, I voted for this bill last year. I spoke for it last year. So why would I be one of the 406 that is opposed to the rule and opposed to the bill? Because, my colleagues, this is not the same time, it is not the same conditions.

I guess I played a little bit, mainly from the bench, but I played high school football, and I learned that if a play is run and it does not go anywhere, then that play is not run again. And this is what is attempting to be done with this Amtrak bill. Yes, it passed this House 406 to 4. Does anybody ever talk about what happened after that? There is deafening silence. And the reason is because there was deafening silence. Nothing happened. It went to the Senate, but it was not brought up for consideration, therefore, it never got to the President for his signature.

The fact of the matter is it passed here 406 to 4, and in terms of getting enacted, the score is zero. So that is what will happen again if we run the same play, and that is why there are a number of us who oppose this bill.

There is another reason, too, because a number of the representations that were made last year about the provisions in this bill, why they had to be in there, have since proven to be false in terms of the labor protection language. We were told that Amtrak had to have this because of high labor protection costs. It turns out that Amtrak has laid off almost 2,000 workers at an average cost of a little over $1,000 a worker, less than most severance packages in any private sector bill.

We were told there had to be the indemnification provisions, which Amtrak has to sign indemnification contracts agreeing to bear the responsibility for the costs of any accident, even if the fault is that of the railroad over which Amtrak runs and leases. Well, we were told of course that Amtrak needed this in order to operate and to negotiate these leases. Since then Amtrak has negotiated the trackage rights over all these at no significant markup in cost. Once again, a nonissue.

There is another reason that I oppose this bill, and I will speak further on it. I oppose this rule because the Committee on Rules did not make in order my language to strike the limitations of liability. In this bill, if someone is injured they are entitled to no more than $250,000 in noneconomic damages. Furthermore, they are entitled to no more than $250,000 or three times their economic loss for punitive damages. They also require Amtrak, no matter what the situation, to pay the railroad that may have been at fault for the accident that resulted.

These are onerous provisions. They do not help Amtrak. They will hurt Amtrak in the long run. So I urge rejection of this rule for that reason. And remember, 406 to 4 and the bill never went anywhere. That is why it needs to be changed.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, sometimes I hesitate to stand up here and talk, especially when my blood pressure goes up, but I have been here for 20 years and I came out of the private sector, and in the private sector we never played politics. We did what was right for our business and we made it successful and we made our payrolls. Is

it not too bad that we cannot do the same thing in this body? Maybe this is why we are not held in high esteem by the American people.

With all the good intentions of my good friend, the gentleman from West Virginia, Mr. BOB WISE, and I highly respect him and admire him, let me just quote to my colleagues his statements when this same bill, the identical bill, passed the House with 406 affirmative votes. He said, there has been a good deal of hard work and many difficult compromises on various issues which now enables me to support this final product. I am satisfied that the bill is a reasonable compromise and that it is needed to keep Amtrak moving ahead. I was initially concerned that the Amtrak employees might not be treated equitably in the bill, however, after some changes were made to the bill, a reasonable compromise was reached.

Now my good friend just said sometimes times change. Let me tell my colleagues what the changes are. And Amtrak is terribly important to the Northeast and especially to the Hudson Valley corridor that I have the privilege of representing. Let me tell my colleagues what those time changes are. It means Amtrak is going bankrupt. Now, not only does that affect all of the people that commute back and forth in using Amtrak, but it affects the economy. And more than that, it affects the jobs of every single one of those Amtrak workers.

Now, I have gone back and I have talked to those workers, and they have told me not to let Amtrak go down the drain. Many of them have worked all of their lives there. That is what this is all about.

Now, how did we get to this point? I guess my friend from West Virginia does not remember several months ago when we were fighting the battle of the balanced budget, which is probably the most important thing that we can do in this Congress, is to get this deficit spending under control and stop this sea of red ink which is bankrupting all Americans, particularly those that have to live on fixed incomes; young people who have to buy homes and have to pay mortgage rates that are just astronomical caused by this deficit.

I will give an example. I hate to get off on another subject, but if there is a young couple that just got married and has one child, and now they are making an interest payment annually on their mortgage payment of $6,000, that is not a lot, because it is a low mortgage that produces that, but $2,000, one-third of that entire interest payment they make, is caused by the Federal deficit. We had to get the deficit under control and we did. We bit the bullet and we had bipartisan support in doing it.

But in doing so, then we had to fight to save Amtrak, and it meant come up with a couple of billion dollars extra. And, my colleagues, in order to do that we had to have compromise. And, yes, we had to work with Senator ROTH in the other body, I guess I should not mention names over there, but the quid pro quo is that we would have some reform.

Now, I do not know about all of my colleagues, but I know for sure that the Amtrak workers in the Hudson Valley want us to save Amtrak. They want to save their jobs. This bill will do that. So why do we not just kind of stop the rhetoric? Why do we not just get down to brass tacks and agree that we have to do this and pass this bill?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, to have the distinguished chairman of the Committee on Rules quote my words, print them up, I am honored, and I hope he will do the same thing with the many predictions that I made that turned out to be true on the Contract With America.

But also let me then quote these words today. Yes, a number of us voted for this bill because we were told certain things would happen. They did not happen. This bill went absolutely nowhere in the Senate because of the very provisions that are in the bill today: Labor protection, indemnification, limitation of liability, resulting in Amtrak coming to a quick halt.

If we are serious about wanting Amtrak to keep running, and I want it to run through West Virginia just as much as the gentleman does from New York. If we are serious about wanting it to keeping running, we have to recognize the realities. We can pass this bill without a lot of burdensome baggage on it and we can get it then moving to the Senate and to the President, who, incidentally, has threatened to veto over some of the same provisions they insist on keeping in this bill. We do not have to go down this track again.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MICA], a member of the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Speaker, I rise in support of this rule, this rule, in fact, that will keep Amtrak on track.

Mr. Speaker, let us examine the facts. Amtrak is about to enter bankruptcy, and this Nation could, in fact, risk losing its inner city passenger rail system. We have a bill before us that enjoyed the bipartisan support of 406 House Members in 1995.

This bill includes significant reform of Amtrak that will allow the corporation to do these things: To operate like a business, to cut costs, and achieve financial stability. In addition, the bill will allow the $2.3 billion that was provided in the Taxpayer Relief Act that we passed to be spent by Amtrak on very badly needed capital improvements and investments.

Mr. Speaker, this rule should not be controversial at all. There is no veto threat. This is a badly needed piece of legislation. It allows us to have a Democratic substitute as well as Republican amendments. And H.R. 2247, in fact, is the same bill that this Congress passed 2 years ago on this floor. We need to act decisively to get this rule passed so that Amtrak reform legislation can be enacted to save Amtrak from bankruptcy, and that is the fact.

Mr. Speaker, I would like to address the labor reform measures that are contained in this bill since they are now generating some controversy. These reforms are exactly the same labor reforms that were included in H.R. 1788, the Amtrak reform bill of the 104th Congress.

The reforms were actually endorsed by labor then. In fact, they were even drafted with labor's full participation in the process. These compromise reforms were the product of significant battles in our committee. And since the original committee proposals included even stronger proposals for labor reform, I think the case can be made that stronger labor reforms are appropriate for a company that is indeed facing bankruptcy.

Through the efforts of the gentleman from New York [Mr. QUINN], working in conjunction with organized labor, the committee produced legislation that enjoyed the support of the minority and also of organized labor. In fact, the bill was reported out of committee on a unanimous voice vote. Now labor is claiming the reforms are, in fact, unfair and this is what they have indeed supported in the past.

I tell my colleagues what I think is unfair. The status quo to which labor is attached is unfair, and it is unacceptable. It is unacceptable to this Congress and it is unacceptable to the American taxpayers who foot the bill for a system that is near bankruptcy.

Under current law, Amtrak must pay a worker who is laid off due to a route elimination or frequency reduction up to 6 full years of full wages and benefits. Currently, over 75 percent of Amtrak employees are eligible for the full 6 years of benefits based on their length of service. This is what labor is, in fact, trying to preserve. They have a sweetheart deal that Congress handed to them a number of years ago on a silver platter when Amtrak was created and they do not want to give that up. Those are the facts.

The same dynamic principle applies to the ban on contracting out. Right now Amtrak cannot contract out any work, other than food and beverage services, if it would result in the layoff of a single employee in a bargaining unit. This effectively prohibits almost all contracting out, in fact, of work by Amtrak.

How is Amtrak supposed to rationalize the system and save money? This is a company about to, in fact, go bankrupt; to go belly up. But if it wants to downsize its employment base, if it has to pay everybody wages and benefits for 6 years, I ask how is that possible?

Congress does not require the airlines to pay their employees for 6 years in the event of a layoff; why should we make Amtrak do that? And Amtrak cannot even achieve any savings through contracting out work as its competitors in the airline industry have been able to do.

Mr. Speaker, this rule is indeed fair. Amtrak reform legislation is crucial to the future of passenger rail in this country. Let us pass the rule and let us move on to general debate on this important bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts, [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in opposition to the Amtrak reform bill because in its current form the bill betrays Amtrak's employees' rights, it compromises the safety of Amtrak's passengers, and it would deny just compensation for victims of passenger rail accidents.

This bill would be better known as the Simon Legree Act of 1998. It essentially proposes to balance the books of Amtrak on stripping away the income of the workers that lay our rails, that essentially make our rails safe and secure, and it would impose an undue burden on those victims of any rail accidents that would no longer be able to look to their legal rights.

□ 1515

The fact of the matter is that our legal system in this country plays an important role in making certain that victims are provided the assurance that they will receive benefits if in fact they are hurt or injured in the course of normal day-to-day operations. This is a basic security which has always been the balance of justice in America. It is a system that has worked well for over 200 years. Why should we cut out Amtrak from that balance that we achieve in every other aspect of American life?

Under the guise of financial interests for the insolvent Amtrak system, this bill dresses up a bunch of unfair labor provisions and calls them reforms. In direct violation of their collective bargaining agreements, this bill would eliminate wage protections for displaced Amtrak workers, protections that have been in place for employees for over 70 years. The truth of the matter is Amtrak employees have not gotten anything close to the kind of cost of living benefits that are necessary in order to keep up with the rising costs that almost all the American people have been able to enjoy.

What we have here is a system that is being put in place and imposed on the poor workers of that system that will, I believe, unduly shift the balance of fairness and justice onto the backs of the people that use the Amtrak system, the people that build the Amtrak system and those few individuals that may be hurt by a rail accident.

To further undermine the unions, this bill would also make contracting out Amtrak jobs a routine procedure by ending current protections against such practices. I strongly urge and support the LaTourette-Traficant amendment, which will retain statutory wage protections, collective bargaining, and the rights of Amtrak workers to keep their jobs without the fear of losing them to cheaper, less skilled labor.

I also encourage and support the efforts to repeal the bill's caps on punitive and non-economic damages. These provisions would deny just compensation to victims of passenger rail accidents and should be removed.

Mr. Speaker, Amtrak service is important to the Northeast corridor, the heavily traveled route between Boston and Washington, where almost 600,000 people use the trains each day. Amtrak service gives my constituents an alternative to fighting traffic jams, it contributes to reducing air pollution from auto exhaust and it keeps 27,000 cars off our highways each and every day in this country.

It is no secret that a pending Amtrak strike is being held at bay with the hopes of the passage of this bill. We must do all we can to avert a strike that would be devastating for the commuters in many of our districts. I believe that we can pass the underlying bill by a wide margin if we strip out these anti-labor provisions and limits on liability.

Therefore, I urge my colleagues to support the LaTourette-Traficant amendment and the Democratic substitute and send a real reform bill, one free of poison pills, to the President's desk.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure, a gentleman who is an expert on this matter.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind words.

Mr. Speaker, I do not have a billboard as the distinguished chairman of the Committee on Rules had on who said what, but I do have the transcript of the debate in 1992, August 11, the last time that an Amtrak authorization bill passed the House to be enacted by the President. It is remarkable to note in that debate that not a single question was raised by either Democrat or Republican about labor issues. Not a single question. It passed on a voice vote in the House. It passed overwhelmingly on suspension later on when the conference report came back. Not a single question was raised about labor rights at a time when there are the same issues as there are today.

So if we want to talk about consistency, one might be reminded by Samuel Pepys, the British poet and writer who said, ''Consistency is the hobgoblin of small minds.'' Because there is not consistency. There is a significant change in what has happened with Amtrak and with the issues underlying the effective operation of Amtrak. But that is not what I want to discuss at this time. There will be time, plenty of time in the general debate and on the amendments later.

What I rise for here is objection to the rule that was crafted. It is not a fair rule. Democrats were not given an opportunity to offer pinpointed, specific amendments. Instead, what was done was to carefully, thoughtfully, and cleverly make in order the LaTourette amendment to rectify the passenger rail labor rights which the gentleman from Ohio [Mr. LATOURETTE] requested and which we supported on the Democratic side, and then to make as a substitute to LaTourette an amendment by the gentleman from New York [Mr. QUINN], which vitiates LaTourette, reinstates essentially the committee bill, but corrects a little problem that was opened by obiter dictum language in the committee report to suggest that the Surface Transportation Board might extend these provisions of eliminating labor protection for freight rail and transit labor.

So now we have the Quinn amendment that goes just so far, but not quite far enough, and the body never gets to vote on the underlying real issue of rail labor, the LaTourette amendment.

And then the rule makes in order something we did not even ask for, a substitute on our side. Our committee has historically come to the Committee on Rules and asked for open rules. The chairman has always praised the leadership on both sides for doing so, both during the times when he was ranking member in the minority and now in his service as chairman. He has essentially remained faithful to that premise. But not in this case, and that is why I object to this rule. It is unfair. It sets up a process by which labor must fail or Democrats are going to be substantially divided on a range of issues and Members on the Republican side who might ordinarily be favorable to labor issues but divided on consumer questions are necessarily going to be divided.

It is a fundamentally unfair rule. You did not lay the issues out and give an opportunity for each question to be debated and voted on its own merits. That is why I object to the rule.

I think, in all fairness, that the gambit has failed, because labor is not taking the bait and the consumer groups are not taking the bait, and I think that in the end we are going to prevail because of the unfairness with which the issue has been handled in the present rule.

I urge my colleagues to vote against the rule. It is an unfair rule. We should not have that kind of mischief visited in the legislative process. We ought to be able to vote on issues on their merits without these little games being played.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to

the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me address my good friend the gentleman from Minnesota [Mr. OBERSTAR], because he is a good friend. He is a highly respected Member of this body. I admired him even when I was a member of the committee many, many, many years ago. I really am surprised at his protestations here this afternoon, because when he testified before the Committee on Rules we discussed at length the kind of rule that we would make in order in trying to be fair to everybody. We all know that there are few precious days left before this Congress will adjourn. If we are fortunate enough to adjourn by November 7 or even the 14th, we will only be able to accomplish about one-third of all that is planned between now and then as far as passing the important legislation on this floor.

But let us get to the rule itself. The gentleman from Minnesota knows that the gentleman from Ohio [Mr. LATOURETTE] was allowed to offer an amendment, which he supports. It is strongly supported by labor. We also made in order a substitute amendment to the LaTourette amendment. It was characterized, I think, by the gentleman from Minnesota as the LaTourette amendment being a whole loaf and the Quinn amendment being a half a loaf. Both of them are supported by labor. Both of them are pro-labor, I guess you could characterize them that way. So that when Members come to the floor later on today, they can either vote in favor of the LaTourette amendment, the whole loaf, or they can vote against it by voting for the Quinn amendment. It is as simple as that. This is the normal procedure that we follow in this House.

We also discussed at length a number of other amendments that were offered from Republicans and Democrats. We told the gentleman from Minnesota that he, being the ranking member, was entitled, with fairness, to offer a substitute in which he could put any amendment that he wanted to, the Wise amendment which was a very important amendment, in his opinion, the Vento amendment or I believe there was a Jackson-Lee amendment, but any of those or any part of those could have been included in a Democrat substitute and as I understand it, we gave them something we very rarely do and something the Democrats never did in my 20 years here, and that was to give the minority the right to offer a substitute, sight unseen, providing it is germane to the bill. We did that in an act of being as fair and open as we possibly could.

So I think the gentleman protests too much. I think we really have been open and fair, much more fair than the Democrats ever were to us on this side of the aisle.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding. At the hearing of the Committee on Rules yesterday evening, I specifically said my recommendation is make in order the LaTourette amendment, make in order the Quinn amendment, they deal with different aspects of the labor issue, and I specifically also said, ''But do not play a little game with us by making the Quinn amendment in order as a substitute for the LaTourette.'' I said that, I was very, very clear about that because it was a very important point for me. I did not ask for an amendment on our side. I asked for other amendments to be made in order. I did not ask for a substitute. The Committee on Rules crafted a rule that plays both ends against the middle. I do not believe that the gentleman from New York [Mr. QUINN] asked for his to be a substitute.

Mr. SOLOMON. If I could just reclaim my time briefly to say, the question was posed that the Democrat side of the aisle did not have all of the information available and we were requested to leave it open so that you could present a sight unseen substitute. We did exactly as we were asked.

Having said that, please come over and vote for this fair rule and vote for this very vital piece of legislation.

Mr. MOAKLEY. Mr. Speaker, just to correct my dear friend, my chairman, it was not our side that asked to keep it open. It was the gentleman from Virginia [Mr. SCOTT], who was testifying before the panel on a different bill. Secondly, if the chairman looks at the records, when I was chair, we did give unseen amendments to the minority leader on many occasions. You can look in the records.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I will yield to the gentleman, but I just want to start out here and say something that I think is important. I am going to vote for the rule. I appreciate the fact you allowed the LaTourette amendment. It would probably be called Traficant-LaTourette if it were not for the politics here. Both sides are playing politics.

I am concerned about workers. There is not a more wily strategist in the House than the gentleman from Pennsylvania [Mr. SHUSTER] and really the gentleman from New York [Mr. SOLOMON] has been very fair. There is an opportunity for working people, and just let me say this before we go on. The Quinn amendment says freight and transit workers will not be impacted by this bill.

□ 1530

The LaTourette-Traficant amendment says that, too.

Now, let us tell it the way it is. Labor came out and tried to beat Republicans, but there are a whole lot of working people that did not agree with some of those endorsements and voted for you, too.

I think the collective bargaining agreement should be allowed to be intact. There has been an awful lot of contracting out by Amtrak that has not even been contested by the workers. It was agreed.

I believe, and I say this straightforward, the Republican Party has an opportunity to say, ''Look, you in labor tried to screw us, but we are more concerned about the rights of all people.'' And I honest-to-God believe there is a shot to pass LaTourette-Traficant.

I agree with the gentleman from Minnesota [Mr. OBERSTAR] that if that Quinn amendment passes, and the way the bill has been structured I guess it has been set up by the craftiest Member in the House, maybe in its history, the gentleman from Pennsylvania [Mr. SHUSTER], and I don't blame him, but there has not been a better man, and he is a pit man, he is a pit man, I might say, and he knows those steel workers, those coal workers, those workers at Amtrak and related labor people.

I am just saying, look for fairness. I am going to vote for the rule, and I want Members to consider what I say in other substantive points during the debate on this bill. I am proud to join with the gentleman from Ohio, STEVE LATOURETTE, my neighbor. He has done an outstanding job. He, like many Republicans, contrary to what the press might say, has been a friend of labor and working people.

So, the Republicans have an opportunity to demonstrate, I honest-to-God believe this, and the fact is that most of the many working people voted for them or you would not be here in the majority. Believe me when I tell you that. Look for the fairness of the bill.

I wish you had structured the rule a little different, Mr. Chairman, but I want to thank you for allowing the vote on it in the first place.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I just want to make it very clear that labor opposes the Quinn amendment, because passage of Quinn forecloses an opportunity to vote ''aye'' on LaTourette-Traficant.

Mr. TRAFICANT. Mr. Speaker, reclaiming my time, I know that. We want to defeat the Quinn amendment, but we have an opportunity to do it, and we have an opportunity to debate it before the Quinn amendment is offered. I am hoping that people understand the substance of that, and not get tied up in the politics.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am certainly not here to dispute the need for this legislation. In fact, I am a strong Texas advocate for Amtrak. In fact, we are certainly working to maintain our sources of intercity transit in our State, and I am a strong advocate of that.

Certainly, I am concerned about pieces of this legislation that deal with removing employee and various other rights as relates to working conditions, and I hope we address that.

But I am also here to speak on behalf of an amendment that I attempted to offer and that I think is extremely important, and that is H.R. 2247 removes or caps the noneconomic damages at $250,000 in this legislation, regardless of the nature of an individual's injury. It caps punitive damages at $250,000, or three times economic damages, whichever is greater.

We have had this debate when we talked about tort reform. That clearly weighs on the side of the more economically endowed, the CEO versus the little girl who lost her leg. Each leg is of similar value, because they do not have a leg, but the CEO gets more than the little girl with no job.

Regardless of the cause of that injury, it allows Amtrak to indemnify other railroads for even gross negligence and recklessness. I offered an amendment to correct that, as I said, and that was not included.

Let me address the issue of a cap on noneconomic damages. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss.

This value may be completely unrelated to the type of injury suffered, and may fail to fully compensate that individual's loss. This value may be completely unrelated, as I said, to the type of injury suffered, and may fail to fully compensate the injured passenger for his or her loss.

H.R. 2347 as written says the loss of a leg is worth $250,000, at most. The loss of both legs is worth $250,000, at most, and the loss of both legs plus an arm is again worth, at most, is worth $250,000.

As I said earlier, this cap discriminates against women, children, the elderly and the poor who may not have the same substantial economic losses, by placing greater value on economic losses than on noneconomic losses. Effectively what this does is it says that injuries such as the losses of senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement are not real losses and need not be compensated.

We really need to correct this. I do believe that this legislation is important legislation, but limiting these damages, as well as punitive damages, which are in fact the basis upon which industry reforms itself, is distracting from this very good legislation.

I would hope that we would be able to cure this by relieving us of these caps to be fair to all citizens.

Mr. Speaker, I rise today in opposition to the rule on H.R. 2247, the Amtrak reauthorization bill.

H.R. 2247 is an important piece of legislation which authorizes $3.4 billion in continued Federal support for Amtrak through fiscal year 2000. H.R. 2247 also facilitates the privatization of Amtrak by decreasing its costs and increasing its revenues, in order to eventually eliminate its reliance on Federal subsidies. I am not here to dispute the need for such legislation, but instead to address concerns raised by some of the more controversial provisions of the bill, specifically those dealing with liability issues.

H.R. 2247 caps noneconomic damages at $250,000 regardless of the nature of an individuals' injury, caps punitive damages at $250,000 or three times economic damages, which ever is greater, regardless of the cause of that injury, and allows Amtrak to indemnify other railroads for even gross negligence and recklessness.

I offered an amendment before the Rules Committee last night which would have struck these unfair and arbitrary provisions from the bill. However, neither my amendment, nor any other amendment with the same or a similar purpose, was made in order under the rule.

Let us first address the issue of the cap on noneconomic damages that is included in H.R. 2247. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss. This value may be completely unrelated to the type of injury suffered and may fail to fully compensate the injured passenger for his or her loss. For example, H.R. 2247 as written, says that the loss of a leg is worth $250,000 at most, the loss of both legs is worth $250,000 at most, and the loss of both legs plus an arm is again worth at most $250,000.

A cap on noneconomic damages discriminates against women, children, the elderly, and the poor who may not have substantial economic losses by placing greater value on economic losses than on noneconomic losses. H.R. 2247 effectively says that injuries—such as the loss of one's senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement—are not real losses and need not be compensated as completely as the loss of salary.

Consider the case of an accident in which two individuals—a business executive earning $1 million a year and a mother who stays at home to care for her children—sustain the exact same injury. The executive might be able to recover $1.25 million—$1 million for a year of lost salary and up to $250,000 in noneconomic damages. The mother, who does not earn real wages or a salary for her job, would be limited to a maximum of $250,000 for her loss.

By limiting compensation for noneconomic damages, women, children, senior citizens, and others whose injuries cannot be measures in lost wages will become second-class citizens when it comes to claims for rail accidents.

A second area of concern in H.R. 2247 is the provision capping punitive damages at $250,000, or three times economic damages, whichever is greater. A cap on punitive damages threatens public safety. While punitive damages are rarely awarded, they remain an important tool in forcing reckless or malicious defendants to change their conduct and in deterring others from recklessly disregarding public safety. Punitive damages ensure that safety devices are installed and properly maintained, that speed limits are followed, and that employees are trained to follow safety procedures. Given the current cost-cutting climate at Amtrak, the safety incentives offered by the threat of punitive damages are needed now more than ever.

It is not necessary to look for in order to find cases in which a cap on punitive damages would have been inappropriate. The 1987 accident in Chevy Chase, MD that resulted in 16 passenger deaths and 175 passenger injuries, was completely preventable. The engineer and brakeman of a Conrail train, high on marijuana and alcohol, drove the train 62-miles-per-hour in a 20-miles-per-hour zone blasting through stop signs before slamming head first into an Amtrak train filled with passengers. More recently, the National Transportation Safety Board stated that last year's Silver Spring accident between a MARC commuter train and Amtrak that resulted in 11 deaths was preventable had Federal regulators and safety officials been more aggressive in enforcing safety requirements.

Finally, I would like to direct your attention to the troubling indemnification provisions in H.R. 2247. These provisions are clearly contrary to public policy. Even though indemnification agreements between Amtrak and rail owners are common, several courts, including the court in the Chevy Chase, MD case, have refused to uphold these private agreements where the freight railroads are themselves responsible for the crash and engaged in particularly egregious conduct. The courts found it against public policy and contrary to the interests of public safety to uphold an agreement that would completely immunize freight railroads for truly outrageous conduct that caused death and serious injury. The courts have recognized that legalizing private agreements that force Amtrak to pay for a freight railroad's liability—regardless of how grossly reckless or negligent the freight railroad is—will only lessen the pressure on freight railroads to ensure that their tracks are as safe as possible for passenger trains, and in so doing, will lead to further accidents.

There is no reason freight railroads should be exempt from the consequences of their actions, just because an Amtrak train is involved in the accident. As written, the bill establishes an irrational double standard. Under it, a motorist who is hit by a freight train because the freight railroad's grade-crossing signal malfunctions would be entitled to full damages from the freight railroad, including punitive and noneconomic damages. If the motorist was hit by an Amtrak train, however, because of the same malfunctioning signal, the motorist could collect only limited punitive damages and noneconomic damages from Amtrak, and no damages could be collected from the freight railroad—even though the freight railroad was equally at fault in both cases.

We must consider that the indemnification provision in H.R. 2247 does not just pose a threat to public safety, but is also potentially

quite costly. At a time when the financial viability of Amtrak is at stake, why should taxpayers pay for the gross negligence or recklessness of another rail carrier?

My colleagues, I ask you to consider the impact of the liability restrictions in H.R. 2247 on the safety of rail passengers as you cast your vote on the rule to H.R. 2247. I urge you to consider these provisions and then to vote against the rule that does not allow an amendment to address these alarming provisions.

Mr. MOAKLEY. Mr. Speaker I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he might consume to the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to save Amtrak. That is what we have been dedicated to. Now, I can tell you, as I am sure many of you know, there are some in this body that do not want to save Amtrak. In fact, I was in a meeting this morning with several Members where we had a hard sell because they were telling us why are you trying to save it? It is about to go into bankruptcy. It is a failure. Let it go down the tubes.

But we need Amtrak, but we need an efficient Amtrak. And it is the sad truth. In fact, virtually everybody agrees, it is on a steep path to bankruptcy. The GAO report says that, the panel of experts that Congressman OBERSTAR and I together appointed in order to come back and give us their recommendations said that. Everybody acknowledges it is on a steep path to bankruptcy.

We need to reform it, but we also need the votes to reform it. And it is a fact that virtually the same legislation before us today passed this body in the last Congress 406 to 4. It is almost a bit embarrassing to tell you that every Member who stood up today, who spoke against this rule and this bill, is on record as having voted for this very legislation in the last Congress.

Now, what changed? What changed is our friends in rail labor apparently think they can get a better deal, and so they have said they now oppose this.

I would have to say, while I have the greatest respect for my colleagues, this is the biggest flip-flop since Humpty Dumpty fell off the wall. To have 406 Members vote for this bill, every Member who spoke against it today, to now stand up and speak against it, when he, in fact, voted for the bill.

We need to save Amtrak. There is $2.3 billion already set aside for Amtrak if this reform legislation passes. That is extraordinary. It puts us on the way to saving a needed transportation mode in our country.

Some of my friends have talked about how labor will be hurt, how labor will be hard done by.

I represent Altoona, PA, one of the big railroad centers of America. I am perhaps one of the few Members of the Congress who actually worked on the track gang on the railroad. We heard it said earlier about how the track gang workers, the maintenance of way, they are now called, would be hurt by this.

Let me tell you, the average maintenance of way worker on Amtrak makes $41,000 a year. I don't begrudge that to them. As a former gandy dancer, and that is what they called us back in those days. As a former track gang worker myself, I am delighted to see that the fellows that I used to work with in a previous time, today are making that kind of money. There is nothing here which will reduce those salaries, those incomes.

But if we do not pass this legislation, if we do not pass this reform, there is not going to be an Amtrak. We need to save these jobs.

We are told about the Senate not moving, that is a fact, the other body not moving last year. That is a fact. We did our job. We passed the reform. They did not move.

However, it is very significant to note that this year, in reconciliation, we sat down and cut a deal with the Senate which was that $2.3 billion would be made available to Amtrak, coupled with the reform legislation, and the Senators in conference were willing to go along with that. We had an agreement with the Senate to pass virtually this reform language, and unlock the $2.3 billion for Amtrak.

Well, we could not get agreement downtown, so in reconciliation, we had to drop it.

We are back here trying to do the responsible thing, and that is save Amtrak, and trying to do it in a fashion that will unlock the money, and trying to do it in a way that really this body previously overwhelmingly approved. My good friends have talked about not being a fair rule, and my good friend from Ohio talked in terms of ''my rule.'' I wish it were true, but, of course, it wasn't my rule. The Committee on Rules writes rules; I did not craft it.

In fact, initially it was suggested to me that it should be a closed rule, and the minority would have their opportunity to offer a motion to recommit. I objected to that. I said, no, I believe the minority should have an opportunity to offer their substitute, and the Committee on Rules has, indeed, provided that the minority does have the right to offer their substitute.

I generally like our committee to bring open rules, but when you have a piece of legislation that passed by a vote of 406 to 4, and we are coming down to the closing days of this session, it does not seem unreasonable to say if we bring back that which already passed 406 to 4, do we really need to have an open rule?

Let us give the minority their rights. Let us give them the opportunity to offer their substitute. We offer our bill. And that is why it is in front of us as it is today.

So I urge you, if you care about saving Amtrak, if you care about unlocking the $2.3 billion that can be there for the capital improvements that are so necessary, I urge Members to support this rule, to support us in our efforts to save Amtrak, because this Member, at least, and I believe I speak for many, does not want to see Amtrak go into bankruptcy.

Ms. PRYCE of Ohio. Mr. Speaker, the debate provided for under this rule should be more than sufficient to address any new concerns that have arisen since the House last considered this measure and passed it overwhelmingly by a vote of 406 to 4. Therefore, I urge my colleagues to support this fair and generous rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 200, not voting 7, as follows:

[Roll No. 520]

YEAS—226

Aderholt	Davis (VA)	Hobson
Archer	Deal	Hoekstra
Armey	DeLay	Horn
Bachus	Diaz-Balart	Hostettler
Baker	Dickey	Houghton
Ballenger	Dooley	Hulshof
Barr	Doolittle	Hunter
Barrett (NE)	Dreier	Hutchinson
Bartlett	Duncan	Hyde
Barton	Dunn	Inglis
Bass	Ehlers	Istook
Bateman	Ehrlich	Jenkins
Bereuter	Emerson	Johnson (CT)
Bilbray	English	Johnson, Sam
Bilirakis	Ensign	Jones
Bliley	Everett	Kasich
Blunt	Ewing	Kelly
Boehlert	Fawell	Kim
Boehner	Foley	King (NY)
Bonilla	Forbes	Kingston
Bono	Fowler	Klug
Brady	Fox	Knollenberg
Bryant	Franks (NJ)	Kolbe
Bunning	Frelinghuysen	LaHood
Burr	Gallegly	Largent
Burton	Ganske	Latham
Buyer	Gekas	LaTourette
Callahan	Gibbons	Lazio
Calvert	Gilchrest	Leach
Camp	Gillmor	Lewis (CA)
Campbell	Gilman	Lewis (KY)
Canady	Goode	Linder
Cannon	Goodlatte	Livingston
Cardin	Goodling	LoBiondo
Castle	Goss	Lucas
Chabot	Graham	Manzullo
Chenoweth	Granger	McCollum
Christensen	Greenwood	McCrery
Coble	Gutknecht	McDade
Coburn	Hall (TX)	McHugh
Collins	Hansen	McInnis
Combest	Hastert	McKeon
Cook	Hastings (WA)	Metcalf
Cooksey	Hayworth	Mica
Cox	Herger	Miller (FL)
Crane	Hill	Moran (KS)
Crapo	Hilleary	Morella

Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Chambliss
Cubin
Gonzalez
Lantos
McIntosh
Schiff
Strickland

□ 1604

Mr. MORAN of Virginia, Mr. JEFFERSON and Mrs. MINK of Hawaii changed their vote from ''yea'' to ''nay.''

Mr. BRYANT and Mr. SMITH of Texas changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 270 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2247.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2247), to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania, [Mr. SHUSTER] and the gentleman from Minnesota [Mr. OBERSTAR] each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. I am dedicated to trying to save Amtrak, but it is no secret that are several Members in this body, and in the other body, who would just as soon kill Amtrak.

So what we have tried to do is put together a compromise which we can get through to reform Amtrak, which will unleash the $2.3 billion that has already been set aside for Amtrak if we are able to get reform through.

Mr. Chairman, much of this debate took place during the rule, and so there is no need for me to restate what has been stated many times already with regard to the debate that took place concerning the rule. The bottom line is if we do not reform Amtrak, if we do not pass legislation to reform Amtrak, Amtrak goes into bankruptcy, there will be no Amtrak. It is that simple.

In the last Congress virtually the same legislation passed this body 406 to 4, as has been emphasized in the previous debate, and that needs to be reemphasized here. This is our last, best hope of saving Amtrak and saving the jobs of the many good people who work at Amtrak; also for saving Amtrak and saving the very positive implication that the saving of Amtrak will have on the whole railroad retirement system.

So for all of those reasons, I would urge support for this legislation.

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. No informed observer denies that the company is at best only a few months away from the bankruptcy court. That includes Amtrak itself, the General Accounting Office, and the expert bipartisan panel that our committee formed to examine Amtrak's condition.

This is no longer a postponable problem: Amtrak has only a few months to live if it is kept in the straitjacket of Federal laws that prevent it from operating on a rational, business-like basis. This bill removes that straitjacket, and frees Amtrak from the statutory micromanagement that has brought it to the brink of financial collapse.

These structural changes were drafted on a bipartisan basis with the participation and agreement of the minority and of rail labor in the 104th Congress. They include: Establishing a new reform board of directors; giving Amtrak a fresh start in its capital and stock structure; removing the numerous Federal mandates that preclude rationalizing its route system; and organizing itself for business efficiency. Up to now, the company has never been permitted to do any of these things—unlike other transportation companies.

This bill should be very familiar to most Members, because you voted for it by a rollcall of 406 to 4 less than 2 years ago. There are only technical changes in this bill to reflect the passage of time, plus one substantive change. We have authorized the reform Board of directors—if it chooses—to recommend a plan to Congress to implement one of the key ideas of our expert panel—the separation of Amtrak into two distinct corporations, one for infrastructure, and one for operations. Of course, even if the board made such a recommendation, it would take future congressional action to implement such a plan.

Among the restrictions this bill removes are the current statutory requirements for up to 6 years of labor protection—that is, full salary and benefits, to any employee adversely affected by a discontinuance of service a reduction of service below three trains weekly, or even a 30-mile relocation. But remember, this bill was a bipartisan compromise: It does not forbid Amtrak from providing protections for its employees—if merely places these issues in collective bargaining, without having the Federal Government dictate what the protections will be by statute.

The bill also addresses the continuing problem of unlimited tort liability exposure. Almost everywhere except the Northeast corridor that Amtrak owns, it must operate over the tracks belonging to private-sector freight railroads. Amtrak, by Federal law, has access to those tracks, whether the freight carrier likes it or not. Therefore, the liability exposure that is placed on the freight railroads is involuntary in nature. All this bill does is to place reasonable limits on the punitive and non-economic damage exposure in passenger train accidents. It has no effect on the freight railroads' own freight-carrying operations. If we do not make these sensible reforms, however, Amtrak may be facing prohibitively expensive access requirements, because Amtrak still has to pay

the freight railroads, even under compulsory access arrangements.

There are those, Mr. Speaker, who say that the only way Amtrak will ever be fixed is by going bankrupt first. I do not share this view, because a shutdown would be a great blow to our transportation system, to our commuter rail operations, and even to the Railroad Retirement System.

But let's look at an Amtrak bankruptcy, because there are too many constituencies here who are still in denial about Amtrak and its finances. If Amtrak goes under, the GAO estimates that labor protection payments alone would total up to $5 billion. Amtrak's commercial debt—not to the Federal Government—is about $1 billion. So that's $6 billion in liabilities, with virtually no possibility of paying those claims out of Amtrak's assets. And just this week, the Comptroller General issued a legal opinion in response to an inquiry from Chairman KASICH and myself. He ruled that none of Amtrak's liabilities—labor protection or commercial debt—constitute claims against the U.S. Treasury.

What does this mean? It means that if Amtrak's labor force and management do not cooperate and help turn this company around there will be no golden parachute of 6 years of labor protection. The golden parachute has already collapsed, and if they help drive Amtrak into bankruptcy, Amtrak's employees are simply going to be standing in line with a lot of other unsatisfied creditors who collect little or nothing.

I hope, Mr. Speaker, that these rather stark realities will spur Members to realize that this is the last train out of the station. If this bill is not enacted, Amtrak stands virtually no chance of survival for more than a few months at best.

What about some good news? Well, if we do approve this reform legislation and the President ultimately signs it into law, then Amtrak will have access to over $2 billion in much-needed capital funds that have been set aside for it under the Taxpayer Relief Act of 1997. So this bill not only presents the opportunity to avoid an immediate Amtrak collapse; it also will provide Amtrak with immediate access to desperately needed capital funds. I know from our committee's hearings that Amtrak has a severe shortage of capital, and has, in fact, been cannibalizing its physical plant and equipment for some time, because it did not have the resources to do an orderly capital replacement program. Together with the efficiencies made possible by this bill, the $2 billion of additional capital will go a long way toward turning Amtrak around and letting it become a healthy, self-sustaining company.

Finally, Mr. Speaker, let me tell all Members on both sides of the aisle, this bill is not about free votes. History has placed us in positions of responsibility in a time of transportation crisis. Unlike some of our predecessors in this body, we do not have the option of punting. It's put-up-or-shut-up time, and currying favor with special interests today will not solve any of these problems that have been getting worse for 26 years. If you can't stand up and be counted on a sensible bipartisan reform like this, then don't delude yourself into thinking that there's going to be a second chance. That's a pipe dream.

Thank you, Mr. Speaker. I reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to begin with, I would like to inquire of the gentleman from Pennsylvania [Mr. SHUSTER], is my understanding correct that this afternoon we are going to do only general debate?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is correct.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, presumably we will begin tomorrow morning at some time? Has there been an announcement by the leadership of when we may anticipate?

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, I have no further information other than the statement that I will move that the committee rise following general debate.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, that leaves our side somewhat puzzled. During the debate on the rule there was some statement made about the shortness of the session and the urgency to move this bill ahead. Now it seems that the urgency has faded and I am very puzzled by this, and I am wondering what has happened on the other side of the aisle.

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, the decision was made by the leadership during the vote to not proceed beyond general debate today, and that decision is above my pay grade.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, I would say that I did not think there was much above the gentleman's pay grade.

Mr. Chairman, it reminds me of the last Congress when this bill was before the committee and there was a vote and then we suspended and then we came back, then the bill was pulled again, and now this is the third time. I am curious as to what really is going on here. I am very curious about what has happened.

Mr. Chairman, I also wanted to mention that during debate on the rule, as the gentleman from Pennsylvania was making his comments, I noted with great interest his reference to service on the track gang and I wanted to suggest at the conclusion of the gentleman's remarks that we might form a track gang caucus, since this Member also worked in the iron ore mines on the track gang pounding oil and bumping rail.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, that is back when men were men.

Mr. OBERSTAR. Mr. Chairman, this is extremely important legislation. It puzzles me, therefore, why we have a truncated process today if it is that important and there is so little time remaining in the session that we are to have this restricted rule and this expedited process that we cannot proceed through to conclusion tonight.

Amtrak's financial situation is indeed critical. We do need to pass reform legislation. We do need to pass reauthorization legislation to enable Amtrak to operate efficiently and release the funds that have been made available in the tax legislation.

Mr. Chairman, Amtrak's survival is absolutely vital to the Nation's transportation system. Most passengers now travel by car or plane, but those modes use enormous amounts of energy. They have substantial adverse environmental impact. There are limits to our ability to accommodate more traffic by building new highways and new airports. We need rail service.

Mr. Chairman, we need a highly efficient passenger rail system as other countries in the world have. We ought to be able to have 175-mile-an-hour passenger rail service in America as they do in France or 300-mile-an-hour rail service, as they will have in Germany with the construction now underway of the Maglev train system between Hamburg and Berlin or the 180-mile-an-hour passenger rail system in Japan, the Shin-Kansen, that carry 254 million passengers a year. But we do not have that in the United States, and we ought to make that investment. And this legislation would move us in that direction if it was the right kind of legislation.

Mr. Chairman, we agree with much of what is in this bill and what passed the House in 1995. But we believe it is bad public policy to go forward with provisions in the bill that adversely affect labor and the consumer interests that are adversely affected by the liability caps.

Mr. Chairman, there will be amendments to address those issues and I will support those amendments. But it will be extremely difficult to pass this legislation in its present form because the provisions in the bill dealing with labor and liability are opposed by the administration and, indeed, caused the bill in 1995 to die in the other body.

□ 1615

The same provisions are there this time. They will again make it impossible to include Amtrak reform, to see Amtrak reform through to enactment, and they made it impossible to see Amtrak reform through in the reconciliation package that passed the Congress recently.

It is puzzling to us why this restrictive labor language is necessary. The obligations in current law to protect the rights of working men and women that are freely negotiated between labor and management, which would be eliminated by this legislation, are not an impediment to the efficiency of Amtrak.

In the year and a half, almost 2 years now since the House passed the much

ballyhooed bill in 1995, we have had an opportunity to see what the effect has been of labor protective provisions. In this period that has elapsed since passage of that bill, there has been a net loss of 2,000 jobs at Amtrak. The cost has been an average of $1,000 per employee. That nets out to about $2 million.

Amtrak adjusted service, laid off 10 percent of its work force. It cost roughly $2 million to do that. I do not see how that is an impediment. I do not see why we need to eliminate protection of labor's rights freely negotiated in order to save Amtrak. How does that $2 million save Amtrak?

In fact, in a July 28 letter from the chairman of Amtrak, Tom Downs, he stated:

> I testified in front of the Senate Finance Committee with Sonny Hall, and I stated in the hearing on the record, that Amtrak does not experience significant costs in C–2 expenses; that is, labor protection expenses, so that the impact of the repeal of C–2 would not save us any significant funds except in the ultimate bankruptcy of Amtrak. I also stated I would prefer to be able to negotiate C–2 provisions with labor than to have Congress mandate changes.

That same view was expressed by Mr. Robert Kiley, spokesman for the committee's task force of experts who reviewed the Amtrak financial situation, that the chairman had appointed. At a press conference on the task force report, Mr. Kiley said that the labor protection issue is a red herring.

Well, it is a red herring. Why it has to be the centerpiece of this legislation is beyond me, Mr. Chairman. I simply do not understand it. I do not know why they want to take it out on Amtrak labor, on rail lab labor under the guise of somehow saving Amtrak. The labor and liability provisions are bad public policy.

On the labor side, it takes away from employees all rights on severance pay and all rights on contracting out. The provisions in the bill abrogate not only labor protection provisions in law, but those provisions that labor and management together have negotiated. Why do you break a contract?

My father worked in the iron ore mines all his life. He said the only guarantee against the company is your union contract. It cannot be taken away from you. But here in this legislative body, if we pass this bill, by legislative fiat we will take away what labor has freely negotiated with management. That is wrong. I will not stand for it. No one else should stand for it in this body.

The reported bill also establishes new procedures for negotiations on labor protection and on contracting out. And they go far beyond and substantially depart from the balance process established in the Railway Labor Act.

The liability provisions in the bill create serious inequities. The bill would cap noneconomic damages, such as damage for pain and suffering, in a manner that favors affluent plaintiffs. The cap is economic damages plus $250,000. That means the higher the economic damage, the higher the added damage for pain and suffering.

For example, take a wealthy corporate executive who can show economic losses or damage of a million dollars. That person gets in an additional $1.25 million in noneconomic damage for pain and suffering. A child or an unemployed person with the same pain and suffering is limited to $250,000. That is not right. We should not do that. We should not make those kinds of changes. We should not interfere in the tort liability process.

I cannot support a bill that has such onerous provisions and is so destructive of the labor-management relationship. There are reasonable amendments that will be offered. They could be offered tonight. We could pass this, pass those amendments and conclude action on this bill tonight and get Amtrak on its way if Members are so concerned about seeing Amtrak continue to operate safely and efficiently.

We could do it tonight. We could pass the LaTourette amendment and get on with our business, but apparently it is going to be held over until tomorrow.

In that spirit, Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, this is a very serious business, a very serious issue before the Congress. In fact, as we heard the gentleman from Pennsylvania [Mr. SHUSTER] say, Amtrak is going down the tubes. Amtrak cannot survive a strike which has been put off for another week here.

What is fundamental to this debate is, why is Amtrak off track? As a member of the Subcommittee on Railroads, I had the nerve, the very gall, like other responsible members of the subcommittee, to ask why. Why is Amtrak in this condition? We held hearings on this matter. Why are we subsidizing billions of hard-earned taxpayer dollars in a losing system? Why is Amtrak losing money day, after day, after day? How can we put national and vital regional rail passenger service back in responsible operation?

Anyone, in fact I submit anyone, Democrat or Republican, who take a look at this and we passed this bill by a wide, wide bipartisan measure and folks looked at it. We had a bipartisan commission look at it. I submit even if we had the village idiot look at this they would all come up with the same conclusion, that there are two reforms that are necessary for Amtrak. One is labor reforms, changes in labor law, some that were enacted decades ago. Two, liability reform. Everyone who looks at it comes to the same conclusion.

I submit on the labor front, and this is, let us get to the heart of the issue, just read this, what are the Democrats and labor bosses defending? Up to 6 years of wages and benefits for any Amtrak employee asked to travel more than 30 miles from home to work. This is one provision. Look at this one.

What are the Democrats and labor bosses defending? Up to 6 years of full wages and benefits for all Amtrak employees who are laid off due to a route elimination or because of the frequency of Amtrak train service falls below three trips per week. This is the premium that we have to pay some labor agreements that were made years and decades ago. We do not have firemen on trains anymore because the situation changes. We do not have fires in the engine anymore. But this is what they want to preserve. This is the heart and the core of it.

I submit we can protect employee rights. I think that we can expand employment in Amtrak and give more opportunity. But we need labor reforms, we need liability reforms. We can protect individual rights as far as liability reform, but we must limit some exposure. We cannot be paying out these huge settlements and make this train run on track.

With a little bit of flexibility, I submit, with a little bit of cooperation and, God forbid, a little bit of innovation, we can make Amtrak run. We can increase employment and, in fact, we can provide cost-effective national passenger rail service.

Times change. I said there is no firemen on trains anymore. I am part of the club, too. I worked on the railroad in the summers and they are great people. They are wonderful people. They are hard-working people. But times and position change, I submit, Mr. Chairman, and we must change. Why must we change? Because Amtrak must run like a business. The Congress demands it. The balanced budget requires it. Common sense dictates it. The taxpayers are fed up and they will no longer pay for it running the way it is.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, we have an opportunity today to continue a vital service to millions of people or to help in causing its demise. I think it important that we adopt the LaTourette-Oberstar amendment and the Oberstar substitute, which would provide the capital funds Amtrak needs and would not punish Amtrak's workers and those unfortunate enough to be injured in any possible accident.

The need to fund Amtrak's capital program and provide operating assistance is obvious. The bill before us provides that funding at adequate levels. Unfortunately, the bill also includes provisions that are unacceptable to many of us in this body, to many in the other body and to the President. This House passed an almost identical bill last year and at that time we thought it was the only way that Amtrak could receive the funding it needs to continue. We know now this is not the case. We know that this bill died in the Senate last year precisely because of the objectionable provisions that are

contained in this bill and will most likely meet the same fate again. We also know the President will likely veto this legislation as currently drafted.

What must be removed to make this an acceptable and a good bill? The caps on punitive damages and noneconomic damages must be removed. To put a cap on punitive damages of $25,000 or three times the amount of economic loss, whichever is greater, says that the rich person who is damaged by deliberate negligence, by deliberate tort, we should punish the tort-feasor by three times as much as he is worth. But the infant or the low-income person, his pain and suffering is not worth that. His suffering is only worth the much lower amount.

The straight cap of $250,000 on noneconomic damages on pain and suffering, that is not fair. That is not fair to those who are injured. It is wrong to arbitrarily place a value on an injured persons's loss or his life.

The second issue that has no place in this bill is the circumventing of labor protections. This body, through this bill, has taken upon itself to determine the labor practices for Amtrak and its employees. Even Amtrak does not believe that these provisions are needed.

Thomas Downs, chairman of Amtrak, stated that Amtrak was completely satisfied with the collective bargaining process under the Railway Labor Act. Even the amendment to the C–2 provision in this bill, he said, was not necessary. Amtrak does not experience significant costs in C–2 expenses. This is supposedly the most burdensome labor protection Amtrak employees have. The reason Amtrak needs this capital money and this operating assistance is because the competition from the federally subsidized interstate highway system makes it imperative that any passenger railroad have this kind of subsidy.

Mr. Chairman, I would urge this Congress not to punish Amtrak, its labor, its management, and its passengers. We should support the LaTourette-Traficant amendment. We should vote ''yes'' on the Oberstar substitute and then we should pass a bill that will keep Amtrak viable for all Americans.

Mr. SHUSTER. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama [Mr. BACHUS], a distinguished member of our committee.

□ 1630

Mr. BACHUS. Mr. Speaker, there have been several issues that have come up on the floor that I think need clarification. One thing that has been said on this House floor is why is there a need for labor reform? Why can Amtrak labor and management not just sit down and negotiate through the collective bargaining process?

I would point out to the Members that Amtrak is presently required by Federal law to make labor protection payments of up to 6 years of full wages and benefits to any employee who is laid off due to a route discontinuation or the reduction in service below three times a week.

Now, there have been some statements also on the floor of this House that that is the same labor protection that the freight railroads enjoy. But that fact is not true. Reducing service below three times a week does not kick in the freight railroad protection. The discontinuation of service does not kick it in.

Under the labor protection in this bill, if an employee is asked to move 30 miles or more, these labor protection provisions kick in. That is not true with the freight railroads.

What we basically have by the protection that is in the bill today is we have our railroads competing with bus lines and airlines which do not have these restrictions, and they are losing money, and that is despite the fact that we have subsidized them to the tune of $19 billion between 1970 and today. That is something that we should not ask the American taxpayer to do. And we also should not have the type of restrictions in this bill that we find nowhere else in America, that no other worker enjoys.

We also have the contracting out provisions. Those are a source of capital drain for Amtrak. That is one of the reasons that Amtrak capital and their equipment is in such bad shape today; that it is beginning, I think, to be a responsibility of all of us in Congress either to operate Amtrak safely or not operate it at all. This is becoming more and more a safety issue.

There was a reference on the floor of the House that they are presently contracting out some work. The only work that they can contract out now is work if it would not result in one single employee of Amtrak being terminated. So we have almost zero contracting out now.

The final thing that I would say is it has been said that Amtrak pays out very little cash in labor protection payments. The reason for that is, and that is probably one thing that has been said that is true, that this simply proves that Amtrak management is unable to make normal, rational business decisions because the statutory labor protection standards are standing in the way.

I repeat again this example. Most Amtrak service reductions do not go below three trains a week. The reason they do not is to do so would trigger the labor protections. So Amtrak is tied up. That is why they are running three trains on some routes when they would like to run none.

We ought to at least give Amtrak the right to operate with sufficient capital and to operate the way that other businesses operate in this country. And we also should not come to this floor and say that what Amtrak now has is the same labor protection that the freight railroads have. That is not true.

In fact, and I will close with this, these labor protections not only extend to labor, they extend to the management of Amtrak, which I do not think I have ever seen an instance of that before.

Mr. OBERSTAR. Mr. Chairman, I yield myself 25 seconds.

In the interest of accuracy, the 30-mile issue is not in Amtrak law, it is covered by a collective bargaining agreement. And if we wipe out collective bargaining agreements, then we have wiped out something labor and management together have freely negotiated.

Amtrak did try cutting their frequencies to three times a week. They found that it lost money. So they cut those routes altogether.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida, Ms. BROWN of Florida.

Ms. BROWN of Florida. Mr. Chairman, I rise today in support of preserving wage and labor protection for Amtrak rail workers. Overall, the Amtrak authorization bill is an acceptable bill, but it eliminates wage protection provisions which already exist because of collective bargaining agreements. Mr. Chairman, this is totally unacceptable. Let me repeat, Mr. Chairman. This is totally unacceptable.

Congress should not place in law language that disregards labor agreements. I urge all of my colleagues to support the Traficant amendment which allows collective bargaining to settle the wage protection and contracting issues.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and also for all the work he is doing on this bill.

I am a little concerned about the debate which I am hearing today. I am right in the center of Amtrak. Wilmington, DE, is directly between New York City and Washington. We are the ninth most used rail station. I use it personally. We have a lot of employees there. I speak to Mr. Downs on a regular basis, for whom I have a tremendous amount of respect. I think he is doing a wonderful job. I have toured the different facilities there and spoken to the union people. I have been through the whole thing.

We have a problem on our hands, and I am not sure we are recognizing that on the floor of the House of Representatives today. And that problem is that there is almost a strike today. It would have started at 12:01 this morning, I believe, if they had not put it off for a week. It could start up 6 days from now. That is a tremendous problem.

If we shut down Amtrak, we will have a problem. That did not come up directly because of this but because of a board which the President put together imposing some very high wage increases, which is all well and good, except nobody said how we are going to pay for it. It comes to about $85 million a year, is what it comes to, and we are

not sure at this point how that will be paid for.

We are not sure at this point what we will do with respect to the capital improvements, which everybody agrees are needed. We did pass $2.3 billion as part of the tax bill in the course of this summer, but we cannot get that released unless we get this authorization done. All these things have to come together and they all have to interlock together in some way or another.

And while it is fine that we are debating the labor and liability issues, the bottom line is if we do not pass something pretty soon in the House of Representatives, Amtrak will fail, and then our debate will be about whose fault it was that it failed. We need to come to some resolution of this. We need to make sure the $2.3 billion is released. We need to deal with the strike issues as soon as possible.

And by the way, I have serious doubts they can continue commuter travel at the same time that they are going through a strike. This would just clog the whole east coast area. Amtrak is vitally important not just to the east coast but to other parts of this country, but it literally would have an effect that is overwhelming in certain parts of the country, and the congestion on the east coast would be that.

But I am bothered beyond all this. I am bothered by the fact we are trying to play catch up with Amtrak. And yet we go to other countries and see videos of other countries on television and we learn about the rail systems which they have, which are vastly superior to what we have in the United States of America. That does not exist in any other area of transportation but in that of rail. And I think we need to address that issue as well.

This does have 500 destinations. Amtrak does touch in 45 States. It does provides over 22 million passenger rail trips every year. That is a significant amount of travel in this country, and my judgment is we have to improve it. We have that chance to do it. The chairman has worked hard to get us in that position to do it, and we have to pull together.

If indeed there are labor, liability, or other issues that need to be resolved, such as route flexibility or whatever it may be, we need to sit down and try to work that out. But we do not need to defeat this legislation. That would be a serious error. It passed last year by a vote of 406 to 4. Let me tell my colleagues, it is a lot more urgent this year in 1997 than it was in 1996.

I would encourage all of us to support this legislation, work out what the differences are and make sure rail travel in America goes forward.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, I believe to save Amtrak we do not have to kill the Amtrak workers. We all want to save Amtrak. I think that we are not going to go forward with any votes tonight because there are many Republicans that realize that it may be perceived as just a jab back at labor, because the two major elements of this bill and the real bottom line issue is preserving the integrity of the collective bargaining process, and that is why labor is up in arms.

I think Republicans are foolish. I think they are getting more labor votes than they think, and I think they have an opportunity to look at this in a different vein. My voting record reveals I have tried to always be fair, and I vote for what I think is best for the country, and I am advising my Republican colleagues to take a look at this before they come to the floor.

One thing the Quinn bill does, and I love the gentleman, I think he is a great Member, but it does something I do not like: It treats some people differently; namely, Amtrak workers. And I want to stand here today on behalf of Amtrak workers.

I have said this many times, but I will say it again, because I want that old Pitt man there, one of the great chairmen in our history, I think he was born to be chairman of this committee, and I follow his lead, but as an old Pitt quarterback, I can remember when Vince Lombardi died. Everybody said they loved him, and the news media could not believe it. And they went up to Willie Davis and said, Willie, big Hall of Fame defensive end, Willie, tell us the truth about Vince Lombardi. Now, look, tell us the truth. He said, I loved him. They asked him why he loved him. He said because he treated us all alike, like dogs at times, but all alike.

Mr. Chairman, I think it is bad policy, poor precedent to place worker against worker. If I were a Republican and the labor unions tried to beat me, I would feel the same way. I think it is time to rise above that.

Here is the point I want to make: The contracting out provisions and the other labor protections in this bill for Amtrak workers has been admitted by Amtrak to not be a part of the cost complications. They are inconsequential. So what appears to me to be labor is, all right, these guys screwed me and I am going to get them. And I guaranty back there in Altoona the gentleman has more labor support than any Democrat that is going to run against him.

I am asking the chairman to treat Amtrak workers like all the other workers, and we do not have to kill Amtrak workers to save Amtrak. Let us save Amtrak and get ourselves a few votes in the process.

With that, I yield back any more of the politics of this matter.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me be very brief on some very key issues. There is no doubt that we join collectively to save Amtrak. I am a strong proponent of that, and I appreciate the work that has been done by both the ranking member and the chairman on this committee.

I want to lay on the table two key issues, and that is protecting employees, providing them with the same work conditions and benefits as we would want to have provided for our other workers throughout this Nation; and then, as a member of the House Committee on the Judiciary, I must emphasize my great concern in the capping of economic and noneconomic damages, in this instance relating to punitive damages as it relates to individuals who are injured.

We have gone through this battle before. I think that we can save a valuable transportation vehicle and tool like Amtrak by being fair with those injured parties. There is no price that we can place on a lost arm or leg. There is no price that says that one who is the CEO of a company, that one who has great wealth should be costed out in damages more so than that retired, elderly, former schoolteacher, or that young student who tragically was injured.

We can fix this legislation, and I think we should. Let us be fair and provide for transportation for all those who need it and, at the same time, give value and benefits to the workers and protect those individuals, those innocent individuals who may be using this vehicle, this means of transportation, so that they too will recognize the value of what we do in this Congress and we do it in a fair and honest way.

Mr. Chairman, I rise today to raise some serious concerns about H.R. 2247, the Amtrak reauthorization bill, as it stands today. Unless amended, this legislation would be a failure by this Congress to protect the interests of the American people in general, as well as, the constituents that we have all been elected to represent. I do not mean to suggest that H.R. 2247 is a piece of legislation without merit. Actually, this legislation begins the important first steps necessary to make Amtrak a fully self-funded national transportation entity, by decreasing costs and making it possible to increase revenues. However, it is still very important that we be careful of what means we use to achieve greater gains in fiscal solvency. Frankly speaking, the changes that this bill makes to the state of standing Amtrak labor relations and the liability of the rail line for either economic or non-economic injury is greatly in need further review and revision by this Congress. We must and can not pass legislation from this body that chooses economic gains and protections for corporations above the rights of the individual to recover in case of injury.

As far as claims for property damage or personal injury, my primary objections to H.R. 2247, as it stands, are as follows. First of all, H.R. 2247 caps damages for noneconomic injuries at a sum of $250,000 above the victim's economic damages. Second, the bill then limits an injured passenger or victim's recovery for punitive damages to $250,000 or three

times the amount of economic loss, whichever is greater in that case. And third, the bill sanctions private indemnification agreements that would completely immunize railroads from liability in the event of an accident, forcing Amtrak to pay for the gross negligence of these parties.

First of all, the final legislative initiative in this group, about indemnification, may very well increase Amtrak's costs because of the recent frequency of rail crashes in America, which occur approximately once an hour according to U.S. News and World Report. On the other side of every indemnified Amtrak crash, there are most likely going to be injured passengers or victims who deserve to recover damages, why place that burden solely on Amtrak? Is it prudent or responsible at a time when railroad accidents are occurring at an alarming rate to pass legislation that assigns additional financial responsibilities on Amtrak to compensate injured parties for accidents? I would contend that it is not. What incentive does an indemnified entity have to make sure that accidents do not occur, and if these incentives do exist, why take such a great risk with the lives of the American people? These railroads can act negligently or recklessly, cause an accident, and simply leave Amtrak to carry the bill.

Furthermore, how can we dare to put a cap, a calculated, definitive value on the amount of recovery for noneconomic and punitive losses? Is the loss of an arm, a leg, a wife, a husband, a mother, a father, a daughter, or son because of a disastrous crash all equal in value? I do not see how they could be. Also, why does this legislation place a cap upon punitive and noneconomic damages and not economic damages? Are those who have lesser economic harms somehow justifiably entitled to less no matter what that particular injury may be? In sum, none of these new initiatives appear to be pragmatic in function or necessary for the future of Amtrak; they ultimately raise a lot of questions, but give very few answers.

Finally, the blatant disregard of this appropriations bill for the standing labor relations within the Amtrak operative structure, is grounds enough for opposing H.R. 2247. The bill, as it stands, removes protections from workers, tells Amtrak and its employees to negotiate, but gives no incentive for Amtrak to negotiate. H.R. 2247 just strikes standing Amtrak employee protections from the law without giving Amtrak bargaining constraints, and thus forces the employees to strike to enforce their demands to management because their statutory protections are gone. Much like many of the other changes within this bill, it just does not make any sense. I urge my colleagues to support the LaTourette amendment which was drafted specifically to address these concerns.

In light of all of these many concerns and controversies, I would ask all of my colleagues to be reasonable, and please reconsider H.R. 2247. Not simply for the good of Amtrak, but as well for the good of America.

□ 1645

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I want to thank the gentleman and I want to thank the chairman of our full committee and members of the Republican Party. It is the first time in 15 years I have ever had my words blown up and prominently displayed. I have joined the ranks of GINGRICH, ARMEY, GEPHARDT, and many others. I just hope they will also blow up some of my predictions that I made about the Contract With America because I think those proved to be equally succinct and of course prescient.

Now, 406 to 4, and so the claim is made, well, many of our colleagues voted for that and, yes, I voted for the bill the last time, too. But, Mr. Chairman, I have got a practice that if I run one time into a brick wall, I try not to suit up and run into it again. And so many of us when we signed up last time and voted were told this is the way it had to be because this is the best way to get this bill passed and Amtrak is in trouble and this is the way to get it passed, emphasis on ''passed.''

406 to 4, 2 years ago and we are back here again. Why? Because it did not pass the Senate and it was not signed by the President. The Senate would not even take it up and so we can vote for this bill again and we can run into a legislative brick wall for every bit the same reasons. What we are doing in our amendments and in our language is we are trying to remove the impediments to getting this bill passed, the labor protection clauses and the liability clauses. That is what held this bill up. We can get this bill passed, I presume, in the next week or so by removing the controversial items.

So, yes, my hope is that 406 to 4, there are a lot of people that learned something out of that. And what we have learned is that if it did not work this way last time, it will not work this time and so let us make the changes that are necessary to keep Amtrak functioning. There are significant differences between then and now. Amtrak is in a different situation but, most importantly, we know what did and did not work and now that we know what did not work, let us not make that mistake again. I would urge my colleagues to support the amendments that will make this bill work and get it passed.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. CARSON].

Ms. CARSON. Mr. Chairman, during this general debate there are certain points that need to be made crystal clear. Amtrak's most important assets are the many men and women who work hard to make sure that our Nation's rail passenger trains operate safely. The bill before us today simply is not fair to these employees. It creates a gaping hole in the law which will deprive Amtrak workers of wage protections which have been in place since the 1930's for displaced and downgraded employees.

It also removes restrictions on contracting out work. This would allow Amtrak management to throw away its employees by making their jobs disappear. This provision in the bill would directly affect 706 workers in the 10th Congressional District of Indiana. Amtrak operates a maintenance shop in Beech Grove, IN, to keep its engines and passenger coaches in good running order. This bill would allow Amtrak to shut down that facility and shift maintenance to privately contracted shops outside of Indiana. The 706 workers at the Beech Grove maintenance shop deserve better than this. They are doing a good job and receive health care and other benefits. I do not believe that we should be eliminating those jobs and sending the work out of Indiana, especially the contract facilities that do not give their workers the same pay and benefits.

That is why I support the LaTourette-Traficant amendment. It would restore the labor protections that exist in current law and would preserve the jobs in Beech Grove. I compliment my two colleagues for offering this amendment.

The Quinn amendment, on the other hand, would only make minor improvements to the bill. By voting for the Quinn amendment, we would be voting against the LaTourette-Traficant amendment. Do not be fooled. The Quinn amendment does nothing to help Amtrak workers. It is a killer amendment designed to defeat the important labor protections that the LaTourette-Traficant amendment seeks to restore. When these amendments are offered, I strongly urge my colleagues to reject Quinn and adopt LaTourette-Traficant.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, the Federal Government is a master at creating Federal programs based upon good intentions, but for which the tax till has become a lifeline for survival. Congress created Amtrak back in 1970 with a one-time grant of $40 million, one-time grant, it was supposed to be. It was to be independent and was to be self-sufficient. As we all know, Amtrak has not become self-sufficient. It has turned into a $22 billion black hole for taxpayer dollars.

What have we gotten for our money? Passenger trains in 1997 are slower than they were in the 1950's. Their average speed is slower than many Third World countries. Even tomorrow's version of high speed rail will be slower than France or Japan's trains in the 1970's. Amtrak has used the taxpayers' $22 billion and taken a giant step backward. How do we reward Amtrak for this? In Congress' infinite wisdom we have decided to give Amtrak, which has never paid any taxes, a $2.3 billion tax refund. But to kill the $2.3 billion now, we would have to kill this legislation.

While I do not think this bill goes far enough and I know Amtrak will be right back at the Federal trough as soon as it gobbles up the next $2.3 billion, it does contain a number of items which make sense. With the passage of

this bill, Amtrak will finally be able to adjust their system of routes without fear that Congress will tie their hands. At the same time we have given preapproval for States to form interstate compacts in order to take over any routes Amtrak discontinues. We are encouraging contracting out, replacing the current Amtrak board, taking the Government out of Amtrak through the redemption of Amtrak's common stock and reforming the labor structure.

Mr. Chairman, some of my colleagues beholden to the labor unions will argue that this bill goes way too far, and I say it does not go nearly far enough. This bill does not go far enough and Amtrak is bound to turn to Congress for more help in future years. But as long as the labor unions are spending millions of dollars trying to buy Congress, as long as we continue to delude ourselves that Amtrak will ever be able to run a railroad and as long as we continue to waste our taxpayers' dollars by pouring it down this empty pit, this is the best bill we can probably pass in this House. I urge my colleagues not to water it down any more.

Mr. OBERSTAR. Mr. Chairman, although we have more time, we have no further speakers on our side. In sorrow, disappointment, and puzzlement that we will not get to a vote tonight, I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CALLAHAN) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 830, FOOD AND DRUG ADMINISTRATION REGULATORY MODERNIZATION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia? The Chair hears none, and without objection, appoints the following conferees:

Messrs. BLILEY,
BILIRAKIS,
BARTON of Texas,
GREENWOOD,
BURR of North Carolina,
WHITFIELD,
DINGELL,
BROWN of Ohio,
WAXMAN, and
KLINK.

There was no objection.

TRIBUTE TO PHINEAS INDRITZ

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, it is with a great sense of sadness that I advise this House of the passing of a dear friend of this institution and of mine, Mr. Phineas Indritz, an individual known for many years as an outstanding staff member of many committees of this Congress and well known to many on Capitol Hill and the city of Washington.

Phineas Indritz died on October 15, 1997, at the age of 81 at Holy Cross Hospital following a long illness. Phineas was a graduate of the University of Chicago with A.B. and J.D. cum laude degrees, served as Assistant Solicitor and Counsel at the U.S. Department of the Interior from 1938 to 1957, except during the years of World War II, when he served with distinction in the Army Air Forces.

He then began 20 years of service on Capitol Hill as a staff member to the Government Operations Committee, first as counsel for the Subcommittee on Public Works and Resources in 1957 and then going on to other assignments.

In 1963, he became chief counsel of the Subcommittee on Natural Resources and Power, and at the same time, in 1969, to the Subcommittee on Conservation and Natural Resources. He also served with distinction as a member of the staff of the Committee on Energy and Commerce and also for its Subcommittee on Energy and Power.

He has long been known for the outstanding work he has done for human rights, protection of natural resources, and for his work as teacher and scholar and educator in the area of law.

Mr. Speaker, he will be missed, and I extend my sorrow and sympathy to the members of his family who properly grieve the loss of a great man.

Some may remember the series of articles written by David Maraniss for the Washington Post about the Committee on Energy and Commerce in 1983. In one of these articles, dated July 18, 1983, was a portrait of Phineas Indritz. I would ask that a passage from this article be reprinted as follows:

There is a special desk and telephone reserved for Phineas Indritz, the gnome of the Energy and Commerce Committee, on the third floor of House Annex II, and he is received there with the respect befitting a wise old man who has worked in Congress since the birth of the youngest committee member.

That Indritz retired from government service several years ago and is not on the committee's payroll matters not at all when it comes to his standing and influence. Chairman John D. Dingell loves him like a brother, and it is fair to say that Dingell keeps him around because he needs him: Little Phineas is in many respects the social conscience of Big John.

Every few months, Indritz appears in Dingell's office with a wrong that must be righted, with evidence of an injustice inflicted by corporate America or some agency of the federal bureaucracy. ''He's like a kid who comes home every day with a different stray dog or cat and plops it on our doorstep,'' one committee colleague said. ''Sometimes we wish he wouldn't bring them home, but his heart is always in the right place. And usually the things he believes in are things that ought to be done.''

All of this must be taken into account when one considers the life and times of H.R. 100. This measure, popularly known as the unisex insurance bill, has sent the insurance industry into a multimillion-dollar lobbying frenzy. It has been embraced by feminist groups as the centerpiece of their campaign for economic equity. And it has trapped Energy and Commerce members in the middle of a ferocious fight that many of them wish would be waged somewhere else.

Indritz, committee aide emeritus, dropped H.R. 100 on the doorstep. He is one of the bill's principal authors. An old civil rights activist and New Deal liberal, Indritz is blessed with talents as extraordinary as his name. For years, his amazing juggling feats with bowling pins have delighted friends and strangers in parks around Capitol Hill.

He drives through town in a fine old convertible, his head barely protruding above the steering wheel. His tweed suit pockets hold a bountiful supply of hard candy, and his scholarly mind retains more obscure facts about constitutional law and legal briefs on discrimination than can be found in the library of the Supreme Court.

It was his lifelong obsession with fighting discrimination that led Indritz several years ago to take hold of a bill prohibiting insurance companies from using race or sex in setting rates for policyholders.

Phineas will be greatly missed. We are fortunate that his legacy is so long, and continues to live with us and help us every day. He is survived by his two daughters, Tahma Metz of Bethesda and Tova Indritz of Albuquerque, NM; and a son, Dr. Doren Indritz of Phoenix, AZ; a sister; and two grandsons. He was preceded in death by his beloved wife of 34 years, Ruth Gould Indritz.

HONORING BOB L. VICE

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, I rise to honor a distinguished agricultural leader at the local, State, and national level who will be leaving office this year. Bob L. Vice, President of the California Farm Bureau Federation, has led the largest agricultural organization in the State of California for the past 8½ years. He has met many challenges during the time to keep a $24 billion a year agricultural industry, the largest in the Golden State on course. California agriculture is an industry that contributes generously to the State's economy.

While many think of California as large cities and recreational parks, one in 10 jobs are directly related to agriculture. Farmers face the whims of mother nature and uncertainties of the marketplace and ever increasing government regulations. Bob Vice has been a strong advocate of the industry and has spent much of his time away from his family to devote his efforts to the industry that he loves. I am proud to know him as a distinguished agricultural leader, a devoted constituent and a friend. I wish him the best in his future endeavors.

Bob Vice began his service to the agricultural industry when approached to attend a meeting of the California Farm Bureau Federation's Young Farmers and Ranchers Committee. This offer to attend this meeting was made so far in advance that he gave little thought to the time commitment involved. But it was to the agricultural industry's benefit that he chose to do so.

After attending the meeting, Bob Vice became very active in the San Diego County Farm Bureau's young Farm and Ranchers Program and worked on many programs at the county level. His involvement led him to a position on the County Farm Bureau board of directors.

His enthusiasm for work on behalf of the agricultural industry and Farm Bureau was acknowledged by his progression to president of the San Diego County Farm Bureau and thus a delegate to the California Farm Bureau Federation. In 1987, he was honored as the San Diego County Farmer of the Year.

In December 1981, Bob Vice was elected as the first vice president of the California Farm Bureau Federation at their annual meeting in Palm Springs. As an officer and board member of the State organization, he participated in many committee assignments and directed the policy review procedures at the annual meetings.

In 1985–86, he participated as the agricultural point person to deal with the Immigration Reform and Control Act provisions in the national legislation. He continues to be a national spokesperson for agricultural labor issues and has been called upon to testify before Congress numerous times.

In 1989, after serving 7½ years as first vice president, Vice assumed the role of president of the California Farm Bureau Federation and was re-elected four times to that two year position. He served on the American Farm Bureau Federal [AFBF] board of directors from 1989–92. He was reelected to the AFBF board in 1994 and continues to serve in that capacity. He was also named to the six member executive committee of that organization. He has served on many committees including chairman of the AFBF International Trade Advisory Committee. He has participated in agricultural trade delegations to Europe, Israel, Latin America, the Pacific Rim, South Africa and Australia.

Bob Vice has not only been active within Farm Bureau but as a leader for all of agriculture. Shortly after assuming the presidency, he became the chairman of an agricultural coalition to successfully fight the ill-conceived ''Big Green'' initiative. His efforts further elevated him as a leader on the national agriculture scene.

Bob Vice has been a visionary on behalf of the agriculture industry by his long range outlook on issues affecting the industry. He is especially aware of the need to balance the use of water between competing interests within California and was one of the original participants on the California Bay Delta Oversight Committee established by Governor Pete Wilson. He was a major participant in the effort to pass Proposition 204, the water bond issue in 1996.

His willingness to participate in issues affecting agriculture has propelled the California Farm Bureau to new heights in political awareness and has made the organization a well respected force in Sacramento and Washington, DC. This respect is not only acknowledged by elected officials but also by his peers throughout the industry.

He was appointed to the 22d Agricultural District Fair Board (Del Mar) in 1984 by Governor George Deukmejian and has been reappointed twice by Gov. Pete Wilson. He is a member of the Advisory Council on Small Business and Agriculture of the Federal Reserve Bank of San Francisco.

In addition to his many agricultural activities, Bob Vice and his wife Carilyn are very active in their church and community. He continues to farm avocados in Fallbrook, San Diego County.

MORE ON THE IRS AND THE TAX CODE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I wanted to talk about the IRS, our Tax Code, where we go from here, and some of the abuses. In my Somerset congressional church in Somerset, MI, a member gave me his dun notice from the IRS and I would like to share it with my colleagues and, Mr. Speaker, with the American people.

It says, ''According to our records, you owe $49 on your income tax. Please pay the full amount, et cetera, by this date. If you have not paid, mail your check or money order. Tax withheld, zero; estimated tax payments, $6,347; total payments or credits, $7,379.83; total tax on return, $7,380.'' That is all complicated.

Here is the line that makes the difference. ''Your underpaid tax, 17 cents. You owe a penalty of $49.35.''

The postage stamp to send out this dun notice is more than the 17 cents that IRS said he owed on his taxes. I think it is another example of why we have to reform the IRS and get rid of it as we know it.

Mr. Speaker, I include for the RECORD the following:

REQUEST FOR TAX PAYMENT

According to our records, you owe $49.35 on your income tax. Please pay the full amount by Sep. 15, 1997. If you've already paid your tax in full or arranged for an installment agreement, please disregard this notice.

If you haven't paid, mail your check or money order and tear-off stub from the last page of this notice. Make your check payable to Internal Revenue Service and write your Social Security number on it. If you can't pay in full, please call us to discuss payment.

Tax Statement

Payments and credits:	
Tax withheld	$.00
Estimated tax payments	6,347.83
Other credits	.00
Other payments	1,032.00
Total payments and credits	7,379.83
Tax:	
Total tax on return	7,380.00
Less:	
Total payments and credits	7,379.83
Underpaid tax	.17
Penalty	20.64
Interest	28.54
Amount you owe	49.35

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. SCOTT] is recognized for 5 minutes.

[Mr. SCOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

[Mr. SAXTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. FORD] is recognized for 5 minutes.

[Mr. FORD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1700

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. CALLAHAN). Under a previous order of the

House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, it is my pleasure to come today to talk about a very important subject, and that is campaign finance reform. I think a legitimate question at this point can be, where are we and where are we going in the House and Senate on campaign finance reform?

We have seen the Senate try to address this issue. They brought up the McCain-Feingold bill. They came to a stalemate in the Senate, neither side winning, but simply could not get the 60 votes necessary to move that issue forward.

I believe that the issue now turns back to the House to see what are we going to do, what are we going to do for the American public. I believe we have a tremendous opportunity now to address the issue seriously, through our policy conference, through our committees, and to make some constructive suggestions and legislative enactments in regard to this important issue.

We also have the opportunity to create some momentum, which this issue seriously needs. So I believe that we have that opportunity, and I would urge my colleagues in the House to get behind the effort to reform our campaign finance laws.

One thing I hear all the time is we first have to enforce the laws. I agree 100 percent, the first obligation that we have is to enforce our current campaign laws, and I am grateful for the hearings that Senator THOMPSON is conducting on the Senate side and Congressman BURTON is handling on this side, that are bringing out some serious abuses, some violations of the law, and we have to continue digging in that area.

But the American public fully understands what the real problem is. It does not take a rocket scientist to figure out that the problem is soft money. That is what has led to the abuses of the last campaign, and that is what needs to be addressed during this legislative cycle in regard to the reform that we need to do.

So we have presented the Bipartisan Campaign Integrity Act of 1997 that I have introduced as H.R. 2183, that Congressman TOM ALLEN from Maine, my Democrat counterpart, has cosponsored along with me, along with 650 cosponsors to this legislation, both Republicans and Democrats, both conservatives and liberals.

Why can we all agree upon this? Because we narrowed it down to what is important. What we have to present now is what are the important elements of reform in this bill. It includes, first of all, a ban on soft money to the national political parties.

What is soft money? It is the millions of dollars generally in contribution that come from the corporations and the labor unions to our national political parties.

I believe the debate boils down to this: Are we going to have our national political parties controlled by the multinational corporations that give the huge chunks of money, or are we going to be responsive to the grassroots of the American population? That is how simple this issue is, and that is how the American public sees it.

I believe conservatives need to unite behind this bill, the Bipartisan Campaign Integrity Act, because it builds confidence in the grassroots. It tells them that we are going to be serious about being responsive to them and reforming our system and banning soft money, returning control of our parties, of our Congress, to those people that have built this Nation. That is what it is all about.

In addition, it increases disclosure. We need to simply give the American people information on the campaigns, who is spending what. So it provides for electronic disclosure for the candidates, quicker information for them.

In regards to issue advocacy groups, it is simply disclosure. It does not get into the constitutional questions of some other billings, but simply provides the disclosure of information as to who is spending what on the campaigns to influence those. So that is the essence of the Bipartisan Campaign Integrity Act, and I believe it is very, very important.

Where did all of this start? It started with the Republican President, President Teddy Roosevelt, who in 1905 addressed the Congress of the United States and said that all contributions by corporations to any political committee or for any political purpose should be forbidden by law.

It started with a Republican President, who started campaign finance reform. Later, the prohibition on union contributions, labor union contributions to the political candidates, was enacted.

So that is the basis upon our legislation today that bans unions and corporations from giving directly to the political candidates. But yet we have this loophole where they can give in multimillion-dollar chunks to the political parties that influences those elections they cannot give directly to. That is why it is a loophole of soft money that we should address.

Now there is a proposal that is out there that says we just need to deregulate it all, we need to let anybody contribute whatever they want to, and that is the best approach to campaign finance reform.

First of all, I believe that this would take us back to the dark ages. People remember the day when a candidate could receive anything he wanted and lean however much he wants to get money. And, sure, the American public will need it, but it is bad for the system. It would be inappropriate to raise the limits.

The proposal says we even take the limits off of political action committees. Can you imagine the labor union political action committees that could give anything they want, that they could give $1 million to a candidate? I think that is bad for the system. So the proposals that say we need to take the limits off is not where the American public is today.

We need true reform. We need to have the bipartisan proposal that bans soft money, the greatest abuse, that increases disclosures, empowers individuals and restricts the influence of the special interest groups. That is what our bill does.

I am grateful for the gentleman from California, Chairman THOMAS, who has indicated that he will provide hearings on this legislation, as well as others. I hope that he will schedule those immediately, so that we can move forward with this important legislation before we go home in November.

That is where we are. I ask my colleagues to support the Bipartisan Campaign Integrity Act.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. SMITH] is recognized for 5 minutes.

[Mrs. SMITH of Washington, addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

[Ms. BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

FAST TRACK TREATY AUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

Mr. KOLBE. Mr. Speaker, I rise today to take this five minutes to begin what I hope will be a constructive and important debate on the subject of fast track, a debate which I think will certainly rank with among the most important debates that this Congress will undertake this year or next year, whenever we finally do actually take this debate and cast a vote on fast track.

I recognize in beginning this discussion tonight, and this will only be the beginning of a long discussion I think we need to have, that there are many Members in this body who have come to the Congress of the United States since the Congress last voted on any kind of substantive trade issue, an issue where the fast track was the essence of the debate. It also ranks as one of the most unusual, some would say arcane, but certainly one of the most complex pieces of legislation that

we have in our panoply of legislative tools.

It ranks as that because it very uniquely delegates to the President certain responsibilities that normally Congress would not delegate to the President. It gives up certain powers of its own in order to get trade legislation enacted.

During the course of the next several days and weeks, I hope that we can discuss the importance of trade, how the fast track process works, why fast track is an essential element to getting trade negotiations and trade agreements in place, why fast track does not represent something that will damage workers and consumers in this country, why, indeed, these trade agreements are essential, why it should be considered constitutional, why we should or should not consider it and what elements of labor and environmental considerations should be included in any kind of fast track negotiations, and, ultimately, how fast track and trade agreements can protect the U.S. health and safety standards.

But today let me just begin with a little bit of background of where we have come from to get to this position today, where we now have a bill that has been reported from the Committee on Ways and Means, another bill in the other body that has been reported from the Senate Finance Committee, how we have gotten to this stage and why we are here today.

Fast track is legislation that goes back more than 20 years, about 25 years, to a time when we began to see that the complexity of trade negotiations required something that gave the President the authority to negotiate these kinds of agreements with other countries, and usually multiple numbers of countries, as we have found in the Uruguay round of GATT talks or the other multiple trade talks that preceded that.

We decided we needed this kind of fast track authority because the complexity of the negotiation itself meant that at the end of the negotiation, we had to be able to submit something to the Congress of the United States that would be voted yes or no.

The reason for that is simply our trading partners do not want to negotiate with the United States if they do not know at the end of that time there is going to be a yes or no vote. They want to know with certainty that the agreement they reach is the agreement that will be voted on. That is why we gave fast track authority to the President of the United States, and it has worked for every President since 1974, Republican and Democrat.

This is the first time that we have been, for several years now, without trade negotiating authority for a President. The results tell. During the course of the next several times that I will speak on this floor on this subject, I will outline some of the problems that we now have, because we have not had fast track authority for the President.

But let me just say in closing, Mr. Speaker, that this is absolutely vital legislation. It is vital because I think literally the economic future of this country depends on having fast track. We must have fast track because we must have trade, and trade is the engine of economic opportunity for the future, for American workers, for American consumers, for American entrepreneurs, for the security of the United States. It depends on having fast track authority.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. SANCHEZ] is recognized for 5 minutes.

[Ms. SANCHEZ addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

[Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I would like to say thank you to colleagues of mine who have joined this evening to speak out on the fight against breast cancer.

October is Breast Cancer Awareness Month. This is a time when we honor all of the women who are fighting this deadly disease, we remember those who we love who have lost the fight, and we renew our commitment to trying to find a cure.

It is time to take stock of where we are in the fight against cancer. Are we committing sufficient resources for biomedical research to find a cure? Do women who have been diagnosed have access to the care that they need in order that they can heal properly?

I am very, very pleased that the appropriations committee that I sit on is poised to increase funding for the National Institutes of Health by at least $700 million so researchers can continue their quest for the causes of this disease and find an effective treatment that will, at longlast, give us the cure that we have been looking for.

Also the Department of Defense, along with NASA, is putting state-of-the-art technology to use in improved mammograms to increase the rate of earlier detection, which is clearly a key.

Unfortunately, all too often the answer to the second question, do women have access to the care that they need, is a resounding no. More and more often managed-care organizations are forcing patients home just hours after a mastectomy. In fact, a study by the Connecticut Office of Health Care Access proved that the average length of stay for breast cancer patients in Connecticut is dramatically decreasing. Most disturbing, it is decreasing faster for mastectomies than for other inpatient discharges.

This is really unacceptable. These are real women, women who are undergoing traumatic surgery, who are then sent home while they are still in pain, groggy from the anesthesia and with drainage tubes stitched to their skin.

It is not every day that you come face-to-face with your own mortality in a very profound way, as you do when you face a cancer diagnosis. It is not too much to ask for a mere two days in the hospital as you recover from this kind of surgery.

Congress needs to act to stop this practice. That is why, along with Congresswoman MARGE ROUKEMA of New Jersey and Congressman JOHN DINGELL of Michigan, I introduced the Breast Cancer Patient Protection Act. The bill would require insurance companies to cover 48-hour hospital stays for women who undergo a mastectomy and a 24-hour stay for those undergoing a lymph node dissection. The patient and her doctor, not an insurance company, can decide if a shorter stay is appropriate.

My home State of Connecticut and a number of other States have passed legislation to give women a 48-hour hospital stay. However, 125 million Americans are covered by the Employee Retirement Income Security Act, ERISA. These plans are exempt from State law, so we need to work together here in the Congress to pass Federal legislation to ensure that every woman is protected.

This measure has wide bipartisan support, 195 cosponsors, Democrats and Republicans. Congress has yet to act on this important bill. Nor has it moved on another piece of legislation that is so important to breast cancer patients, and that is the Reconstructive Breast Surgery Benefits Act, which was introduced by my friend and colleague, the gentlewoman from California, ANNA ESHOO. Congresswoman ESHOO could not be with us here tonight, and I will include her remarks for the record.

Americans understand the need for this legislation. In fact, through the breast cancer care petition, which is an on-line petition drive which we have initiated, thousands of Americans are speaking out and calling for hearings on these bills.

□ 1715

Not only can they sign a letter, but they can leave their own stories of their own experiences about breast

cancer. Over 6,000 people have signed this petition. Hundreds of women and men, survivors and their families, have left very moving stories that are more eloquent than anything that I could say.

Just a quick example that has been posted on the petition, from a Nebraska resident. I quote:

As the director of a breast cancer screening program, I have felt close to the medically underserved women who are our clients as they daily struggle with the painful choice of taking care of their own good health and buying cereal for their kids. There are real tears being shed by real women every day. They are your neighbors, your colleagues, your kids' teachers, the clerk at the grocery store. Breast cancer survivors have enough to deal with. Do the right thing, pass this legislation, and help make the tears fewer for those who will follow us until a cure is found.

One New York resident simply wrote, ''During the most devastating time in my life I should not have to fight with the insurance company.''

We all pray for the day when we find a cure for cancer. Until then, we must ensure that those suffering from this disease get the care they need and the care they deserve. I call on the Congress to pass the Breast Cancer Patient Protection Act.

Mr. Speaker, I include for the RECORD the statement by the gentlewoman from California, Ms. ANNA ESHOO, on this legislation.

The statement referred to is as follows:

BREAST CANCER LEGISLATION

Ms. ESHOO. Mr. Speaker, first, I thank my colleague Rep. ROSA DELAURO for organizing this special order during National Breast Cancer Awareness Month and for her unwavering advocacy on behalf of breast cancer patients.

Breast cancer touches the lives of thousands of American women, their families, and their friends every year, forcing them to confront both death and disfigurement. Over 180,000 American women are diagnosed with breast cancer annually and 44,000 of them die from the disease. Another 85,000 American women have mastectomies as part of their treatment each year, 25,000 of whom choose to have reconstructive breast surgery because of the tremendous damage that mastectomy does to a woman's body.

Fear of losing a breast is one of the main reasons many women do not have preventive examinations for breast cancer—many don't know about the possibility of reconstructive surgery.

Unfortunately, many insurance companies don't recognize the importance of breast reconstruction. A recent survey shows that 84 percent of plastic surgeons had up to 10 patients denied coverage for reconstruction of an amputated breast.

The unwillingness of some insurance companies to pay for reconstructive breast surgery following a mastectomy defies all sense of reason and compassion. Reconstructive surgery in these cases is not cosmetic—it's part of the continuum of case necessary for the complete recovery of patients.

On the first day of the 105th Congress, I introduced H.R. 164, the Reconstructive Breast Surgery Benefits Act. This legislation says that insurance companies that cover mastectomies must also cover reconstructive breast surgery resulting from mastectomies, including surgery to establish symmetry between breasts. Companies can't deny coverage for reconstructive surgery by claiming it's cosmetic surgery.

At the same time, H.R. 164 doesn't force women to have the surgery and it allows companies to impose reasonable charges for providing the benefit.

Even though this initiative has won broad bipartisan support, no hearings have been held on it. Nor have hearings been held on a related piece of bipartisan legislation, H.R. 135, which would stop the shameful practice of drive-through mastectomies.

That's why I welcome the online breast cancer care petition drive which was launched last month to call for hearings on both breast cancer bills.

Located on the Web at breastcare.shn.com, the petition gives breast cancer patients and those who care about them a chance to log on, learn, and leave their names in support of congressional action. The petition will run through the end of this month.

Nearly 6,000 people from across the country have signed the petition so far.

In addition to collecting signatures, the site allows people to leave personal stories about their experiences with breast cancer. Hundreds of people have done so, and anyone reading them can't help but be moved.

At the end of the drive, the petition will be delivered in hard copy to the appropriate committee and subcommittee chairmen to demonstrate that these bills have broad support and deserve hearings.

In closing, I want to read to you just two of the comments that have been left at the petition site. The people who have left them speak far more eloquently about this issue than I ever could.

One woman wrote:

On January 17, 1997, I learned that my mother, the woman I thought was a breast cancer survivor and success story, had developed recurrent breast cancer. On February 4, 1997, my mother was dead. My family has been devastated by the loss. I have accomplished some of the dreams she and I shared together, but cannot tell her. I was finally able to return to live near her, but she's no longer there . . . I thank you for providing me with this opportunity to let those in government know how important it is to provide women with adequate and acceptable care for this devastating disease.

On October 5, a woman left this message:

I was diagnosed with breast cancer 48 hours ago. I must have more surgery in 24 hours. I am terrified. I don't want to die. My grandmother, my mother, and my mother's sister all had breast cancer. I am 53. I have a beautiful 26-year-old daughter. I want her never to suffer with this.

Providing coverage for reconstructive breast surgery and stopping drive-through mastectomies are two important issues related to breast cancer. Until there's a cure for the disease, we must ensure that women are given the best care possible to cope with breast cancer and its treatment.

Mr. Speaker, I encourage people to visit the petition site, breastcare.shn.com, and read these personal stories. They all have one simple underlying theme: it's time for Congress to stop delaying and start acting on these important pieces of legislation.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I rise tonight to speak about an issue of vital importance to the women of this Nation—breast cancer. As a woman and a mother, I feel that there are few issues as important to women's health as the breast cancer epidemic facing our Nation. Therefore, I add my voice to supporting the DeLauro legislation on breast cancer.

As you may know, breast cancer is the most commonly diagnosed cancer in American women today. An estimated 2.6 million women in the United States are living with breast cancer. Currently, there are 1.8 million women in this country who have been diagnosed with breast cancer and 1 million more who do not yet know that they have the disease. It was estimated that in 1996, 184,300 new cases of breast cancer would be diagnosed and 44,300 women would die from the disease. Breast cancer costs this country more than $6 billion each year in medical expenses and lost productivity.

These statistics are powerful indeed, but they cannot possibly capture the heartbreak of this disease which impacts not only the women who are diagnosed, but their husbands, children, and families.

Sadly, the death rate from breast cancer has not been reduced in more than 50 years. One out of four women with breast cancer dies within the first 5 years; 40 percent die within 10 years of diagnosis. Furthermore, the incidence of breast cancer among American women is rising each year. One out of eight women in the United States will develop breast cancer in her lifetime—a risk that was 1 in 14 in 1960. For women ages 30 to 34, the incidence rate tripled between 1973 and 1987; the rate quadrupled for women ages 35 to 39 during the same period.

I am particularly concerned about studies which have found that African-American women are twice as likely as white women to have their breast cancer diagnosed at a later stage, after it has already spread to the lymph nodes. One study by the Agency for Health Care Policy and Research found that African-American women were significantly more likely than white women to have never had a mammogram or to have had no mammogram in the 3-year period before development of symptoms or diagnosis. Mammography was protective against later stage diagnosis in white women, but not in black women.

We have made progress in the past few years by bringing this issue to the Nation's attention. Events such as this October's Breast Cancer Awareness Month, are crucial to sustaining this attention. There is, however, more to be done.

It is clear that more research and testing needs to be done in this area. We also need to increase education and outreach efforts to reach those women who are not getting mammograms and physical exams.

We cannot allow these negative trends in women's health to continue. We owe it to our daughters, sisters, mothers, and grandmothers to do more. Money for research must be increased and must focus on the detection, treatment, and prevention of this devastating disease.

Mrs. ROUKEMA. Mr. Speaker, I take this opportunity during Breast Cancer Awareness Month to ask my colleagues' support for H.R. 135, the Breast Cancer Patient Protection Act of 1997. This legislation would require health

insurance companies to pay for at least a 48-hour hospital stay for women who undergo a mastectomy.

I find it unbelievable that some HMO's are sending women home the same day after having a mastectomy. This is not just a matter of postsurgical complications, possible infection, and other medical issues. This is one of the most anguish-filled, emotionally trying crises a woman can ever face. To perform a mastectomy and then turn the patient out the door shows callous indifference to the dignity of all women.

Sometimes it seems that HMO's are making a concentrated attack on the health concerns of women. First they were trying to discharge new mothers 12 hours after giving birth. Now we have outpatient—drive-through—mastectomies. What will come next? I will not settle for third-world standards for health care for women in this country and neither will the 184,000 women who contract breast cancer each year. This is not legitimate cost-saving. This is cold, callous rationing of care.

Some HMO's say outpatient mastectomies are not mandatory—that the doctor and patient can decide how long to stay in the hospital. I would like to believe that it is true. But we have already seen physicians being coerced into providing lower levels of care when HMO's think they are spending too much money. HMO's are often in a position to put a doctor out of business overnight by taking his or her patients away. I do not accept the rationalizations of the HMO's. Clearly, they need regulatory direction.

With 184,000 new cases each year, breast cancer is the most common form of cancer afflicting American women. My home State of New Jersey has the fourth-highest number of breast cancer cases in the Nation and the third-highest number of deaths from breast cancer. Those statistics make the seriousness and scope of this tragic disease absolutely clear. Someday, we may find a cure. But in the meantime, we must do everything possible to ensure that women who contract breast cancer receive proper medical treatment—and that proper care is placed ahead of insurance companies' bottom line. Please support the Breast Cancer Patient Protection Act of 1997.

Mr. FROST. Mr. Speaker, I am pleased to rise in recognition of the month of October as Breast Cancer Awareness Month. This year alone, 180,000 women in this country will be diagnosed with breast cancer. Although there is no cure, the best way known to prevent breast cancer is through early diagnosis and treatment.

Two bills have been introduced to combat breast cancer. House Resolution 135, the Breast Cancer Patient Protection Act, guarantees that women who must undergo surgery for the treatment of breast cancer get the hospital stay they need and deserve. This legislation requires a woman to receive a minimum hospital stay of 48 hours for a mastectomy, and 24 hours for a lymph node removal. This will enable women and doctors to determine how long they need to stay in the hospital and not the insurance companies.

The other bill is House Resolution 164, the Breast Surgery Benefits Act, which targets insurance coverage for breast reconstruction. It requires group and individual health insurance plans to provide coverage for reconstructive breast surgery if they provide coverage for mastectomies. This bill will protect many of the mastectomy patients that are denied coverage for breast reconstruction each year.

Breast cancer is a serious problem facing every woman in the United States today. I believe that breast cancer deserves more attention and that is why I am a cosponsor of both of these bills. Breast cancer is not going to go away and we must, in any way that we can, protect our women from the dangers of it.

Mrs. MALONEY of New York. Mr. Speaker, it is my pleasure to join my colleagues, ROSA DELAURO, ANNA ESHOO, and others tonight to salute October as Breast Cancer Awareness Month.

We know, all too well, the devastating facts:

With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women.

I was pleased earlier this year, Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women.

By including my bipartisan bill, this budget agreement makes a wise investment that will save women's lives.

But there is more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late.

But sometimes, when treatment is available, a woman can undergo a mastectomy which may save her life.

Unfortunately, very often, we've seen women who have been forced to leave the hospital with drainage tubes still attached. And just like the drive-thru delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act.

This bill will eliminate these so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy and a minimum of 24 hours following a lymph node dissection for the treatment of breast cancer.

I am also proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by Representative ANNA ESHOO.

This bill would require health insurance companies to cover reconstructive breast surgery if they already pay for mastectomies.

I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now, thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of the legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote:

> On August 25, 1997 a lumpectomy showed that indeed, I did have breast cancer. An axillary lymph node dissection showed that the cancer has traveled to my blood stream. I am 34 years old. I am undergoing chemotherapy, and will also to have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us.
>
> My mother's two best friends died of breast cancer, one when I was too young to remember, and the other when I was 18. It was devastating for everyone and we are convinced that it was the love of family and friends that helped one friend fight 10 years with this disease. Coming from a family in which no woman has ever developed breast cancer, the pop culture leads me to believe that I am not at risk. Only through doing research on my own have I learned that every woman is at risk regardless of age, family history, or geographical location. This is a silent killer that must be stopped. Our world desperately needs its mothers, sister, aunts and friends.
>
> I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy with reconstruction. I am still in the process of reconstructive surgery. I also underwent seven months of chemotherapy.

We need to make sure mastectomies and reconstructive surgery are safe, and covered.

I thank my colleagues for organizing this special order, and I salute the women who are facing these issues every day.

You are our inspiration, and we will continue fighting for you.

Mr. DINGELL. Mr. Speaker, I am pleased today to join with my colleague from Connecticut [Ms. DELAURO], to urge our colleagues to cosponsor the Breast Cancer Patient Protection Act of 1997. This legislation seeks to ensure that women and doctors—not insurance company bureaucrats—decide how long a woman who has a mastectomy should remain in the hospital.

For any woman, learning that she has breast cancer is one of her most frightening experiences. Learning she must have a mastectomy, a surgical procedure that will alter her body and her life, can be devastating.

For an insurance company to dictate to a woman, facing one of life's greatest challenge, that she must leave the hospital whether she is ready or not, is the ultimate insult.

Late last year, I came to a more precise understanding of the trauma a woman faces when she learns she must have a mastectomy. A member of my staff in Michigan, Connie Shorter, practically awoke 1 day to the stunning and agonizing reality that she had cancer. As if physical and psychological pain of the disease were not already too much to cope with, soon Connie would discover the pain of a process which neither she nor her doctor could control.

Earlier this year, Ms. Shorter was asked to the White House to join with First Lady Hillary Rodham Clinton in relating the difficulties associated with drive-thru mastectomies. There are no words better than Connie's own as she told her story to the First Lady:

> What makes this awful situation worse is that I was discharged eight hours after two major surgeries. I was appalled to learn that this is routine, and I learned very quickly why. Being sent home only a few hours after surgery was not because of my medical condition or because of my doctor's specific recommendation.
>
> Coming home was not easy. From the moment a woman walks in the hospital door in the morning for her unwanted mastectomy, until she is wheeled out that afternoon, she feels she has been through one of the world's most painful physical and psychological wars, a very personal loss and incredible physical battle * * * after my experience, I could not feel more strongly that a woman and her doctor are the only two people who should decide when she should leave the hospital after surgery.

Every medical specialty organization in this country challenges the right of insurance companies to interfere in the decision of what treatment is medically necessary or appropriate for a patient. Whether that patient is a young woman giving birth to a baby, or having surgery to treat breast cancer, the insurer has no right to be in the middle, between the patient and the doctor. And in no case should a patent be sent home less than 24 hours after a mastectomy so that an insurance company or hospital can save money.

Representative DELAURO and I, along with many other Members, placed this issue on the table at the end of the last session because we wanted every Member of this body to think about this matter before the convening of the 105th Congress. We spent several months researching the best, most effective way to accomplish the goals we laid out last year. This legislation is consistent with the Kennedy-Kassebaum health insurance reform bill and with the MOMS bill passed last Congress, providing 48-hour maternity stays.

H.R. 135 goes where many angels have feared to tread, into the hallowed halls of a well-heeled industry that is trying to make cost, rather than care, the driving principle of our health care system. This legislation just says ''no.'' It says to anyone who is not the patient or the patient's doctor: ''No, you may not dictate when a patient must leave the hospital.''

Mr. Speaker, I am very happy to report that almost a year after her surgery, Connie Shorter is a breast cancer survivor, and remains a vital and effective member of my senior staff. More important, she remains a loving, caring and giving spouse, mother, and grandmother, and we all expect her to continue in all these roles for a very long time.

As Connie's story reveals, the devastation of breast cancer is too great to allow Congress to ignore the risks of inadequate medical care. The difficulties, both physical and psychological, associated with mastectomy are too complex. This legislation seeks to ensure that insurance snafus and mindless refusals do not make these difficult situations impossible.

Today, H.R. 135 has almost 200 cosponsors from both sides of the aisle. In addition, a nationwide campaign on the Interned has begun to push us to give this bill and other crease cancer legislation the hearings they deserve. I urge my colleagues who have not already cosponsored this legislation to do so now, and express the hope that Congress will listen to respond to the women of America who seek better and more reliable treatment for breast cancer.

GENERAL LEAVE

Ms. DELAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BRADY). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

[Mr. METCALF addressed the House. His remarks will appear hearafter in the Extensions of Remarks.]

RECOGNIZING OCTOBER AS BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I rise on this special occasion, recognizing October as Breast Cancer Awareness Month.

Mr. Speaker, breast cancer is the most common form of cancer affecting women in the United States, with one out of eight women developing this disease in her lifetime. It affects mothers, daughters, wives, and sisters. Both its cause and the means for its cure remain undiscovered.

In honor of October as Breast Cancer Awareness Month, I am pleased to lend my support for the initiatives of this Congress to not only work toward eradicating this dreaded disease, but to ensure that women receive the proper treatment they deserve.

I would like to take this opportunity to call attention to the Internet petition. This petition gives constituents across the Nation a chance to voice their support for the initiatives by the gentlewoman from California [Ms. ESHOO] and the gentlewoman from Connecticut [Ms. DELAURO] to stop insurance companies from forcing women to have drive-through mastectomies, and denying women coverage for reconstructive breast surgery following mastectomies.

As a cosponsor of both of these bills, I am pleased to support this legislation, which would provide much needed improvements in coverage for breast cancer treatment.

A young lady from my State of Tennessee who lost her mother to breast cancer a year ago signed the petition earlier this week. She also added, ''Not only do we need to stand up for the above initiatives, but we need to stand up for better treatment and cures for this deadly disease.''

Yes, Mr. Speaker, we do need to stand up for better treatment and cures for this deadly disease. I encourage the House of Representatives to hold hearings on these two bills in an effort to see that this legislation is passed into law.

Like many of us down here on the floor tonight, I am dedicated to expanding the Federal commitment to eradicating breast cancer through increased outreach and education programs, as well as through regulation and provision of treatment. Let us work together to find a cure for this dread disease.

Mr. Speaker, I also want to brag on my wife, too, Mary Clement, because she is on the board at the Vanderbilt Cancer Center in Nashville, TN. She is very outspoken on this particular issue; and also my aunt, who is a State senator, or a former State senator now, from the State of Tennessee, Annabelle Clement O'Brien. She passed some major legislation in the Tennessee General Assembly several years ago, and was just honored, alongside Dr. Benjamin Byrd. Both of them were honored at Vanderbilt University, and I congratulate them.

If all of us will work together, we can accomplish great things.

THE CITIZENSHIP REFORM ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, I rise today to address the Citizenship Reform Act of 1997. The Citizenship Reform Act of 1997 amends the Immigration and Naturalization Act to deny automatic citizenship to children born in the United States who were not born by parents who are legal resident aliens or permanent residents, or U.S. citizens.

Now, Members may say there are not that many people out there who are born to citizens of tourists or illegal aliens, and it is not that big a deal. Mr. Speaker, let me clarify that this has become a big deal. In California alone, we have addressed this issue and seen this issue grow. Over 250,000 children of illegal aliens are now qualified in the county, in one county, of Los Angeles, over 250,000 qualify for benefits such as Medicare, AFDC, WIC, and SSI. In fact, two-thirds of the births in Los Angeles County, Mr. Speaker, in the public hospitals of Los Angeles County, are to parents who are illegal aliens.

The fact is that the cost to the State of California alone is $500 million for providing welfare and health benefits to the children of illegal aliens. Forty percent of all births in the State of California are children of illegal aliens.

These costs are not just borne by the people of California, they are borne by everyone. I think it is an issue that we now have a responsibility to address. The fact is we have created a loophole and created a benefit for people who break our laws.

I do not fault the mothers who come to the United States so their children can get automatic citizenship and get all these benefits. I do not fault them at all. They are only doing what is legal for them. Who I fault is Congress in Washington, DC, for having this huge loophole, this great encouragement for people to immigrate illegally.

Just in Texas there has recently been a report coming out showing that birth certificates are being sold to Mexican nationals for children that were never even born in the United States. In fact, one midwife has sold over 3,800 phony birth certificates so children could

then qualify for welfare benefits and Social Security benefits.

In fact, it is estimated that in one sting operation alone where there were 89 people arrested, over $400,000 of alleged fraud was committed under the guise of utilizing the automatic citizenship clause through phony certificates. The granting of automatic citizenship to children born in the United States has led to this kind of fraud. Regardless of the parents' status, we are rewarding people for violating our laws.

We are talking about fairness here, too, Mr. Speaker, because how many people are waiting out there, 3,500,000, to immigrate legally? How many children are born to these 3,500,000 people who are playing by the rules? Do we give them automatic citizenship? No. We tell them, like we should be telling the children of illegal aliens, you have the right to apply for citizenship like anyone else, but we are not going to give you automatic citizenship.

I think it is quite unfair that we tell one group of people that your children get automatic citizenship because you broke the law and then tell another group of people, 3,500,000, that you will not get this privilege because you did not break the law. Fairness tells us we need to take care of this problem. Thousands of legal immigrants are waiting, and many, many thousands of illegal aliens are getting rewarded.

There may be those who say that H.R. 7 is unconstitutional. Mr. Speaker, the Supreme Court has never ruled on the issue of illegal aliens getting automatic citizenship for their children. They have ruled on legal aliens, and they have said that because legal aliens were allowed in this country and agreed to come to this country, they have the burdens of loyalty and obligations of service in the draft. With that obligation comes the inheritance for their children of automatic citizenship. Illegal aliens do not have that obligation, and thus cannot pass on a citizenship right to their children as legal immigrants can and U.S. citizens.

Mr. Speaker, the status of H.R. 7 is we have 51 bipartisan sponsors. The hearing was held on June 25. We are looking forward to a markup in early November, and frankly, I would encourage every citizen in the United States and every legal resident to contact their Congressman and ask them to join in the Immigration Reform Act of 1997, and bring some logic and some fairness back into our immigration policy.

Let us start rewarding people for playing by the rules and stop punishing them for obeying the laws.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. PRICE] is recognized for 5 minutes.

[Mr. PRICE of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. LEWIS] is recognized for 5 minutes.

[Mr. LEWIS of Georgia addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

JOIN THE FIGHT AGAINST BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MCGOVERN] is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, breast cancer is currently the second leading cause of cancer deaths among American women. One woman in eight will develop breast cancer during her lifetime. In 1996 alone, an estimated 44,000 women died from this terrible disease.

While these statistics are sobering indeed, there is hope. If breast cancer is detected early, the probability that a woman can survive is greater than 90 percent. Certainly, we must do everything in our power to identify the signs of breast cancer early, treat the symptoms aggressively, and make continued medical attention affordable and accessible. As we celebrate Breast Cancer Awareness Month, we in Congress should recognize the obligation that we share in the national battle against this terrible illness.

I am a cosponsor of several important pieces of legislation that seek to establish high standards for quality and affordable medical treatment of breast cancer, including H.R. 164 and H.R. 135, which my colleagues, the gentlewoman from California, Ms. ANNA ESHOO, and the gentlewoman from Connecticut, Ms. ROSA DELAURO, introduced earlier this year. Both of these measures would give breast cancer patients who undergo mastectomies the health care coverage they need to fully recuperate from their illness.

When I meet the women throughout my district in Massachusetts, I hear how concerned they are that their health insurance will not adequately provide for them if they are one day diagnosed with breast cancer.

Back in January, the Massachusetts Breast Cancer Coalition wrote me to ask that I cosponsor the legislation of the gentlewoman from Connecticut [Ms. DELAURO], which requires a 48-hour minimum hospital stay for patients undergoing mastectomies, and a 24-hour stay for lymph node removal for the treatment of breast cancer.

Under the legislation drafted by my colleague from Connecticut, physicians and patients, not insurance companies, determine whether or not a shorter hospital stay is warranted. I strongly agree with their sentiment, that decisions about hospital stays following these painful and psychologically distressing surgeries should be between the health care provider and the patient. I was proud to become a cosponsor of that legislation.

The gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] have also worked to establish a site on the World Wide Web that allows visitors to learn more about breast cancer, read and submit personal encounters with the disease, and build support for many of the legislative initiatives that seek to improve conditions for breast cancer patients.

As I read through some of the personal stories posted on that Internet site, I noticed a number of individuals who had written from my home State of Massachusetts, and I would like to share a couple of those stories.

Lynn DeCristofaro of Massachusetts wrote, and I quote: ''I am only 16 years old, and I had to watch my 24-year-old sister die from breast cancer. I watched her come home after a mastectomy when it was obvious that she should be in the hospital.''

Mrs. R. Russell of Massachusetts wrote: ''I am a breast cancer survivor who is doing very well. However, I never know if the day will come that I have a reoccurrence. I think a recurrence is enough to worry about, without additional concern that my insurance company may not adequately cover my care.''

Christopher Carron of Massachusetts wrote: ''Two years ago my mother was diagnosed with breast cancer. She immediately had a mastectomy and reconstructive surgery. Luckily, she lives in Connecticut, where minimum stays in the hospital are required by law, and her health insurance company was flexible in the amount of time she spent in the hospital.

''I now realize that my mom's care was the exception, not the rule. Please end the inhumane treatment of our Nation's mothers, daughters, sisters, grandmothers, and granddaughters, and vote for H.R. 135 and H.R. 164. These women need to be treated with dignity and more than ample health care. My mom is now a 2-year cancer survivor and is fighting for herself and the rights of millions of other women who have faced this horrible battle. Thank you,'' he wrote.

Mr. Speaker, after hearing the stories of these individuals and countless others like them, I do not see how any Member of this body could say that current law is doing an adequate job of addressing the health needs of breast cancer patients in America.

□ 1730

Doctors in this country are spending far too much time fighting with insurance companies to get permission to give their patients the treatment they need. Physicians who treat women suffering from breast cancer should never be put in that position.

Our legislation will allow doctors to make decisions based on the health and long-term well-being of their patients and not the bottom line. Clearly we in Congress must do more to ensure that women suffering from this dreaded disease have access to quality, affordable,

and complete health care coverage that they need and they deserve.

Mr. Speaker, I urge my colleagues to become cosponsors of H.R. 135 and H.R. 164 and to reassert our commitment to protecting the health of American women.

CONGRESS SHOULD OPPOSE INCREASES IN WHALING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, for the last 3 days I have been in Monaco at my own expense to try to prevent the renewal of whaling in the continental United States.

From the beginning of this debate over whether the Makah Indian Tribe in Washington State should be allowed to resume the practice of hunting whales after a 70-year cessation, I have maintained what is being described as ''aboriginal subsistence whaling'' is not that at all. It will in fact lead to a tragic resumption of commercial whaling and a geometric increase in the number of whales killed worldwide.

Without now addressing whether the Makah Tribe itself is motivated by the $1 million value of a gray whale in Japan, other powerful evidence exists that indicates that we are on the threshold of a dramatic increase in whaling. The official U.S. delegation to the IWC has been asking for a change in the definition of aboriginal subsistence whaling, the only type of whaling now legal under the International Whaling Commission, which the United States has ratified.

In their shortsighted attempt to legalize the intentions of the Makah Tribe, the United States is asking the other nations at the IWC to expand the definition of subsistence whaling to permit cultural issues to be addressed. Why? Currently aboriginal whaling is solely for the physical nutrition of the tribe in question. In other words, they need the food. It is obvious the Makah do not need to eat whales to survive.

What is the problem with expanding the definition into the cultural realm? There are villages and people all over the world who have a cultural history of whaling but who do not now qualify under the current definition of subsistence.

Saturday at the IWC hearings, the Japanese repeatedly asked the United States delegation: What is the difference between the Makah request and the desire of four villages on the Taiji Peninsula to resume whaling? It is obvious the Japanese are going to use this loophole that our own delegation is attempting to create to increase their commercial harvest of the whales. Other nations will undoubtedly follow suit if the Makah are successful.

Mr. Speaker, we cannot allow this to happen. The killing of whales around the world is on the increase. For this fraudulent cultural subsistence to become a legal authorization for further killing would be a tragedy. In addition, staff members of other IWC delegations have indicated resentment at the tremendous pressure the U.S. delegation is putting on other nations to support this fraud.

However, this pressure may not be changing votes. Observers today have informed me that the United States is now attempting to set an even more dangerous precedent of lobbying to increase the Russian gray whale quota. This new tactic would allow, this under-the-table deal would allow the Russians to give the Makah five whales at no loss to themselves. More importantly, this backroom style deal would not require a vote of the IWC. In other words, when they ran into trouble they are trying to go around the system.

A new whale hunt could then occur without IWC authorization. This is dangerous and dishonorable, Mr. Speaker. Frankly the tactics of this administration have been an embarrassment. They depicted the 43 Members of Congress who signed the letter that I took there that oppose the Makah as the only opponents in Congress.

Mr. Speaker, does anyone really believe that 389 Members of this House support the killing of whales in the continental United States? When pressed, the U.S. delegation could only name two Members of Congress who support the Makah hunt.

Mr. Speaker, they are not representing the best interests of our Nation or the sentiments of the vast majority of our people. It is now time for Congress to speak in a large, loud, bipartisan voice in condemnation of this blatant attempt at the expansion of commercial whaling. The vote will be tomorrow, and this is a critical issue.

ADDITIONAL FUNDS FOR RESEARCH NECESSARY TO SOLVE PFIESTERIA PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, Pfiesteria has plagued North Carolina for many years and experts now think that this organism was first observed in our waters almost 20 years ago in 1978.

While the Old North State has made multiple efforts to address this pestilence through estuary studies, nondischarge rules, phosphate bans, rapid resource teams, nitrogen load reduction, nutrient limit reductions, source wetland restoration programs, and a 2-year moratorium on new and expanding swine farms, Pfiesteria is an enigma for us all as it has been found in many Atlantic waters from the Chesapeake Bay south to Florida and west to Texas.

We must work together constructively and effectively, Federal, State, and local governments and agencies, academic researchers, concerned citizens, to attack and find rapid and workable solutions to this predicament.

Mr. Speaker, now is the time to find additional funds for Dr. Burkholder, one of the leading researchers in the area, as well as other scientists and researchers like her, in order to answer the remaining questions concerning the effects of Pfiesteria on humans, animals, and watersheds.

The waters of North Carolina have certainly felt the effects of the Pfiesteria outbreak, especially in the Neuse River, the Tar River, the Pamlico River, as well as the entire Albemarle-Pamlico Estuary, parts of which are in my congressional district. There have been more than 1 million fish killed in our State and many reports of human health problems. Given the adverse impact of such significant fish kills upon my district, North Carolina, and the mid-Atlantic, we need to seek solutions through aggressive research.

Mr. Speaker, we face a very serious threat that must be addressed immediately. We should not rush to judgment, however. Scientific inquiries are ongoing, but we should not waste time. Further research and testing should be undertaken at once. It is my hope that funding for critically needed research and testing will come as a result of recent hearings in the Committee on Resources and the Committee on Government Reform and Oversight.

Only through funding will come opportunities for a solution. Additionally, several of my mid-Atlantic colleagues and I introduced H.R. 2565 on September 26, 1997, the Pfiesteria Research Act of 1997. This bill appropriates a minimum of $5.8 million in fiscal year 1998 and 1999 for the establishment of a research and grant program for Pfiesteria through EPA, USDA, and HHS.

All North Carolinians and others who live, work, and play in the affected waters look forward to successful results of this research, and that is because many of their lives and their livelihood depend upon it.

TRIBUTE TO MAJOR GENERAL FRANK WORTH ELLIOTT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Mr. Speaker, I come here tonight saddened with the responsibility of informing this House of the loss of a great American, a man who served his country for many years, a man who reached the rank of Major General in the Air Force, a citizen of the 15th district of Illinois and a friend and somebody who will be missed a great deal by all who knew him.

Mr. Speaker, memorial services for U.S. Air Force Major General Frank Worth Elliott of Rantoul, Illinois, will be held at the United Methodist Church

in that community on Friday of this week. Private burial will take place at a later time.

Mr. Elliott was born on December 2, 1924, in Statesville, North Carolina, son of Frank W. and Lois Young Elliott. He married Evaughn ''Bonnie'' Close on January 7, 1950, at Rapid City, South Dakota. His wife survives him. He is also survived by two sons, Frank Elliott of Santiago, Chile; Jeff Elliott of Albany, Georgia; and a brother, Jim Elliott of North Carolina, along with five grandchildren in whom he took great pride and affection.

General Elliott graduated from high school in 1941, and he attended college in California and in North Carolina, before he enlisted in December of 1942 in the U.S. Air Force. He later did complete his college work at Charleston, Illinois, at Eastern Illinois University in 1973.

He completed pilot's training and was commissioned a Second Lieutenant in March of 1944. He completed a tour of combat duty as an air crew commander of B–24s with the 15th Air Force in Italy during April of 1945, and he was promoted to Captain in that same year.

General Elliott remained in the service after World War II. He served in a number of different capacities, in operational supply and aircraft maintenance positions, until 1963 when he was promoted to the grade of Colonel while serving as the Deputy Commander for an operations wing of B–52s based in California.

He has attended the War College right here in Washington, D.C. General Elliott commanded the 92nd Bomb Wing at Fairchild Air Force Base in Washington from January 1969 to January 1970, when he was promoted to Brigadier General. He was the commander of the 14th Strategic Air Division at Beale Air Force Base, California, and from 1970 to July of 1971, he was assigned to the Air Force base in Thailand as Commander of the 307th Strategic Wing.

General Elliott was promoted to Major General and then as Commander of the Chanute Technical Training Center at Chanute, Illinois, which brought him into Illinois again, and into the 15th Congressional District. He served there with distinction. He retired from the Air Force in September of 1975 after completing 33 years of active service.

Later, after a few years of retirement, we were so pleased when General Elliott returned to Rantoul to serve as an economic development consultant to the Village of Rantoul. This was at a time when the community of Rantoul was quite fearful. There was a great deal of concern in the community because the Chanute Air Force Base was being closed under the base closure passed by this Congress. A large number of jobs were being lost to the community.

General Elliott was a man for all seasons, a man who came to the rescue of his adopted community. He served them well. He will be greatly missed. I am glad to come here tonight to put this in the RECORD for his memory.

□ 1745

The SPEAKER pro tempore (Mr. BRADY). Under a previous order of the House, the gentleman from Texas [Mr. FROST] is recognized for 5 minutes.

[Mr. FROST addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

IN HONOR OF THOMAS HENDRICKS, ONE OF THE LAST LIVING BUFFALO SOLDIERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding member of my community and one of the last surviving Buffalo Soldiers of the United States Army, Mr. Thomas Hendricks. The story of Thomas Hendricks and his fellow Buffalo Soldiers who served before him will forever be a significant part of the history of America.

The legacy of the Buffalo Soldiers dates back to post Civil War days. Although African Americans have fought with distinction in all of this country's military engagements, their future in the Army was even in doubt after the Civil War. In July 1866, however, Congress passed legislation establishing two cavalry regiments and four regiments of infantrymen, later merging two, whose composition was made up entirely of black soldiers.

The troopers of the 9th and 10th Cavalries developed into two of the most distinguished fighting units in the Army. The fierce fighting techniques of these soldiers and their bravery on the battlefield inspired Native Americans to call them Buffalo Soldiers. Although history has often overlooked the contributions of the Buffalo Soldiers, I am proud to salute one of its finest cavalrymen, Thomas Hendricks. He is a man of courage and wears the name Buffalo Soldier with honor and great pride.

Thomas Hendricks was born on February 14, 1920, in Evanston, Illinois. As a young boy, he was strongly influenced by his grandfather, James Hendricks, who was also a Buffalo Soldier and served our country with distinction. It was actually his grandfather who inspired him to become a Buffalo Soldier and carry on the legacy of the hundreds of thousands of African Americans who have given their lives for the sake of freedom in our country.

Thomas Hendricks joined the 10th Cavalry of the U.S. Army in 1938 as a volunteer after receiving extensive military training under the tutelage of his grandfather. A few years later, he was sent to Ft. Hood for training and went on to pursue a distinguished military career which extended more than a decade.

Throughout his career as a Buffalo Soldier, Tom Hendricks has received numerous honors, including Battle Stars, for his valiant efforts in World War II. He was engaged in military conflicts including the Normandy Invasion and the Battle of the Bulge. Although much has changed since the days of the Buffalo Soldiers, including the integration of all military servicemen and women, the story of Tom Hendricks and his fellow Buffalo Soldiers who served before him will remain one of great patriotism and unsurpassed courage.

I urge my colleagues to join me in saluting Thomas Hendricks for his accomplishments as a Buffalo Soldier. We owe him a tremendous debt of gratitude for his service to our country, and we should all be proud of his contribution to our Nation's military history.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I rise to participate in the special order organized by my colleague, the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] and others to salute October as Breast Cancer Awareness Month.

We all know too well the devastating facts. With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women. I was pleased earlier this year that Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women. This bill was first introduced in 1992 along with Barbara Vucanovich, who is herself a survivor of breast cancer.

We were very pleased that it was included in the balanced budget this year. It certainly makes a very wise investment that will save women's lives. But there is much more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late. But sometimes when treatment is available, a woman can undergo a mastectomy which may save her life. Unfortunately, very often we have seen women who have been forced to leave the hospital with drainage tubes still attached and just like the drive through delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act. This bill will eliminate the so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy, and a minimum of 24

hours following a lymph node dissection for the treatment of breast cancer.

I am also very proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by my colleague and friend, the gentlewoman from California [Ms. ESHOO]. This bill would require health insurance companies to cover reconstructive breast surgery, if they already pay for mastectomies. I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of this legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote, and I quote, ''On August 25 of this year, I learned that I did have breast cancer. A further study showed that the cancer had traveled to my bloodstream. I am 34 years old. I am undergoing chemotherapy and will also have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us.''

I quote from another letter. I would like to put a series of them in the RECORD. Quoting, ''I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November of 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy. I am still in the process of reconstructive surgery. I thank government. You must do more to help women like me.''

Mr. Speaker, we need to make sure mastectomies and reconstructive surgery are safe and covered. I thank my colleagues for organizing this special order tonight and I salute the women who are facing these issues every day. You are our inspiration and we will continue fighting for you.

REFORM OF THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to discuss an issue that has received quite a bit of attention over the last couple of weeks and months. However, many have raised concerns about this for a period of time.

Today, however, I think we can bring this discussion to a higher note in a bipartisan manner that reflects greater interest in saving the voluntary taxpaying system that we have in this Nation, but as well, acknowledging that there have been serious problems that have plagued the Internal Revenue Service as perceived by taxpayers in the variety of stories that they have been able to share with Congress on this very point.

I felt compelled to address this question in my own district, for it is one thing to hear of a national outcry. It is extremely important to allow your constituents to share their own individual cases that may have occurred.

Not one single witness got up and wanted to declare the abolishment of the IRS or to say that they no longer wanted to share the responsibility of this great government, the government that provides with national security your protection, provides for public education, the safety of our air and water, that provides for our national law enforcement, the beautiful national parks and monuments that we appreciate, the protecting of this capital. Citizens to a one concluded that they wanted to be part of this government and part of supporting it.

But each of them could recount for me an unfortunate set of circumstances that made them feel intimidated and unable to deal with addressing their problems of questions about the taxes that they paid or were alleged to have not paid.

In particular, let me honestly say in this hearing that I held on Friday, October 17th, many citizens and constituents that I asked to participate or suggested that they might were, in fact, frightened and intimidated and did not want to come forward for fear of being targeted. That is not the kind of agency we would like to have.

Let me say in defense that representatives of the IRS employees union also came forward and mentioned the many good and dedicated and sincere employees that want to work within the bounds of the law, want to work with taxpayers and want to ensure that that kind of intimidation does not exist.

With that hearing behind me, I thought it was extremely important to compliment the process today of a bill marked up in the Committee on Ways and Means and offer my own legislation, entitled the Taxpayers Justice Act of 1997. I focus on justice for taxpayers.

I agree with those who are supporting elimination of the marriage tax penalty. My bill includes that. We should encourage those who are married, live together, support families and pay taxes. Why should they be penalized because they are not single?

I also support the creation of civil and criminal penalties for IRS employees who work outside the bounds of their job description and scope, who harass or intimidate taxpayers, do not give them a chance to explain their situation.

I am supporting a two-year commission to help simplify the Tax Code so that we are not going through mounds and mounds of paper, some 9000 pages of the Tax Code. That simply cannot be.

I am also interested in creating a taxpayers advisory board of real, plain, average taxpayers, not the major giants across the Nation, but just the average citizen who, every day of their life, is trying to comply with the laws of this land.

I want to eliminate potential discrimination, job discrimination at the IRS, and potential discrimination of those who may be targeted because of race, sex or ethnic origin or religion origin to be audited. I also want to be assured or assure divorced women whose incomes are less than their spouses that they are not penalized with the taxes of past mistakes in marriage so that there is some protection for them. And, yes, rather than rushing a taxpayer to the courthouse where their resources are exhausted, I would like to see the utilization of mediation and dispute resolution so that taxpayers and the IRS can sit down and attempt to resolve their differences. There is some form like that, but it is not where it is moved in a direction that reinforces the taxpayer that this is the right thing to do, to sit down in mediation.

Overall, we have a good system that supports this government. But whenever you call a hearing on the IRS and your constituents run the opposite direction rather than come to the table to provide insight and information, you know you have a problem. The Taxpayers Justice Act of 1997 is to compliment the Act of the Committee on Ways and Means, but also to address your concerns, that of the taxpayers of this country who need justice.

I hope Members will support the Taxpayers Justice Act of 1997.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I join my Democratic colleagues this evening in a series of special orders during Breast Cancer Awareness Month to discuss what we should do in this Congress and in communities across the country to prevent and to cure this dreadful disease of breast cancer.

Recently, at a breast cancer awareness forum at the Elyria, Ohio WYCA, a woman recounted the story of holding her ailing mother's hand as she was wheeled down a sterile hospital hallway to a surgical room where she was to receive a lifesaving mastectomy. Another breast cancer survivor shared with us the emotional toll this deadly disease took on her and her loved ones.

This type of meeting to promote awareness and education about this deadly disease is not an unfamiliar sight in the industrial communities I represent in northeast Ohio. A study conducted by the Ohio Department of Health estimates that one in three women in Ohio will develop some form of cancer in their lifetimes and one in nine women will develop breast cancer.

Ohio unfortunately ranks 11th in the Nation in breast cancer deaths and 9th in total cancer deaths among women.

Northeast Ohio has been particularly hard hit by this tragedy. There is no magic bullet in our fight against breast cancer. There is no vaccine. There is no guaranteed cure. However, early screening, detection and treatment of breast cancer offer women the best hope of beating breast cancer and leading long, healthy lives.

In an effort to increase local awareness of the importance of early detection and treatment options, I helped found the Northeast Ohio Breast and Prostate Cancer Task Force in 1994.

□ 1800

This dedicated group of volunteers includes cancer survivors, medical researchers, and health care professionals such as doctors and nurses.

The mission of the task force is twofold:

First, it works to support and supplement ongoing public education efforts in breast cancer in northeast Ohio. Last year, the members of the task force put together a comprehensive, easily readable pamphlet to provide information to women on how to prevent breast cancer and the importance of periodic screening. It was packed with information on counseling and whom to talk to about treatment options.

Volunteers distributed these pamphlets to 273 hairdressers and beauty salons in northeast Ohio in a local campaign to eradicate breast cancer. We worked with the Women's Preventive Health Care Services program offered by the Cuyahoga County Board of Health, which provides information on early detection of breast and cervical cancer to medically underserved women, a group historically vulnerable to these killers.

The task force's second mission is to seek out any environmental factors which may cause northeast Ohio's higher than average rates of breast cancer.

To further this mission, my colleague, the gentleman from Michigan [Mr. STUPAK], and I were able to add language to last year's reauthorization of the Safe Drinking Water Act which requires the EPA to test whether certain chemicals found in drinking water cause breast or other forms of cancer.

The stories of the women at the Elyria YWCA and the efforts of the task force are vital because they represent our most important and potent weapon in the battle against breast cancer. Through the tireless efforts of breast cancer survivors, the local health care community, and ordinary residents and business owners, one small community is taking a stand. As their elected officials in Washington, we must do more, however, to help win this battle.

We must support legislation currently before us which would ensure that health insurance companies provide coverage for women who undergo mastectomies and the reconstructive surgery often required after this procedure.

Furthermore, women must never be forced out of the hospital on the same day a mastectomy is performed unless the patient and the doctor, not the insurance company, the patient and the doctor agree that it is in the patient's best health interest.

Lastly, we must continue to support increased funding for more biomedical research to improve treatment and to find a cure for breast cancer in other terminal and chronic diseases.

Until we are able to find a cure for deadly diseases like breast and prostate cancer, early detection and screening represent the best hope for the millions of men and women who will be diagnosed with these diseases. We should join with the millions of Americans, like the women at the Elyria YWCA and members of the task force, who are on the front lines spreading this life-saving message.

As we listen to stories of hope and sadness by those individuals whose lives have been touched by breast cancer, let us work together in Washington to ensure that patients have access to affordable, quality health care and demonstrate our commitment to winning this battle by providing the research dollars necessary for improving treatment and finding a cure.

SUPPORT OF LEGISLATION TO HELP WOMEN FIGHT BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BENTSEN] is recognized for 5 minutes.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of legislation that will help to fight breast cancer. These bills, including H.R. 1350 and H.R. 164, would ensure that women have sufficient time to recover from breast cancer treatments and ensure that women have the medical treatments they need to fight this difficult and dreadful disease.

Already 135 would ensure that women and doctors can work together to determine what is the best treatment for each woman. I am an original cosponsor of this bill that will require all health plans to provide minimum hospital stays for those women who undergo mastectomies and lymph node dissections. Without this protection, women may have to choose between their health and their treatments. In the past, Congress has acted to provide minimum protections for pregnant women and their children and we should provide the same protections for women with breast cancer.

H.R. 164 would ensure that women with breast cancer would receive the necessary breast reconstruction surgeries they need. This legislation would require all health plans to provide coverage for this surgery. Many health plans do not currently provide this coverage because health plans believe these surgeries are not necessary. I believe doctors and patients should decide which treatment plan would benefit each patient without interference from their health plans. This legislation would provide this much needed protection for breast cancer patients.

I would like to commend the gentlewoman from Connecticut [Ms. DELAURO] for organizing this special order to highlight these bills as part of Breast Cancer Awareness Month. It is particularly important to me, as the Representative of the Texas Medical Center, that I have many constituents who are active in the fight against the disease that we can defeat.

In honor of Breast Cancer Awareness Month, I would also like to highlight the work of two outstanding individuals who are constituents of mine: One, Dr. Dixie Melillo, a physician who operates the Rose, a clinic targeting women and in particular low-income women to ensure that they receive adequate breast cancer screening and treatment.

After years of hard work, Dr. Melillo has been able to expand her operation to three clinics in and around my district, and I commend her for her work.

Second, I want to honor Dr. Jennifer Cousins, who runs the Women's Health Initiative at Baylor College of Medicine, which recently celebrated its third anniversary.

Three years ago, the National Institutes of Health awarded Baylor College of Medicine a grant of $11.8 million to conduct the largest, longest clinical trial in Baylor's history. This study is examining the health of more than 5,400 women over a 12-year period, and focuses on diseases that are critically important to the health of women: Cardiovascular, colorectal cancer, osteoporosis and, in particular, breast cancer. Breast cancer is the second killer among cancer in women.

The information provided by the Women's Health Initiative will lead to breakthrough treatments for these diseases and improve the lives of women in Texas and across the Nation. The Baylor Clinical Center has recruited 3,300 women for an observational study to gather information regarding risk factors for these deceases.

The Baylor Clinical Center will also recruit an additional 2,100 women for a clinical trial to research whether diet and hormone replacement therapy will help women lead healthier lives. Information gathered from this clinical study will help women to make informed decisions about which therapies to use to prevent the disease and stay healthy.

I also want to highlight the efforts of Dr. Jennifer Cousins, Director for the Center for Women's Health, to bring this critical WHI study to the Houston area. I believe Dr. Cousins is critical to the success of this study, and she should be commended for her hard work.

Mr. Speaker, to really honor these two women leaders in Houston, the

House should schedule and pass H.R. 135 and H.R. 164 and show that we too in the House mean business in the fight against breast cancer.

REPUBLICAN LEGISLATION ATTACKS PUBLIC EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I expect to be joined in a few minutes by one of my colleagues.

This evening I would like to talk about the efforts that have been made by the Republican leadership to move various legislation which I consider essentially an attack on public education in this country.

Democrats, for a long time, certainly throughout this Congress, have stressed the need for this Congress to address education in various ways. We started out during the debate on the Balanced Budget Act this summer stressing the need for better access to higher education.

In fact, as a result of President Clinton's efforts and the efforts of the Democrats joining with him, we were able to include in the Balanced Budget Act, when it passed, some significant measures that would provide more access to higher education for the average American in terms of expanding student loan programs, providing tax deductions or tax credits that make it easier for the average American, the working American, to pay for college education or graduate education.

But now, after the Balanced Budget Act was passed, and certainly starting this fall, we have talked increasingly about the need to address the problems in our public schools, but in a very positive way. Our feeling is that the public schools in America are in pretty good shape but they certainly need improvement and that there are various ways to go about improving them.

One of the areas that we have talked about the most is the need to address the public school infrastructure. The fact of the matter is there are many public schools that have great need for repairs or even new construction because of expanded enrollment but do not have the ability within their school district to pay for those school construction or renovation needs.

In addition, there is the whole issue of basic skills; that more needs to be done to improve learning with regard to basic skills in the various public schools. And the Democrats have actually come up with a whole series of ideas about ways to improve public education, which I may get into this evening with some of my colleagues.

But before I do that, I wanted to talk about the fact that instead of emphasizing the need to improve the public schools, where better than 90 percent of America's students are enrolled, the Republican leadership, at least in the last few weeks, has instead embarked on an effort to try to take away resources, taxpayer dollars, from the public schools and use them, or credit them, to private or religious school initiatives.

Now, the best example of that was 2 weeks ago, before we adjourned for the district work period, the Speaker actually brought to the floor as part of the D.C., District of Columbia, appropriation bill a private school voucher program. It was a provision that would basically have provided funding to a very limited number of students within the District of Columbia, I think 2,000, approximately, which is really a drop in the bucket in terms of the number of students in the D.C. Public schools, and allowed them to take that voucher and use it for private schools either in the District of Columbia or in surrounding States.

This provision initially failed to pass the House, and the reason it failed to pass was essentially because most Members, and I am one of them, do not believe that it makes sense to take resources that could be used for things like school construction in the District of Columbia, which has a great need for school construction and renovation, and instead use that money to pay for private education.

The Speaker did not have the votes, actually, for the D.C. appropriation bill, in part because of the voucher provision, but what he did was he held the vote open and he twisted some fellow Republican arms to change their votes so he finally got a majority of one to pass the bill.

Despite this near failure, and I say near failure, because the way it was done it was clearly an indication that this was not a measure that had the support of a majority within this House of Representatives, but nonetheless, even with that, keeping that in mind, the Speaker is now once again, and the Republican leadership is now once again taking another step in this same direction, taking resources that could be used for public education and using them to pour taxpayer dollars into private and religious schools.

This was a provision that was originally proposed in the Senate by Senator COVERDELL. He has called it an education savings account but, essentially, it primarily benefits wealthy families. It allows them to basically provide tax-free funds that would be used to pay for private education.

Now, Democrats, and I believe this is coming up tomorrow, Mr. Speaker, but Democrats basically will put forth an alternative that will use this money for school construction bonds to help public schools that are in disrepair or in need of new construction. Without getting into the specifics of this provision, which I oppose, I am trying to make the point, and I think we as Democrats are making the point, that we need to improve the public schools rather than siphon Federal dollars for private schools.

We should not be giving up on the public schools. The public schools are where most of our children are educated. We have had an historic commitment to public schools in this country and, if anything, and I feel very strongly, we should be moving a Democratic initiative, which we have discussed and which our Democratic task force has put forward, that would provide improvements for public education rather than siphoning off this money for private and religious schools.

I see one of the cochairs of the Democratic education task force, which has taken the initiative to put forward these principles for America's public schools, my colleague from North Carolina, is here.

I was going to briefly, if I could, just outline some of the principles that the gentleman and his task force have put together, just to juxtapose those to what the Republican leadership has been trying to do in the last couple of weeks, and if I could just mention six very briefly.

These are the principles for America's public schools. First, an emphasis on academic excellence in the basics; second, well-trained, motivated teachers to help children achieve high standards; third, using public dollars to improve public schools rather than private school vouchers at public expense, which we have discussed; fourth, the Federal role in education that supports local initiatives for strong neighborhood public schools; fifth, empower parents to choose the best public school for their children; and, sixth, every child should have access to a safe, well-equipped public school.

Again, the task force does not take the position they are opposed to choice, but the choice should be in the public schools. We do not want to take taxpayer dollars and use them for private education.

I would like at this time to yield to my colleague, the gentleman from North Carolina [Mr. ETHERIDGE], who has taken the lead on this and who has been so well-spoken because of his background and experience on the issue of public education.

□ 1815

Mr. ETHERIDGE. I appreciate the gentleman from New Jersey [Mr. PALLONE] yielding and I appreciate very much the gentleman putting together this special order, because I think it is important to the American people to understand. Let me set a little history, if I may before we get to this because I think it is important.

I think of a great Congressman who represented the district that I now represent many years ago, a gentleman by the name of Harold Cooley, who at that time chaired the Committee on Agriculture in the U.S. Congress. It was his task to chair the Agriculture Committee during and right after World War II. Many of our young people who went

before the draft in World War II failed their physical. Congressman Cooley felt so strongly that he attached an appropriation and an authorization piece to a military authorization bill, defense bill, to provide for school lunches for the children of this Nation. Prior to that time, there had not been a hot lunch for children in our public schools across this country.

I set that tone because there are many who today say this is not the role of the Federal Government, or that is not the role of the Federal Government. Well, until about 1945, 1946, it had not been the role of the Federal Government to participate in the school lunch programs, either. I know this Congress last session, the majority, tried to strip that out, but when they heard from the American people, they changed their minds.

I will say to the gentleman, having been a superintendent for 8 years in the public schools of the State of North Carolina and having responsibility for about 1.2 million children, and having gone in those cafeterias, as a matter of fact, last week I was in 4 different schools, had lunch with two different classrooms of students, and I can tell the gentleman that instruction goes on in those schools all across America whether they are having lunch or they are in recess.

One of the things I wanted to point out was that the teacher, it happened to be International Day. Every day during the week they had a different country. One of the schools I was in, in Wilson, it happened to be the day for China. They had chop suey or they had egg rolls. What was so significant I think about it was that it was a first grade class that I was having lunch with and the teacher, and if you know first graders and kindergartners, you use your finger to point to the first letter as you start to read and they were reading to those children each line of the menu so they could identify the menu, and then they were allowed to stand in two different rows, depending on which menu they chose. It was quite obvious to me that there were children in each of those rows who had tried neither of those menus. But it was so instructive in the teachers working with them and I sat at the table with them, and we talked and of course as the gentleman can appreciate, there was a lot of media there, but they had a delightful time. But that is instruction.

I tell that little story to set the stage for what we are talking about, because Democrats are working to improve public schools in America. We have done that time and time again. We have set the tone. Education, public education, in my opinion, is the key to the foundation of our democracy. It is the one thing that helps bring people together. It is the one thing that levels the playing field for children no matter what their ethnic or economic background is, and it gives them a chance in this highly competitive world, and without an education they do not have it. I mean that when I say all children, not just those from the privileged, not just those whose parents can afford to send them to private schools or those who might get a few vouchers. All children, because any that are left behind are the ones I think that are deprived.

I want to talk just a minute, and I hope the gentleman will join me as we get into this, about reading, because I believe reading is the foundation, that is one of the pieces that we have talked about and the President laid out in his State of the Union address so strongly. Because reading is the gateway skill, let me repeat that again, reading is the gateway skill. We talk about how important it is today in the world we live in that is so technical, it is high tech. A report has just come out in the last 10 days about how important it is to have algebra, geometry and those higher skills in math, and I certainly agree with that wholeheartedly because North Carolina required algebra of all of our students back in 1991. We were one of the first States to do that. But until a child learns to read, all the other things are off the sheet, they are off the page. It is so important to do it early.

The President had requested in his program, America Reads Challenge, to have 1 million tutors. Many of them are volunteers and we have a lot of those in our State and across this country. But I thought it was a great stroke when he said of the money we are sending to our universities, we want to develop a partnership with the universities in this country to not only just get them to go into schools but get young people to understand it is important to volunteer again, and some of them were to be paid out of the funds that are in the current budget that is now hung up in conference, and I trust it will be broken loose because unless we do it, I really believe that we will do the children of this country a grave injustice and it will cost our country in the productivity of these young people, in the productivity of our economy a tremendous amount of money.

I would say to the gentleman that parents are the first teachers. There is no question about that. They are the first teachers that a child has in every family. I do not know of a parent that does not want their child to succeed, but there are a lot of parents who are nonreaders themselves, unfortunately, in a Nation as rich and as plentiful as we have it in America. But they want their children to read, and that is why we have a program for adults.

But I am going to talk about a school I was in last week, I went in a school system. They had a tremendous program that they have been involved in now for about 5 years, and it fits right into what the President is talking about, this issue of getting 100,000 college work-study students to serve as reading tutors. There are almost 800 colleges and universities, public and private, across this country who have now signed up to be a part of this program, assuming the funds are there. It is great to go out and teach, but what we have to have on the backside of it is accountability. I want to talk about those together.

We have to challenge every parent, teacher, principal and community member in each of our communities across this country to help get children started to learn to read by the time they are in the third grade. But to do that, we have to teach and we have to hold them accountable. We have to measure what we have done. Otherwise, we will not know how we get there. I think that is important.

It would be great if every parent would read to their child at least 30 minutes a day. Many do not. They do not have the time. But I think it would be super. And schools need to be able to provide high quality reading initiatives for all students, making sure that teachers know how to teach children to read, identify those that need extra help, and that is where the tutors come in. When you have 21 to 26 and in some cases, unfortunately, as many as 30 students in a class, a teacher cannot give the quality time that he or she wants to. They are hardworking people, they care so deeply about their children. We have to have the community members involved. America Reads Challenge, this tutoring program, is a tremendous program that we have a chance to make a difference. And businesses can be involved. The business community is involved, I know in our State, but there are more that can get involved, not only in tutoring but doing a lot of other things and encouraging parents, giving parents time off to go in and work with their children.

I would suggest they follow the lead of Johnston County schools, and I want to talk about that for just a moment because I have some charts here showing what happened when a school district says that we are absolutely going to make a difference for all of our children, not just a few, all children, and this is representative of the 100 percent of children in that school system where in 1993, only 65.8 percent of those children were what was called proficiency level. That means they could read at or above grade level and move on to the next grade. We see the next year there was a drop, and then we see progressive growth up to 76.1 percent in 1997. I predict that will continue to rise.

When we see that kind of growth in reading, a lot of good things are happening on the part of the teachers, on the part of the parents and on the part of the total community. There is great pride, there is tremendous work, and that is well above the national average as reported on NAEP. Because if we look at the numbers, we will see that in the 5-year period, they gained 11 points in their reading proficiency. But more importantly, let me show you what those points really translate into. Because what we are looking at here is a chart showing the 8th grade students,

and this is cohort data in reading. What that really means, the same group of students that were measured in 1993 were measured in 1997 in their growth patterns to see how much they had grown. If we look at the bottom cohort, which means level 1, they are not proficient, they are not doing well, and they really would not be able to move to the next grade and do the work. We see that number drop from 9.2 in 1993 down to 2.5 in 1997, almost a 7 percent drop. That represents a tremendous number of children. What is so important about that is we look at the numbers, we look at the cohort at the top, goes from 21 to 34. That is well above grade level, because the 48.6 percent here versus the 44.4 percent is really at grade level.

So we see the Johnston County School System is really doing what we want done in every school system all across our State and all across America because we are pushing more and more students up into the top two cohorts where we really need them to be proficient, to be able to handle the other things they have to do and the more sophisticated reading they need to do. Because we see in the second cohort in level 2, it drops from 25.4 down to 14.7.

If it were only in reading, it would be one thing, but let us look at what happened in math for those very same students. So it tells us we have got a system that is really doing some things because they are getting help. In 1993, students who were proficient, and that is a bar that is set. That is why when the President talks about standards it makes sense. It makes sense to talk about standards and then you measure to that standard because we have that. In 1993, it was 61.8 percent of the students in grades 3 through 8 were proficient in math. But look at the difference that 5 years made when they really began to focus, they realized what was expected. It was measured. It made a difference on the part of the parents, on the part of the students, because every student in this school system with their parent signs a contract. This is a public school system where they signed a contract. We see tremendous growth.

This is the kind of thing I think that we talk about when we talk about America Reads and the President's program of providing students a goal, providing resources, because, yes, it takes resources. But when we do it, we must have accountability and measure. And people need to know what we are doing and we get results. I think this is proof that we can improve our children's reading through our public schools. But we have to let them know what we want. Let me be the first to say, we cannot do it from Washington. But what we can do and what I think we should do and what we must do is say it is important, as the President had, and when we have done that, then we have got to be willing to stand behind it, because the job will get done at the local level.

Mr. PALLONE. What the gentleman has laid out there I think is very impressive and it really shows what can be accomplished in just a few years. I think that that is what we need to do. We need to emphasize here on the floor of the House how certain school districts have been very effective in improving basic skills and improving other aspects of public education. Because my whole point is that there are some really excellent examples of what can be done in the public schools and that I think generally most people are satisfied with the public school system but they would like to see some improvements.

Our point as Democrats has been throughout this debate, and it will continue throughout this session of Congress, that you should not be spending resources for private education when you can actually do things with some Federal help, if necessary, that would improve significantly education in the public schools. I think this is a very good example of that. The gentleman was very much involved in putting forward this Democratic agenda for first class public schools. I just mentioned briefly some of those points that the task force brought together.

□ 1830

But just to provide a little more detail, and maybe we can go back and forth and talk about some of these things, with regard to just the two issues of early childhood development, Basics by Six, and well-trained teachers, the task force, Democratic task force, mentioned a couple of things.

First of all, they said there should be the opportunity for every child to be ready to learn by the time he or she enters kindergarten, invest in early intervention, community-based programs such as Early Start, Head Start, engage parents and community stakeholders in the needs of at-risk children, use schools all day as the center of the communities for the services children need, including before and after school.

Then for well-trained teachers, that was the second point, help communities recruit and train well-qualified teachers who are certified in the subjects they teach, hire enough qualified teachers to bring down student-to-teacher ratios, incentives for qualified teachers to teach in high-need areas and strengthen parents' rights to know about teacher qualifications.

I think the point here is, because the last chart, and I think the one before, this certainly was from grades three to eight in both cases. That is eighth grade there, is that if you were able to get these kids even before they get to the third grade ready to learn, so to speak, it would make a big difference. But, again, the teachers, and having qualified teachers is an important part of this, and particularly bringing down that teacher-student ratio, because I would assume it is very difficult to improve basic skills if you have huge classrooms and because of the problems that result from having a very high level of students versus the number of teachers.

Mr. ETHERIDGE. If the gentleman would yield, the number of studies that put that out, Tennessee is a great example as a State that spent the money, reduced class sizes and saw some tremendous results from it. There is no question that it makes a significant difference in kindergarten through third grade, because that is where children are learning the basic skills, where there is so much need for personalized attention.

If you have a large class, as you were indicating, it is very, very difficult to be able to reach them. For some students, no problem, they will sail through. But those marginal students or those who show up at the public schools with all the number of problems they show up with today makes it very, very difficult for them to be able to make it.

But if you give them the skills and give them the opportunity to learn to read, to do the basic computations to get going, and you give them the chance to find out they really can do it, it makes all the difference in the world. And you cannot do all of that, as you have indicated, without having good ongoing staff development for your teachers, and then the rest of your staff, for that matter.

Certainly they are professionals. Certainly they work hard. But I do not know of a corporation in America that pays their executives, in a lot of cases far more than we are able to pay school teachers in our public schools, that do not spend a substantial amount of money on staff development and continue to upgrade and retrain those professionals on the latest skills. Yet we say to a lot of our teachers in America, you have to be recertified, depending on the State, anywhere from five to six years. You have to have so many hours of training, and you have got to pay for it out of your own pocket.

Industry would not dare do such a thing. We would not do it. They pay for it, and yet we have to do it.

As you are well aware, the first money for that, some of that money came out of the Eisenhower money that was put in the budget back in the late fifties. That money is still important today. It is not enough. States put it in, but I can tell you in a lot of States, when their budgets got tight in the eighties and early nineties, the first dollars pulled out of those budgets, and it was not true in just one State, it was true all across America, because we know here on this floor the Federal Government only puts in between 6 and 7 percent of the dollars that flow down. The bulk of the money is State and local money.

Those were the first dollars pulled out, staff development, the very dollar you need. Once you get it out, I can tell you from being a superintendent, it is the hardest dollar to get back in.

Mr. PALLONE. One of the ironies, you are talking about Johnston County, but when we had the debate two weeks ago on the D.C. appropriations bill, and there was the proposal which actually passed after some strong-arming here to include a voucher system within that for about 2,000 D.C. school kids, and I just thought it was so ironic, because if there is any school system that has greater needs in terms of dollars, for example, for infrastructure, their schools were closed down for three weeks in the beginning at September because the judge ruled they were unsafe and wanted the schools to be fixed up or renovated before they started the school year.

What we as Democrats were saying in that debate is, you know, spend this voucher money, if you will, to better train the teachers, to fix up the schools, to improve academic performance.

One of the things we did the day of the vote is a number of us went down, we did a little march where we went from the Capitol, from the House chamber here, down to a local public school, the one that was very close to here called the Brent School. It was only a few blocks away.

But talk about innovative ideas. Like Johnston County, they are out there trying to improve the public school system in various ways. They have started a very innovative tutoring program, an after-school program that has again brought up not only the grades, but the proficiency, if you will, of the students. So basically now Brent School is a success story for the District of Columbia.

When we went there at the end of our march, we talked to some of the teachers and students. It was amazing to me. First of all, the building looked good. Secondly, I noticed a lot of students were wearing uniforms. I was not able to find out if that was a requirement or whatever, but that was something they were trying that was a little different. Maybe not every school wants to have uniforms, but they were trying it out. And it just sort of upset me to think that here is a public school within the District of Columbia trying to make improvements, having success in various ways. Let us encourage that. Let us try to get more schools within the District to do that, with how many millions of dollars is going to be made available for these school vouchers?

The same thing is true around the country. Your principles that came out of your Democrat Education Task Force, some of them involved spending money, and there will be some Federal dollars available. We know we do not have all the money in the world, and it is still primarily locally controlled, what the schools do. But it just makes no sense, it seems to me, when there are these innovative ideas, when you show in Johnston County what can be done to siphon that money away in the ways proposed two weeks ago, and in another way to be proposed tomorrow by the Republican leadership.

Mr. Speaker, I would yield back my time, and ask that the balance be given to the gentleman from North Carolina [Mr. ETHERIDGE].

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. ETHERIDGE] is recognized for the remainder of the minority leader's hour, approximately 30 minutes.

Mr. ETHERIDGE. Mr. Speaker, let me respond to what the gentleman said about facilities and other things, because this is important. When you think of public schools, public schools are like a small town, they carry on a lot of the services that any town would have and they need to have basic infrastructure for water and sewer of some type. They have got to have maintenance facilities, they teach, they provide discipline and provide instruction. It is a whole multitude of things we require teachers to do and the staff of a school as well as teach.

I am reminded of people who say that the facility does not make any difference, and my friend from New Jersey was just talking about the school here in D.C. and how important it is. If your roof leaks, the first thing you have got to do is patch the roof. It is hard to say to a child, this and that is important, and they look around and find out their building is dirty, the walls need painting, the windows need fixing and the roof needs patching, and they do not perceive that education is important. That is important to fix.

Just last week I was in a brand new school in a school in my district. I went in and read to a kindergarten classroom in Rocky Mount, and in the process of reading, the school is new and it had video throughout the school, and in the process of reading to those students, I knew it was on camera, but I didn't realize, I guess I just got so involved in reading to the children, the kindergartners, I forgot it was going throughout the whole school.

So when we finished the reading of the book, the kindergartners in the class I was in applauded, and the door happened to be open, and apparently the doors to a lot of the school were open, and I could hear applause all over that school.

I tell that story because that is an example of what could happen when you have a school that has modern facilities and conveniences, and the things we talk about every day. And we talk about high-tech and the Internet and faxes and things we move quickly, and yet some of our children go to buildings every day that we would not dare put a business in. But we send children there, because they do not have any choice.

Some communities are growing so fast, they are struggling to make sure they can do it. The question is can the Federal Government do all that? No, absolutely not. But we can say it is important and our taxing policies can support that where we can, and we tried to put some money in this time. The majority would not let it go as part of the bill. I trust before this Congress adjourns, it will get another opportunity to assist in those areas where it is so important, because children do deserve a good environment in which to learn. It improves the qualities. The school ought to be one of the nicest places they attend every day. It was when I was in school, and we should not back up.

I remember, I told a group in a chamber meeting not long ago, if the facilities do not matter, then I would suggest the next time the industrial hunter goes out looking for any major client to come to town and open their business, take them to someplace in town where there is an old, run-down warehouse and say to them, you know, the facility really does not make any difference in the quality of product you are going to put out, so this is the building we are going to try to help you acquire, and see how long it is before that client is out of town and the word gets around, and you will not have an opportunity to recruit very much.

We have a responsibility I think, and I say ''we,'' I think all of us in this country, in the Nation, that has the resources we do, to help. It is a local matter, yes, but all of us working together need to make it happen.

The last time I was in a school, which was just last Friday, I do not remember a single child, as a matter of fact, they didn't, they didn't ask who paid for anything in that school; the books, the TV, the materials they used. Children only know what they get. They do not know what they need. That is our responsibility, and I think Congress can help with that by setting the tone and saying education is important. It is one of the key components we have to deal with in this country.

It is as much, in my opinion, of our national defense in this global economy we find ourselves in, and the economic challenges we face around the world, to be able to compete economically as it is to have strong military, and I very strongly support a strong military to defend our borders.

I think we should not give up on public education. That is where the bulk of our children are. They will be there tomorrow, they will be there next week, next year, and they will be there for time to come, because there is not enough space in any other place for them. And to back away from making sure they have a quality education would be a travesty, in my opinion.

Let me touch on one other point that Mr. PALLONE mentioned in his remarks as he was going through, and he touched on facilities and standards and the whole issue of teacher assistance, teacher support, to be able to make sure that they have the support to do the job.

We need to make sure that we work with our universities in the dollars appropriated from the Federal Government, that they get more involved, as the President has now encouraged the universities to do, roughly 800 of them now, participating in the America Reads program. But we also need them to get involved in our teacher development and in our teacher recertification programs, to provide some of the latest up-to-date resources and research-based information for our teachers to use.

I know at the University of North Carolina, they are now developing a tremendous program on the Internet, and they are using graduate students to do some of the work. The reason I know about it, Mr. PALLONE, my daughter is working in it, and they will have it on line in another year or so, when teachers, when they have access to computers, they can log in, bring down some of the best lesson plans anywhere around, and use those to challenge our students in the way that they never have been challenged before.

□ 1845

It will help that teacher at the point they are working with our children. That is one of the things the President and the Vice President talked about when they are talking about having access to the Internet in every library and in every classroom. Until it is available to the teacher, my view is it will not be used the way it should be. Teachers have to be comfortable with using it, and then it becomes integrated in their instructional materials and the children will use it.

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on what the gentleman mentioned. When we talk about the need to address school infrastructure, whether it is building new school buildings or renovating those that have deteriorated, the gentleman knows we have mentioned before this initiative that was essentially recommended by the President, the $5 billion to help pay the costs of school construction bonds or the interest on school construction bonds, which the Republicans rushed and insisted that it not be part of the balanced budget agreement.

The reason why it was not I think was very unfortunate, but it is still out there, something that the gentleman's task force supports and many of my Democratic colleagues support.

We stressed that money would not be just used for buildings, but could also be used for the Internet, for rewiring, for making improvements so that the Internet or various computers, whatever, could be utilized in schools, because obviously one of the infrastructure needs, as the gentleman mentioned, that a lot of the schools do not have in this country is to address the high-tech problems, wiring, the types of things that make computers and the Internet available. So that is important. That was actually the third point of the gentleman's task force agenda.

But I just wanted to, in the small amount of time that we have left, go into another area which the gentleman mentioned in the task force, the Democratic task force recommendations. That is support for local plans to renew neighborhood public schools.

It sounds like a generic term, but when we break it down, they talked about specific things: Federal assistance for communities committed to renewing their public schools; Federal support for local school renewal plans that are developed and implemented by the community; plans to address such considerations as parental involvement, teacher training, technology enhancement.

A lot of this involves getting the community as a whole involved and at the same time getting individual parents or caretakers involved. That is so important, and it also shows how much the Democratic proposals, if you will, the task force proposals, want to build upon the community and upon parental involvement.

Oftentimes when we talk about addressing education on a Federal level and providing funding on a Federal level, we get accused from our colleagues on the other side of saying, well, you want the Federal Government to control the public schools. It is just the opposite. We want more parental involvement; we want more community involvement. We simply want the dollars to be made available, because we know that is where the crunch is.

A lot of times they do not have the dollars. If the gentleman maybe wants to discuss a little more the types of ways that communities can get involved when they get a small amount of Federal resources, because I think it is so important, I will yield to him for that purpose.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What this was about was a reaffirmation of the fact that schools inherently are community-based. People believe very strongly in their schools.

That is why poll after poll after poll and research and whatever says, I believe in my school, but it is the one down the road that needs changing, or the one down the road ought to have the new program, but I like what I have here. The belief there is that we ought to provide the resources to do it.

Another example, a school I am aware of a number of years ago had very little parent involvement and low test scores, which indicates that, and a lot of other problems, discipline problems.

The principal said, listen, I'm not going to put up with this. It was an area where you would say the school cannot be successful, with a lot of problems in the community, lack of involvement, et cetera. This principal decided, I am going to get them involved. She went to every house and knocked on every door, went to softball games, baseball games during the summer; wherever parents were, this principal went.

It was a long story. Parental involvement, the PTA went from something like 10 percent to 80 percent. School scores went up dramatically; dropout rates went down. That is what we are trying to get to, is to be able to provide a resource. All this school needed was one person. One parent came and volunteered. Pretty soon they were not able to volunteer and they needed more help, so they were able to scrounge up enough money to pay a half-time person to coordinate the parents.

These kinds of things make all the difference in the world: Just a few resources at the point of the school to reach out and bring them in and you have changed lives forever and the opportunities are tremendous.

If we take that and allow a child to progress through school, and follow through with what we did this time, in putting $35 billion available for education beyond high school, we have changed this country forever, too, when we allow more and more young people to get a college education.

But we have to get them started on the right track, get them to read, get them stronger in math, give them that foundation, get the parents involved, let them understand they can dream the American dream and they can achieve it.

Mr. PALLONE. Mr. Speaker, the other point that the gentleman made in his agenda, and again, his task force agenda, the Democratic task force agenda, was about efficient and coordinated use of resources. There was a very important point incorporated under that rubric which says, coordinate the services for children and families through local consortiums of education and social service providers.

What I find in my congressional district, and I am sure this is true in many parts of the country, is that many times the school districts are too small. If they want to provide certain types of services, or address certain educational needs, they need to get together with other local school districts. A small amount of Federal dollars would help a great deal in that, as well.

Just to give an idea, in my home county, Monmouth County, over the years they have tried to get the schools together on a county level to set up various schools that address particular needs. For example, we have a MAST program, M-A-S-T, which is the Marine Academy of Science and Technology. Students from the various county schools can enroll there. The county set it up at one location along the shore, actually, in my district, where they had basically marine and science programs for 4 years.

The students have to participate in like a naval training program, similar to the Navy officer reserves, but this is on a high school level. There is a physical element. I do not know if I would call it a military element, but there is

a physical element to it. But then they spend their time dealing with marine resources, specialty courses on oceanography and various aspects of marine resources. There are similar schools that have been set up on a county level for other purposes like that, whether it is sciences, or there is talk now with regard to arts programs.

I think the schools individually could not do that, but if they get together with some kind of consortium either through the county, the State or whatever, then they can set up something like that. Then again, that is the innovative idea. It is public. These are public school dollars that are being used to set up specialty type schools. I know this type of thing is a very important part of the gentleman's agenda, as well.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What that does is open up for young people. We want them to be well-grounded in the basic foundation, but children learn a whole lot more earlier than we can have any idea, and have interests. That is how we get our astronauts, how we get our scientists.

With schools working together in consortia, or really outside the school, with various groups, there may be resources in the community they can pull in. Many schools are doing that in some areas, but they are doing it where they have substantial business interests who are putting the dollars in. But in some areas where those resources are lacking in terms of the tax base of the community or the school, and they do not have the business support because it is virtually nonexistent, then those children deserve the same opportunity. They deserve the same opportunity. They are just as talented.

I would venture to say if we take a sampling or checked every Member who serves in this United States Congress and in the Senate, we are going to find a lot of people serving in this body that came from Small Town, U.S.A. There are a lot of children today out in rural areas in Small Town, U.S.A., who can make major contributions if we give them that opportunity.

That is what the consortia is about, allow them to work together, because they do not have the money. They may not have the resources for all the Internet pieces they need. They may want to have a math high school. That is available in a lot of places and it works.

Mr. PALLONE. Mr. Speaker, the other thing, too, when we talk about innovative programs like that where we get schools together on a county level or whatever to do something innovative, it is often difficult to get the local board of education to contribute dollars to something like that because they are locally based, and they figure it is taking it away, and so on. So that is a perfect example of where the Federal dollars become very attractive, and become a tool to provide excellence and to improve and provide more opportunities for public education.

Mr. ETHERIDGE. If the gentleman will continue to yield, Mr. Speaker, it is a lot like the farmer that seeded the ground and put some water on, because that local board, in many cases those dollars are allocated. It gets back to the issue you raised earlier as it relates to vouchers. It is not like taking new money. We are taking money away from the students who were out there, whether they be in the poorest community, the wealthiest suburban community, and the rural community. Ultimately, all children have less money, because you are funding a source that was not there before, because we have a lot of children who are not in the public schools.

That is their choice. I will say today that I will fight for their right to have that choice, but I will not support their right to take tax money and make that choice, because I do not think it is in the interests of all of our children. I do not think that is ever what was designed or intended when we talk about public education in this country. It is not taking public dollars and carrying it for private support.

Mr. PALLONE. The point is, we like to provide more alternatives, more choices, as the gentleman stated, but within the context of public education. We do not want the dollars taken away from public education. If we want to use the money to start some innovative programs at the existing schools, or to send kids in some sort of consortium, that is fine.

I know there have been a lot of experiments within, say, one school district, say it is a city and there are many elementary schools, in providing parents choices within the public school system. They can go to one school or another. But that is public dollars. That is still public education. There is a big difference between that and a voucher program that takes those dollars and uses it for private education.

Mr. ETHERIDGE. Absolutely. I get a little frustrated at times, people talk about how schools have too much money, and some will say that. I do not know where they get that information.

I would say to them, anyone who feels schools have more money than they need, go talk to those PTA presidents, those PTA moms and dads who are out there selling candy and selling subscriptions to books and working at ball games in the evening, and taking the money from the concession and buying things schools need, that their children need.

That happens all across America. It is not restricted to urban areas, and not restricted to suburban areas, and it is certainly not restricted to rural areas. It is all across the country. Because that to me is the fact that parents want what is best for their children, and they are willing to go the extra mile to make sure that their children get that opportunity. When they do it and they spend those dollars and that time, it is not selfishly, for just their child, it is for all those children in that public school.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the gentleman again for his participation. I think this is what we have to do, exactly what the gentleman has done, which is to show how in various districts around the country efforts have been made to improve the public schools, whether it is basic skills or some of the other things we discussed tonight, and that is the direction in which this Congress and this House of Representatives should be going, clearly, not in the direction of taking the resources away for vouchers or other types of plans.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from New Jersey. He is absolutely right, that this country is what it is today because we have been able to stand on the shoulders of those who have given so much for so long in our public schools, under some very tough situations.

I am very happy tonight to be part of showing some success stories. I hope we will be about that in this body on both sides of the aisle, talking about the successes of our teachers and children, because if we criticize our schools, we are criticizing our children and teachers. I hope I am never guilty of that. I thank the gentleman for helping organize this.

THE WAR ON DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. Pappas) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAPPAS. Mr. Speaker, the war on drugs is just that, a war. What I and a number of our colleagues will be talking about over the next 60 minutes or so is the war on drugs.

□ 1900

In my opinion, there are few issues that are facing the people of our country as important as that. And this dialogue that we are going to be having tonight is really a continuation of what has been going on around the country for many years now; unfortunately, many decades.

Mr. Speaker, each of us represents approximately 600,000 people in this House and unfortunately what had been a problem in maybe just certain urban settings 20, 30 years ago has now spread throughout suburbia and even into the rural areas of our country.

Each of us here took the oath of office to serve the people that elected us and the majority of the issues that we deal with seem to be about national defense, about our balanced budget plan, about providing for tax relief for the people of our country. Yet there is a generation that is growing up that is facing, in my opinion, a very uncertain future because of the drug culture that is so rampant throughout our communities.

Mr. Speaker, I want us to focus on a couple of things here tonight, something that we have debated here in this Chamber just recently, and that is what should our goal be? Is it, in fact, realistic to try to see our young people focus on something else other than drugs?

Mr. Speaker, the gentleman from Illinois [Mr. HASTERT] has asked us to focus upon a goal: Reducing the usage of drugs by teenagers from 6 percent to 2 percent by the year 2001.

Unfortunately, there were some Members in this Chamber just a few days ago that spoke about that as being unrealistic, one that was, as I understand their statements, meant to set the national drug czar's office up for failure. I know that that was not the intent. I think it was to set a goal that is important that we focus upon to try to see that become a reality.

In my district in central New Jersey, I have undertaken certain initiatives to try to speak out about this, use the small bully pulpit that I have been fortunate enough to have to challenge the young people of my district, and here challenge the young people throughout our country, to enter a poster in an essay contest. I wrote to each of the principals of the schools throughout the 67 towns in my district, and I asked them if they would give the young people in their schools an opportunity to participate. The theme is this: ''What I can say yes to instead of drugs?''

We all know that back in the 1980s when Ronald Reagan was President, the First Lady, Nancy Reagan, undertook a ''Just Say No to Drugs'' campaign, and some were critical or somewhat cynical of that rather simple message, but it was very successful. This I would like to think is the next step, trying to focus on a positive aspect of the future possibilities that face our young people.

I believe that we as Members of Congress need to do whatever we can to focus our constituencies' attention to challenge not just people in education that are very dedicated to try to see young people get a good education, but to challenge people from all walks of life that we all have a stake in this.

Mr. Speaker, I want to just mention a few statistics. I see I am joined by my colleague from Tennessee [Mr. WAMP], who I would like to yield to in a moment, but first I will list some statistics that were very sobering. This was from a report from Columbia University. They conducted a study that states 41 percent of high school students say they can get drugs easier in schools than on the streets. By the time the average teenager reaches the age of 17, 68 percent can buy marijuana within one day; 62 percent have friends who use marijuana; 58 percent have personally been solicited to buy marijuana; 43 percent personally know someone with a serious drug problem; 42 percent say that they can buy marijuana easier than beer and cigarettes.

That means youngsters throughout our country can purchase a banned, illegal and dangerous substance easier than they can purchase something freely that is sold in a store or any market. That should cause us all to be very concerned.

The efforts that I have described, this drug and poster contest, some people may make light of it, but based on the initial reaction that we have gotten just the other day, in fact, Congressman HASTERT and I held a hearing in Freehold Borough High School, which is the county seat in one of the counties that I represent. The gentleman from Illinois has been going all around the country holding these hearings to hear from the people on the front lines, the educators, people in law enforcement, people who are from community-based organization or religious institutions who are dealing with people struggling with this most important problem and hearing from them; hearing about local solutions to a national problem.

Mr. Speaker, that is something as someone who has served as a town council member, as a mayor, as a member of my town governing body, I am a great believer in local solutions to national problems. I believe that some of the most innovative ideas come from people in our communities and not from here in Washington, D.C., and not to be critical of our State governments, but maybe not even our State capitals, but from our communities, from our places of worship, and from our students.

We even had four schools participate in this hearing. Eight students wanted to speak, ask questions, or just express their positions, and I will get into that a little bit later.

Now, Mr. Speaker, I want to yield to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Speaker, I thank the gentleman from New Jersey for yielding, and commend him and the gentleman from Texas and the gentleman from Arkansas and the gentleman from Colorado and the gentleman from Pennsylvania for spending this time to focus on this issue. To the gentleman from New Jersey I will say they are on the way, there will be several speaking because this issue does not receive enough airtime in America today, this issue of drug and alcohol abuse.

This is an interesting fall, Mr. Speaker, because on the heels of an unprecedented bipartisan agreement to balance the Federal budget between the President and the Congress, the sea of public opinion is relatively calm. As a matter of fact, we heard two weeks ago national bipartisan surveys that indicated that there were no real issues that jumped off the page in surveys in the double digits when asked: What is the number one problem in America? Three issues were at 9 percent, but for the first time in many years the economy is good and people are relatively comfortable, so the sea of public opinion is relatively calm.

But let me say this, Mr. Speaker. I believe that what lurks underneath that calm sea of public opinion today is extremely dangerous and we need to spend some time focusing on it and we need to raise the awareness of the American people, because as we face the turn of this great American century into what I hope and pray is another great American century, the 21st century, we need to recognize that the grandchildren of the baby boomers are becoming teenagers.

I served, Mr. Speaker, on the Bipartisan Task Force, and the gentleman from New Jersey spoke of the work of the gentleman from Illinois [Mr. HASTERT]. The gentleman from New York [Mr. RANGEL] and the gentleman from Illinois [Mr. HASTERT] cochair a bipartisan working group here in the Congress on drug and alcohol abuse. We had a briefing a few months ago from Louis Freeh, the head of the FBI, who talked about numbers of teenagers. Because while violent crime and drug abuse is on the decline among grown people, it is on the increase among our teenagers and herein lies the problem.

We are on a collision course through the turn of the century. More and more teenagers, as a matter of fact, the bell curve in 2005 is the highest concentration of teenagers that we have had in the history of our country, we are told, more teenagers as a percent of our population than we have ever had. That is wonderful in a sense. It is the grandchildren of the baby boomers. But when suicide, violent crime and drug abuse is on the incline, and the number of teenagers is on the incline, and families are breaking down at unprecedented rates, it is a recipe for disaster and we must once again as a Nation come together at every level and recognize what this problem really is.

Mr. Speaker, we are told the common denominator of violent crime among teenagers in America, the most common denominator is fatherlessness. People without fathers as they are growing up have a much higher propensity to commit a violent crime. The number two common denominator is alcohol abuse. Drug and alcohol abuse is destroying our country.

Now, I know today things are relatively comfortable and many people might not recognize that, but it is true and we must address it. Drug and alcohol abuse is the manifestation of a hopelessness that is now an epidemic in this country, and what we need as we approach this next great American century is a zero tolerance policy at every level of our society on drug and alcohol abuse.

Mr. Speaker, I use the two together because many people talk about drug abuse and they overlook the fact that alcohol abuse is even more prevalent in our society than drug abuse. It is the number two common denominator of violent crime in our country and violent crime is going to be an even greater problem as we turn this century than it is today.

Now, what do we need to do about it? We need a balanced approach on substance abuse between prevention,

treatment, and interdiction. Today, if my memory serves me correctly, we spend about $16 billion through the Federal Government fighting the drug war. About 20 percent of that money is spent on interdiction and, frankly, that is where we can actually document the most success at fighting the war on drugs, through interdiction.

The military is doing an excellent job. There are four supply countries. We actually now do a better job of intercepting drugs from those supply countries than we have ever done. The transit zone in Central America, we have really restricted the transit of illegal drugs into this country. But we are only spending 20 percent of our gross resources on interdiction, yet that is where the most success actually is today. We need to spend more money and help our military fight the international war on drugs. I really believe that.

We are spending a lot of money on prevention, and I think there are ways by block granting we can spend it more effectively. A lot of money is being spent on prevention. Prevention really starts at home. If we leave it up to the government to stop substance abuse, and we overlook the importance of the home, as Ronald Reagan used to say, the most important decisions in America are not made in Washington, D.C.; they are made around the dinner table of American families. Is that not true?

Treatment is an interesting piece of this, because I believe that treatment should be available in this country to anyone who wants it who has a substance abuse problem. But I can also say that I believe treatment works for people who want treatment, and treatment does not work for people who do not want treatment. That sounds obvious, but we are actually spending a lot of money providing treatment to people who do not even want to get better and, therefore, it is not successful.

Mr. Speaker, we need a balanced approach on all three aspects of fighting a real war on substance abuse, I would say to the gentleman from New Jersey. Not just a war of words, but a real attack on this.

Mr. Speaker, we need cooperation from the mayors who actually do not need to be lectured by those of us in Congress. They need our help. The district attorneys need our help. We need the administration, the Presidential administration to cooperate. And the Congress needs to get more serious about this issue as we approach the turn of the century than we have ever been.

We need to recognize this is a national crisis. It is ripping apart the fiber of our society, drug and alcohol abuse, and it is going to take a team effort to fight it. The gentleman from New York [Mr. RANGEL], who serves as the distinguished cochairman of our task force, he actually has said at several meetings that he did not really appreciate Nancy Reagan when she was First Lady, but he misses her now and he said, at least then, somebody was saying that it was important to just say no to drugs. Now, we do not have that focus, and there is something about all of us leading by example and hammering away at this issue that this is a national crisis, drug and alcohol abuse.

It is going to take a team effort. We need to get underway. I appreciate this night being a start and a step in the right direction. I commend the Members of this freshman class for bringing this issue to the floor, and I thank you.

Mr. Speaker, I yield back to my friend the gentleman from New Jersey.

Mr. PAPPAS. Mr. Speaker, I thank my friend. I hope that Mrs. Reagan is watching. And if not, we will have to see that she gets a copy of this to pay tribute to her dedication to this effort. It is one that is so important.

Mr. Speaker, just earlier this month I introduced a resolution, House Resolution 267. It is a Sense of the Congress Resolution, and it basically states and encourages citizens of our country to remain committed to do whatever we can to combat the distribution, sale, and illegal use of drugs to our Nation's youth and by our Nation's youth.

□ 1915

For those of my colleagues who are here who have yet to become cosponsors of this particular resolution, I certainly would encourage them to do so.

Now, Mr. Speaker, I would like to yield to another member of our freshman class, my friend, the gentleman from Texas [Mr. SESSIONS].

Mr. SESSIONS. I thank the gentleman, Mr. Speaker, for yielding to me.

I am glad to be here today because the problem of drugs in our country is dire and urgent. There is a moral crisis in America.

I want to use some of the data published in a report by the House Subcommittee on National Security, International Affairs and Criminal Justice to illustrate just how bad this moral crisis is.

The report entitled, National Drug Policy: A Review of the Status of the Drug War, details the startling use and rise of drug use among Americans, all Americans, but most especially those that are young Americans.

According to the 1994 Michigan University study, 13 percent of eighth graders experimented with marijuana in 1993. That is almost twice the 1991 level. Experimentation among 10th graders increased about two-thirds the previous 3 years. And daily use among high school seniors was up by half over the 1993 levels. Increasing use was also reported in 1994, by the Drug Abuse Warning Network Data, which collected data from emergency rooms around the country on drug-related emergencies in 1993. That data showed an 8 percent increase in drug-related emergency room cases between 1992 and 1993, 45 percent of which were heroin overdoses. Cocaine was also at an alltime high, having almost doubled since 1988, and marijuana emergencies increased 22 percent between 1992 and 1993.

1995 data is even worse. The National Household Survey, released in September 1995, shows that overall drug use among kids, ages 12 to 17, jumped 50 percent in 1994, from 6.6 to 9.5 percent. The National Pride Survey of 200,000 students shows that one in three American high school seniors now smokes marijuana. There has been a 36-percent increase in cocaine use among students in grades 9 through 12, from 1991 to 1992, and hallucinogen use by high schoolers has risen 75 percent since 1988 and 1989.

Finally, October 1995 DAWN data says that in 1994, cocaine-related episodes reached their highest level in history and registered a 15 percent increase from 1993, and a 40 percent increase from 1988.

On top of this, marijuana or hashish-related emergencies rose 39 percent from 1993 to 1994. And total drug-related emergency room cases rose 10 percent between 1993 and 1994.

The reason we are here today is to call on all Americans to join in this fight against drugs. As we know, this is Red Ribbon Week across America. That is what those red ribbons are there for. That is why we are calling on Americans now to join with us at this time to fight drugs.

But parents can also start by demanding that their children and the schools that they attend, that they learn to be drug free. The fight against drugs must be waged in churches, schools and by every family in America. Kids should report drug dealers to their teachers, and parents and teachers need to do what they know is right by leading by example and doing the right thing. And that is by saying, no. I also wish adults had the courage to do the same thing.

Currently, there is also a drug that has taken hold in neighborhoods throughout America, and this is wreaking havoc. This drug is called methamphetamine or it is called speed, crank or crystal. If there is a drug that enslaves the mind and destroys the soul, this is it.

According to a report by the Drug Enforcement Administration, and I quote, the extreme agitation and paranoia associated with the use of methamphetamine often leads to situations where violence is more likely to occur. Chronic use of methamphetamine can cause delusions and auditory hallucinations that precipitate violent behavior or responses. End of quote.

This is a violent drug that devastates the user. DEA Administrator Constantine, in a statement, attested to the horror of this drug, when he said, and I quote, during the summer in New Mexico a father, while high on methamphetamine, beheaded his 14-year-old son. Administrator Constantine also described how a mother and 3 young children under 5 were recently seriously burned when a meth lab exploded

causing a fire in their home. Two of the children were rushed to the hospital in critical condition and one died. The responsible father fled the scene, abandoning his critically injured family before rescue teams arrived to assist them.

Methamphetamine, just like other drugs, is a cancer on our society. In 1994, there were over 700 methamphetamine-related deaths in the United States. In several cities, meth-related deaths are up over 50 percent in the last three years. And in 1995 alone, the DEA seized 241 methamphetamine laboratories.

Methamphetamine is easier to manufacture in the United States because its precursor chemicals are more readily available. If the penalties for the manufacture of this killer drug do not deter its production within our borders, how are we going to stop its rising use? I think we should make punishment more severe so that we push it out of America's cities and towns.

It is important to note that the danger from those chemicals used in the manufacture of methamphetamine is immense. They are highly flammable and explosive and can cause extensive damage to first responders, including law enforcement, firefighters and civilians, as well as devastation to our environment.

We must give law enforcement the tools to deal with this epidemic efficiently by getting those drug thugs off our streets. I believe that those involved in the manufacture and distribution of methamphetamine should spend the rest of their lives in prison. I have drafted a bill to do just that, the Speed Manufacturing Life in Prison Act of 1997.

This legislation will help stem the rise in methamphetamine production by giving those involved in the manufacture and distribution of methamphetamine a mandatory sentence of life in prison.

This is just one way to address the problem of drugs in our society. Unfortunately, in Washington, there are many who cannot even agree how to address the problem.

According to the General Accounting Office, the bipartisan watchdog agency of the Federal Government, the current drug policy under the leadership of the Office of National Drug Control Policy is not clear. It is not coordinated. It is not comprehensive, and it is not consistent.

It is no wonder we are here tonight calling on the families and communities of America to help us solve this problem. To save our children we will have to all work together and, if we do that, we can ensure that the lives of our children are safer, more productive and free of the drugs that can cripple the mind and destroy the soul.

I want to thank the gentleman for being here tonight. I want to thank my good friend from New Jersey for allowing me the opportunity to speak on this important subject tonight.

Mr. PAPPAS. Mr. Speaker, I thank my friend from Texas for his participation. We have spoken about this, and I commend him for the leadership that he has shown and the legislation that I think I am an original cosponsor of.

Mr. SESSIONS. You are.

Mr. PAPPAS. We have spoken about a number of specific areas of the country and a number of drugs in particular that people are abusing. I know we have spoken about heroin. I know you have some thoughts. I am wondering if you would share that.

Mr. SESSIONS. Yes. We have a terrible problem in Texas. Just outside of Dallas, in a neighboring community, we have had a minimum of eight heroin-related deaths by teenagers in the last year. Of course, this is causing a lot of inward thought to the community. And I want you to know that every single time those parents say, please talk about the problem, please tell the story, because many of them did not even recognize that their children were even on drugs. So this is why I think this is important. I thank you for bringing that up.

Mr. PAPPAS. I thank you very much.

We are joined by yet another member of our class, my friend from Arkansas. I would like to yield to the gentleman from Arkansas in a moment.

Before I do that, I know that we all have heard an awful lot about those in our society that think that the answer is to legalize certain drugs and that that will unclog our court system. And I disagree.

Just last week I met with a group of police chiefs from one of my counties in the district, Hunterdon County. When I concluded my remarks and I just made my last pitch, so to speak, to indicate that my door is always open to them and I hope that they do not feel that they cannot offer a suggestion or a viewpoint, if it is unsolicited, one of the comments that one of the gentlemen made was that a response that some have to our drug epidemic of legalization is not the answer, sending the exact wrong signal.

I know that the gentleman from Arkansas, my friend, who is here joining us has had a very distinguished career in many capacities. Certainly, I am glad to see him here tonight, certainly glad to serve with him in this House.

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from New Jersey. I am grateful that he has taken the leadership in addressing this very important subject. Hopefully, by our discussion, we can center some legislative activity but, most importantly, some momentum in our country to reinforce and reinvigorate the war against drugs.

I approach this subject as a former Federal prosecutor, serving in the Reagan Administration as United States Attorney, but more importantly, I approach this subject as a parent. I have raised three teenagers. I have another one coming. I know the struggles that parents go through in dealing with this very, very tough issue, because it truly affects all families.

I think back during the 1980s, when I was a United States Attorney and my wife Susan was involved in ''Just Say No'' clubs, starting them in the schools, encouraging young people to think about their decision and their commitment in regard to drugs.

This last week I had a very interesting experience. I serve on the House Committee on the Judiciary on the Subcommittee on Crime. We had a hearing in the Subcommittee on Crime in which we had a witness who we called Mr. Rodriguez, which is not his real name, but he assumed that name to protect his identity. He further protected himself by coming to testify before Congress with a hood over his face to protect him further. And he was from New York City. He was in prison. He had pled guilty to drug trafficking.

He was the number two person in the New York City branch of the Medellin drug cartel out of Colombia. So he is about as high as one can get in that drug structure in New York City.

He testified about the drug federation, the Medellin federation. He testified as to his experience, the organization, trying to shed some light on what Congress can do, on what our country can do as we fight this devastating disease called drugs.

As he testified, he talked about his organization which outmans and outguns law enforcement agencies on both sides of the border, both in Colombia and here, an organization that resorts to bribery, to kidnapping, to intimidation and murder to protect their trade and profits.

He described the organizational structure in which we could see it, just like any organizational chart, the Medellin federation has consultants, financial and tax, administrative, legal, political, media. They have their operations for payments and deliveries, their security, their international operations for their shipments, their New York City branch. They have their distribution outlet, their deliveries, their warehouses and so on.

□ 1930

It is an organization that is as sophisticated as any business organization in America. But what is of interest, I believe, as I talked to him, I asked him four common sense questions that I think a lot of people in America would ask someone in that position in the drug trade.

The first question I asked him was, how would he compare the resources of the drug organizations to the resources of law enforcement here in the United States? And I asked this same question in a previous hearing to the head of the FBI, the head of the Drug Enforcement Administration, and I got the same answer out of both. And the answer was, for Mr. Rodriguez, that he saw the resources tilting a little bit more on the

side of the drug federation, the drug cartel, and the drug organization.

This flabbergasts me, that in a country as large as the United States we are outgunned, we are outmanned, and they have more resources on the opposite side. The point of that question and answer is that we have to have a commitment of resources, yes enormous resources, in this country to win this war.

The next question I asked him was, what is the greatest weapon that drug dealers fear that law enforcement has? And the answer surprised me. His answer was extradition. And, of course, he is speaking as someone who was from Colombia that is in New York City, and from the Colombia perspective, the worst thing that could happen is that a drug dealer was extradited to the United States.

I asked him to elaborate on that. He said they cannot fix the system in the United States. That is what we have going for us, is the integrity of our justice system. We can never let our prosecutors, our judges be attacked, our system be attacked, and get in the hands through bribery, through intimidation, of these drug dealers, as it has in other countries in South America and in Mexico.

And then I asked him the question, the third question, does he and his other drug dealers use cocaine or other illegal drugs? And his answer was no, of course not, it is bad for business. And a drug dealer has the understanding, the sophistication, to know how dangerous drugs are. And if they understand it, our young people certainly must get that message very clearly.

Then the final question I asked him was, what advice would he, as a person who is waiting prison time, what advice would he give a young person who is confronted by a drug dealer? And his answer was, as he stood there in prison garb with a hooded mask over his face, he said, look at me, do you want to wind up where I am? I hope our young people can think seriously and the parents can think seriously about the end result of drug dealing, of using drugs.

But he did indicate that we are making progress. The encouraging word, the sophistication of law enforcement in dealing with money laundering, in financial transactions is really making it tough on the drug dealers. So we are making some progress.

I see when I look at the drug problems, not just statistics but life stories, and when I was a United States attorney we looked at New York City as a far off territory, but I can cite numerous instances in which the drugs went straight from Colombia to New York City and straight from New York City to my State of Arkansas and then into the hands of teenagers. It was 98 percent pure cocaine. And with that level of not being diluted, it was straight from Colombia through New York City. What happens in New York City, what happens in Chicago, what happens in Dallas affects us in the rural areas. So this hooded witness impacts us all.

And then I think about that young teenager who went to a high school in Arkansas, who never used drugs, who spoke against drugs in high school, and went to a college campus and in a short amount of time was free-basing cocaine. Why do I tell that story? It is because this could happen to anyone, and we have to clean up our high schools, we have to clean up our campuses, and we have to have an ever vigilant society in this dangerous situation.

How do we win the war on drugs? It is commitment, commitment of resources, and then I think just as importantly, it is consistency. We were starting to make progress and win the war in the late 1980's and early 1990's and then we changed direction in 1992. And as soon as we did that, the teenage use of drugs went up. Marijuana, experimentation with cocaine went up and we started losing. We did not have the resources. Now we are starting to get back there, but we cannot change our commitment and the consistency we have to fighting this drug war.

I know I have taken a little bit longer than I intended to. I thank the gentleman from New Jersey. I commend him for this. There is not a more important subject that we deal with in the United States Congress. But we have to put the resources in it, and the answer comes from every family, every community, every city in America who must take the bull by the horns and deal with this important issue.

Mr. PAPPAS. Mr. Speaker, I thank my friend, and before he leaves, I want to compliment him not just on his statements here tonight, but also I can recall the early part of this year, I think the gentleman was one of the first members of our class that said we need to talk about this, and I am glad he is here and I hope we will continue to do this.

Mr. Speaker, as a Member from central New Jersey, I frequently get visits from students in my district. It is about a 4-hour drive by car or bus, and I have been amazed at the number of students that have visited me here. But while I am home in New Jersey, I spend an awful lot of time visiting schools and speaking to students, all age categories, and I try to challenge them and ask them the question, where do they see themselves in 5 years, in 10 years, in 15 years, and try to make them realize that the choices they make now in grammar school, in middle school, and high school have a tremendous effect upon where they are going to be 5, 10, 15 years from now. We all need to challenge them.

We are joined now by another distinguished member of our class, and I would like now to yield to my friend from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Speaker, I wish to thank the gentleman from New Jersey for running this hour for this message. It is one that I really get fired up about. I remember harking back to even the campaign days when this issue would come up, it stirs emotions in many of us, and my perspective comes from, I guess, the different jobs that I have held before coming to this floor, one being that of a military officer.

We have done ourselves a great disservice by calling this a war on drugs, because we have never significantly started a campaign. We have not identified the resources. We have not focused the attention. We have not really, unfortunately, decided to fight a war on drugs. We like to use the verbiage, and I am aghast at it. So I wish we would get that out of our lexicon until we are ready to do it, until we are ready to fight the war on drugs.

I think three things have to be done, and I think we are taking some steps in the right direction, but I do not want skirmishes, I want a war on drugs. I want to drive it from the land.

A couple of things. We need to, as we did this year in the House, we need to say let us put military forces on the border and stop drugs coming across the country's border. And on the House floor we said let us put 10,000 troops there because this is a serious conflict that we are in and we need a serious commitment. So we have to do everything in our power to stop the importation of drugs from outside the Continental United States.

Second thing is, and my colleague from Arkansas has had great experience, we have to punish the drug pushers. We need to identify them, which we can. They are on the streets. We need to arrest them. We need to lock them up. They need to be breaking rocks. They need to be sweeping streets. They need to be chained up so that they are an example. There is an example, when kids see a chain gang sweeping the streets of drug pushers. So if they do the crime, they do the time. And, of course, we have a judicial system that does not support that.

The third thing is we just need to look at ourselves. And I am going to say shame on my colleagues who used drugs in high school that are still abusing drugs as adults. And I am going to say shame on the entertainment industry who glorifies the use of drugs. And I am going to say shame on the professional athletes who glorify drugs or abuse drugs. Because what this is all about is our children, and they are looking at the folks in the entertainment industry, they are looking at their parents, they are looking at sports leaders and idols, idolizing them, wanting to be like them. But we have adult leadership in our Nation, adult idols, and I hate to use the word ''adult'' because they are still caught in a juvenile world that thinks drug use is cool, and so we have to get that message out.

An ounce of prevention is worth a pound of cure. We need to work on preventing the first use by children of drugs. We can stop it at the border if we commit ourselves, we can arrest the

pushers if we commit ourselves, but if we do not educate the children to make good choices, then those others are for naught.

As a former teacher, as a West Point graduate, we lead by example. Children are crying out for leadership. They are crying out for good examples. And we as a society continue to fail our most vulnerable, which are our children.

Our message is simple: Nancy Reagan was right. Just say no. The current administration is wrong when they laugh about it and they send the wrong message. We need to take the moral high ground. We need to talk to our kids. We need to plead with them. We need to lead by example. We need to just say no. If we truly love our children, we will tell them just say no. We will spend time with them and we will work with them.

And to the gentleman from New Jersey, I again thank him for this opportunity. It helps air out some major concerns that I have that I do not get to address many times in some of the other forums.

One of these days, and I just hope we get serious and that we will move in the right direction. As I see so often in this body, we really have no national policy on specific issues. We pick here and we pick there and there is no coordination. I would ask the drug czar to be a little bit more coordinating in these efforts.

Mr. PAPPAS. I thank the gentleman from Illinois, and knowing of his family and seeing him with his boys here sometimes on the floor of the House, I know what he has said is heartfelt.

Mr. Speaker, Monday, when we had that hearing back in my district in Freehold Borough High School, I mentioned that there were some students from three or four different schools in my district. One of them was the Manalapan Township High School, and there were eight students interested in coming forward and speaking their minds, and I would like to mention a couple of the things they said, because it really bears repeating.

Several of them said that we need to put more emphasis on stopping drugs from coming across the border, north or south. Many of them mentioned that in their opinion the education system does not solve anything; that there needs to be more younger people closer to their age to speak to them about why doing drugs is not going to do anything for them in their future.

Some view that the discipline that they are given is not very good. One of the students spoke that there is a smoking area outside of the school where some of the students congregate to smoke and a teacher or guard gives them some sort of a detention slip as punishment, and that they believe, the students believe, that more needs to be done to prevent even kids from smoking, which I believe is illegal for minors.

I will speak about some of their other suggestions a little bit later, but now we are joined by my good friend, the gentleman from Colorado, Mr. BOB SCHAFFER, and I would like to yield to him.

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Mr. BOB SCHAFFER of Colorado. I thank the gentleman from New Jersey for yielding and commend him for bringing this topic to the floor and allowing us to share a little bit tonight with each other and with the American people about an issue that is so crucial to the future of our country. I am a parent of 4 children. What I bring with me here to Washington is my hopes and dreams and aspirations for my children and all children just like them throughout the country. Tonight we have focused quite a lot on the drug abuse problem and juveniles and what our hopes are for children in America and I want to talk about that and what we can do as conservatives and as Republicans here in this Congress and focus for a moment, if you will, on some of the programs that exist. But again with the underlying thought being, what is it that we can best do to safeguard the future for our children in a positive and constructive way?

Mr. Speaker, government programs are nice. In fact some even work. But when it comes to improving the general virtue of American children, few things matter more than fathers, faith and fortune. Sure, there are examples of public programs that have turned around the lives of youngsters, stood in where families were nonexistent or provided support where it was needed most. Virtually every social worker and counselor I have ever met genuinely cares about the youth they serve and are dedicated to straightening out juvenile lives.

However, after 10 years in public service as a Colorado State Senator and a United States Congressman, I have come to the frank conclusion that too many government programs aimed at helping wayward youths fall far short of achieving their noble goals. The anecdotal stories of adolescents rescued from their troubled settings are regarded by grant writers and politicians to be all that is necessary to justify heftier appropriations from public coffers. Yet what public officials frequently fail to consider are the untold millions of young Americans robbed of economic opportunity by the mammoth bureaucracies inevitably created by an expanding welfare state.

Always I ask how much a juvenile program spends per successful case. The calculation more often than not is dismaying. More vexing is the frequency of the worn retort, ''But, Congressman, if it helps only one child, isn't that worth it?'' When will we ever wake up and realize that our government spends too much on a welfare state that hurts children by making bureaucrats the gatekeepers of prosperity? The national debt has soared as a direct result of unbridled spending jeopardizing not only present income, but the future incomes of many generations. A child born today owes $20,000 as his share of the present debt. Over the course of his working life, the interest on that debt will amount to $200,000. For every child in America, this means less money for their education, less money for their insurance, less money for their college education and instead of capital to draw on to build their families and fortunes, heavy taxes to pay off the debt. No new Federal youth program no matter how ingenious can replace the security of these essential items of self-sufficiency. With such tall odds is it any wonder that today's youngsters feel disconnected from society, lose hope, experience great anxiety, and rebel against the rest of us?

Worse yet, the common family feels powerless to offer answers. In 1950 the median family of 4 paid just 3 percent of its income to the Federal Government in taxes. Today that figure has risen to 24 percent. When State and local taxes are thrown in, the typical family of 4 now pays 40 percent of its income in taxes to the government. The results of this disastrous policy are only too apparent. Even as its punitive tax policy discourages child rearing by traditional middle class families, the Federal Government continues to subsidize illegitimacy and broken homes. By placing crippling financial burdens on two-parent families, our government is essentially engineering social collapse. One need only consider the current juvenile crime statistics. Teenagers account for the largest portion of all violent crime in America. In 1995, those under the age of 18 were responsible for almost 2 million violent crimes, more than one-fifth of all violent crime. It is reasonable to ask, where are their parents? While marriage and the stable two-parent family remain the most essential and central social unit in America, outrageous rates of divorce and out-of-wedlock births are destroying this crucial institution and weakening the development of the next generation. More and more children must grow up with little guidance from a parent who loves them. Youth violence is dominated by boys. More murder and robbery is committed by 18-year-old males than any other group. Research tells us the likelihood that a young male will engage in criminal activity doubles if he is raised without a father and triples if he lives in a neighborhood with high concentrations of single-parent families. 72 percent of adolescent murderers grew up without fathers and 60 percent of America's rapists grew up in homes without fathers.

On the other hand, children living with both biological parents are up to 4 times less likely than other children to have been expelled or suspended from school. The tax burden on families with children has raised the cost of having children and forced many couples to endure a tradeoff between time at home and time spent at work earning money to support the family. The

tax system no longer helps families raising young children. Rather than defend the family and encourage marriage, the Tax Code does just the opposite. That is primarily due to the erosion of the personal exemption by inflation and steep increases in payroll taxes.

Simply put, children need fathers. They need parents at home. They need an America offering economic promise, which strengthens the lot of parents and a society providing hope for economic participation, particularly at a young age. But economics is not the only place pro-family leaders should look for solutions. America's moral decline is more often cited by experts as the fundamental cause of family instability. More than 4 out of 5 Americans, that is 83 percent, when polled, say they are deeply concerned about our moral and religious well-being as a Nation. They know we will never effectively reach out to America's youth by avoiding the essential challenge, the lack of spiritual life in society.

As elected representatives, all political leaders ought to be able to discuss the need for spiritual renewal. And we should not be ridiculed and castigated for discussing the spiritual life of our society. Clearly our moral problems are too great to remain silent. Fortunately, where matters of faith are concerned, things are frankly not as bad as the media would have us believe. The fact that the majority of adults in this country believe there is a moral crisis in America is pressing policymakers to the conclusion that there are definite rights and wrongs when it comes to immorality. On increasing occasions, politicians are hearing from constituents their belief in the values of faith, family, community, responsibility, accountability, and they desperately want others, particularly their elected representatives, to believe in them, too.

For America's youth, inclusion in a pious society is perhaps the greatest hope. It is clearly here where we can do the most to stem juvenile violence. A recent survey found that 93 percent of the American people believe in God. Historian Will Durant once concluded that the soul of the Nation is its religion. By that standard the American people are returning to the divine in record numbers. It would be the height of abuse if children were denied the chance to know the God who made them and the glorious truth of His presence among us today.

On this point it becomes apparent that despite the best intentions of the Federal Government, this government is unable to fully embrace wayward youths in the wholesome custom that American people deep down know is needed. The notion of it takes a village is an errant message for Americans precisely because in America the village is too big and too impersonal to really care.

Public institutions and bureaucracies cannot love. They possess no resources or emotion of their own to constitute true charity, and they are incapable of instilling the faith upon which our forefathers built a great nation.

The only thing bureaucracies do well is spend other peoples' money, and they do it with reckless abandon on the chance that a program or two will actually hit its mark. That chance is far too great when a child's future stands in the balance.

Sure government should legitimately continue to maintain a minimal safety net to save children from poverty, and protect their physical health, etc. But if America is serious about reserving moral decay and social disintegration for the sake of juvenile behavior we need to find ways to allow private, and faith-based charities to lead the way; for only they are unrestrained in conveying family values and moral precepts in godly terms that children need and understand. Moral absolutes are good but rarely exist in government settings.

America's youth deserve a country that believes the Right to pursue Happiness is for real, that this right is unalienable, endowed by God and secured for every child. They deserve an America where government rewards honest hard work and respects the authority of families, where they are not unjustly taxed and where jobs are not regulated away.

For juveniles to behave like Americans, they must be allowed to embrace the American Dream. They must be treated like real Americans and given the moral backing to thrive in a free society full of opportunity.

Mr. PAPPAS. I thank the gentleman from Colorado for his enthusiastic comments and his dedication to his family and to our country.

I yield to my friend from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. I would like to thank and congratulate the gentleman from New Jersey for initiating this hour and this issue that we are talking about, I believe the most important issue facing this country. Our children, our young people, our future and the problem they face of drug use, which has just grown immensely. They have often talked about a war. I have not seen a war. As I look back on war, it is life and death. It is fighting till death takes over, or we win the war. I have not seen a war in this country. We may have called it a war, but it is a life and death issue, and I have not seen many leaders in this country that have made drugs a life and death issue.

When we look at what goes on with professional sports today, how many football players in the National Football League and the National Basketball Association and Major League Baseball which is holding a World Series game tonight, how many of their players have had multiple drug use, have been arrested for drugs, have sold drugs and continue after some short penalty to be a leader in this country, a model that our young people look up to and they have had multiple drug crimes, multiple instances where they have used drugs in this country, a terrible example that we have allowed.

Television and the movie industry have glorified drug use. The results of that have been 47 percent of 14-year-olds today say they can buy marijuana within a day. That is half of our young people. 76 percent of high school students and 46 percent of middle school students say that drugs are kept or used or sold on school grounds. 29 percent of high school students and 12 percent of middle school students say that a student in their school died in the past year from an accident related to alcohol or drugs, an astounding figure. 56 percent of high school students and 24 percent of middle school students have attended a party in the past 6 months where marijuana was available. 41 percent of high school students and 18 percent of middle school students have reported seeing drugs sold in school or on school grounds. High school students say that 50 percent of their peers are using drugs at least monthly. 35 percent of teens cite drugs as the most important problem they face.

Every youth group that I speak to, and I never turn one down, and some we organize and we bring them into our district from schools all over our congressional district. We used to do it in the Senate district when I served in State government, and we have panels of issues where we are teaching them about government and talking about issues, the number one issue they want to talk about is drugs. Why is it that young people bring it up again and again? Because they are scared, because they know in some instances that they do not do drugs and that they do not participate in alcohol. They are looked at as some kind of a square, they are not cool, they are not part of the in group. There is a little bit of good news. In 1996, there may have been some good news. Our overall current has remained about the same as last year and currently illicit drug use among teens 12 to 17 years old appears to have declined for the first time since 1992. However, current drug use among 18 to 25-year-olds is still on the rise. While teenage use of marijuana in the past month appears to have declined, in 1996 first-time use of heroin and cocaine has increased. Heroin and cocaine is in our small towns. It is in rural America. It is not just in the cities. Many people made fun of or made light of the Just Say No campaign. But as we look back, even those who criticized it at the time realized it was a crystal clear message. There was no way you could dispute it. There was no way you could not understand.

During that period of time, drug use was really declining. We were making major progress. And then we come to the current administration, the Clinton-Gore administration. Since they have been in office, marijuana use is up 140 percent. LSD use overall is up 183 percent. Use of LSD has reached its highest rate since they began keeping statistics in 1975. Fully 11.7 percent of the class of 1995 have tried it at least once, LSD. And we all know the dangers of that drug. The number of cocaine and heroin-related emergency

room admissions has jumped to historic levels. Perhaps most troubling is the rise in teen drug use during the Clinton administration. The number of 12 to 17-year-olds using marijuana has doubled. Teenage use of cocaine is up 166 percent.

I think a lot of that has been this ambiguous message, no clear message. What are the costs? The costs are unmeasurable. Loss of loved ones. How many of us know a friend who has died? How many of us know a family who has lost a child? The juvenile suicide rate has skyrocketed. I have two granddaughters, Tara and Nicki. Tara is in seventh grade and Nicki is in fourth. My number one concern as a grandparent is their exposure to drugs in school because they are there. The school administration last year thought I was overevaluating the issue. But last spring at the close of the year, two 6th graders were arrested with drugs. The greatest problem facing this country is out of control use of drugs. Our young people are exposed to it on a daily basis. It is an issue that we must make the number one issue in this country. We must start a war on drugs.

Mr. PAPPAS. Mr. Speaker, I get the same thing from students in my district. It is the number one issue as well. I now want to turn to the gentleman from South Dakota [Mr. THUNE] and yield to him.

Mr. THUNE. I thank the gentleman from New Jersey for yielding and credit him with the great work he has done in introducing a resolution which I think calls attention not only to the problem, helping define the problem, but also in terms of the solutions and where we need to look for solutions. I am proud to be a part of the effort tonight to draw attention to this important issue. If we look at what the future of our country depends upon and where America is headed, I do not think there is any problem that is more pervasive and more terrifying than is drug use in this country. Substance abuse is clearly public health enemy number one.

If we look at the effects, they are seen in our Nation in so many different ways, from crime, to violence, to welfare dependency, to divorce, family breakup, domestic violence, child abuse, high health care costs, the spread of AIDS and other sexually transmitted diseases. The cost to our society according to a recent estimate is some $400 billion a year.

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I have always thought that my State of South Dakota, is somewhat immune from these pressures, but we are seeing an increasing evidence of drug use there as well. In fact, drug-related arrests have risen dramatically. In 1991, there were 1,308 drug related arrests. In 1995, there were 3,000. We are seeing a pervasive problem all over the country. It is something that I want to credit my friend from New Jersey for drawing attention to, and I hope that we can continue to have a dialog about what we might do as a country, as communities, as families, as churches, to attack this problem and deal with it in a very realistic way.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman, and I hope that this is the beginning of how our House can continue to focus on this most important issue.

THE WAR ON DRUGS IN AMERICA

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from South Dakota [Mr. THUNE] is recognized for 60 minutes as the designee of the majority leader.

Mr. THUNE. Mr. Speaker, my friend from Pennsylvania [Mr. PETERSON] and I would like to carry on a little bit of this discussion on drug use in America. As I mentioned just previously, we have seen in my state of South Dakota drug use rise in a dramatic way. The number of arrests has almost tripled in the last four years' time.

I want to draw particular attention to one instance that I was recently informed about, which is a good example of this. In July of 1995, drug agents in Lincoln County, South Dakota, got warrants to search a home in the City of Worthing.

Now, Worthing is not what you would call a hot bed of criminal activity. It had a population of 371, but even Worthing, South Dakota, is not immune to the problem of drugs.

When agents entered the home they found what you might expect to find in any home around this country, and that is someone cooking. The only difference was this person was using a recipe from something called the Anarchist Cookbook. He was not cooking with food, he was cooking with chemicals. When agents entered that home in Worthing, a community of 371 people, they found the beginnings of a methamphetamine lab. The man in the home had a wide array of chemicals spread out, and he was trying various combinations, trying to come up with the perfect recipe to cook up a good batch of meth.

Well, eventually he did find the right recipe. I am happy to report, thanks to South Dakota law enforcement agencies, he is now serving a second stint in the South Dakota State Penitentiary. But it goes to show that no city, no matter how large or how small, is immune from the problem of drugs.

That does not mean our communities cannot fight back. There are important initiatives going on all over our State, I believe all over this country, that are attempting to address this important problem in ways that are very practical, very realistic, and I think get at the heart and the core of what the problem is.

If you drive into South Dakota today, you will see when you arrive on the interstate one of 14 different billboards. It says ''Warning: If you bring illegal drugs into South Dakota, plan to stay a long, long time.'' It looks something like this, but you will see it anyplace you enter our state.

These signs are not the result of some piece of Federal legislation, they are not the result of some Federal grant or program. Every billboard is sponsored by a local business. No tax dollars are used. It is an effort coordinated with the state, with local businesses and the cooperation of the private sector, to keep drugs out of our states and out of our communities.

South Dakota is doing other things as well, particularly in the area of our schools. In the largest city in our state, police officers are not only fighting drugs from the police department. They are fighting the war from the hallways of the city's high schools.

Each high school has its own full-time police officer. Each officer has an office at the school. When they walk their beat, they are walking past lockers, past the gymnasium, into the school parking lot, and back through the cafeteria.

The students do not just see the cops when the law is broken. They see officers every day under all kinds of circumstances in the hallways at their schools. These officers are forming bonds with kids, and kids are learning the very fundamental fact that cops are not bad people.

These officers are also able to keep an eye on drug traffic in the schools while keeping an eye on the kids. They talk to students, they talk to parents, they talk to teachers, and they all work together to keep our schools drug free.

People in South Dakota are working at every level to fight the war on drugs. Not long ago a 15 year old came to the attention of the South Dakota Juvenile System. She was running away from home, skipping school, using drugs and drinking.

But instead of just locking her up and then releasing her a few hours later, the State of South Dakota tried a new and novel approach. She was put in a treatment and counseling program. Shortly thereafter, she discovered she was pregnant. Counselors worked with her and with her family to help her quit drinking and taking drugs. She was then placed in a long-term counseling program. She had her baby and went on to live, with the supportive family members, who helped her through the recovery and counseling stages of the process. She went back to school and graduated.

Recently she and her baby showed up at the South Dakota Division of Alcohol and Drug Abuse to thank those very people for helping her to get her life back on track.

These people are trying new programs which bring judges, police officers, teachers, parents and problem children together to deal with the problem when it starts. Hopefully this young woman will go on to lead a productive and fulfilling life. The drug

war, I think we all have to keep in mind, is not going to be an easy war to win. But by bringing parents and children and communities together, we can work to keep drugs out of our communities and out of our children's lives.

I might also add that I think it is important and it has been mentioned previously this evening, that we have to somehow get the message through to our children before they make the decision to try and experiment with drugs. To do that, I think we have to let parents be parents and give them more time to spend with their kids.

We are working in a very intensive and conscious and deliberate way in this body as the Republican leadership to allow parents in this country to keep more of what they earn, so they do not spend all their time working three or four jobs, so they have more quality time to spend with their kids.

We tried to provide education tax incentives so that young people today will see hope and an opportunity to go to college, to go on, to continue their education and lead productive lives. Ultimately the best deterrent that we have for drug use in this country is the family. It is the family more than anything else, that helps us shape and define the values of our culture and of the next generation.

I believe, we need to continue to work at that level, in families, in churches, in communities with individuals, law enforcement people, working together, to try and discourage kids from experimenting with drugs in the first place. I look at my two young girls who are seven and ten, and the temptations that are out there today are pervasive, and they are something that is an incredible pressure that I believe all our young people have to deal with in a way we did not when I was growing up.

But even in our state of South Dakota we are seeing an increasing use. It is a problem which is drawing a considerable amount of attention all over this country, and I think that we need to look, again, into the areas that ultimately are going to be responsible for solving this problem, not some big government solution, but people working together in a constructive, practical, real way, that meets the needs of people where they are at.

I appreciate again the opportunity to discuss this issue this evening. It is a very important one to me, being a father, a parent of young children, who are entering that age of their lives when they are going to be faced with these pressures, and I know my good friend from Pennsylvania, Mr. PETERSON, feels very deeply about this. I would be happy at this point to yield to him.

Mr. PETERSON of Pennsylvania. Mr. Speaker, it is certainly, again, a privilege to say a few more things. I ran short of time here a while ago and didn't get to say some of the things I wanted to mention. I think one of the issues we face is that not all Americans, and especially in rural America, are willing to admit to the problem. I think everybody knows there is drug usage in our rural schools. I think everybody knows there is some drugs in our small towns. But I don't think they are willing to quite accept the immenseness of it, the gravity of it, how much of it is really going on there.

We really have a population across America of people raised in the sixties, and some of those people have never stopped using drugs. So here we have families raising children where drug use has never ceased since the sixties. They have continued to use some form of illegal drugs because they are hooked, and they have not admitted that it is a problem in their lives. But it is.

Last year, I visited a high school close to home, and was concerned about some information I had received about the availability of drugs within the block of the school, about the availability of drugs in the junior high school, and so when I made that visit, I questioned do you bring in dog teams, do you check lockers, do you really make sure that drugs are not kept here?

I was told in Pennsylvania, you cannot do that. It is different State by State. We have had a recent court case in Pennsylvania that has somewhat put the fear in the hearts of administrators and school principles, that they will be sued if they do that.

I am sort of an adventure type. I said I would get sued if it meant keeping drugs out of the school, making sure that every locker, you don't have to really search, you bring in a good dog and you will know if there are drugs in that school, what backpack they are in, what locker or desk they are in. That is just that easy. But that is not common practice in many schools.

I think sometimes school boards are, again, and school administrations, are not willing to admit, I know last year when I questioned sixth and seventh grade having the problem equally to junior high and senior high, I was disputed with that. But then last year, several young people in sixth grade were caught with drugs and were arrested and were prosecuted.

It is clear now. They are afraid of the ACLU. They are afraid of the legal community out there who is going to nail them. I think that is unfortunate. We somehow need to untie our superintendents', our administrators' hands, so they can take whatever means are necessary to make sure that weapons and drugs and stolen property is not being stored on school property.

I think in some cases young people can harbor those things easier in a school where searches are not done and dog teams are not brought in than they can at home, and that is very unfortunate. It is interesting. I was talking to a lady at a restaurant that I stopped at to pick up something on the way to the airport the other day coming in to session this week, and she said to me she closed her private airport in a little town of 1,000. The reason she closed it was too many small planes were coming in and big cars and she didn't know who they were meeting them. It was a little grass strip in the country, but she allowed people to use it. It was a licensed, legal airport, long enough and in a good location. She closed that airport because she had a sense that drugs were being delivered there.

They came in at the inappropriate times and they quickly sped away after they met the airplane and there were people who have since lobbied her that they sure miss that airport. With the small airports across America, it is very easy to fly a large amount of drugs into our communities very easily.

The other problem that rural communities face, and I am again speaking in a Pennsylvania perspective, more than once as a State Senator I brought the State strike force, the narc units in, and more than once they told the local police they would hang around a while to appease the Senator, but they were going back to the urban-suburban areas where they were really fighting the war on drugs. They didn't want to be in rural America.

I do not personally think in a lot of cases, small rural towns have the same ability. When you look at a small police force of 10 people, you cannot use them as narc agents. You cannot have them investigating in the school and places undercover with young people to find out or in the local pubs where drugs are often sold. You cannot have them, you have to have strangers, you have to have people who know what they are doing. It is a very dangerous business.

So I think another area we need to take a hard look at is, does rural America have the same ability to fight back that urban-suburban America has. I think some people think it is their problem; it is not ours, but I want to tell you, I think drug use is almost as prevalent in rural America today as is in urban-suburban America. That is my own personal view from my own experiences as a parent, as a grandparent, and as a community leader before I was involved in State and Federal Government.

It is an issue that I think we just have to start a war on drugs. We have never fought a war on drugs. We may have had a few skirmishes, a few arguments. We may have spent some resources, but when you look at how much resources, I will go back to something I was talking about earlier.

In the first days of this administration, the President cut the drug czar's office by more than 80 percent and the administration cut DEA by 227 agents. Total funding for drug interdiction in the Caribbean, that includes DOD, Coast Guard, Customs, DEA and the State, dropped by more than 40 percent from '92 to '95. However, the $1.6 billion the President recently requested for

interdiction is still less than the $2 billion spent by the previous administration in 1991.

I guess I would like to come back and include in my comments that Congressmen need to speak out, State leaders need to speak out, and this administration needs to speak out. We need to have a crystal clear voice to America that drugs are bad.

I know when I speak to youth groups, I tell them as straight as you can tell them, there is no upside to doing drugs; there is no win to doing drugs. It is a lose-lose-lose proposition.

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Until we get that message to our young people, until they understand that that good feeling they have for a few moments, that they are going to end up with a brain that is sub-par, they are going to end up with all kinds of health problems, and the juvenile suicide rate in this country is very much related to drugs and the abuse of drugs and alcohol.

I think we must always remember that the most abused drug in this country is alcohol. All of us have lost friends and loved ones to drugs, hard drugs, but we have lost many friends and associates to alcohol.

Mr. THUNE. Mr. Speaker, I thank the gentleman. I would simply add that this is, again, an important subject, one on which I think most of us agree we need to do something, and the current approaches have not worked very effectively.

Frankly, again, it is something where we need to work together. As the gentleman mentioned, I think, when he speaks to young people, one of the best jobs I have in this position is being able to talk to young people around this country about how important it is that they make decisions that are based upon something other than the temptation to use drugs.

I think as we, again, debate this, we have an opportunity. We have to be role models from the top down. People who are in public life, athletes, everybody else, has a responsibility in our culture to try and help define the values that our young people adopt. They are very impressionable at that age.

As I speak with young people in my State of South Dakota, that is something that is very important to me to be able to convey, a message that it is important that we establish a tone, set a tenor, where we discuss values, and where things like drug use are discouraged at a very early age, and we stop it at the point of decision. I think that is something that we have a very intense commitment to. I know the members of our class who have spoken here this evening are certainly interested in that subject.

CONFERENCE REPORT ON H.R. 2107, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. REGULA submitted the following conference report and statement on the bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–337)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107) ''making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1998, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 7, 13, 28, 30, 35, 40, 54, 61, 91, 95, 106, 131.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 10, 16, 18, 20, 25, 31, 33, 38, 39, 41, 44, 45, 46, 47, 48, 49, 52, 53, 56, 58, 59, 60, 62, 63, 64, 66, 71, 72, 73, 75, 76, 79, 85, 86, 92, 94, 100, 107, 112, 113, 116, 117, 119, 120, 122, 123, 125, 126, 127, 133, 135, 139, 140, 141, 145, 147, 148, 149, 154, 155, 159, 160, and 161; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$120,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,200,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$594,842,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *, and of which not to exceed $5,190,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended: Provided, That the proviso under this heading in Public Law 104-208 is amended by striking the words ''Education and'' and inserting in lieu thereof ''Conservation'', by striking the word ''direct'' and inserting in lieu thereof the word ''full'', and by inserting before the period '', to remain available until expended''*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$45,006,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,228,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: $62,632,000; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,700,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,233,664,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$44,259,000, of which $4,500,000 is for grants to Heritage areas in accordance with section 606 of title VI, division I and titles I–VI and VIII–IX, division II of Public Law 104–333 and is*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,812,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment insert: *$4,200,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$214,901,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment, insert: *: Provided, That $500,000 for the Rutherford B. Hayes Home; $600,000 for the Sotterly Plantation House; $500,000 for the Darwin Martin House in Buffalo, New York; $500,000 for the Penn Center, South Carolina; and $1,000,000 for the Vietnam Veterans Museum in Chicago, Illinois shall be*

derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided further, That $3,000,000 for the Hispanic Cultural Center, New Mexico, is subject to authorization: Provided further, That none of the funds provided in this Act may be used to relocate the Brooks River Lodge in Katmai National Park and Preserve from its current physical location; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$143,290,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$759,160,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$145,159,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$137,521,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$68,574,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,528,588,000*; and the Senate agree to the same. Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,949,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$67,514,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$63,665,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$33,907,000*; and the Senate agree to the same. Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 107. In fiscal year 1998 and thereafter, for those years in which the recreation fee demonstration program authorized in Public Law 104–134 is in effect, the fee collection support authority provided in 16 U.S.C. 460l–6(i)(1)(B) applies only to parks not included in the fee demonstration program, and that the amount retained under this authority to cover fee collection costs will not exceed those costs at the non-demonstration parks, or 15 percent of all fees collected at non-demonstration parks in a fiscal year whichever is less. Fee collection costs for parks included in the fee demonstration program will be covered by the fees retained at those parks.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 118. Any funds made available in this Act or any other Act for tribal priority allocations (hereinafter in this section ''TPA'') in excess of the funds expended for TPA in fiscal year 1997 (adjusted for fixed costs, internal transfers pursuant to other law, and proposed increases to formula driven programs not included in tribes' TPA base) shall only be available for distribution—

(1) to each tribe to the extent necessary to provide that tribe the minimum level of funding recommended by the Joint-Tribal/BIA/DOI Task Force on Reorganization of the Bureau of Indian Affairs Report of 1994 (hereafter ''the 1994 Report'') not to exceed $160,000 per tribe; and

(2) to the extent funds remain, such funds will be allocated according to the recommendations of a task force comprised of 2 designated Federal officials and 2 tribal representatives from each BIA area. These representatives shall be selected by the Secretary after considering a list of names of tribal leaders nominated and elected by the tribes in each area. The list of nominees shall be provided to the Secretary by October 31, 1997. If the tribes in an area fail to submit a list of nominees to the Secretary by October 31, 1997, the Secretary shall select representatives after consulting with the BIA. In determining the allocation of remaining funds, the Task Force shall consider the recommendations and principles contained in the 1994 Report. If the Task Force cannot agree on a distribution by January 31, 1998, the Secretary shall distribute the remaining funds based on the recommendations of a majority of Task Force members no later than February 28, 1998. If a majority recommendation cannot be reached, the Secretary in exercising his discretion shall distribute the remaining funds considering the recommendations of the Task Force members.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 120. Notwithstanding any other provision of law, 90 days after enactment of this section there is hereby vested in the United States all right, title and interest in and to, and the right of immediate possession of, all patented mining claims and valid unpatented mining claims (including any unpatented claim whose validity is in dispute, so long as such validity is later established in accordance with applicable agency procedures) in the area known as the Kantishna Mining District within Denali National Park and Preserve, for which all current owners (or the bankruptcy trustee as provided hereafter) of each such claim (for unpatented claims, ownership as identified in recordations under the mining laws and regulations) consent to such vesting in writing to the Secretary of the Interior within said 90-day period: Provided, That in the case of a mining claim in the Kantishna Mining District that is involved in a bankruptcy proceeding, where the bankruptcy trustee is a holder of an interest in such mining claim, such consent may only be provided and will be deemed timely for purposes of this section if the trustee applies within said 90-day period to the bankruptcy court or any other appropriate court for authority to sell the entire mining claim and to consent to the vesting of title to such claim in the United States pursuant to this section, and that in such event title in the entire mining claim shall vest in the United States 10 days after entry of an unstayed, final order or judgment approving the trustee's application: Provided further, That the United States shall pay just compensation to the aforesaid owners of any valid claims to which title has vested in the United States pursuant to this section, determined as of the date of taking: Provided further, That payment shall be in the amount of a negotiated settlement of the value of such claim or the valuation of such claim awarded by judgment, and such payment, including any deposits in the registry of the court, shall be made solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, and shall include accrued interest on the amount of the agreed settlement value or the final judgment from the date of taking to the date of payment, calculated in accordance with section 258a, title 40, United States Code: Provided further, That the United States or a claim owner or bankruptcy trustee may initiate proceedings after said 90-day period, but no later than six years after the date of enactment of this section, seeking a determination of just compensation in the District Court for the District of Alaska pursuant to the Declaration of Taking Act, sections 258a–e of title 40, United States Code (except where inconsistent with this section), and joining all owners of the claim: Provided further, That when any such suit is instituted by the United States or the owner or bankruptcy trustee, the United States shall deposit as soon as possible in the registry of the court the estimated just compensation, in accordance with the procedures generally described in section 258a of title 40, United States Code, not otherwise inconsistent with this section: Provided further, That in establishing any estimate for deposit in the court registry (other than an estimate based on an agency approved appraisal made prior to the date of enactment of this Act) the Secretary of the Interior shall permit the claim owner to present information to the Secretary on the value of the claim, including potential mineral value, and the Secretary shall consider such information and permit the claim owner to have a reasonable and sufficient opportunity to comment on such estimate: Provided further, That the estimated just compensation deposited in the court registry shall be paid forthwith to the aforesaid owners upon application to the court: Provided further, That any payment from the court registry to the aforesaid owners shall be deducted from any negotiated settlement or award by judgment: Provided further, That the United States may not request the court to withhold any payment from the court registry for environmental remediation with respect to such claim: Provided further, That the Secretary shall not allow any unauthorized use of claims acquired pursuant to this section after the date title vests in the United States pursuant to this section, and the Secretary shall permit the orderly termination of all operations on the lands and the removal of equipment, facilities, and personal property by claim owners or bankruptcy trustee (as appropriate).

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, amended as follows:

Before the period at the end of the amendment, insert: *and by inserting at the end of the section the following new sentence: ''If such litigation is commenced, at the court trial, any party may introduce any relevant evidence bearing on the interpretation of the 1976 agreement.''*

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 122. (a) KODIAK LAND VALUATION.—Notwithstanding the Refuge Revenue Sharing Act (16 U.S.C. 715s) or any regulations implementing such Act, the fair market value for the initial computation of the payment to Kodiak Island Borough pursuant to such Act shall be based on the purchase price of the parcels acquired from Akhiok-Kaguyak, Incorporated, Koniag, Incorporated, and the Old Harbor Native Corporation for addition to the Kodiak National Wildlife Refuge.

(b) The fair market value of the parcels described in subsection (a) shall be reappraised by the Alaska Region of the United States Fish and Wildlife Service under the Refuge Revenue Sharing Act (16 U.S.C. 715s). Any such reappraisals shall be made in accordance with such Act and any other applicable law and regulation, and shall be effective for any payments made in fiscal year 1999.

(c) The fair market value computation required under subsection (a) shall be effective as of the date of the acquisition of the parcels described is such subsection.

And the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 123. ASSESSMENT OF FEES.—

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717 (a)) is amended—

(1) in paragraph (1), by striking ''class II gaming activity'' and inserting ''gaming operation that conducts a class II or class III gaming activity''; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), by striking ''no less than 0.5 percent nor'' and inserting ''no''; and

(B) in subparagraph (B), by striking ''$1,500,000'' and inserting ''$8,000,000''.

(C) nothing in subsection (a) of this section shall apply to self-regulated tribes such as the Mississippi Band of Choctaw.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended—

(1) in subsection (a), by striking ''such sums as may be necessary'' and inserting ''for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a) for the fiscal year immediately preceding the fiscal year involved,''; and

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

''(b) Notwithstanding section 18, there are authorized to be appropriated to fund the operation of the Commission, $2,000,000 for fiscal year 1998, and $2,000,000 for each fiscal year thereafter. The amounts authorized to be appropriated in the preceding sentence shall be in addition to the amounts authorized to be appropriated under subsection (a).''.

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 127. For the sole purpose of accessing park or other authorized visitor services or facilities at, or originating from, the public dock area at Bartlett Cove, the National Park Service shall initiate a competitive process by which the National Park Service shall allow one-entry per day for a passenger ferry into Bartlett Cove from Juneau: Provided, That any passenger ferry allowed entry pursuant to this Act shall be subject to speed, distance from coast lines, and other limitations imposed necessary to protect park resources: Provided further, That nothing in this Act shall be construed as constituting approval for entry into the waters of Glacier Bay National Park and Preserve beyond the immediate Bartlett Cove area as defined by a line extending northeastward from Pt. Carolus to the west to the southernmost point of Lester Island, absent required permits.

And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 131. No funds provided in this or any other Act may be expended for the promulgation of a proposed or final rule to amend or replace the National Indian Gaming Commission's definition regulations located at 25 CFR 502.7 and 502.8.

And the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 132. Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service.

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 134. CONVEYANCE OF CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN CLARK COUNTY, NEVADA.—

(a) FINDINGS.—Congress finds that—

(1) certain landowners who own property adjacent to land managed by the Bureau of Land Management in the North Decatur Boulevard area of Las Vegas, Nevada, bordering on North Las Vegas, have been adversely affected by certain erroneous private land surveys that the landowners believed were accurate;

(2) the landowners have occupied or improved their property in good faith reliance on the erroneous surveys of the properties;

(3) the landowners believed that their entitlement to occupancy was finally adjudicated by a Judgment and Decree entered by the Eighth Judicial District Court of Nevada on October 26, 1989;

(4) errors in the private surveys were discovered in connection with a dependent resurvey and section subdivision conducted by the Bureau of Land Management in 1990, which established accurate boundaries between certain federally owned properties and private properties; and

(5) the Secretary has authority to sell, and it is appropriate that the Secretary should sell, based on an appraisal of the fair market value as of December 1, 1982, the properties described in section 2(b) to the adversely affected landowners.

(b) CONVEYANCE OF PROPERTIES.—

(1) PURCHASE OFFERS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas, Nevada, on behalf of the owners of real property located adjacent to the properties described in paragraph (2), may submit to the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this Act as the ''Secretary''), a written offer to purchase the properties.

(B) INFORMATION TO ACCOMPANY OFFER.—An offer under subparagraph (A) shall be accompanied by—

(i) a description of each property offered to be purchased;

(ii) information relating to the claims of ownership of the property based on an erroneous land survey; and

(iii) such other information as the Secretary may require.

(2) DESCRIPTION OF PROPERTIES.—The properties described in this paragraph, containing 37.36 acres, more or less, are—

(A) Government lots 22, 23, 26, and 27 in sec. 18, T. 19 S., R. 61 E., Mount Diablo Meridian;

(B) Government lots 20, 21, and 24 in sec. 19, T. 19 S., R. 61 E., Mount Diablo Meridian; and

(C) Those lands encroached upon in Government lot 1 in sec. 24, T. 19 S., R. 60 E., Mount Diablo Meridian, containing approximately 8 acres.

(3) CONVEYANCE.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the Secretary shall convey subject to valid existing rights to the city of Las Vegas, Nevada, all right, title, and interest of the United States in and to the properties offered to be purchased under paragraph (1) on payment by the city of the fair market value of the properties, based on an appraisal of the fair market value as of December 1, 1982, approved by the Secretary.

(B) CONDITION.—Properties shall be conveyed under subparagraph (A) subject to the condition that the city convey the properties to the landowners who were adversely affected by reliance on erroneous surveys as described in subsection (a).

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 135. (a) Notwithstanding any other provision of law, the Secretary of the Interior is directed to accept full title to approximately 84 acres of land located in Prince Georges County, Maryland, adjacent to Oxon Cove Park, and bordered generally by the Potomac River, Interstate 295 and the Woodrow Wilson Bridge, and in exchange therefor shall convey to the Corrections Corporation of America all of the interest of the United States in approximately 42 acres of land located in Oxon Cove Park in the District of Columbia, and bordered generally by Oxon Cove, Interstate 295 and the District of Columbia Impound Lot.

(b) The Secretary shall not acquire any lands under this section if the Secretary determines tha the lands or any portion thereof have become contaminated with hazardous substances

(as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(c) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this section after their transfer to any party, but nothing in this section shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party: Provided, that the Corrections Corporation of America shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601) and the Resource Conservation Recovery Act (42 U.S.C. 9601, et seq.).

(d) The properties so exchanged shall be equal in fair market value or if they are not approximately equal, the Corrections Corporation of America shall equalize the values by the payment of cash to the Secretary and any such payments shall be deposited to credit of ''Miscellaneous Trust Funds, National Park Service'' and shall be available without further appropriation until expended for the acquisition of land within the National Park System. No equalization shall be required if the value of the property received by the Secretary is more than that transferred by the Secretary.

(e) Costs of conducting necessary land surveys, preparing the legal descriptions of the lands to be conveyed, appraisals, deeds, other necessary documents, and administrative costs shall be borne by the Corporation. The required appraisals shall be conducted in accordance with 43 C.F.R. §2201.3–1, §2201.3–3 and §2201.3–4.

(f) Following any exchange authorized by this provision, the boundaries of the Park System of the Nation's Capital are hereby amended to reflect the property added to and deleted from that System.

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 136. The National Park Service shall, within 30 days of enactment of this Act, begin negotiations with the University of Alaska Fairbanks, School of Mineral Engineering, to determine the compensation that shall be paid by the National Park Service, within funds appropriated to the National Park Service in this Act, or within unobligated balances of funds appropriated in prior Appropriations Acts, to the University of Alaska Fairbanks, School of Mineral Engineering, for facilities, equipment, and interests owned by the University that were destroyed by the Federal Government at the Stampede Mine Site within the boundaries of Denali National Park and Preserve: Provided, That if the National Park Service and the University of Alaska Fairbanks, School of Mineral Engineering, fail to reach a negotiated settlement within 90 days of commencing negotiations, then the National Park Service shall submit a formal request to the Director of the Office of Hearings and Appeals, Department of the Interior, for the purpose of entering into third-party mediation to be conducted in accordance with the Department of the Interior's final policy applicable to alternative dispute resolution: Provided further, That any payment made by the National Park Service to the University of Alaska Fairbanks, School of Mineral Engineering, shall fully satisfy the claims of the University of Alaska Fairbanks, School of Mineral Engineering; and that the University of Alaska Fairbanks, School of Mineral Engineering, shall convey to the Secretary of the Interior all property rights in such facilities, equipment and interests: Provided further, That the Secretary of the Army shall provide, at no cost, two six by six vehicles, in excellent operating condition, or equivalent equipment to the University of Alaska Fairbanks, School of Mineral Engineering, and shall construct a bridge across the Bull River to the Golden Zone Mine Site to allow ingress and egress for the activities conducted by the School of Mineral Engineering.

And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$187,944,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$161,237,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,348,377,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: after the words ''design costs'' in said amendment insert: *: Provided further, That any such project must be approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 105–163*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$584,707,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$166,045,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$52,976,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,250,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$750,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

No funds appropriated under this or any other Act for the purpose of operations conducted at the Forest Service Region 10 headquarters, including those funds identified for centralized field costs for employees of this office, shall be obligated or expended in excess of $17,500,000 from the total funds appropriated for Region 10, without 60 days prior notice to Congress. Funds appropriated by this Act to implement the Revised Tongass National Forest Land Management Plan, shall be spent and obligated at the Forest Supervisor and Ranger District levels, with the exception of specific management and oversight expenses, provided such expenses are included in the funding ceiling of $17,500,000.

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$362,403,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$611,723,000;* and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$155,095,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$124,845,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,250,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et. seq.), $207,500,000, to remain available until expended, of which $207,500,000 shall be repaid from the ''SPR Operating Fund'' from amounts made available from the sale of oil from the Reserve: Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1998 $207,500,000 worth of oil from the Strategic Petroleum Reserve: Provided further, That

the proceeds from the sale shall be deposited into the ''SPR Operating Fund'', and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,841,074,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$361,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That not to exceed $168,702,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Indian Health Service prior to fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975, as amended*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in the matter restored insert: *$257,538,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,250,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$333,408,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,192,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$81,240,000* ; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,280,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Sec. 316. SUBSISTENCE HUNTING AND FISHING IN ALASKA.—

(a) MORATORIUM ON FEDERAL MANAGEMENT.—None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act hereafter enacted may be used prior to December 1, 1998 to issue or implement final regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

(b) AMENDMENTS TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—

(1) AMENDMENT OF ANILCA.—Except as otherwise expressly provided, whenever in this subsection an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(2) DEFINITIONS.—Section 102(2) (16 U.S.C. 3102(2)) is amended to read as follows:

''(2) The term 'Federal land' means lands the title to which is in the United States after December 2, 1980. ''Federal land'' does not include lands the title to which is in the State, a Native Corporation, or other private ownership.''.

(3) FINDINGS.— Section 801 (16 U.S.C. 3111) is amended—

(A) by inserting ''(a)'' immediately before ''The Congress finds and declares'; and

(B) by inserting at the end the following new subsection:

''(b) The Congress finds and declares further that—

''(1) subsequent to the enactment of this Act in 1980, the subsistence law of the State of Alaska (AS 16.05) accomplished the goals of Congress and requirements of this Act in providing subsistence use opportunities for rural residents of Alaska, both Native and non-Native;

(2) the Alaska subsistence law was challenged in Alaska courts, and the rural preference requirement in the law was found in 1989 by the Alaska Supreme Court in McDowell v. State of Alaska (785 P.2d 1, 1989) to violate the Alaska Constitution;

''(3) since that time, repeated attempts to restore the validity of the State law through an amendment to the Alaska Constitution have failed, and the people of Alaska have not been given the opportunity to vote on such an amendment;

''(4) in accordance with title VIII of this Act, the Secretary of the Interior is required to manage fish and wildlife for subsistence uses on all public lands in Alaska because of the failure of State law to provide a rural preference;

''(5) the Ninth Circuit Court of Appeals determined in 1995 in State of Alaska v. Babbitt (73 F.3d 698) that the subsistence priority required on public lands under section 804 of this Act applies to navigable waters in which the United States has reserved water rights as identified by the Secretary of the Interior;

''(6) management of fish and wildlife resources by State governments has proven successful in all 50 states, including Alaska, and the State of Alaska should have the opportunity to continue to manage such resources on all lands, including public lands, in Alaska in accordance with this Act, as amended; and

(7) it is necessary to amend portions of this Act to restore the original intent of Congress to protect and provide for the continued opportunity for subsistence uses on public lands for Native and non-Native rural residents through the management of the State of Alaska.''.

(4) TITLE VIII DEFINITIONS.—Section 803 (16 U.S.C. 3113) is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period and inserting a semicolon at the end of paragraph (2); and

(C) by inserting at the end the following new paragraphs:

''(3) 'customary and traditional uses' means the noncommercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established over a reasonable period of time, taking into consideration the availability of the fish and wildlife;

''(4) 'customary trade' means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and

''(5) 'rural Alaska resident' means a resident of a rural community or area. A 'rural community or area' means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.''.

(5) PREFERENCE FOR SUBSISTENCE USES.—Section 804 (16 U.S.C. 3114) is amended—

(A) by inserting ''(a)'' immediately before the first sentence; and

(B) by inserting at the end the following new subsection:

''(b) The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term 'reasonable opportunity' means an opportunity, consistent with customary and traditional uses (as defined in section 803(3)), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guarantee that fish and wildlife will be taken.''.

(6) LOCAL AND REGIONAL PARTICIPATION.—Section 805 (16 U.S.C. 3115) is amended—

(A) in subsection (a) by striking ''one year after the date of enactment of this Act,''; and

(B) by amending subsection (d) to read as follows:

''(d)(1) Upon certification by the Secretary that the State has enacted and implemented laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805, the Secretary shall not implement subsections (a), (b), and (c) of this section, and the State may immediately assume management for the taking of fish and wildlife on the public lands for subsistence uses pursuant to this title. Upon assumption of such management by the State, the Secretary shall not implement subsections (a), (b), and (c) of this section unless a court of competent jurisdiction determines that such laws have been repealed, modified, or implemented in a way that is inconsistent with, or does not provide for, the definition, preference, and participation specified in sections 803, 804, and 805, or that the State has failed to cure any such inconsistency after such determination. The State laws shall otherwise supercede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. The Secretary may bring a judicial action to enforce this subsection.

''(2)(A) Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses.

The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

''(B) The members of each regional advisory council established under this subsection shall be appointed by the Governor of Alaska. Each council shall have ten members, four of whom shall be selected from nominees who reside in the region submitted by tribal councils in the region, and six of whom shall be selected from nominees submitted by local governments and local advisory committees. Three of these six shall be subsistence users who reside in the subsistence resource region and three shall be sport or commercial users who may be residents of any subsistence resource region. Regional council members shall have staggered terms of three years in length, with no limit on the number of terms a member may serve. A quorum shall be a majority of the members of the council.''.

(7) JUDICIAL ENFORCEMENT.—Section 807 (16 U.S.C. 3117) is amended by inserting the following as subsection (b):

''(b) State agency actions may be declared invalid by the court only if they are arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law. When reviewing any action within the specialized knowledge of a State agency, the court shall give the decision of the State agency the same deference it would give the same decision of a comparable federal agency.''.

(8) REGULATIONS.—Section 814 (16 U.S.C. 3124) is amended—

(A) by inserting '', and the State at any time the State has complied with section 805(d)'' after ''Secretary''; and

(B) by adding at the end the following new sentence: ''During any time that the State has complied with section 805 (d), the Secretary shall not make or enforce regulations implementing sections 805 (a), (b), or (c).''.

(9) LIMITATIONS, SAVINGS CLAUSES.—Section 815 (16 U.S.C. 3125) is amended—

(A) by striking ''or'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and ''or''; and

(C) by inserting at the end the following new paragraph:

''(5) prohibiting the Secretary or the State from entering into co-management agreements with Native organizations or other local or regional entities when either is managing fish and wildlife on public lands in Alaska for subsistence uses.''.

(c) SAVINGS CLAUSE.—No provision of this section, amendment made by this section, or exercise of authority pursuant to this section may be construed to validate, invalidate, or in any way affect—

(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska;

(2) any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist within the boundaries of the State of Alaska;

(3) any assertion that the Alaska National Interest Lands Conservation Act, as amended, (16 U.S.C. 3101 et seq.) is or is not Indian law; or

(4) the authority of the Secretary of the Interior under section 1314(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202(c)).

(d) EFFECTIVE DATE.—Unless and until laws are adopted in the State of Alaska which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), the amendments made by subsection (b) of this section shall be effective only for the purposes of determining whether the State's laws provide for such definition, preference, and participation. The Secretary shall certify before December 1, 1998 if such laws have been adopted in the State of Alaska. Subsection (b) shall be repealed on such date if such laws have not been adopted.

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 317. Section 909(b)(2) of Division II, Title IX of P.L. 104–333 is hereby amended to delete the sentence which reads ''For technical assistance pursuant to section 908, not more than $50,000 annually.''.

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture that exceeds the funding provided for these activities from this Act during fiscal year 1997.

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

Before the final period in the matter restored insert: *; and amend section 315(c)(1), subsection (C) as follows: after the words ''the Fish and Wildlife Service'', insert ''and the National Park Service''*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 323. (a) Prior to the completion of any decision document or the making of any decision related to the final Environmental Impact Statements (hereinafter ''final EISs'') associated with the Interior Columbia Basin Ecosystem Project (hereinafter the ''Project''), the Secretary of Agriculture and the Secretary of the Interior shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report that shall include:

(1) a detailed description of any and all land and resource management planning and policy or project decisions to be made, by type and by the level of official responsible, and the procedures for such decisions to be undertaken, by the Forest Service, Bureau of Land Management, and Fish and Wildlife Service pursuant to the National Forest Management Act, Federal Land Policy and Management Act, Endangered Species Act, National Environmental Policy Act and any other applicable law in order to authorize and implement actions affecting the environment on Federal lands within the jurisdiction of either Secretary in the Project area that are consistent with the final EISs;

(2) a detailed estimation of the time and cost (for all participating federal agencies) to accomplish each decision described in paragraph (1), from the date of initiation of preparations for, to the date of publication or announcement of, the decision, including a detailed statement of the source of funds for each such decision and any reprogramming in fiscal year 1998;

(3) estimated production of goods and services from each unit of the Federal lands for the first 5 years during the course of the decision making described in paragraph (1) beginning with the date of publication of the applicable final EIS; and

(4) if the requirements described in paragraphs (1) through (3) cannot be accomplished within the appropriations provided in this Act, adjusted only for inflation, in subsequent fiscal years and without any reprogramming of such appropriations, provide a detailed description of the decision making process that will be used to establish priorities in accordance with such appropriations.

(b) Using all research information available from the area encompassed by the Project, the Secretaries, to the extent practicable, shall analyze the economic and social conditions, and culture and customs, of the communities at the sub-basin level within the Project area and the impacts the alternatives in the draft EISs will have on those communities. This analysis shall be published on a schedule that will allow a reasonable period of time for public comment thereon prior to the close of the comment periods on the draft EISs. The analysis, together with the response of the Secretaries to the public comment, shall be incorporated in the final EISs and, subject to subsection (a), subsequent decisions related thereto.

(c) Nothing in this section shall be construed as altering or affecting in any manner any provision of applicable land or resource management plans, PACFISH, INFISH, Eastside screens, and other policies adopted by the Forest Service or Bureau of Land Management prior to the date of enactment of this Act to protect wildlife, watershed, riparian, and other resources of the Federal lands.

And the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 326. (a) Notwithstanding any other provision of law, after September 30, 1997 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.), with any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to August 27, 1997, or to prohibit the renewal of any such agreement.

(c) The General Accounting Office shall conduct a study of the impact of contracting and compacting by the Indian Health Service under Public Law 93-638 with Alaska Native villages and Alaska Native village corporations for the

provision of health care services by Alaska Native regional corporation health care entities. The General Accounting Office shall submit the results of that study to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives by June 1, 1998.

(d) Section 1004 of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3956) is amended—

(1) in subsection (a) by striking ''for use as a health or social services facility'' and insert in lieu thereof ''for sale or use other than for a facility for the provision of health programs funded by the Indian Health Service (not including any such programs operated by Ketchikan Indian Corporation prior to 1993)';and

(2) by striking subsection (c).

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 327. None of the funds made available by this Act may be used to require any person to vacate real property where a term is expiring under a use and occupancy reservation in Sleeping Bear Dunes National Lakeshore until such time as the National Park Service (NPS) indicates to the appropriate Congressional Committees and the holders of these reservations that it has sufficient funds to remove the residence on that property within 90 days of that residence being vacated. The NPS will provide at least 90 days notice to the holders of expired reservations to allow them time to leave the residence. The NPS will charge fair market value rental rates while any occupancy continues beyond an expired reservation. Reservation holders who stay beyond the expiration date will also be required to pay for appraisals to determine current fair market value rental rates, any rehabilitation needed to ensure suitability for occupancy, appropriate insurance, and all continuing utility costs.

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 328. (a) None of the funds made available in this Act or any other Act providing appropriations for the Department of the Interior, the Forest Service or the Smithsonian Institution may be used to submit nominations for the designation of Biosphere Reserves pursuant to the Man and Biosphere program administered by the United Nations Educational, Scientific, and Cultural Organization.

(b) The provisions of this section shall be repealed upon enactment of subsequent legislation specifically authorizing U.S. participation in the Man and Biosphere program.

And the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997, or having been court-ordered to revise, are exempt from this section and may utilize funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.

And the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the five year program under the Forest and Rangeland Renewable Resources Planning Act.

And the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After ''fiscal year 1998'', delete ''and each year thereafter''; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After the word ''may'', delete the word ''hereafter'', and insert in lieu thereof: ''*, until September 30, 2000,*''; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 340. (a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

(d) During this two year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967, commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the Site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

(k) Notwithstanding the processes involved with the National Environmental Policy Act and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 341. The National Wildlife Refuge in Jasper and Marion Counties, Iowa, authorized in Public Law 101–302 shall be referred to in any law, regulation, documents or record of the United States in which such project is referred to, as the Neal Smith National Wildlife Refuge.

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

After ''July 1997'' in said amendment insert: ''*and issuing a Record of Decision*''; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 343. The Secretary of Agriculture shall hereafter phase in, over a 3 year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee, provided that no recreation

residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: Provided, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

At the end of the amendment insert:

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1); and

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act.

(e) Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended to read as follows:

''(b) APPOINTMENT AND COMPOSITION OF COUNCIL.—(1) The Council shall be composed of members as follows:

''(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

''(B) Members of Congress appointed for a 2 year term beginning on January 1 of each odd-numbered year as follows:

''(i) 2 Members of the House of Representatives appointed by Speaker of the House of Representatives.

''(ii) 1 Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

''(iii) 2 Senators appointed by the Majority Leader of the Senate.

''(iv) 1 Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex-officio and shall be nonvoting members of the Council.

''(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

''(i) from among private citizens of the United States who—

''(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts; and

''(II) have established records of distinguished service, or achieved eminence, in the arts;

''(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

''(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

''(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

''(A) Notwithstanding paragraph (b)(1)(B), members first appointed pursuant to such paragraph shall be appointed not later than December 31, 1997. Notwithstanding such paragraph, such members shall be appointed to serve until December 31, 1998.

''(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new Members shall not be appointed under subsection (b)(1)(C) until the number of Presidentially appointed members is less than 14.''.

(f) Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended—

(1) by inserting ''appointed under subsection (b)(1)(C)'' after ''member'' each place it appears, and

(2) in the second sentence by inserting ''appointed under subsection (b)(1)(C)'' after ''members''.

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

SEC. 347. No timber sale in Region 10 shall be advertised which, when using domestic Alaska western red cedar selling values and manufacturing costs, fails to provide at least 60 percent of normal profit and risk of the appraised timber, except at the written request by a prospective bidder. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 1998, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan which provides greater than 60 percent of normal profit and risk at the time of the sale advertisement, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at domestic rates. Should Region 10 sell, in fiscal year 1998, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan meeting the 60 percent of the normal profit and risk standard at the time of advertisement, the volume of western red cedar available to domestic processors at domestic rates in the contiguous 48 states shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported and sold at export rates at the election of the timber sale holder. All Alaska yellow cedar may be sold at export rates at the election of the timber sale holder.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 348. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert:

TITLE IV—ENVIRONMENTAL IMPROVEMENT AND RESTORATION FUND

(a) One half of the amounts awarded by the Supreme Court to the United States in the case of United States of America v. State of Alaska (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the ''Environmental Improvement and Restoration Fund'' (referred to in this section as the ''Fund'').

(b) INVESTMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligations acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest earned from investments of the Fund shall be covered into and form a part of the Fund.

(c) TRANSFER AND AVAILABILITY OF AMOUNTS EARNED.— EACH YEAR, INTEREST EARNED AND COVERED INTO THE FUND IN THE PREVIOUS FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION, TO THE EXTENT PROVIDED IN THE SUBSEQUENT APPROPRIATIONS ACTS, AS FOLLOWS:

(1) 80 percent of such amounts shall be made available to be equally divided among the Directors of the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Chief of the Forest Service for high priority deferred maintenance and modernization of facilities that directly enhance the experience of visitors, including natural, cultural, recreational, and historic resources protection projects in National Parks, National Wildlife Refuges, and the public lands respectively as provided in subsection (d) and for payment to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field. The Secretary shall submit with the annual budget submission to Congress a list of high priority maintenance and modernization projects for Congressional consideration.

(2) 20 percent of such amounts shall be made available to the Secretary of Commerce for the purpose of carrying out marine research activities in the North Pacific in accordance with subsection (e).

(d) PROJECTS.—A project referred to in paragraph (c)(1) shall be consistent with the laws governing the National Park System, the National Wildlife Refuge System, the public lands and Forest Service lands and management plan for such unit.

(e) MARINE RESEARCH ACTIVITIES.—(1) Funds available under subsection (C)(2) shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).

(2) Research priorities and grant requests shall be reviewed and recommended for Secretarial approval by a board to be known as the

North Pacific Research Board (referred to in this subsection as the ''Board''). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts designed to address pressing fishery management or marine ecosystem information needs.

(3) The Board shall be comprised of the following representatives or their designees—

(A) the Secretary of Commerce, who shall be a co-chair of the Board;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Commandant of the Coast Guard;

(E) the Director of the Office of Naval Research;

(F) the Alaska Commissioner of Fish and Game, who shall also be a co-chair of the Board;

(G) the Chairman of the North Pacific Fishery Management Council;

(H) the Chairman of the Arctic Research Commission;

(I) the Director of the Oil Spill Recovery Institute;

(J) the Director of the Alaska SeaLife Center;

(K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom shall represent academia, and one of whom shall represent oil and gas interests;

(L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and

(M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.

The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three year terms, and may be reappointed.

(4)(A) The Secretary of Commerce shall review and administer grants recommended by the Board. If the Secretary does not approve a grant recommended by the board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.

(B) Grant recommendations and other decisions of the Board shall be by majority vote, with each member having one vote. The Board shall establish written criteria for the submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for the purposes of section 302(i)(1) of such Act, and the other procedural matters applicable to advisory panels under section 302(i) of such Act shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board. Not more than 5 percent of the funds provided to the Secretary of Commerce under paragraph (10 may be used to provide support for the Board and administer grants under this subsection.

(f) SUNSET.—If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1998, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.

And the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

For priority land acquisitions, land exchange agreements, other activities consistent with the Land and Water Conservation Fund Act of 1965, as amended, and critical maintenance to be conducted by the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, $699,000,000, to be derived from the Land and Water Conservation Fund notwithstanding any other provision of law, to remain available until September 30, 2001, of which $167,000,000 is available to the Secretary of Agriculture and $532,000,000 is available to the Secretary of the Interior: Provided, That of the funds made available to the Secretary of Agriculture, not to exceed $65,000,000 may be used to acquire interests to protect and preserve Yellowstone National Park, pursuant to the terms and conditions set forth in sections 502 and 504 of this title, and $12,000,000 may be used for the rehabilitation and maintenance of the Beartooth Highway pursuant to section 502 of this title: Provided further, That of the funds made available to the Secretary of the Interior, not to exceed $250,000,000 may be used to acquire interests to protect and preserve the Headwaters Forest, pursuant to the terms and conditions set forth in sections 501 and 504 of this title, and $10,000,000 may be used for a direct payment to Humboldt County, California pursuant to section 501 of this title: Provided further, That the Secretary of the Interior and the Secretary of Agriculture, after consultation with the heads of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, shall, in fiscal year 1998 and each of the succeeding three fiscal years, jointly submit to Congress a report listing the lands and interests in land that the Secretaries propose to acquire or exchange and the maintenance requirements they propose to address using funds provided under this heading for purposes other than the purposes of sections 501 and 502 of this title: Provided further, That none of the funds appropriated under this heading for purposes other than the purposes of sections 501 and 502 of this title shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a list of projects to be undertaken with such funds: Provided further, That monies provided in this title, when combined with monies provided by other titles in this Act, shall, for the purposes of section 205(a) of H. Con. Res. 84 (105th Congress), be considered to provide $700,000,000 in budget authority for fiscal year 1998 for Federal land acquisitions and to finalize priority land exchanges.

SEC. 501. HEADWATERS FOREST AND ELK RIVER PROPERTY ACQUISITION.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the ''Headwaters Forest'', approximately 1,125 acres referred to as the ''Elk Head Forest'', and approximately 9,600 acres referred to as the ''Elk River Property'', which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter ''United States''), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled ''Dependent Resurvey and Tract Survey'', as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the ''Headwaters Forest''. Any funds appropriated by the Federal government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) EFFECTIVE PERIOD OF AUTHORIZATION.—The authorization in subsection (a) expires March 1, 1999 and shall become effective only—

(1) when the State of California provides a $130,000,000 contribution for the transaction;

(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;

(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96–257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96–CS–1057 (Cal. Super. Ct.);

(4) when the incidental take permit under Section 10(a) of the Endangered Species Act (based upon a multi-species Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;

(5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;

(6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;

(7) after an environmental impact statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969; and

(8) when adequate provision has been made for public access to the property.

(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in section 501(a) may differ from the value contained in the appraisal required by section 501(b)(5) if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) HABITAT CONSERVATION PLAN.

(1) APPLICABLE STANDARDS.—Within 60 days after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act and any other species used to develop the habitat conservation plan (hereinafter ''HCP'') and the section 10(a) incidental take permit for the Pacific Lumber Company land.

(2) REPORT.—If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act for the transaction authorized by subsection (a), and the permit is not issued, then the U.S. Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP STANDARDS.—If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multi-species HCPs than would otherwise be established under existing law.

(e) PAYMENT TO HUMBOLDT COUNTY.—Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a $10,000,000 direct payment to Humboldt County, California.

(f) PAYMENT IN LIEU OF TAXES.—The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31 of the United States Code.

(g) OUT-YEAR BUDGET LIMITATIONS.—The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a)—

(1) At least fifty percent of the total funds for management of such lands above the annual level of $100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-federal sources.

(2) Subject to appropriations, the authorized annual federal funding for management of such land is $300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other non-governmental entities for the purpose of management of the Headwaters Forest.

(h) HEADWATERS FOREST MANAGEMENT TRUST.—The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust (''Trust'') for the management of the Headwaters Forest as follows:

(1) MANAGEMENT AUTHORITY.—The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first set of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be non-voting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) OPERATIONS.—The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) MANAGEMENT PLAN.—

(1) IN GENERAL—A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) PLAN.—The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) COMPLIANCE.—The National Environmental Policy Act shall apply to the development and implementation of the management plan.

(j) COOPERATIVE MANAGEMENT.—

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate state lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal or state employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

SEC. 502. PROTECTION AND PRESERVATION OF YELLOWSTONE NATIONAL PARK—ACQUISITION OF CROWN BUTTE MINING INTERESTS.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $65,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park.

(b) CONDITIONS OF ACQUISITION AUTHORITY.—The Secretary of Agriculture may not acquire the District Property until:

(1) the parties to the Agreement have entered into and lodged with the United States District Court for the District of Montana a consent decree as required under the Agreement that requires, among other things, Crown Butte to perform response or restoration actions (or both) or pay for such actions in accordance with the Agreement;

(2) an appraisal of the District Property has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations;

(3) after the Secretary of Agriculture issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations for the land and property to be acquired by the Federal government; and

(4) the applicable requirements of the National Environmental Policy Act have been met.

(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park may exceed the value contained in the appraisal required by section 502(b)(2) if the Secretary of Agriculture certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) DEPOSIT IN ACCOUNT.—Immediately upon receipt of payments from the United States, Crown Butte shall deposit $22,500,000 in an interest bearing account in a private, federally chartered financial institution that, in accordance with the Agreement, shall be—

(1) acceptable to the Secretary of Agriculture; and

(2) available to carry out response and restoration actions.

The balance of amounts remaining in such account after completion of response and restoration actions shall be available to the Secretary of Agriculture for use in the New World Mining District for any environmentally beneficial purpose otherwise authorized by law.

(e) MAINTENANCE AND REHABILITATION OF BEARTOOTH HIGHWAY.—

(1) MAINTENANCE.—The Secretary of Agriculture shall, consistent with the funds provided herein, be responsible for—

(A) snow removal on the Beartooth Highway from milepost 0 in Yellowstone National Park, into and through Wyoming, to milepost 43.1 on the border between Wyoming and Montana; and

(B) pavement preservation, in conformance with a pavement preservation plan, on the Beartooth Highway from milepost 8.4 to milepost 24.5.

(2) REHABILITATION.—The Secretary of Agriculture shall be responsible for conducting rehabilitation and minor widening of the portion of

the Beartooth Highway in Wyoming that runs from milepost 24.5 to milepost 43.1.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture—

(A) for snow removal and pavement preservation under paragraph (1), $2,000,000; and

(B) for rehabilitation under paragraph (2), $10,000,000.

(4) AVAILABILITY OF FUNDS.—Within 30 days of the acquisition of lands and interests in lands pursuant to this section, the funds authorized in subsection (e)(3) and appropriated herein for that purpose shall be made available to the Secretary of Agriculture.

(f) RESPONSE AND RESTORATION PLAN.—The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall approve or prepare a plan for response and restoration activities to be undertaken pursuant to the Agreement and a quarterly accounting of expenditures made pursuant to such plan. The plan and accountings shall be transmitted to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

(g) MAP.—The Secretary of Agriculture shall provide to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, a map depicting the acreage to be acquired pursuant to this section.

(h) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means the agreement in principle, concerning the District Property, entered into on August 12, 1996 by Crown Butte Mines, Inc., Crown Butte Resources Ltd., Greater Yellowstone Coalition, Northwest Wyoming Resource Council, Sierra Club, Gallatin Wildlife Association, Wyoming Wildlife Federation, Montana Wildlife Federation, Wyoming Outdoor Council, Beartooth Alliance, and the United States of America, with such other changes mutually agreed to by the parties;

(2) BEARTOOTH HIGHWAY.—The term ''Beartooth Highway'' means the portion of United States Route 212 that runs from the northeast entrance of Yellowstone National Park near Silver Gate, Montana, into and through Wyoming to Red Lodge, Montana.

(3) CROWN BUTTE.—The term ''Crown Butte'' means Crown Butte Mines, Inc. and Crown Butte Resources Ltd., acting jointly.

(4) DISTRICT PROPERTY.—The term ''District Property'' means the portion of the real property interests specifically described as District Property in appendix B of the Agreement.

(5) NEW WORLD MINING DISTRICT.—The term ''New World Mining District'' means the New World Mining District as specifically described in appendix A of the Agreement.

SEC. 503. CONVEYANCE TO STATE OF MONTANA

(a) CONVEYANCE REQUIREMENT.—Not later than January 1, 2001, but not prior to 180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Montana, without consideration, all right, title, and interest of the United States in and to—

(1) $10,000,000 in federal mineral rights in the State of Montana agreed to by the Secretary of the Interior and the Governor of Montana through negotiations in accordance with paragraph (b); or

(2) all federal mineral rights in the tracts in Montana depicted as Otter Creek number 1, 2, and 3 on the map entitled ''Ashland Map''.

(b) NEGOTIATIONS.—The Secretary of the Interior shall promptly enter into negotiations with the Governor of Montana for purposes of paragraph (a)(1) to determine and agree to mineral rights owned by the United States having a fair market value of $10,000,000.

(c) FEDERAL LAW NOT APPLICABLE TO CONVEYANCE.—Any conveyance under paragraph (a) shall not be subject to the Mineral Leasing Act (20 U.S.C. 181 et seq.).

(d) AVAILABILITY OF MAP.—The Secretary of the Interior shall keep the map referred to in paragraph (a)(2) on file and available for public inspection in appropriate offices of the Department of the Interior located in the District of Columbia and Billings, Montana, until January 1, 2001.

(3) CONVEYANCE DEPENDENT UPON ACQUISITION.—No conveyance pursuant to paragraph (a) shall take place unless the acquisition authorized in section 502(a) is executed.

SEC. 504. The acquisitions authorized by sections 501 and 502 of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act or (2) enactment of separate authorizing legislation that modifies sections 501, 502, or 503 of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180 day period referenced in this section shall be extended by one day.

SEC. 505. The Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 78 Stat. 897) (16 U.S.C. 460l–4—460l–11) is amended by moving section 13 (as added by section 1021(b) of the Omnibus Parks and Public Lands Management Act of 1996; 110 Stat. 4210) so as to appear in title I of that Act following section 12.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

SEC. 601. SHORT TITLE.—This Act may be cited as the ''Forest Resources Conservation and Shortage Relief Act of 1997''.

SEC. 602. (a) USE OF UNPROCESSED TIMBER—LIMITATION ON SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER FROM PRIVATE LAND.—Section 490 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''paragraph (3) and'' after ''provided in''; and

(B) by adding at the end the following:

''(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, paragraph 1 shall apply only if—

''(A) the private lands referred to in paragraph (1) are owned by the person; or

''(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person's choosing.'';

(2) in subsection (c)—

(A) in the subsection heading, by striking ''APPROVAL OF'';

(B) in paragraph (2)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''APPLICATION''; and

(ii) in subparagraph (A), by inserting ''(except private land located in the north-western private timber open market area)'' after ''lands'';

(C) in paragraph (3)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE OF THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—(A) IN GENERAL''; after ''APPROVAL''; and

(ii) by striking the last sentence of paragraph (3) and adding at the end the following:

''(B) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN IDAHO.—Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.

''(C) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN STATES OTHER THAN IDAHO.—Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.

''(D) AREA NOT INCLUDED.—In deciding whether to approve or disapprove an application, the Secretary shall not—

''(i) consider land located in the northwestern private timber open market area; or

''(ii) condition approval of the application on the inclusion of any such land in the applicant's sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.'';

(D) in paragraph (4), in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''APPLICATION'';

(E) in paragraph (5), in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''DETERMINATIONS''; and

(F) by adding at the end the following:

''(6) SOURCING AREAS FOR PROCESSING FACILITIES LOCATED IN THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA—

''(A) ESTABLISHMENT.—In the northwestern private timber open market area—

''(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;

''(ii) the radius of the circle—

''(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and

''(II) shall be determined solely by the sourcing area applicant or holder;

''(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;

''(iv) the 24-month requirement in paragraph (1)(A) shall not apply;

''(v) a sourcing area holder—

''(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

''(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

''(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

''(B) TRANSITION.—With respect to a portion of a sourcing area established before the date of enactment of this paragraph that contains Federal timber under contract before that date and is outside the boundary of a new sourcing area established under subparagraph (A)—

''(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

''(ii) unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.

''(7) RELINQUISHMENT AND TERMINATION OF SOURCING AREAS.—

''(A) IN GENERAL.—A sourcing area may be relinquished at any time.

''(B) EFFECTIVE DATE.—A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.

''(C) EXPORTABILITY.—

''(i) IN GENERAL.—On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.

''(ii) NO RESTRICTION.—The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area.''; and

(3) by adding at the end the following:

''(d) DOMESTIC TRANSPORTATION AND PROCESSING OF PRIVATE TIMBER.—Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.''.

(b) RESTRICTION OF EXPORTS OF UNPROCESSED TIMBER FROM STATE AND PUBLIC LAND.—Section 491(b)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)(2)) is amended—

(1) by striking ''the following'' and all that follows through ''(A) The Secretary'' and inserting ''the Secretary'';

(2) by striking ''during the period beginning on June 1, 1993, and ending on December 31, 1995'' and inserting ''as of the date of enactment of the Forest Resources Conservation and Shortage Relief Act of 1997''; and

(3) by striking subparagraph (B).

SEC. 603. MONITORING AND ENFORCEMENT.—Section 492 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d) is amended—

(1) in subsection (c)(2), by adding at the end the following:

(C) MITIGATION OF PENALTIES.—

''(i) IN GENERAL.—The Secretary concerned—

''(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and

''(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—

''(aa) reduce the penalty;

''(bb) not impose the penalty; or

''(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

''(ii) CONTRACTURAL REMEDIES.—In the case of a minor violation of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.''; and

(2) in subsection (d)(1)—

(A) by striking ''The head'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), the head''; and

(B) by adding at the end the following:

''(B) PREREQUISITES FOR DEBARMENT.—

''(i) IN GENERAL.—No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

''(ii) WITHHOLDING OF AWARDS DURING DEBARMENT PROCEEDINGS.—The head of an appropriate Federal department or agency may withhold an award under this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.''.

SEC. 604. DEFINITIONS.—Section 493 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620e) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (2) the following:

''(3) MINOR VIOLATION.—The term 'minor violation' means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than $10,000.

''(4) NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—The term 'northwestern private timber open market area' means the State of Washington.'';

(3) in subparagraph (B)(ix) of paragraph (9) (as redesignated by paragraph (1))—

(A) by striking ''Pulp logs or cull logs'' and inserting ''Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs'';

(B) by inserting ''primary'' before ''purpose''; and

(C) by striking the period at the end and inserting: '', or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.''; and

(4) by adding at the end the following:

''(11) VIOLATION.—The term 'violation' means a violation of this Act (including a regulation issued to implement this Act) with regard to a course of action, including—

''(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

''(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.''.

SEC. 605. REGULATIONS.—Section 495(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620f(a)) is amended—

(1) by striking ''The Secretaries'' and inserting the following:

''(1) AGRICULTURE AND INTERIOR.—The Secretaries'';

(2) by striking ''The Secretary of Commerce'' and inserting the following:

''(2) COMMERCE.—The Secretary of Commerce''; and

(3) by striking the last sentence and inserting the following:

''(3) DEADLINE.—

''(A) IN GENERAL.—Except as otherwise provided in this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

''(B) The regulations and guidelines issued under this title that were in effect prior to September 8, 1995 shall remain in effect until new regulations and guidelines are issued under subparagraphs (A).

''(4) PAINTING AND BRANDING.—

''(A) IN GENERAL.—The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

''(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

''(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

''(I) would be exported in violation of this title; or

''(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of this title.

''(B) MINIMUM SIZE. The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

''(i) the face of a log that is less than 7 inches in diameter; or

''(ii) unprocessed timber that is less than 8 feet in length or less than ⅓ sound wood.

''(C) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive log painting and branding requirements—

''(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

''(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

''(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under this title.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.

(D) FACTORS.—In making a determination under this paragraph, the Secretary concerned shall consider—

''(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

''(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

''(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

''(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

''(5) REPORTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

''(B) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive documentation and reporting requirements for a person if—

''(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

''(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.''.

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

TITLE VII—MICCOSUKEE SETTLEMENT

SEC. 701. SHORT TITLE.—This title may be cited as the ''Miccosukee Settlement Act of 1997''.

SEC. 702. CONGRESSIONAL FINDINGS.—Congress finds that:

(1) There is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Tribe that involves the taking of certain tribal lands in connection with the construction of highway Interstate 75 by the Florida Department of Transportation.

(2) The pendency of the lawsuit referred to in paragraph (1) clouds title of certain lands used in the maintenance and operation of the highway and hinders proper planning for future maintenance and operations.

(3) The Florida Department of Transportation, with the concurrence of the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida, and the Miccosukee Tribe have executed an agreement for the purpose of resolving the dispute and settling the lawsuit.

(4) The agreement referred to in paragraph (3) requires the consent of Congress in connection with contemplated land transfers.

(5) The Settlement Agreement is in the interest of the Miccosukee Tribe, as the Tribe will receive certain monetary payments, new reservation lands to be held in trust by the United States, and other benefits.

(6) Land received by the United States pursuant to the Settlement Agreement is in consideration of Miccosukee Indian Reservation lands lost by the Miccosukee Tribe by virtue of transfer to the Florida Department of Transportation under the Settlement Agreement.

(7) The lands referred to in paragraph (6) as received by the United States will be held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands in compensation for the consideration given by the Tribe in the Settlement Agreement.

(8) Congress shares with the parties to the Settlement Agreement a desire to resolve the dispute and settle the lawsuit.

SEC. 703. DEFINITIONS.—In this title:

(1) BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENTS TRUST FUND.—The term ''Board of Trustees of the Internal Improvements Trust Fund'' means the agency of the State of Florida holding legal title to and responsible for trust administration of certain lands of the State of Florida, consisting of the Governor, Attorney General, Commissioner of Agriculture, Commissioner of Education, Controller, Secretary of State, and Treasurer of the State of Florida, who are Trustees of the Board.

(2) FLORIDA DEPARTMENT OF TRANSPORTATION.—The term ''Florida Department of Transportation'' means the executive branch department and agency of the State of Florida that—

(A) is responsible for the construction and maintenance of surface vehicle roads, existing pursuant to section 20.23, Florida Statutes; and

(B) has the authority to execute the Settlement Agreement pursuant to section 334.044, Florida Statutes.

(3) LAWSUIT.—The term ''lawsuit'' means the action in the United States District Court for the Southern District of Florida, entitled Miccosukee Tribe of Indians of Florida v. State of Florida and Florida Department of Transportation, et al., docket No. 6285–Civ–Paine.

(4) MICCOSUKEE LANDS.—The term ''Miccosukee lands'' means lands that are—

(A) held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands; and

(B) identified pursuant to the Settlement Agreement for transfer to the Florida Department of Transportation.

(5) MICCOSUKEE TRIBE; TRIBE.—The terms ''Miccosukee Tribe'' and ''Tribe'' mean the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT; AGREEMENT.—The terms ''Settlement Agreement'' and ''Agreement'' mean the assemblage of documents entitled ''Settlement Agreement'' (with incorporated exhibits) that—

(A) addresses the lawsuit; and

(B)(i) was signed on August 28, 1996, by Ben G. Watts (Secretary of the Florida Department of Transportation) and Billy Cypress (Chairman of the Miccosukee Tribe); and

(ii) after being signed, as described in clause (i), was concurred in by the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida.

(8) STATE OF FLORIDA.—The term ''State of Florida'' means—

(A) all agencies or departments of the State of Florida, including the Florida Department of Transportation and the Board of Trustees of the Internal Improvements Trust Fund; and

(B) the State of Florida as a governmental entity.

SEC. 704. RATIFICATION.—The United States approves, ratifies, and confirms the Settlement Agreement.

SEC. 705. AUTHORITY OF SECRETARY.—As Trustee for the Miccosukee Tribe, the Secretary shall—

(1)(A) aid and assist in the fulfillment of the Settlement Agreement at all times and in a reasonable manner; and

(B) to accomplish the fulfillment of the Settlement Agreement in accordance with subparagraph (A), cooperate with and assist the Miccosukee Tribe;

(2) upon finding that the Settlement Agreement is legally sufficient and that the State of Florida has the necessary authority to fulfill the Agreement—

(A) sign the Settlement Agreement on behalf of the United States; and

(B) ensure that an individual other than the Secretary who is a representative of the Bureau of Indian Affairs also signs the Settlement Agreement;

(3) upon finding that all necessary conditions precedent to the transfer of Miccosukee land to the Florida Department of Transportation as provided in the Settlement Agreement have been or will be met so that the Agreement has been or will be fulfilled, but for the execution of that land transfer and related land transfers—

(A) transfer ownership of the Miccosukee land to the Florida Department of Transportation in accordance with the Settlement Agreement, including in the transfer solely and exclusively that Miccosukee land identified in the Settlement Agreement for transfer to the Florida Department of Transportation; and

(B) in conjunction with the land transfer referred to in subparagraph (A), transfer no land other than the land referred to in that subparagraph to the Florida Department of Transportation; and

(4) upon finding that all necessary conditions precedent to the transfer of Florida lands from the State of Florida to the United States have been or will be met so that the Agreement has been or will be fulfilled but for the execution of that land transfer and related land transfers, receive and accept in trust for the use and benefit of the Miccosukee Tribe ownership of all land identified in the Settlement Agreement for transfer to the United States.

SEC. 706. MICCOSUKEE INDIAN RESERVATION LANDS.—The lands transferred and held in trust for the Miccosukee Tribe under section 705(4) shall be Miccosukee Indian Reservation lands.

SEC. 707. MISCELLANEOUS.—(a) RULE OF CONSTRUCTION.—Nothing in this Act or the Settlement Agreement shall—

(1) affect the eligibility of the Miccosukee Tribe or its members to receive any services or benefits under any program of the Federal Government; or

(2) diminish the trust responsibility of the United States to the Miccosukee Tribe and its members.

(b) NO REDUCTIONS IN PAYMENTS.—No payment made pursuant to this Act or the Settlement Agreement shall result in any reduction or denial of any benefits or services under any program of the Federal Government to the Miccosukee Tribe or its members, with respect to which the Tribe or the members of the Tribe are entitled or eligible because of the status of—

(1) the Miccosukee Tribe as a federally recognized Indian tribe; or

(2) any member of the Miccosukee Tribe as a member of the Tribe.

(c) TAXATION.—

(1) IN GENERAL.—

(A) MONIES.—None of the monies paid to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(B) LANDS.—None of the lands conveyed to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(2) PAYMENTS AND CONVEYANCES NOT TAXABLE EVENTS.—No payment or conveyance referred to in paragraph (1) shall be considered to be a taxable event.

And the Senate agree to the same.

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, Jr.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,

Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,

BARBARA BOXER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2107 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 105–163 or Senate Report 105–56 which are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $583,270,000 for management of lands and resources instead of $581,591,000 as proposed by the House and $578,851,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Alaska Gold Rush Centennial task force, $500,000 for the joint Department of Defense land cover mapping project in Alaska, $200,000 for threatened and endangered species for the Virgin River Basin recovery plan, $500,000 for recreation resources management, $2,100,000 for the National Petroleum Reserve—Alaska, $700,000 for the Alaska resources library and information services, $2,334,000 for Alaska conveyance and $1,000,000 for ALMRS. Decreases to the amount proposed by the House include $1,000,000 for prescribed fire, $2,774,000 for wild horse and burro management, $250,000 for wildlife management, $500,000 for a recreation fees scoring adjustment, $231,000 for wilderness management, and $1,000,000 for law enforcement. The managers concur with the Senate's proposed distribution of funds in the Mining Law Administration category.

Within the increased funds provided for recreation resource management, $200,000 is provided for the Lewis and Clark Trail, $100,000 is provided for the Iditarod National Historic Trail, $100,000 is provided for the De Anza, California, Mormon Pioneer, Nez Perce, Oregon, and Pony Express National Historic Trails, and the Pacific Crest and Continental Divide National Scenic Trails, and $100,000 is provided as a general increase.

The managers have reduced the Bureau's oil and gas management program by a net $450,000, consistent with the Administration's requested program decrease. This decrease is made up of a $50,000 increase for Grand Staircase activities and a $500,000 decrease related to efficiencies in lease processing in Alaska, Arizona, and Idaho. In agreeing to the requested budget reduction, the managers direct the Bureau not to delay the processing of any lease application in these States in 1998. The managers expect the Bureau to request funding sufficient to meet the Bureau's responsibilities for oil and gas management activities on Federal lands in each of these States as warranted.

After reviewing the Department's soda ash royalty study, the managers are concerned that the Department was unresponsive to the question relating to the appropriate method of setting Federal royalty rates when the only comparable rates are the product of a monopoly. The managers will watch carefully how the Department deals with these issues in the future.

The managers support efforts of the land management agencies to consolidate activities and facilities at the field level as a means of achieving savings and providing improved services to the public. The managers support the joint BLM-Forest Service trading post pilot program, which allows the Secretaries of the Interior and Agriculture to make reciprocal delegations of authorities, duties and responsibilities to promote customer service and efficiency, with the understanding that nothing will change the applicability of any public law or regulation to lands administered by the BLM or the Forest Service.

The managers seek additional information on BLM's activities dealing with the acquisition of water rights. By November 30, 1998, the Bureau shall provide a report detailing its short and long-term plans for acquiring non-reserved water rights and any actions dealing with Federal reserved rights.

The managers encourage the Bureau to cooperate fully with the Umpqua River Basin land exchange project group as authorized in section 1028 of Public Law 104–333.

Amendment No. 2: Earmarks $27,650,000 for mining law administration program operations as proposed by the Senate instead of $27,300,000 as proposed by the House.

Amendment No. 3: Restates the final appropriation amount for management of lands and resources as $583,270,000.

WILDLAND FIRE MANAGEMENT

Amendment No. 4: Appropriates $280,103,000 for wildland fire management as proposed by the House instead of $282,728,000 as proposed by the Senate.

Within the funds provided for preparedness, $700,000 is to fund the startup and first year of operating costs for a type I hotshot crew in Alaska to be managed by the Alaska Fire Service as an intertribal, interagency hotshot crew; and $1,925,000 is provided for redevelopment of the obsolete interagency fire operations center in Billings, MT.

Amendment No. 5: Earmarks $6,950,000 for renovation or construction of fire facilities as proposed by the Senate instead of $5,025,000 as proposed by the House.

CENTRAL HAZARDOUS MATERIALS FUND

Amendment No. 6: Appropriates $12,000,000 for the central hazardous materials fund as proposed by the House instead of $14,900,000 as proposed by the Senate.

CONSTRUCTION

Amendment No. 7: Appropriates $3,254,000 for construction as proposed by the House instead of $3,154,000 as proposed by the Senate.

PAYMENTS IN LIEU OF TAXES

Amendment No. 8: Appropriates $120,000,000 for payments in lieu of taxes instead of $113,500,000 as proposed by the House and $124,000,000 as proposed by the Senate.

LAND ACQUISITION

Amendment No. 9: Appropriates $11,200,000 for land acquisition instead of $12,000,000 as proposed by the House and $8,600,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Arizona Wilderness, AZ	$700,000
Blanca Wildlife Habitat, CO	550,000
Bodie Bowl, CA	1,000,000
Lake Fork of the Gunnison, CO	900,000
Otay Mountains, CA	1,000,000
Santa Rosa Mountains, CA	1,000,000
West Eugene Wetlands, OR	300,000
Western Riverside County, CA	1,000,000
Washington County Desert Tortoise, UT	1,000,000
Emergencies/hardships/inholdings	750,000
Acquisition management	3,000,000
Total	11,200,000

FOREST ECOSYSTEMS HEALTH AND RECOVERY (REVOLVING FUND, SPECIAL ACCOUNT)

Amendment No. 10: Inserts language proposed by the Senate expanding BLM's flexibility to complete forest ecosystem health projects. The House had no similar provision.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 11: Appropriates $594,842,000 for resource management instead of $591,042,000 as proposed by the House and $585,064,000 as proposed by the Senate. Increases to the amount proposed by the House include $800,000 in candidate conservation, of which $400,000 is for the Alabama sturgeon and $400,000 is for the Preble's Meadow Jumping Mouse; $300,000 in consultation as a general increase; $300,000 in recovery for a wolf reintroduction study on the Olympic Peninsula; $1,000,000 in habitat conservation of which $50,000 is for the Middle Rio Grande/Bosque program, $50,000 is for Platte River studies, $100,000 is to establish a Cedar City ecological services office, $750,000 is for Washington salmon enhancement and $50,000 is for the Vermont partners program; $1,000,000 for Salton Sea recovery planning and for bioremediation efforts in the New River in cooperation with the U.S. Geological Survey, contingent on matching funds from the State of California; $250,000 in migratory bird management for the North American waterfowl management plan; $500,000 in hatchery operations and maintenance for endangered species recovery, including operation of the Mora hatchery in New Mexico; $750,000 in fish and wildlife management of which $100,000 is for Yukon River escapement monitoring and research, $300,000 is for Atlantic salmon conservation, $50,000 is for the regional park processing center and $300,000 is for whirling disease research; $200,000 in international affairs for the Caddo Lake Institute scholars program; and $1,000,000 for the National Conservation Training Center. Decreases to the House proposed level include $300,000 in consultation for the Olympic Peninsula wolf recovery program (funded under the recovery program); $500,000 in habitat conservation, of which $250,000 is for assistance to private landowners and $250,000 is for the coastal program in Texas; $1,000,000 in refuge operations and maintenance; and $500,000 in fish and wildlife management for habitat restoration.

The managers agree to the following:

1. Within the consultation program, $560,000 should be used for the Iron County habitat conservation plan, contingent on matching non-Federal funding.

2. The increase for law enforcement should be used, in part, to improve the Service's ability to prevent illegal bear poaching and the smuggling of bear viscera, but is not limited to that activity.

3. The Chicago Wetlands Office should be funded at the same level as in fiscal year 1997.

4. In allocating resources for refuge operations and maintenance, the Service should seek to balance competing refuge uses consistent with the National Wildlife Refuge Systems Improvement Act of 1997.

5. There is no earmark within available funds for the Washington State regional fisheries enhancement group initiative. The

$750,000 in the habitat conservation program for Washington salmon enhancement efforts addresses that initiative. These funds should be transferred, in the form of a block grant, to the Washington Department of Fish and Wildlife to support the volunteer efforts of the Regional Fisheries Enhancement Group program.

6. Within habitat conservation, $23,839,000 is for project planning.

7. With respect to the double-crested cormorant depredation order, the managers understand that the comment period on the proposed rule has closed and the Service anticipates issuing the final rule in 45–60 days. The managers make no assumptions about the content of that rule.

8. The House takes no position on the issue of overgrazing of bighorn sheep on the confederated Salish and Kootenai reservations.

9. With respect to tribal management takeover of the Moise Bison Range, the Service should continue to work with the Salish and Kootenai tribes on appropriate functions for compacting by the tribes.

10. With respect to hunting season extensions and the impact on waterfowl, the Service should examine existing data and consult with the States and with the International Association of Fish and Wildlife Agencies to determine what changes should be made to the existing methodology. The Service should report the results of this effort to the Committees, including a discussion of the pros and cons of alternatives to the current procedures.

11. In preparing its report on agriculture depredations caused by dusky Canada geese, the Service should consider other areas, in addition to the Pacific Northwest, where this is known to be a problem.

12. Of the funds provided for whirling disease research, $700,000 should be used for work with the National Partnership on the Management of Wild and Native Cold Water Fisheries. The Service is encouraged to use other funds available for fish health to continue and expand the National Wild Fish Health Survey.

13. With respect to the Pacific Northwest forest plan, unallocated program increases provided by the conference agreement should be applied to forest plan activities in proportion to the increases for forest plan activities included in the budget request for that program.

14. The Salton Sea recovery plan should be developed by the Service in coordination with the State of California, the U.S. Geological Survey, the Bureau of Reclamation and the Environmental Protection Agency. The plan should be submitted to the Committees and should address the appropriate division of responsibilities and funding among all involved agencies.

15. Future increases in the Service's budget for the Salton Sea should be considered in the context of the Service's National priorities. The Service should continue to work with the State of California to ensure that the State remains an active participant in the conduct and funding of recovery efforts.

16. The managers encourage the U.S. Fish and Wildlife Service to include the Arid Lands Ecology Reserve in the Earth Stewards Program, and to provide the necessary resources to support the efforts of the Department of Energy and other public and private sector organizations in order to accelerate the formation of the Partnership for Arid Lands Stewardship (PALS).

The managers are aware of recently identified, near-term needs in the Atchafalaya Basin region of Louisiana, including personnel needs for the Southeast Louisiana refuge system and wildlife management shortfalls in and around the Atchafalaya Basin and at the Mandalay NWR, LA. To the extent practicable, the Service should address these needs within the increase provided for refuge operations and maintenance in fiscal year 1998. The managers expect the Service, in consultation with State and local entities, including landowners, to study habitat protection needs in the entire Atchafalaya Basin region and to report to the Committees on the results of those consultations prior to submission of the fiscal year 1999 budget.

The managers understand that the translocation of a portion of the Adak caribou herd onto privately owned islands in Alaska may provide long term relief for subsistence users in the Alaska Peninsula region. Since the filing of the Senate report, it has come to the managers' attention that at least two such islands have historically sustained indigenous caribou herds and therefore a suitable habitat study is not necessary. The managers encourage the Service to enter into discussions with subsistence users of the Alaska Peninsula region to explore a potential partnership arrangement to establish new caribou herds on Deere and Unga Islands to provide meat sources for Native people.

Amendment No. 12: Restores language proposed by the House and stricken by the Senate which earmarks an amount not to exceed $5,190,000 for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended, and inserts language proposed by the Senate making a technical correction to the existing statutory fee authority for the National Conservation Training Center. The House had no similar provision on the National Conservation Training Center.

As requested by the Department of the Interior the managers reluctantly have agreed to limit statutorily the funds for the endangered species listing program. The managers continue to believe that a long term solution to the problems in the ESA program should be dealt with through the reauthorization process, and regret that another year has passed without substantial progress by the Administration.

Amendment No. 13: Deletes language proposed by the Senate prohibiting overhead charges by the Service on funds transferred from the Bureau of Reclamation for the Upper Colorado River recovery program. The House had no similar provision.

The managers expect the Service to keep any necessary administrative charges to an absolute minimum, and to provide a report to the Committees that justifies any overhead charges on funds transferred to the Upper Colorado River recovery program.

CONSTRUCTION

Amendment No. 14: Appropriates $45,006,000 for construction instead of $40,256,000 as proposed by the House and $42,053,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Audubon Institute, LA	$2,000,000
Baker Island NWR, HI (assessment/site investigation)	250,000
Blackwater NWR, MD (administrative building)	335,000
Bozeman FTC, MT (laboratory building planning and design)	606,000
Crab Orchard NWR, IL (rehabilitate sewage treatment facilities)	1,659,000
Craig Brook NFH, ME (station rehabilitation/final phase)	3,500,000
Creston NFH, MT (Jessup Mill Pond Dam)	1,500,000
Great Swamp NWR, NJ (disposal assessment/site investigation)	250,000
Horicon NWR, WI (replace boardwalk)	425,000
John Hay Estate, NH (rehabilitation)	1,000,000
Keauhou Bird Conservation Center, HI (complete construction)	1,000,000
Kodiak NWR, AK (Camp Island renovations)	150,000
Merced NWR, CA (water distribution)	2,548,000
National Elk Refuge, WY (irrigation system)	400,000
Orangeburg NFH, SC (rehabilitate drainage canal)	833,000
Patuxent NWR, MD (Cash Lake Dam)	2,515,000
Region 2 (hazardous materials/solid waste cleanup)	445,000
Santa Ana NWR, TX (road rehabilitation)	1,208,000
Shiawassee NWR, MI (bridge rehabilitation)	520,000
Southest LA refuges, LA (health & safety)	500,000
Southwest FTC, NM (Mora hatchery)	2,000,000
St. Marks NWR, FL (replace 6 bridges)	469,000
St. Vincent NWR, FL (Outlet Creek bridge)	186,000
Steigerwald NWR, WA (trail construction and access)	840,000
Tennessee NWR, TN (road)	2,500,000
Tennessee NWR, TN (2 bridges)	139,000
Togiak NWR, AK (residence)	335,000
Turnbull NWR, WA (building)	843,000
Upper Miss. NW&FR, IL (headquarters construction)	510,000
WB Jones Partnership, NC (headquarters design and construction)	1,900,000
Wichita Mountains WR, OK (road rehabilitation)	1,840,000
Wichita Mountains WR, OK (Grama Lake & Comanche Dams)	4,800,000
Woodbridge NWR, VA (rehabilitation)	100,000
Bridge safety inspection	495,000
Dam safety inspection	495,000
Construction management	5,910,000
Total	45,006,000

The managers agree to the following:

1. $850,000 in unobligated balances from completed projects should be used for the design, manufacture and installation of educational displays and furnishings for the Environmental Education Center at the Silvio O. Conte NWR, MA. The Service should notify the Committees of the proposed offsets before proceeding with the reprogramming of funds.

2. Funding provided herein represents the completion of the Federal commitment for the Audubon Institute, LA and the Walter B. Jones Partnership for the Sounds, NC projects.

3. No funds are provided for Bear River NWR, UT with the understanding that there is currently a large unobligated balance of funds provided in previous fiscal years that will enable dike work to continue in fiscal year 1998.

4. The Committees will consider a reprogramming of funds for planning and design of the National Black Footed Ferret Conservation Center once the Service has determined a site for the Center.

5. Prior to proceeding with the Togiak NWR, AK housing project, the Service should

certify that there is insufficient rental housing in the Dillingham area that meets Service requirements and is suitable for refuge personnel.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

Amendment No. 15: Appropriates $4,228,000 for the natural resource damage assessment fund instead of $4,128,000 as proposed by the House and $4,328,000 as proposed by the Senate.

The managers agree that changes to the management structure for the natural resource damage assessment program in fiscal year 1998 should be made consistent with the level of funding provided. The Committees will consider any more ambitious restructuring in the context of Service-wide priorities in the fiscal year 1999 budget.

Amendment No. 16: Amends fiscal year 1994 appropriations language to permit transfers of funds to Federal trustees and payments to non-Federal trustees to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities, and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, as proposed by the Senate. The House had no similar provision.

LAND ACQUISITION

Amendment No. 17: Appropriates $62,632,000 for land acquisition instead of $53,000,000 as proposed by the House and $57,292,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Archie Carr NWR, FL	$2,000,000
Attwater Prairie Chicken NWR, TX	1,000,000
Back Bay NWR, VA	2,000,000
Balcones Canyonlands NWR, TX	700,000
Big Muddy NFWR, MO	1,000,000
Bon Secour NWR (Izard tract), AL	3,000,000
Canaan Valley NWR, WV	3,000,000
Cape May NWR, NJ	3,000,000
Clarks River NWR, KY	2,000,000
Crocodile Lake NWR, FL	400,000
Cypress Creek NWR, IL	750,000
Don Edwards NWR (Bair Island), CA	2,000,000
Edwin B. Forsythe NWR (including the Zell tract), NJ	2,000,000
Great Swamp NWR, JN	750,000
Julia B. Hansen NWR, WA	300,000
Kodiak NWR, AK	600,000
Lower Rio Grande Valley NWR, TX	900,000
Mashpee NWR (including the Bufflehead Bay tract), MA	332,000
Minnesota Valley NWR (Kelly tract), MN	2,300,000
Nisqually NWR (Black River unit), WA	1,500,000
Ohio River Islands NWR, PA–WV–OH–KY	500,000
Ottawa NWR, OH	1,000,000
Patoka River NWR, IN	500,000
Petit Manan NWR, ME	1,000,000
Rachel Carson NWR, ME	1,100,000
Rappahannock River Valley NWR, VA	2,000,000
Rhode Island complex, RI	500,000
San Diego NWR, CA	3,000,000
Silvio O. Conte NWR (including Pondicherry), CT–MA–NH–VT	1,000,000
Southeast Louisiana refuges, LA	2,500,000
Stewart B. McKinney NWR (Great Meadows Salt Marsh), CT	1,100,000
Stillwater NWR, NV	1,000,000
Waccamaw NWR, SC	2,000,000
Wallkill River NWR (including Papakeeting Creek), NJ	1,000,000
Wertheim NWR (including Southaven), NY	2,290,000
Western Montana project, MT	1,000,000
Acquisition management	8,860,000
Emergency/hardships	1,000,000
Exchanges	1,000,000
Inholdings	750,000
Total	62,632,000

The managers note that the Service is preparing a draft environmental assessment on the feasibility of establishing a National wildlife refuge in the Kankakee area of Indiana and Illinois. That draft should be completed and distributed for comment later this fall and final NEPA documentation will not be completed until next year. The managers understand that any land acquisition for such a refuge will not proceed without Congressional approval through the appropriations process.

Within 90 days, the Fish and Wildlife Service shall report to the Appropriations Committees if there is a willing seller of the Bolsa Chica Mesa in Huntington Beach, CA, the cost of an appraisal of the mesa, the estimated cost of acquisition, and opportunities for public-private partnerships.

The managers understand that the estimated total cost of the Bair Island acquisition at Don Edwards NWR in California is $15,000,000. The managers are aware that the Peninsula Open Space Trust has committed to raising $5,000,000 towards this total purchase price and the managers encourage the State to give a contribution of up to $2,500,000.

The managers have not provided funds for acquisition of the Shadmoor property at Amagansett NWR due to the large disparity between the appraised value and the current sale price, and the lack of matching funds. The managers remain interested in the Shadmoor acquisition, however, and will consider allocating funds appropriated in this or subsequent appropriations bills should these issues be satisfactorily resolved.

NATIONAL WILDLIFE REFUGE FUND

Amendment No. 18: Appropriates $10,779,000 for the National wildlife refuge funds as proposed by the Senate instead of $10,000,000 as proposed by the House.

NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 19: Appropriates $11,700,000 for the North American wetlands conservation fund instead of $10,500,000 as proposed by the House and $13,000,000 as proposed by the Senate. The managers expect that $500,000 of the funds provided will be used for the small grant program initiated in fiscal year 1996, and that the amount used for management and administration will be consistent with the authorized level.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 20: Appropriates $1,593,000 for the Volunteers-in-Parks program as proposed by the Senate instead of $2,500,000 as proposed by the House.

Amendment No. 21: Appropriates $1,233,664,000 instead of $1,232,325,000 as proposed by the House and $1,250,429,000 as proposed by the Senate. The conference agreement provides $221,112,000 for resource stewardship, which includes an increase to the amount proposed by the House of $100,000 for the Northwest ecosystem office and decreases to the House proposed level of $300,000 for air quality, $500,000 for abandoned mines, $3,000 for desert mining, and $596,000 for special need parks.

The amount provided for special need parks includes an increase of $920,000 over the amount provided by the House for Gettysburg NMP and a decrease of $1,516,000 which is shifted to other activities consistent with the Senate distribution. The managers intend that the entire $580,000 provided for desert mining be spent at the Mojave National Preserve to hire mineral examiners to begin to clear the existing backlog.

The conference agreement provides $291,080,000 for visitor services. The decrease below the House amount is $769,000 for special need parks.

The conference agreement provides $383,588,000 for maintenance. Increases to the House amount include $2,028,000 for special need parks and $250,000 for ongoing structure stabilization at Dry Tortugas NP. The managers expect this program to be included in the base in future budget submissions. The managers are concerned that these funds be used directly for ongoing masonry work at the park, and not be used to hire additional supervisory personnel.

The conference agreement provides $240,341,000 for park support. Increases to the House amount include $257,000 for special need parks, $300,000 for wild and scenic rivers, $422,000 for social science programs and $350,000 for the National trails system. Within the increase provided for National trails, $50,000 is for the Lewis and Clark Trail office, $200,000 is provided for technical assistance to the Lewis and Clark Trail, $50,000 is for the California and Pony Express Trails and $50,000 is for the North Country Trail. The managers continue to support the $600,000 earmark for the NPS challenge cost share program for the National trails system.

The conference agreement provides $97,543,000 for external administrative costs. This amount includes an increase above the House level of $700,000 for IDEAS and a decrease of $900,000 for FTS 2000.

The managers find the recent reports of excessive construction costs incurred by the National Park Service, and specifically the Denver Service Center, totally unacceptable.

The managers continue to be concerned about the condition of employee housing in the National parks and have provided over $150 million since 1989 to address the problem. However, there have been several General Accounting Office reports in recent years and a March 1996 Inspector General report that raise serious concerns about the high cost of housing that the Service has built in recent years, particularly at Grand Canyon and Yosemite National Parks. The managers do not believe that constructing houses at three times the cost of comparable privately built homes can be justified under any circumstances.

The lack of oversight and accountability, not only in the design and construction of NPS facilities, but also in tempering the mix of desired features sought at the park level, is of great concern. The managers are particularly concerned about the decision making processes leading to the construction of the housing, the lack of effective constraints on the scope and costs of housing as well as other projects, and the role of the Denver Service Center (DSC) in design and oversight. There currently are no incentives at the Denver Service Center or at the individual park level to reduce these cost and save money. The managers are concerned that the current structure of the construction program lacks sufficient justification and explanation of the basis for overhead costs for DSC charged to NPS construction projects.

The Park Service should give serious consideration to base funding for the center as opposed to funding center operations from individual construction projects. The managers are also concerned that current methods used to monitor construction projects report only on cost-overruns, and that any cost-efficiencies or savings are rarely reported to the Committees on Appropriations.

The managers have previously raised concerns about the Park Service's management of its employee housing program. The managers appreciate the need for Federally provided employee housing where it is critical to the mission of the specific park. However, in 1993, it became apparent that housing was being provided in parks where it was not mission critical. Yet four years later, there appears to have been little change. In fact, the housing inventory has increased. While the managers realize that the Park Service is presently implementing the 1996 Omnibus Parks Act which requires a park by park assessment, the managers understand that it will take five years to complete, nine years from the time the programs were first identified. This time frame is not acceptable.

The Secretary is directed to appoint a review committee, a majority of whose members shall come from outside the National Park Service, to review the construction practices of the service, with primary emphasis on the role of the Denver Service Center. The report of the review committee, together with recommendations of the Secretary, shall be submitted to the Committees no later than April 15, 1998.

In addition, the managers direct the National Park Servide to take the following actions:

1. Working with independent consultants familiar with design and construction business operations, the National Park Service is to develop design and construction guidelines for all buildings and structures in the Service including employee dwellings, visitor use structures, and administrative and maintenance support facilities. The guidelines should consider comparable facilities in use by the private sector, other Federal land management agencies, and State and local governments. The consultants should identify methods and procedures for the Denver Service Center to reduce design costs, and should consider different ways of procuring contract services and supervising construction, including increased responsibility for supervision and oversight by the park unit and not Denver employees. Internal control procedures must be put in place to ensure that the design guidelines are met once they are adopted by the Service. The guidelines and procedures are to be in place and a full report made to the House and Senate Committees on Appropriations by April 1, 1998.

2. All future line-item construction requests for new and signficiantly rehabilitated structures shall conform to these guidelines. Should the Park Service want to vary from these guidelines, the individual projects shall be submitted to the House and Senate Appropriations Committee for approval.

3. The Park Service also should propose a two-year action plan for reducing its housing inventory. This plan should be provided to the Committees by April 1, 1998, and should include specific inventory reductions based on an amount agreed to by the agency and the Committees. In addition, the managers want to know how the agency intends to hold its managers accountable for achieving these inventory reduction commitments.

4. The managers expect that no request for funds for construction additional employee housing will be considered until these directives are fully implemented.

The managers have included a general provision in Title III regarding the appointment and compensation of officer of the Presidio Trust.

The Presidio Trust is authorized to exercise loan guarantee authority in accordance with the provisions set forth in Public Law 104–333. Pursuant to Public Law 104–333, funds appropriated to the National Park Service for operations at the presidio in San Francisco are to be transferred to the Presidio Trust. The managers do not object to the use of a portion of the funds transferred to provide the necessary loan subsidy for the authorized loan guarantee program.

The managers are concerned that the environmental cleanup proposed by the Department of the Army for the Presidio will not meet the ecological, health and safety criteria appropriate for a National park. As the only base closure to revert to National park use, the managers emphasize the importance of meeting the cleanup levels set by the National Park Service.

In addition to this concern, the managers also express their strong interest in ensuring the timely rededication of the Presidio because of the requirements placed on the Presidio Trust to achieve self sufficiency by a time certain. Without a thorough and timely cleanup of the Presidio, the Trust will experience difficulty in securing the leases necessary to generate revenues to ensure its success.

Substantial philanthropic pledges have been made toward restoration of the Crissy Field area of the Presidio. Any delay in the remediation of this site could jeopardize private funds for the project.

The managers are concerned that the Army's current plans for environmental remediation at the Presidio will present a serious impediment for high public use of the Presidio and protection of its ecological values, and for the Presidio Trust to achieve self sufficiency.

The managers are concerned about the unsafe conditions at the intersection of Virginia State Routes 29 and 234 in the Manassas National Battlefield Park, Prince William County, Virginia, and encourage the National Park Service, consistent with applicable laws pertaining to the management of the park, to cooperate with the Virginia Department of Transportation and Federal Highway Administration officials as safety improvements to the intersection are considered.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 22: Appropriates $44,259,000 for National recreation and preservation instead of $43,934,000 as proposed by the House and $45,284,000 as proposed by the Senate and expands the authority for grants to heritage areas to include sec. 606 of title VI, division I of Public Law 104–333.

The conference agreement provides $8,984,000 for natural programs. This is the same level as proposed by the House. The managers have included $250,000 to continue the Lake Champlain program and $150,000 for ongoing support to the Connecticut River Conservation partnership.

The managers included an additional $200,000 in the river and trails technical assistance program's budget for fiscal year 1997 specifically for the Chesapeake Bay program office in Maryland. These funds were to be used to help local communities and local heritage park partnerships implement their heritage watershed protection plans. Although the managers expect $200,000 to be used for this purpose in each of fiscal years 1997 and 1998, there has been concern over the extremely slow obligation of these funds to the local communities in fiscal year 1997. The managers expect the Park Service to consider the project a high priority and ensure that the funds for both fiscal years 1997 and 1998 are provided to the local communities in an expeditious manner. A report on the status of these funds is to be provided to the House and Senate Appropriations Committees no later than April 15, 1998.

The conference agreement provides $18,899,000 for cultural programs, the same level as the House. This amount includes an increase of $200,000 above the House level for the Native American graves protection program and a reduction of $200,000 below the House level for National Register programs.

The conference agreement provides $6,797,000 for Statutory or Contractual Aid. Changes to the House level include increases of $100,000 for the Aleutian World War II National Historic Area, $325,000 for the Delaware and Lehigh Navigation Canal, $65,000 for the Lower Mississippi Delta, $285,000 for the Vancouver National Historic Reserve, and $300,000 for the Wheeling National Heritage Area; and a decrease of $750,000 for the Alaska Native Cultural Center.

With respect to heritage partnership programs, the managers concur with the approach specified by the House, with the understanding that the areas encompassed in the bill language that do not receive the maximum amount shall each receive no less than $200,000.

HISTORIC PRESERVATION FUND

Amendment No. 23: Appropriates $40,812,000 for the historic preservation fund rather than $40,412,000 as proposed by the House and $39,812,000 as proposed by the Senate. The increase above the House provides $400,000 for grants to Indian tribes. Funds for the HBCU initiative are to be allocated as described in House Report 105–163.

Amendment No. 24: Modifies language proposed by the Senate providing that $4,200,000 for restoration of historic buildings at historically black colleges and universities will remain available until expended. The House had no similar provision.

The managers are aware of efforts by the Villages of Westhampton Beach and Patchogue to rejuvenate their main street business community by refurbishing two historic theaters and turning them into performing arts centers. Toward this end, and to the extent allowed by law, the relevant Federal agencies should consider, through the normal application and review process, any requests for assistance from the Villages as they proceed with their theater improvements.

CONSTRUCTION

Amendment No. 25: Includes language provding that modifications for Everglades National Park are authorized under the construction account as proposed by the Senate. The House had no similar provision.

Amendment No. 26: Appropriates $214,901,000 for construction instead of $148,391,000 as proposed by the House and $173,444,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Acadia NP (carriage roads)	$1,200,000
Acadia NP (upgrade utilities)	2,000,000
Accokeek Foundation (facilities)	200,000
Alaska Native Heritage Center	2,200,000
Amistad NRA (sewer treatment)	750,000
Blackstone River Valley NHC (exhibits/signs)	500,000
Blue Ridge Parkway (administration bldg)	1,500,000
Blue Ridge Parkway (dam repair)	1,100,000
Blue Ridge Parkway (EIS)	300,000
Blue Ridge Parkway (Fisher Peak)	5,235,000

Project	Amount
Boston NHP (elevator)	1,600,000
Cape Hatteras NS (lighthouse)	2,000,000
Carisbad Caverns NP (water collection)	3,752,000
Cuyahoga Valley NRA (repair & rehabilitation)	4,500,000
Darwin Martin House (restoration)	500,000
Dayton Aviation NHP (Hoover Print Block restoration)	3,500,000
Delaware Water Gap NRA (dam repair)	900,000
Delaware Water Gap NRA (education facilities)	2,000,000
Delaware Water Gap NRA (trail development)	1,500,000
Denali NP&P (Riley Creek utilities rehabilitation)	4,150,000
El Malpais NM (multi-agency center)	1,500,000
Everglades NP (water delivery)	11,900,000
Everglades NP (water line)	3,000,000
FDR Home NHS (water supply)	1,540,000
FDR Home NHS (Vanderbilt utilities)	1,300,000
Fort McHenry NM and Historic Shrine (wall rehabilitation)	1,200,000
Fort Necessity NB (Jumonville and Braddock access, parking)	955,000
Fort Necessity NB (Washington Tavern access, parking)	1,290,000
Fort Smith NHS (rehabilitation)	3,400,000
Fort Sumter NM (site development)	2,860,000
Gateway NRA (road protection)	4,800,000
Gauley NRA (facilities planning)	750,000
General Grant NM (restoration of grounds and facilities)	900,000
George Washington Memorial Parkway (trail repair)	300,000
Glacier Bay NP&P (wastewater treatment)	1,731,000
Grand Canyon NP (transportation)	2,900,000
Hispanic Cultural Center (arts center)	3,000,000
Hot Springs NP (stabilization, lead abatement)	500,000
Independence NHP (utilities, rehabilitation)	4,300,000
Isle Royale NP (vessel)	2,300,000
Jean Lafitte NHP&P (shoreline stabilization)	2,000,000
Katmai NP&P (rehabilitation)	200,000
Kenai Fjords NP (Seward interagency facility)	300,000
Lake Mead NRA (water system)	4,700,000
Lewis & Clark Trail (trail construction)	300,000
Manzanar NHS (fence repair)	310,000
Marsh-Billings NHP (rehabilitation carrage house)	2,400,000
Minute Man NPH (road/trail)	2,000,000
Mount Rainer NP (employee dorms)	2,452,000
Natchez Trace Parkway (road construction)	5,100,000
National Capital Parks (Washington Monument)	1,000,000
National Capital Parks (Jefferson Monument)	4,500,000
New Bedford Whaling NHP (roof repair)	153,000
New River Gorge NR (access, trails)	2,525,000
Oklahoma City National Memorial (construction)	5,000,000
Penn Center (rehabilitation)	500,000
President's Park (HVAC)	11,500,000
Rock Creek Park tennis facilities (access improvements)	200,000
Rutherford B. Hayes Home (rehabilitation)	500,000
Sequoia NP (facilities)	3,000,000
Shiloh NMP (interpretative center)	1,000,000
Shiloh NMP (bank stabilization)	2,000,000
Sotterly Plantation (restoration)	600,000
Southwest Pennsylvania Heritage Comm. (rehabilitation)	2,000,000
Stones River NB (rehabilitation & trail)	650,000
Timpanogos Cave NM (joint facility)	510,000
Trail of Tears NHT, NC (museum exhibits)	600,000
Trail of Tears NHT, OK (museum exhibits)	600,000
Upper Delaware SRR (aqueduct)	420,000
Vancouver NHR (planning restoration)	2,223,000
Vicksburg NMP (rehabilitation)	1,695,000
Vietnam Veterans Museum, Chicago	1,000,000
Wind Cave NP (elevators)	1,400,000
Wrangell-St. Elias NP&P (headquarters and interpretive center)	400,000
Zion NP (transportation)	3,210,000
Project total	156,761,000
Emergency unscheduled housing	15,000,000
Planning	17,500,000
General management plan	7,775,000
Equipment replacement	17,865,000
Total	214,901,000

The managers have included $,2,200,000 to assist in the construction of the Alaska Native Heritage Center. This completes the Park Service commitment to construction of this project.

The managers have provided $1,500,000 for the El Malpais Multiagency administrative and information center in New Mexico. These funds are to be equally matched with non-Federal funds. This completes the Park Service construction commitment to this project. Funding for exhibits, furnishings and operations should be provided equally by all partners.

The managers have provided $5,000,000, the total Federal commitment, for the proposed Oklahoma City National Memorial. The managers understand that a private trust will be responsible for the operations of this facility.

The managers have agreed to provide $1,000,000 to initiate planning and design for the Corinth, MS, interpretive center at Shiloh National Military Park. The managers encourage the Park Service to keep the total cost of this project as low as possible and to work with the local community and other interested parties to generate a significant non-Federal cost share.

The managers have included $510,000 for planning and design of a joint Park Service and Forest Service facility at Timpanogos Cave National Monument, Utah. The managers understand that the total construction cost for this administrative/information center is $4,500,000. The managers expect future budget submissions to reflect a 50/50 cost share between the Park Service and the Forest Service.

Of the $2,223,000 in construction funds made available for the Vancouver National Historic Reserve, $150,000 is for developing a management plan for the Reserve, pursuant to Public Law 104–333, Section 502; $200,000 is for reconstruction at historic Fort Vancouver; $500,000 is for the removal of airplane hangars and cultural landscape restoration on National Park Service lands; and $1,373,000 is for historic structure surveys, restoration planning, restoration construction, and historic exhibits in the Reserve. Use of funds for and expenses associated with the Jack Murdock Aviation Center should be consistent with the Cooperative Agreement between the City of Vancouver and the National Park Service (agreement number 1443–CA9000–96–01, executed December 4, 1995).

The managers have provided $50,000 for a special resource study for the Charleston school district in Arkansas.

The managers direct the National Park Service to provide the necessary funding from its Federal Highway Lands Program funds to ensure completion of the U.S. Highway 27 Bypass around the Chickamauga-Chattanooga National Military Park no later than December 31, 1999.

The managers have provided $300,000 for the Lewis and Clark Trail Visitor Center. These funds, subject to matching from non-Federal sources, complete the Federal commitment.

Amendment No. 27: Restores language proposed by the House and stricken by the Senate which provides that $500,000 for the Rutherford B. Hayes Home, and $600,000 for the Sotterley Plantation shall be derived from the Historic Preservation Fund; inserts language proposed by the Senate which provides similar authority for $500,000 for the Darwin Martin House and $500,000 for Penn Center; provides that funds for the Hispanic Cultural Center are subject to authorization; prohibits the use of funds to relocate the Brooks River Lodge in Katmai NP&P from its current location; and inserts language providing $1,000,000 to be used for the Vietnam Veterans Museum in Chicago, Illinois.

The managers are providing $300,000 to the National Park Service and $100,000 to the Forest Service to begin the planning and design of a multi-agency facility in Seward, Alaska. The facility will include a convention center for the City of Seward, and office and visitor facility space for the two Federal agencies. The location of the convention center and agency operations in a common building will generate efficiencies and cost savings by providing a single facility that combines administrative and interpretative programs and that streamlines facility operations and maintenance. These funds are being provided with the understanding that the facility will be financed, constructed, owned and operated by the City of Seward. The managers intend that the Federal involvement in this project be limited to funding the planning and design, and that the Federal office and visitor facility space be procured via long-term leases with the City of Seward.

An amount of $400,000 is provided for site preparation for a visitor center in Wrangell-St. Elias National Park and Preserve. The managers are pleased the initial cost estimate of up to $19,000,000 has been scaled down to $4,500,000 and the size of the facility reduced by two-thirds to reduce costs.

The managers note that the City of Galax, VA has donated approximately 1,100 acres of prime land to the National Park Service to

be the location for the Fisher Peak Center on the Blue Ridge Parkway. The managers further acknowledge the commitment of a non-governmental, non-profit organization to take responsibility for the operation of all cultural aspects of the center's activities, including acquisition and maintenance of exhibits and payment of fees and expenses for performing artists. Following construction of the center, the Park Service's responsibility for the center will be limited to maintenance of the infrastructure, in accordance with the draft negotiations previously undertaken by the NPS and the non-profit organization. The managers believe the donation of land and the financial contribution represented by the operation of the cultural activities at Fisher Peak over the life of the facility should constitute a non-Federal share for the center of considerably more than 50 percent of the construction cost.

The managers direct the National Park Service to conduct a study, within available funds, on the feasibility of establishing the Androscoggin River Valley as a National heritage area.

The managers have provided $3,000,000 for the Hispanic Cultural Center in Albuquerque, New Mexico, subject to authorization. The managers note that this facility will not be located in or near a unit of the National Park System and therefore encourage that future funding be provided from other Federal or non-Federal sources.

Amendment No. 28: Deletes Senate language directing the reprogramming of funds from the Jefferson National Expansion Memorial to the U–505 National Historic Landmark. The House had no similar provision.

LAND ACQUISITION

Amendment No. 29: Appropriates $143,290,000 for land acquisition instead of $129,000,000 as proposed by the House and $126,690,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Appalachian Trail	$4,200,000
Arkansas Post NM, AR	440,000
Aztec Ruins, NM, NM	600,000
Big Cypress NPr, FL	10,000,000
Chattahoochee River NRA, GA	3,000,000
Cuyahoga Valley NRA, OH	4,000,000
Denali NP&P, AK	2,000,000
Everglades NP, FL	66,000,000
Fredericksburg/Spotsylvania NMP, VA	3,500,000
Gauley NRA, WV	950,000
Golden Gate NRA, CA	1,550,000
Hagerman Fossil Beds NM, ID	800,000
Haleakala NP, HI	1,000,000
Indiana Dunes NL, IN	3,000,000
Minute Man NHP, MA	500,000
New River Gorge NR, WV	2,000,000
Olympic NP, WA	3,000,000
Palo Alto Battlefield NHS, TX	900,000
Petroglyph NM, NM	2,000,000
Saguaro NP, AZ	3,000,000
San Antonio Missions NHP, TX	1,500,000
Santa Monica Mountains NRA, CA	1,000,000
Sterling Forest, NY	8,500,000
Stones River NB, TN	1,000,000
Voyageurs NP, MN	650,000
Wrangell-St. Elias NP&P, AK	4,200,000
Aacquisition management	8,500,000
Emergency/hardships	3,000,000
Inholdings/exchanges	1,500,000
State grant assistance	1,000,000
Total	143,290,000

Amendment No. 30: Earmarks $1,000,000 for administering the State assistance program as proposed by the House. These funds are associated with close-out of prior year awards.

Amendment No. 31: Deletes House language providing an earmark for the Sterling Forest.

The amendment also includes language as proposed by the Senate providing the Secretary of the Interior authority to provide Federal land acquisition funds to the State of Florida for the protection of the Everglades and allows for acquisitions within Stormwater Treatment Area 1–E, including reimbursement. Funds are made available for STA 1–E because STA 1–E will be designed and operated to improve the quality of water flowing into the Loxahatchee NWR.

While the managers have agreed to the Senate bill language giving the Secretary of the Interior authority to provide Federal assistance to the State of Florida for land acquisition in the Everglades, the managers agree that completing the Federal acquisitions remains the priority for the use of Federal acquisition dollars. The managers also believe progress should continue on the east buffer.

The managers intend that any funds remaining available for land acquisition for, or development of, the East St. Louis portion of the Jefferson National Expansion Memorial may not be expended until private entities located within the East St. Louis portion of the Memorial have been removed or relocated (using non-Federal funds) for park development purposes. Further appropriations for this purpose are not likely until these local issues are resolved.

The managers have provided $1,550,000 to purchase the Giacomini Ranch property within the Golden Gate National Recreation Area. These funds, along with the $3,200,000 in State funds, complete this purchase.

The managers have provided funds to complete the purchase of the Gisler property in the Hagerman Fossil Beds National Monument. The purchase of this desirable property from a willing seller should be conducted with all due speed based on an offer to sell dated May 21, 1997.

The managers direct that the funds provided for Stones River National Battlefield may only be spent on acquisitions within the authorized park boundaries as of January 1, 1996.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 32: Appropriates $759,160,000 for surveys, investigations and research instead of $755,795,000 as proposed by the House and $758,160,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $3,000,000 for the global seismographic network, $1,000,000 for volcano hazard studies for Hawaii and Alaska, $2,000,000 for the Alaska minerals at risk project and $500,000 for Great Lakes research; and decreases of $500,000 for biological information management, $135,000 for Caddo Lake (funded under the U.S. Fish and Wildlife Service), and $2,500,000 for the pilot competitive grant research program.

The hypoxia zone in the Louisiana shelf of the Gulf of Mexico has grown to an area of about 7,000 square miles and because of its size and scope is having a significant negative impact on the fishing industry in the Gulf. The managers support the U.S. Geological Survey's research into the causes and effects of the problem. The managers urge the Survey to consider this a high priority in its fiscal year 1999 budget.

The managers expect the current policy with respect to awarding competitive grants to the Water Resources Research Institutes to be continued.

Increased funding for the cooperative research units is provided in order to fill some of the 20 position vacancies that now exist at established units. The managers have not provided any funding to establish new cooperative research units.

Amendment No. 33: Earmarks $2,000,000 for an Alaska mineral and geologic data base as proposed by the Senate. The House had no such earmark.

Amendment No. 34: Earmarks $145,159,000 for the biological research activity and the operation of the cooperative research units instead of $147,794,000 as proposed by the House and $147,159,000 as proposed by the Senate.

Amendment No. 35: Deletes language proposed by the Senate allowing the United States Geological Survey to make payments to local entities for real properties transferred from the Fish and Wildlife Service to the Survey. The House had no similar provision. Language is included under General Provisions, Department of the Interior, to allow the U.S. Fish and Wildlife Service to continue these payments.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

Amendment No. 36: Appropriates $137,521,000 for royalty and offshore minerals management instead of $139,621,000 as proposed by the House and $135,722,000 as proposed by the Senate. Changes to the amount proposed by the House include an increase of $1,200,000 in resource evaluation for the marine minerals resource center program and decreases of $1,000,000 in the OCS lands regulatory program for a clearinghouse for offshore petroleum production information and $2,300,000 in the royalty management program, of which $1,000,000 is for valuations and operations and $1,300,000 is for compliance.

The managers expect the MMS to report on how funds for the marine minerals resource center program will be used to support the MMS mission, and thereafter to keep the Committees advised of how these funds are being used.

The managers are aware that the MMS has received numerous expressions of concern about the proposed new regulations on oil valuation including concerns about the proposed changes in the long standing practice of valuation of hydrocarbon production at the lease where it is brought to the surface; the impact of transportation, administrative costs and other risks if valuation of hydrocarbon production is conducted away from the lease site; and the application of any new regulations retroactively. The managers expect the MMS to continue to consult with industry and the States and to report back to the Committees prior to finalizing this regulation. The managers also intend to explore the possibility of an independent evaluation by the General Accounting Office on this issue and on the issue of royalty in kind.

The managers understand that the MMS needs to acquire geological and geophysical information to obtain the information needed to ensure that fair prices are received on outer continental shelf tracts offered for leasing. This is a responsibility to MMS has to the taxpayers of this country. However, the MMS also has the responsibility of ensuring that company confidential information is protected from disclosure. In finalizing the proposed rule on geological and geophysical information, the MMS should ensure that both of these responsibilities are met and should continue to work with the industry toward that end.

Amendment No. 37: Earmarks $68,574,000 for royalty management instead of $70,874,000 as proposed by the House and $66,175,000 as proposed by the Senate.

Amendment No. 38: Deletes language proposed by the House and stricken by the Senate which would have limited the use of receipts to activities within the outer continental shelf lands program.

Amendment No. 39: Earmarks $3,000,000 to remain available for two fiscal years for computer acquisitions as proposed by the Senate instead of $1,500,000 as proposed by the House.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Amendment No. 40: Appropriates $95,437,000 for regulation and technology as proposed by the House instead of $97,437,000 as proposed by the Senate. The agreement does not fund the acid mine drainage technology initiative proposed by the Senate.

ABANDONED MINE RECLAMATION FUND

Amendment No. 41: Appropriates $177,624,000 for the abandoned mine reclamation fund as proposed by the Senate instead of $179,624,000 as proposed by the House.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 42: Appropriates $1,528,588,000 for the operation of Indian programs instead of $1,526,815,000 as proposed by the House and $1,529,024,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,500,000 for the tribally controlled community colleges, $1,000,000 under non-recurring programs for tribes in South Dakota that intend to run their own welfare programs, and $500,000 for the United Tribes Technical College; and decreases of $427,000 for the Gila River Farms project and $800,000 for trust records management.

The managers have agreed upon a new distribution for tribal priority allocation funding for fiscal year 1998. This distribution is as follows: (1) requested fixed cost increases, internal transfers, and proposed increases to formula driven programs not included in the tribes' TPA base; (2) all tribes are provided a minimum funding level of $160,000; and (3) any remaining funds will be distributed based on recommendations of a task force to be established by the Secretary of the Interior. Other than this agreed upon distribution there are no other earmarks for TPA. A more detailed explanation is provided under General Provisions, Department of the Interior, Amendment No. 65.

Within other recurring programs $600,000 is provided for the Bering Sea Fishermen's Association.

Amendment No. 43: Earmarks $55,949,000 to remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian self-determination fund, land records improvements and the Navajo-Hopi settlement program instead of $59,775,000 as proposed by the House and $59,479,000 as proposed by the Senate.

Amendment No. 44: Inserts language proposed by the Senate allowing tribes to use tribal priority allocation funds for replacement and repair of school facilities, provided that such replacement and repair is approved by the Secretary of the Interior and is completed with non-Federal and/or TPA funds. The House had no similar provision.

The managers have included bill language to allow tribes to use TPA funds for replacement and repair of school facilities. This language requires that tribes comply with applicable building codes, obtain the approval of the Secretary of the Interior for proposed projects, and complete projects with TPA and/or non-Federal funds. The Secretary's approval would be based on the determination that the proposed projects comply with the Bureau's education space guidelines; the Bureau would have the two-year lead time it requires to plan adequately for operation and maintenance costs; and tribes would have adequate funding to complete the project.

CONSTRUCTION

Amendment No. 45: Appropriates $125,051,000 for construction as proposed by the Senate instead of $110,751,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,800,000 for the Pyramid Lake school, $1,600,000 for the Sac and Fox school, $1,800,000 for the WaHeLut school, and $9,100,000 for the Ute Mountain Ute detention center.

The managers are aware of assistance that has been provided in prior years to the Marty Indian school in South Dakota. To the extent that there are additional high-priority requirements identified for the facilities which service the elementary grades at this location, the Bureau should give consideration to these needs through the emergency or minor repair programs within the educational facility improvement and repair program.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 46: Appropriates $43,352,000 for Indian land and water claim settlements and miscellaneous payments to Indians as proposed by the Senate instead of $41,352,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,500,000 for the Pyramid Lake settlement and $500,000 for church restoration on the Aleutian and Pribilof Islands.

Amendment No. 47: Earmarks $42,000,000 for implementation of settlements as proposed by the Senate instead of $40,500,000 as proposed by the House.

Amendment No. 48: Earmarks $1,352,000 for various settlements as proposed by the Senate instead of $852,000 as proposed by the House.

Amendment No. 49: Inserts references to Public Laws 101–383 and 103–402 as proposed by the Senate consistent with the funding earmark in Amendment No. 48.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

Amendment No. 50: Appropriates $67,514,000 for assistance to territories instead of $68,214,000 as proposed by the House and $67,214,000 as proposed by the Senate. The decrease to the amount proposed by the House is $700,000 for technical assistance within the territorial assistance activity.

Amendment No. 51: Earmarks $63,665,000 for technical assistance instead of $64,365,000 as proposed by the House and $63,365,000 as proposed by the Senate.

COMPACT OF FREE ASSOCIATION

Amendment No. 52: Appropriates $20,545,000 for the compact of free association as proposed by the Senate instead of $20,445,000 as proposed by the House. The conference agreement includes $100,000 above the level proposed by the House for Enewetak support.

DEPARTMENTAL MANAGEMENT

The managers agree not to require the Alaska North Slope land exchange assessment mandated in the Senate report.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $24,500,000 for the Office of the Inspector General as proposed by the Senate instead of $24,439,000 as proposed by the House.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

Amendment No. 54: Appropriates $1,000,000 with one-year availability for salaries and expenses of the National Indian Gaming Commission as proposed by the House instead of $1,000,000 to remain available until expended as proposed by the Senate.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

Amendment No. 55: Appropriates $33,907,000 for Federal trust programs in the Office of Special Trustee for American Indians instead of $32,126,000 as proposed by the House and $35,689,000 as proposed by the Senate. There is a general increase of $1,781,000 above the House level.

Within the funds provided for the office of the special trustee $2,197,000 is provided for settlement and litigation support. The managers understand that the demands placed on the office of the special trustee to support activities related to settlement efforts and ongoing tribal and IIM litigation are significant. These activities are critical to ensuring that the Federal government appropriately addresses its past management of Indian trust accounts. The managers expect to be kept apprised of settlement and litigation activities through semiannual reports to the Committees.

Amendment No. 56: Strikes the redundant phrase ''for trust fund management'' in the description of programs to be funded under the Office of Special Trustee for American Indians as proposed by the Senate.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 57: Deletes language proposed by the House and stricken by the Senate restricting the use of funds for finalizing a rule regulation pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 and inserts language providing that Park Service units participating in the recreation fee demonstration program cover the cost of collecting fees within the funds retained at each unit. The managers note that 80% of all fees collected under the demonstration project are retained by the collecting unit.

Section 107 of the House bill prohibited any agency of the Federal government from implementing any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes (43 U.S.C. 932). The language of section 107 is identical to section 108 of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208, 110 Stat. 3009–200). The Senate bill or fiscal year 1998 did not contain any provision similar to section 107 because the Senate maintained that section 108 of the fiscal year 1997 Interior appropriations law was intended as, and is, permanent law. The Comptroller General recently reviewed section 108 of the fiscal year 1997 Interior appropriations law and determined that it is permanent law (Opinion B–277719, August 20, 1997). The Comptroller General's opinion is printed on page E1681 of the Congressional Record of September 8, 1997.

The managers agree with the Comptroller General that existing law prohibits any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes from taking effect until such time as any such rules or regulations are expressly authorized by an Act of Congress. Further, the managers note that noting in the deletion of section 107 or in any provision of the conference report shall be constructed as contradicting or diminishing the permanence of section 108 of the fiscal year 1997 Interior appropriations law or as a subsequent Act of Congress expressly authorizing any final rules or regulations regarding

section 2477 of the Revised Statutes to take effect.

Amendment No. 58: Makes a technical correction to House language continuing the moratorium on offshore oil and gas leasing in the North Aleutian Basin as proposed by the Senate.

Amendment No. 59: Modifies House language regarding the ability of Indian tribes, tribal organizations, or tribal consortia to invest advance payments or to allow such payments to be invested in certain mutual funds and securities or to be deposited in certain protected accounts as proposed by the Senate.

The intent of the investment restrictions contained in Section 112 is to limit the types of permissible investments for all funds appropriated and obligated under the Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act. This is to ensure that these funds are available to support the public functions for which these funds were appropriated. The managers believe that these goals will be achieved by barring risky investments such as those in speculative securities, in unsecured financing arrangements, or uncollateralized or uninsured bank accounts. The managers strongly believe that should losses occur, such amounts must be repaid by the tribes.

Amendment No. 60: Inserts language proposed by the House and modified by the Senate concerning severance pay and others benefits by Bureau of Land Management employees in the helium operations program to include certain training benefits and to clarify annual leave restoration provisions as proposed by the Senate.

Amendment No. 61: Restores language inserted by the House and stricken by the Senate stipulating that the establishment of a new regional office in the United States Fish and Wildlife Service requires the advance approval of the House and Senate Committees on Appropriations.

The managers are sympathetic to the Service's argument that the large workload on the west coast is putting a strain on the regional office in Portland, Oregon. The managers believe that the Service's proposal to create a new regional office at a cost of $10 million and more than 120 FTEs may not be the best use of additional resources and staffing. In this conference agreement the managers have been very sensitive to the Service's need to address its large maintenance and operational backlogs in the field. The managers do not want to see a large new bureaucracy drain both funding and staffing increases which are so essential to making on-the-ground improvements as the National refuge system approaches its 100th birthday in the year 2003. The managers note that the Vice President's National Performance Review goals are targeted toward reducing the size of the Federal bureaucracy and empowering employees to take responsibility for their work assignments without a multi-layered review bureaucracy. Therefore, the managers encourage both the Service and the Administration to examine a variety of cost-effective alternatives, including nontraditional alternatives, to deal with the Service's west coast workload problem, such as placing additional personnel in the field. The House and Senate Committees on Appropriations will continue to work with the Service to identify the most appropriate way to address this problem. The managers believe the solution should be part of an overall approach to addressing the operational, maintenance and staffing needs of the Service.

Amendment No. 62: Inserts language conveying the Bowden National Fish Hatchery to the State of West Virginia as proposed by the Senate. The House had no similar provision. This provision is consistent with the hatchery transfer proposal included in the fiscal year 1996 Appropriations Act.

Amendment No. 63: Amends section 115 of Public Law 103–332 to allow agencies in addition to the Department of the Interior to fund cooperative research agreements incrementally with funds provided by other Federal agencies as proposed by the Senate. The House had no similar provision.

Amendment No. 64: Amends Public Law 100–446 as proposed by the Senate to change the annual amount that can be expended for Kili and Ejit at Bikini Atoll and to provide for inflation adjustments. The House had no similar provision.

Amendment No. 65: Modifies language proposed by the Senate directing the BIA to reallocate tribal priority allocation (TPA) funds. The House had no similar provision.

The managers agree that the current pro rata distribution of TPA, based on historical methods dating to the 1930s, has resulted in great disparity in the funds of the non-formula funded TPA programs, which are referred to as ''base'' funds. Currently, 309 of the 526 Federally recognized tribes do not receive a base of even $160,000, the minimum level of TPA funding per tribe recommended by the Joint Tribal/BIA/DOI Advisory Task Force on Reorganization of the BIA in its 1994 report. The managers agree that the BIA shall raise the base funding of all tribes not receiving the minimum recommended TPA funding to $160,000 in fiscal year 1998.

The managers understand that the tribes have obligations related to the use of the TPA funds. The managers have provided tribes with full fiscal year 1997 TPA funding, adjusted for all fixed costs and internal transfers, and have provided funding for the proposed increases to the formula driven programs not included in tribes' base.

To the extent that TPA funds remain available for allocation after distribution as directed above, the managers agree that the funds should not be allocated under the current method used by the BIA. The managers direct the Secretary to convene a task force of Federal officials and tribal representatives by October 31, 1997, to determine the allocation of any remaining TPA funds, based on the recommendations and principles contained in the 1994 report. If the task force cannot agree on a distribution consistent with the 1994 report by January 31, 1998, the Secretary shall distribute the funds by February 28, 1998, based on the recommendations of a majority of task force members, or, if no majority recommendation can be reached, considering the recommendations of the task force members. The managers urge the task force and the Secretary, in the event that the Secretary has to distribute the funds without a distribution recommendation supported by a majority of task force members, to consider the inequities in current TPA allocation and the disparate economic situations of the tribes.

Amendment No. 66: Amends Section 116 of Public Law 104–208 as proposed by the Senate to correct citations in the fiscal year 1997 appropriations Act relating to the transfer of a Federal facility in Salt Lake City, Utah, to the University of Utah. The House had no similar provision.

Amendment No. 67: Amends language relating to Kantishna Mining claims acquisition which was set out in the Senate bill. In 1903, gold miners first staked claims in the area known as the Kantishna Mining District. Mining operations continued, and periodically enjoyed a number of boom years, right up through the 1970's. In 1980, the area became part of the National Park System. In 1985, the Park Service was enjoined from approving claim owners' operation plans until an Environmental Impact Statement (EIS) was completed. The preferred alternative in the EIS was for the National Park Service to acquire the claims. Under these circumstances, and subsequent delays and uncertainties, a large majority of claim owners believed that mining operation plans would not be approved. This section is intended to provide both the claim owners and the National Park Service with an expeditious mechanism to resolve these claims. While incorporating the procedures and jurisprudence under the Declaration of Takings Act, this section includes an additional procedure provided under this section for the owner's ability to bring suit.

The managers recognize that there has been significant dispute as to whether there have been takings of mining claims. This section offers consenting owners the opportunity at least to obtain compensation as of 90 days from the day of enactment of this Act, while leaving the takings matter to the parties or the court system to resolve.

The National Park Service is encouraged to use, to the greatest extent feasible, and within reasonable health and safety guidelines and in consultation with the Alaska State Historic Preservation Officer, any equipment or structures not removed by owners that are of an historic nature as part of future exhibits on mining within Denali National Park and Preserve. In addition, the managers encourage the National Park Service to allow appropriate visitor use of the trails and roads created by the miners. Congress does not authorize the National Park Service to use this section to force unwilling sellers off their patented or unpatented land.

The managers have provided funding in the NPS land acquisition account, in part, to pay for administrative work such as validity determinations and appraisals, as well as the review of information received from claim owners pursuant to this section. Such money may also fund the acquisition of claims through Declarations of Takings account.

Amendment No. 68: Modifies language proposed by the Senate which amends Section 1034 of Public Law 104–333 to extend the period for filing by Alaska Native Corporations regarding the land conveyance dispute in Lake Clark National Park and Preserve, AK. The modification permits the introduction of any relevant evidence. The House had no similar provision.

Amendment No. 69: Modifies language proposed by the Senate relating to the computation of the refuge revenue sharing payment to the Kodiak Island Borough. The modification requires the Fish and Wildlife Service to conduct another assessment of the property and to base refuge revenue sharing payments, beginning with the payment to be made in fiscal year 1999, on the new assessment. The House had no similar provision.

Amendment No. 70: Deletes language proposed by the Senate authorizing a National Park Service heritage study of the Androscoggin River Valley, and inserts language authorizing increased assessment fees for the National Indian Gaming Commission, excluding self regulated tribes such as the Mississippi Band of Choctaw. The House had no similar provision.

Amendment No. 71: Amends Section 3 of Public Law 94–392 as proposed by the Senate regarding the ability of the government of the Virgin Islands to issue bonds. The House had no similar provision.

Amendment No. 72: Directs the Secretary of the Interior to take action to ensure that the lands comprising the Huron Cemetery of Kansas City, Kansas, are used only for religious and cultural uses compatible with the use of the lands as a cemetery as proposed by the Senate. The House had no similar provision.

Amendment No. 73: Revises the boundaries of the Arkansas Post National Memorial as proposed by the Senate to include an additional 360 acres and authorizes the Secretary of the Interior to acquire these acres. The House had no similar provision.

Amendment No. 74: Modifies language proposed by the Senate regarding Glacier Bay access to provide for open competition and to limit additional passenger ferry transportation into Bartlett Cove from Juneau to one entry per day. The House had no similar provision.

Amendment No. 75: Amends Title I of Public Law 96–514 under the heading ''Exploration of National Petroleum Reserve in Alaska'' as proposed by the Senate regarding lease operations and royalty terms. The House had no similar provision.

Amendment No. 76: Inserts language proposed by the Senate prohibiting the Secretary of the Interior from approving any class III tribal-State gaming compacts without the prior approval of a State. It is also the sense of the Senate that the Justice Department should enforce the provisions of the Indian Gaming Regulatory Act. The House had no similar provisions.

The managers agree that this section prohibits the Secretary of the Interior during fiscal year 1998 from adoption specific procedures to authorize and govern Indian gaming activities in any particular State in the absence of a tribal-State compact approved by a State in accordance with State law.

Amendment No. 77: Inserts language which modifies a Senate provision relating to definition regulations of the National Indian Gaming Commission. The modification is intended to make clear that the Commission can gather information relating to the Advanced Notice of Proposed Rulemaking, but not issue draft or final rules. The House had no similar provision.

The managers note that this provision will have no effect on the classification of bingo games, including bingo involving electronic blowers. Such games currently are considered class II and will remain class II under this provision.

Amendment No. 78: Deletes language inserted by the Senate concerning the Youth Environmental Service program and inserts a provision providing for the U.S. Fish and Wildlife Service to continue to make payments to local entities for real Federal properties transferred to the U.S. Geological Survey. The Senate bill addressed the payment provision under the U.S. Geological Survey. The House had no similar provisions. The managers expect the Department to provide the report requested in the Senate amendment dealing with the Youth Environmental Service program not later than 120 days after enactment of this Act.

Amendment No. 79: Includes language proposed by the Senate concerning the conveyance of certain lands managed by the Bureau of Land Management to Lander County, Nevada. The House had no similar provision.

Amendment No. 80: Modifies language proposed by the Senate requiring the sale of certain BLM lands to landowners in Clark County, NV. The House had no similar provision.

Amendment No. 81: Deletes language proposed by the Senate establishing a National Parks and Environmental Improvement Fund and inserts language providing for a National Park Service land exchange of property in the District of Columbia for property in Prince Georges County, MD, for Oxon Cove Park. The managers have addressed the establishment of an environmental restoration fund in Title IV, Amendment No. 162. With respect to the Oxon Cove land exchange, the managers understand that the National Park Service is not liable for the hazardous wastes or other substances placed on the lands.

Amendment No. 82: Modifies language proposed by the Senate regarding the Stampede Mine Site in Denali NP&P, AK. The House had no similar provision.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

Amendment No. 83: Appropriates $187,944,000 for forest and rangeland research instead of $187,644,000 as proposed by the House and $188,644,000 as proposed by the Senate. Changes from the amounts proposed by the House include a total of $700,000 for the Rocky Mountain station forest health project, an additional $450,000 for the Institute of Pacific Islands Forestry, IH, an increase of $500,000 for the fine hardwoods tree improvement project in association with Purdue University, IN, and $1,500,000 as additional funding for research at the Pacific Northwest station. The agreement retains the Senate positions that no additional funding is provided as a grant for the Northern Arizona School of Forestry forest health project and that $3,000,000 is provided to accelerate forest inventory and analysis focused on States with partnerships.

The managers have included an increase of $300,000 for the Rocky Mountain Research Station for monitoring and research to support the Southwest region wildland ecosystem restoration projects, as developed by a joint region-station project team, that also will include appropriate expertise from other organizations. The managers, recognizing the current controversies surrounding the management of the forests in the Southwest, wish to ensure full participation by all parties in the Southwest ecosystem restoration research effort. The Forest Service shall place a representative of the New Mexico Department of Agriculture and a representative from the range task force at New Mexico State University on any advisory committee or team established for this research project. The Forest Service is directed to submit a draft proposal at the earliest possible date to the House and Senate Committees on Appropriations fully outlining its research plans and more complete details on this proposal, including the duration and multi-year cost estimate.

STATE AND PRIVATE FORESTRY

Amendment No. 84: Appropriates $161,237,000 for State and private forestry instead of $157,922,000 as proposed by the House and $162,668,000 as proposed by the Senate. Changes from the House position include the addition of $500,000 for the Alaska Spruce Bark Beetle task force in the cooperative lands forest health management activity and a reduction of $1,850,000 for cooperative lands fire management. Other changes from the levels proposed by the House include an increase of $2,000,000 for stewardship incentives and $2,000,000 for the forest legacy program, Mountains to Sound Greenway project in Washington State. The Chesapeake Bay program is funded at the fiscal year 1997 level from the forest stewardship activity. The managers encourage the Forest Service to use the stewardship incentives program to enhance sustained commodity production from private lands and aid the nation's supply of forest products and services by using the full range of forest practices authorized for this program. Economic action programs are provided $11,465,000, an increase of $465,000 above the House level. The funds to restore the forestry products conservation and recycling program to the fiscal year 1997 level are provided to maintain the technical assistance for the Princeton Hardwoods Center at the fiscal year 1997 level of $200,000. The economic action program funds should be distributed as follows:

Rural development	$5,000,000
Wood in transportation	1,200,000
Economic recovery	3,850,000
Forestry products conservation and recycling	1,200,000
Columbia River Gorge county payments	215,000

Amendment No. 85: Retains language proposed by the Senate to provide $800,000 in the Pacific Northwest Assistance activity for the World Forestry Center in Oregon to be used to aid the Umpqua River Basin land exchange project as authorized in section 1028 of Public Law 104–333. The House had no similar provision. The managers encourage the project directors to increase funding from private sources so this study can be finished in fiscal year 1998. The managers expect that no further Federal funds will be necessary and that a report detailing the use of these funds and previous Federal funds and the results of the studies will be provided to the House and Senate Committees on Appropriations no later than January 15, 1999. The managers encourage the involved Federal agencies to cooperate fully with the Umpqua River Basin land exchange project to facilitate the goals of the authorized study.

Amendment No. 86: Retains language proposed by the Senate exempting the Alaska Spruce Bark Beetle task force from requirements of the Federal Advisory Committee Act. The House had no similar provision.

INTERNATIONAL FORESTRY

The conference agreement allows the Forest Service to use up to $3,500,000 to support international forestry activities as authorized. These funds may be taken from other appropriations available to the Forest Service. The House and Senate Committees on Appropriations should be informed of the funding mix used. Of this amount, $230,000 is for the international forestry activities of the Institute of Pacific Islands Forestry, an increase of $100,000 over the fiscal year 1997 funding for this activity.

NATIONAL FOREST SYSTEM

Amendment No. 87: Appropriates $1,348,377,000 for the National forest system instead of $1,364,480,000 as proposed by the House and $1,337,045,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,000,000 for inventory and monitoring, $500,000 for anadromous fish habitat management and $2,034,000 for grazing management, and decreases of $1,370,000 for inland fish habitat management, $1,000,000 for timber sales management, $1,000,000 for soil, water and air operations, $500,000 for watershed improvements, $767,000 for minerals and geology management, $1,000,000 for real estate management and $14,000,000 for general administration.

The conference agreement includes language in Title III encouraging the Forest Service to release forest planning regulations that have been under development since 1990. Other Title III language governs the Interior Columbia River Basin environmental impact statements but the managers have not set a date certain for public comment periods. The conference agreement directs that the Forest Service not begin any new large scale ecoregional assessments, such as the Interior Columbia Basin study, without the advance approval of the House and Senate Committees on Appropriations. Funding associated with such initiatives should be clearly displayed in the budget explanatory notes. The managers agree that the Forest Service should provide advance

notice to the House and Senate Committees on Appropriations if small scale, multi-forest assessments are planned that are not reflected in the annual budget justification.

The managers agree to earmarks proposed by the Senate including $300,000 for the great western trail feasibility study in the Intermountain region and $100,000 for Alaska gold rush centennial exhibits and living history presentations, and an increase of $1,000,000 for trail maintenance in the Pacific Northwest region. The managers expect the challenge cost share funding levels for all activities to follow the budget request, with the addition of $500,000 in both the rangeland and forestland vegetation management activities. The managers agree that a total of $4,000,000 should be used for exotic and noxious plant management, and that the Pacific Northwest region is encouraged to fund the Okanogan and the Colville National Forest activities targeted at the eradication of noxious weeds. The managers note that it appears that Forest Service staff in the Pacific Northwest region has attempted to penalize ranchers in perpetuity for alleged grazing violations. The managers expect that any penalties imposed will reflect the severity of the violation and should not be permanent, and that appropriate agency review of the alleged violations should be undertaken to determine if the penalty is still necessary.

The managers are concerned that commitments made in the President's Pacific Northwest Forest Plan be fulfilled. Accordingly, the managers expect the Forest Service to make available for sale in fiscal year 1998 the timber volume specified in alternative 9 of the Record of Decision of the Final Environmental Impact Statement, as revised. This volume should be no less than 763 million board feet, which includes no more than 10 percent of the volume in the form of products which the Final Environmental Impact Statement defines as ''other wood''.

The conference agreement earmarks at least $1,000,000 from the land ownership activity to assist resource input to the relicensing of hydropower projects on national forest lands and to update assessments of hydropower project fair market values. The managers agree with the House language directing the Forest Service to use funds generated as a result of 16 U.S.C. 501 promptly for priority road, trail, and bridge maintenance projects to reduce the significant backlog. The report requested by the House on facility, road and bridge maintenance, repair and replacement needs should indicate clearly how this significant source of funds will be used to improve the transportation infrastructure on national forest system lands. The managers reiterate support for cooperative law enforcement agreements and have included funds for this purpose. The managers are aware of a proposed designation of a high intensity drug trafficking area in the Daniel Boone National Forest, KY. Such a designation would provide for enhanced enforcement which would address marijuana production in the Forest. The managers urge the Forest Service to ensure that appropriate law enforcement personnel are provided to support this initiative once approved.

The managers urge the Forest Service to work cooperatively with Lafayette County, Mississippi, officials in making improvements to county road 244 within the Holly Springs National Forest.

The managers have agreed to revised instructions, provided in the Forest Service administrative provisions, regarding potential Alaska regional office relocations and other Alaska office closures and alterations proposed by the Senate.

Amendment No. 88: Modifies language proposed by the Senate governing the use of national forest system funds for the construction of facilities costing no more than $250,000 to require the advance approval of the House and Senate Committees on Appropriations following established reprogramming procedures. The House had no similar provision.

WILDLAND FIRE MANAGEMENT

Amendment No. 89: Appropriates $584,707,000 for wildland fire management instead of $591,715,000 as proposed by the House and $582,715,000 as proposed by the Senate. The managers agree that $4,000,000 should be used from the fire operations activity for the new fire science and management program to work closely with the similar program at the Department of the Interior.

RECONSTRUCTION AND CONSTRUCTION

Amendment No. 90: Appropriates $166,045,000 for reconstruction and construction instead of $154,522,000 as proposed by the House and $155,669,000 as proposed by the Senate. Increases above the House allowance for recreation roads include $1,000,000 for the Hamma Hamma road in Washington and $800,000 for the Trappers Loop Connector road in Utah.

The managers agree to the following distribution of funds:

Project	*Amount*
Facilities construction:	
Research:	
Inst. Pacific Islands Forestry (HI)	$360,000
Request projects	2,377,000
Subtotal: Research	2,737,000
Fire, Admin., other:	
Boulder Ranger District (CO)	1,000,000
Grey Towers Nat. Historic Site (PA)	2,300,000
Oakridge RD station reconstruction (OR)	4,000,000
Wayne NF supervisor's office (OH)	500,000
Seward RD interagency center (AK)	100,000
Request projects	8,196,000
Subtotal: FAO	16,096,000
Recreation:	
Badin Lake campground (NC)	1,000,000
Barton Flats group campground rehab (CA)	640,000
Chilowee campground rehab (TN)	500,000
Choctaw RD visitor contact center (OK)	445,000
Cradle of Forestry (NC)	1,700,000
Franklin County Dam (MS)	1,000,000
Klahowya campground water system (WA)	50,000
Lake Isabella rehabilitation projects	250,000
Lee Canyon, Tahoe Meadows (NV)	427,000
Midewin National Tallgrass Prairie (IL)	1,600,000
Nantahala NF rehabilitation projects (NC)	400,000
Oklahoma equestrian projects	205,000
Olympic NF campgrounds (WA)	150,000
Pikes Peak Summit House (CO)	1,000,000
Sawtooth NRA Harriman trail structure (ID)	100,000
Spruce Knob repairs (WV)	80,000
Upper Ocoee corridor (TN)	200,000
Waldo Lake rehabilitation (OR)	550,000
Winter Olympic Games 2002 (UT)	1,214,000
Request projects	20,312,000
Subtotal: Recreation	31,823,000
Total facilities construction	50,656,000
Trails Construction:	
Continental Divide Trail (CO)	750,000
Palmetto Trail (SC)	125,000
Sawtooth NRA Harriman Trail (ID)	300,000
Steigerwald Lake (WA)	150,000
Taft Tunnel (ID)	750,000
Tonopah N/S trailhead (NV)	20,000
Request projects	25,200,000
Total Trails Construction	27,295,000
Road Construction:	
Road type:	
Timber Roads	47,400,000
Recreation Roads	27,400,000
General Purpose Roads	13,294,000
Total Road Construction	88,094,000
Total all construction	166,045,000

The managers understand that the Forest Service and the National Park Service have agreed to build and jointly occupy a multi-agency facility for administration, operations, and visitor contact in Utah at Timpanogos Cave National Monument and Unita National Forest, Pleasant Grove ranger district. The managers support these cooperative efforts so long as they result in greater efficiency and better public service. The managers have provided funds elsewhere to the National Park Service for planning and design of this project. The managers expect the Forest Service to include an equal share of total construction costs in its fiscal year 1999 budget submission. The managers have included a total of $100,000 in the fire, administrative and other facilities activity for planning assistance to the new interagency facility in Seward, AK. More detailed instructions for the Seward/Kenai Fjords NP facility are provided under the National Park Service construction account in this statement.

Amendmet No. 91: Deletes language proposed by the Senate earmarking $800,000 for the Trappers Loop Connector Road in the Wasatch-Cache National Forest. The House had no similar provision. Funding for the Trappers Loop Connector Road is included in the Forest Service reconstruction and construction account.

Amendment No. 92: Deletes language proposed by the House and stricken by the Senate providing that not to exceed $25,000,000 remain available until expended for the construction of forest roads by timber purchasers. The managers support the instructions regarding timber purchaser road credits proposed by the Senate.

LAND ACQUISITION

Amendment No. 93: Appropriates $52,976,000 for land acquisition instead of $45,000,000 as proposed by the House and $49,176,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Appalachian Trail	$3,000,000
Arapaho (Wedge), CO	350,000
California wilderness	1,500,000
Chattooga watershed, GA–NC–SC	1,000,000

Project	*Amount*
Cleveland (Rutherford Ranch), CA	1,000,000
Columbia River Gorge, WA	8,000,000
Danial Boone & Red Bird, KY	1,000,000
Gallatin (Yellowstone), MT	1,500,000
Green Mt. (Taconic Grest and Vermont Rivers), VT	2,000,000
Hossier, IN	500,000
Jefferson (Guest River Gorge), VA	300,000
Lake Tahoe, NV–CA	900,000
Los Padres (Big Sur), CA	1,000,000
Michigan Lakes & Streams	250,000
Missouri Ozark Mt. Streams	500,000
Mt. Baker (Skagit), WA	700,000
Nantahala (Thompson River), NC	1,200,000
New Mexico Forests	750,000
Ouachita (Cossotot River), AR	500,000
Ozark (Richland Creek), AR	326,000
Pacific NW Streams	2,500,000
San Bernardino, CA	2,000,000
Sawtooth, ID	1,800,000
Sumter (Lake Jocassee), SC	3,250,000
Uinta (Bonneville shoreline trail), UT	500,000
White Mt. (Lake Tarleton), NH	2,650,000
White River (Warren Lakes), CO	700,000
Wisconsin Wild Waterways	2,000,000
Acquisition management	7,500,000
Cash equalization	1,800,000
Wilderness protection	500,000
Emergency acquisitions	1,500,000
Total	52,976,000

COOPERATIVE, WORK, FOREST SERVICE

Amendment No. 94: Appropriates no funding for cooperative work, Forest Service as proposed by the Senate instead of $128,000,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Amendment No. 95: Deletes language proposed by the Senate exempting Alaska relocations and closures from the requirement to obtain consent from the House and Senate Committees on Appropriations. The House had no similar provision.

Amendment No. 96: Earmarks $2,250,000 for Federal financial assistance to the National Forest Foundation instead of $2,000,000 as proposed by the House and $2,500,000 as proposed by the Senate.

Amendment No. 97: Earmarks as maximum of $750,000 for administrative expenses of the National Forest Foundation instead of $500,000 as proposed by the House and $1,000,000 as proposed by the Senate. The managers understand the initial delays during the establishment of the Foundation and encourage the Foundation to work strenuously to fulfill its authorized purpose and to reduce its future dependence on Federal funds for administrative support.

Amendment No. 98: Modifies language proposed by the Senate regarding reorganization and funding of the Forest Service regional office in Alaska. The House had no similar provision.

The managers note that the Tongass National Forest Land Management Plan reduces the timber allowable sale quantity. It is presumed that the Forest Service will tailor its workforce and organization appropriately. The managers are very concerned about the appearance that expenditures for regional office operations and centralized field costs have risen significantly as a proportion of annual appropriated funds since 1993. The managers recognize that the reduced timber volume offer under this plan will create economic hardships for local communities and that imbalance distribution of remaining Federal jobs and spending in the region may compound those hardships. Accordingly the managers expect the regional forester to conduct a regional work load study and to develop a workforce plan that ensures high levels of customer service throughout the region, preserves the regional headquarters in Alaska, evaluates the need to consolidate and/or relocate offices, including regional the regional office to Ketchikan, makes limited use of centralized support activities from other regions or agencies, and provides for implementation by January 1, 2000. Further, the managers expect the workforce plan to reflect the full participation of affected Southeast Alaska communities and to include a community by community assessment of economic impacts and the rationale used by the regional forester to distribute Federal jobs under the workforce plan. The managers expect that the workforce plan will emphasize retention of experienced personnel for accomplishment of Southeast Alaska's multiple-use resource management mission, will make maximum use of local hiring authority, and will be submitted to House and Senate committees with jurisdiction by March 1, 1998, for review and further guidance, if warranted. Any expenditures at the regional office in excess of $17,500,000 from the funds provided to the region shall be preceded by a 60-day notification to the House and Senate Committees on Appropriations.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 99: Appropriates $362,403,000 for fossil energy research and development instead of $313,153,000 as proposed by the House and $363,969,000 as proposed by the Senate. Increases to the amount proposed by the House include $650,000 in coal research to complete the hospital waste project at the veterans hospital in Lebanon, PA; $48,650,000 in natural gas research, of which $45,000,000 is for advanced turbine systems (rather than consolidating all turbine research in the energy conservation account as proposed by the House), $1,000,000 in the gas to liquids program is for alternative cost shared technology needed to foster the commercialization of ceramic membrane processes, $650,000 is for technology development, and $2,000,000 is for fuel cell systems; $350,000 in oil technology, of which $250,000 is for the northern mid-continent digital atlas and $100,000 is for environmental compliance; and $800,000 for cooperative research and development. Decreases to the House proposed level include $1,000,000 for laboratory/industry partnerships and $200,000 for the risk assessment and groundwater protection data base, both in the oil technology program.

The mangers agree to the following:

1. The $300,000,000 included above the budget request relating to the new PM 2.5 air quality regulations is for data monitoring and development of cost effective control technologies or source production science.

2. The amount provided for fuel cell research assumes that at least an additional $6,000,000 will be made available from the fiscal year 1998 National Security appropriation (Army) for molten carbonate fuel cells; the Department should work with the Defense Department/Army to ensure those funds are transferred appropriately.

3. No assumption is made with respect to downselecting from 3 to 2 contractors in the fuel cell program; the Department of Energy should base its decision on available funding and the merits of the 3 existing projects and report to the Committees on that decision.

4. Project funds for the cooperative research and development program should be distributed equally between the participating sites.

5. No additional funds have been provided for the Gypsy field project in oil technology because the Committees have been assured by the Department that sufficient funds are available for the project through fiscal year 1998.

The managers are aware of the Department's request for proposals relating to new fuel cell research. While not directing the fossil energy program to cancel the RFP, the managers are concerned about the potential outyear costs of new initiatives and expect the Department to proceed cautiously in that regard. The managers understand that the RFP is for studies only and that these studies relate to the strategic plan recently developed by the Federal Energy Technology Center.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

The managers are aware of a proposed pipeline from the Great Plains Gasification Plant in North Dakota to an oil field in Saskatchewan, to provide CO_2 for enhanced recovery of oil. The managers believe that such a pipeline should have a positive effect on the long term stability of the plant and should provide further assistance of payments to be made to the Department from the Great Plains operation over the next 7 years. Therefore, the managers do not object to modifying the existing trust agreement with Dakota Gasification Company (DGC) to: (1) provide DGC a loan up to a maximum of $12.5 million subject to confirmation that the balance of funding for the CO_2 project has been committed; (2) provide such a loan at an interest rate equal to the average rate of other loans for the project acquired by DGC; and (3) secure such loan for the benefit of the Federal Government on terms and conditions equivalent to those agreed to by the other lenders.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 100: Appropriates $107,000,000 for the Naval petroleum and oil shale reserves as proposed by the Senate instead of $115,000,000 as proposed by the House. The decrease below the amount proposed by the House is for operations at the Elk Hills Reserve.

The managers agree that unexpended balances and other available assets and resources may be used for the purpose of privatizing the Rocky Mountain Oilfield Test Center. The Center should be fully privatized no later than fiscal year 2001.

The managers do not object to the recent reprogramming request to realign funds to complete the Elk Hills sale and equity determinations at the Elk Hills Reserve. The managers have agreed to this reprogramming with the understanding that this realignment of funds is needed to ensure that the taxpayer receives the best possible price for the reserve when a sale is consummated.

The managers make no assumption with respect to the sale price of the Elk Hills Reserve. The managers expect the Department to ensure that it receives fair value for the taxpayer in consummating the sale.

ENERGY CONSERVATION

Amendment No. 101: Appropriates $611,723,000 for energy conservation instead of $644,766,000 as proposed by the House and $629,357,000 as proposed by the Senate. Increases to the amount proposed by the House include $4,235,000 for building technology, of which $1,535,000 is for the home energy rating system, $100,000 is for advanced desiccant technology, $500,000 is for Energy Star, $100,000 is for highly reflective surfaces, $750,000 is for codes and standards, $1,000,000 is for the weatherization assistance program,

and $250,000 is for State energy program grants; $2,797,000 for the industry sector, of which $300,000 is for forest and paper products, $333,000 is for steel, $674,000 is for aluminum, $990,000 is for metal casting, $200,000 is for motor challenge, and $300,000 is for management; and $11,875,000 for transportation of which $350,000 is for clean cities, $575,000 is for infrastructures, systems, and safety, $100,000 is for EPACT replacement fuels, $350,000 is for vehicle field test and evaluation, $500,000 is for systems optimization, $500,000 is for electric vehicles, $2,500,000 is for hybrid propulsion, $1,000,000 is for high power energy storage, $4,000,000 is for fuel cell research and development, and $2,000,000 is for light weight materials. Decreases to the amount proposed by the House include $2,500,000 in building technology of which $200,000 is for industrialized housing, $100,000 is for hi-cool heat pump, $800,000 is for VHF light sources, $400,000 is for volume purchases, $300,000 is for roofs, walls, and foundations, $100,000 is for electrochromic research, and $600,000 is for State and local grants management; $46,600,000 for industry sector programs of which $1,000,000 is for chemicals, $45,000,000 is for utility turbine programs (funded in the fossil energy account), $400,000 is for the national industrial competitiveness through energy, environment, and economics (NICE^3) program, and $200,000 is for inventions and innovations; $2,800,000 for transportation which is for high efficiency engine research and development; and $50,000 in policy and management for information and communications.

The managers agree to the following:

1. Of the funds provided for the home energy rating system, at least $250,000 should be set aside for new States. The Department should report to the Committees as soon as possible on plans to phase out the existing 7 pilot States and the procedures under which new States will be considered for participation in the program.

2. The Energy Star program should be carefully examined in the context of reorganizing and streamlining the buildings program. Marketing efforts should be left to the private sector to fund.

3. In the transportation program, the Department should consider using the gas utilization expertise at the University of Oklahoma to the extent that it fits within program priorities and enhances program goals.

4. No funds are provided to initiate a precollege student vehicle competition program.

5. No funds should be redirected from program funding provided by the Congress unless specifically identified in the budget request or in the Committee reports. Any funding realignments are subject to the reprogramming guidelines contained in the front of House Report 105–163 and Senate Report 105–56.

The managers recognize the economic and environmental benefits that could be realized from successful development of an energy efficient and environmentally benign coke making process. Such a technology could help achieve the environmental goals of this Nation, enhance the international competitiveness of the U.S. steel industry and contribute to improved energy efficiency in the steel industry. Because of the significant potential environmental and energy efficiency benefits, the managers encourage the Department to pursue the development of such a technology, either in the energy conservation program or the fossil energy research and development program, with at least a 50 percent cost share from industry.

Amendment No. 102: Earmarks $155,095,000 for energy conservation grant programs instead of $153,845,000 as proposed by the House and $150,100,000 as proposed by the Senate.

Amendment No. 103: Earmarks $124,845,000 for weatherization assistance grants instead of $123,845,000 as proposed by the House and $129,000,000 as proposed by the Senate.

Amendment No. 104: Earmarks $30,250,000 for State energy conservation grants instead of $30,000,000 as proposed by the House and $31,100,000 as proposed by the Senate.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 104: Appropriates $207,500,000 for operation of the strategic petroleum reserve as proposed by the Senate instead of $209,000,000 as proposed by the House and stipulates that these funds are to be repaid from the sale of SPR oil as proposed by the House rather than potential repayment using excess receipts from the sale of the Elk Hills Naval Petroleum Reserves as proposed by the Senate.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 106: Appropriates $66,800,000 for the Energy Information Administration as proposed by the House instead of $62,800,000 as proposed by the Senate.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Amendment No. 107: Makes a technical correction as proposed by the Senate to correct the public law citation for the Energy Policy Act of 1992.

The managers note that the Department of Energy especially in the energy conservation program activity, has been lax in following the reprogramming guidelines prescribed by the Committees. The managers expect the Department to adhere strictly to those guidelines in fiscal year 1998 and thereafter. Quarterly reporting of accounting data is no longer sufficient.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 108: Appropriates $1,841,074,000 for Indian Health services instead of $1,829,008,000 as proposed by the House and $1,958,235,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $5,036,000 for fixed costs in the hospital and clinic programs and a $3,000,000 program increase for the diabetes program; $480,000 for fixed costs in dental health, $245,000 for fixed costs in the mental health program, $105,000 for fixed costs in the alcohol and substance abuse program, $27,000 for fixed costs and a $2,000,000 program increase in contract care, $204,000 for fixed costs in public health nursing, $77,000 for fixed costs in health education, $1,000 for fixed costs for community health representatives, $11,000 for fixed costs for urban health, $27,000 for fixed costs and a $400,000 program increase in Indian health professions for the Indians in psychology program, $462,000 for fixed costs in direct operations, and $9,000 for fixed costs for self governance. A decrease of $18,000 below the proposed House level is applied to contract support costs related to a transfer of funds to the facilities account.

Within the $400,000 increase for the Indians in psychology program, $200,000 is earmarked for the University of Montana.

Amendment No. 109: Earmarks $361,375,000 to remain available for two fiscal years for contract medical care instead of $358,348,000 as proposed by the House and $362,375,000 as proposed by the Senate.

Amendment No. 110: Deletes the Senate earmark for the Office of Navajo Uranium Workers and inserts language placing a cap of $168,702,000 on contract support costs in the Indian Health Service, services account. The House had no similar provision.

INDIAN HEALTH FACILITIES

Amendment No. 111: Appropriates $257,538,000 for Indian health facilities instead of $257,310,000 as proposed by the House and $168,501,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Montezuma Creek health clinic in Utah, $40,000 for fixed costs for sanitation facilities and $588,000 for fixed costs for facilities and environmental health support; and a decrease of $500,000 for modular dental units. Bill language related to the environmental health and facilities support activities included in the House bill but stricken in the Senate bill is retained.

The managers understand that additional funds may be necessary to complete design for three health facility projects that are in the preconstruction phase, and encourage IHS, HHS and OMB to include funding in the fiscal year 1999 budget submission to complete design for the Winnebago Hospital, NE, and the outpatient facilities at Parker, AZ, and Pinon, AZ.

In the fiscal year 1994 Interior Appropriations conference report, the managers agreed that the $465,000 unobligated balance remaining from the Phoenix area regional youth treatment center project was to be used for planning and construction of a satellite facility at an alternate site in Nevada. The managers are concerned about delays in reaching agreement on the issues associated with further progress on this project, and urge the IHS to work with the Washoe Tribe. The managers are aware of the Washoe Tribe's proposal to locate this facility in Gardnerville, Nevada, which has been determined as the alternate site for the treatment center, and encourage IHS to reach closure with the tribe so that services can be provided as soon as possible.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Amendment No. 112: Strikes House language and inserts Senate language on the disposition of funds for transferred functions which tribal contractors no longer wish to retain.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Amendment No. 113: Appropriates $15,000,000 for salaries and expenses of the Office of Navajo and Hopi Indian Relocation as proposed by the Senate instead of $18,345,000 as proposed by the House.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 114: Appropriates $4,250,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development instead of $3,000,000 as proposed by the House and $5,500,000 as proposed by the Senate.

The managers agree that fiscal year 1999 will be the last year Federal funding will be provided.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 115: Appropriates $333,408,000 for salaries and expenses of the Smithsonian Institution instead of $334,557,000 as proposed by the House and $333,708,000 as proposed by the Senate. The difference from the amount proposed by the House consists of decreases of $138,000 for museums and research institutes and $1,011,000 for facilities services, which includes a reduction of $300,000 for utilities.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 116: Appropriates $32,000,000 for repair and restoration of buildings as proposed by the Senate instead of $50,000,000 as proposed by the House.

CONSTRUCTION

Amendment No. 117: Appropriates $33,000,000 for construction as proposed by the Senate. The House proposed no funding. This amount includes $4,000,000 to complete funding for planning and design of the Dulles extension of the National Air and Space Museum and $29,000,000 to begin the first phase of construction for the National Museum of the American Indian Mall Museum.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 118: Appropriates $6,192,000 for repair, restoration and renovation of buildings instead of $6,442,000 as proposed by the House and $5,942,000 as proposed by the Senate. The reduction from the House level is to be taken from the increase provided for backlog maintenance needs.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 119: Appropriates $5,840,000 for salaries and expenses of the Woodrow Wilson International Center for Scholars as proposed by the Senate instead of $1,000,000 as proposed by the House. The managers agree to the following distribution of funds:

Fellowships	$920,000
Scholar support	634,000
Public service	1,516,000
Administration	1,247,000
Smithsonian fee	139,000
Conf./Outreach	909,000
Space	475,000

The managers remain concerned about the serious deficiencies in the Center's management and organization as outlined in the National Academy of Public Administration (NAPA) review. That review outlines 27 specific recommendations for corrective action. The managers will continue to monitor carefully the Center's progress in addressing the critical recommendations, including establishing a clearly defined mission, improving the process for selecting fellows and involving them in relevant debates on public policy issues, and improving the connection between the Center's fellows and the public programs. To that end the Inspector General also has been asked to oversee the Center's implementation of the NAPA recommendations and report to the Committees.

While the managers are encouraged that there have been changes in the management of the Center, and an Interim Director has been named to oversee the-day-to-day operations of the Center, they also strongly encourage the Center's Board to take a more active role in guiding the Center. The managers also strongly encourage the search committee to expedite the search for a new Director, The Center should keep the goal of bridging the gap between the worlds of scholarship and public policy in the forefront of its mission and increase the interaction between the fellows, the programs and the public policy makers.

In allocating funds provided to the Center, the managers have sought to help implement one of the NAPA recommendations by deciding a greater portion of appropriated funds to public service program. encourage public knowledge, education, understanding and appreciation of the arts and have agreed that the Endowment should stress service to underserved populations. The conference agreement also reduces the size of the National Council of the Arts, but adds 6 Members of Congress to the Council.

The managers have agreed to $31,822,000 for program grants instead of $37,435,000 as proposed by the Senate. The conference agreement provides $25,486,000 for State grants instead of $22,250,000 as proposed by the Senate and $6,952,000 for the State set-aside instead of $6,069,000 as proposed by the Senate. The managers also encourage the NEA to consider carefully the merits of various non-professional grant applicants when making awards and to not award grants only to professionals. The managers have agreed to a reduction of $566,000 for administration compared to the level proposed by the Senate and agree that further administrative streamlining may be warranted in future years. The NEA should develop a proposed structuring of the administrative budget of the agency that more accurately reflects the Endowment's various functions and activities, such as executive direction, costs for grant review by NEA, panel review and Council costs, outreach, computers, policy and planning and other elements funded from administrative dollars. Other NEA issues are discussed under Amendments No. 139, 140 and 156.

MATCHING GRANTS

Amendment No. 122: Appropriates $16,760,000 for NEA matching grants as proposed by the Senate instead of zero as proposed by the House.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 123: Appropriates $96,800,000 for grants and administration of the National Endowment for the Humanities as proposed by the Senate instead of $96,100,000 as proposed by the House. The agreement includes $700,000 above the House level as proposed by the Senate for fixed cost increases.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

Amendment No. 124: Appropriates $23,280,000 for grants and administration of the Office of Museum Services instead of $23,390,000 as proposed by the House and $22,290,000 as proposed by the Senate. Program funds are provided to support the following activities: $16,060,000 for operations; $3,130,000 for conservation; $2,200,000 for services to the profession; and $1,890,000 for administrative costs. From services to the profession, the managers provide $1,000,000 for National Leadership Projects that are collaborative museum/library endeavors.

COMMISSION OF FINE ARTS

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Amendment No. 125: Appropriates $7,000,000 for National capital arts and cultural affairs grants as proposed by the Senate instead of $6,000,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Amendment No. 126: Appropriates $2,745,000 for salaries and expenses of the Advisory Council on Historic Preservation as proposed by the Senate instead of $2,700,000 as proposed by the House.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 127: Appropriates $5,740,000 for salaries and expenses of the National Capital Planning Commission (NCPC) as proposed by the Senate instead of $5,700,000 as proposed by the House. The managers agree that the Commission should participate in the operation of the Washington Geographic Information System project. However, the managers do not intend for the NCPC to become the primary operator of this system nor should funds appropriated under this Act be used to promote that purpose. If funds are available from other sources, the NCPC is encouraged to apply its special planning expertise to the project and collaborate in the operation of such a system.

TITLE III—GENERAL PROVISIONS

Amendment No. 128: Modifies language proposed by the House and stricken by the Senate continuing the moratorium on the use of funds for preparing, promulgating, implementing or enforcing interim or final rules or regulations dealing with the management of subsistence fishing in Alaska waters. The modification continues the moratorium through December 1, 1998, and amends the Alaska National Interest Lands Conservation Act.

The language contains four subsections. Subsection (a) prohibits the Federal government from asserting jurisdiction, management or control prior to December 1, 1998, over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act or Alaska Statehood Act.

Subsection (b) amends the Alaska National Interest Lands Conservation Act (ANILCA) in a number of ways. Subsection (2) clarifies that the term ''Federal land'' in ANILCA does not include lands owned by the State of Alaska, or Native Corporations or other private owners. Neither subsection (2) nor any other provision of this section overturns, or shall be construed to overturn the decision of the Ninth Court of Appeals in *State of Alaska v. Babbitt* (73 F.3d 698) (commonly known as the Katie John case).

Subsection (c) contains a savings clause specifying that neither this section nor amendments made by this section in any way affect assertions of Native governmental authority over lands or persons, the existence or nonexistence of Indian country, whether or not ANILCA is Indian Law, or the Secretary of the Interior's authority under section 1314(c) of ANILCA.

Subsection (d) specifies that amendments made by subsection (b) shall only be effective for the purposes of determining whether the State of Alaska's laws provide for the definition, preference, and participation required in sections 803, 804, and 805 of ANILCA, including as amended by this section, unless and until laws are adopted in the State of Alaska which provide these things. Subsection (d) specifies that the amendments made to ANILCA by subsection (b) will be repealed on December 1, 1998, unless such laws are adopted in Alaska by December 1, 1998.

Amendment No. 129: Deletes language proposed by the House and stricken by the Senate regarding the export of timber from the western United States and inserts language making a technical correction to the Hudson River Valley National Heritage Area legislation.

Amendment No. 130: Modifies language proposed by the House and modified by the Senate regarding funding for the office of western director and special assistant to the Secretary of Agriculture to provide that funding from this Act for the office is allowed up to the amount provided from this appropriation in fiscal year 1997.

Amendment No. 131: Retains language proposed by the House limiting competition on watershed restoration contracts for the ''Jobs in the Woods'' component of the President's Forest Plan for the Pacific Northwest in fiscal year 1998. The Senate proposed making the provision permanent.

Amendment No. 132: Modifies language proposed by the House and stricken by the

Senate which permits all fees collected through the recreation fee demonstration program to be used by the collecting agency. The modification adds language stipulating that the National Park Service should pay administrative costs for collecting fees from the funds that are retained by each collecting unit.

Amendment No. 133: Modifies House language as proposed by the Senate limiting the use of recreation fees to construct visitor centers or other permanent structures, to permit such construction if the total estimated cost does not exceed $500,000.

Amendment No. 134: Modifies language proposed by the House and stricken by the Senate on the Interior Columbia River Basin. The modified language instructs the Secretaries of Agriculture and the Interior concerning the Interior Columbia River Basin draft environmental impact statements (DEIS). The managers remain extremely concerned about the huge cost and time involved in this project, but the managers want to see the project come to a conclusion. The managers also are concerned that additional social and economic analyses are required and that the Administration has not been forthcoming regarding the potential impacts that the implementation of the projects may eventually have on this large area of the West. The bill language provides that the Secretaries will report to the Congress on the estimated impacts of the proposed project. As a result of the revised bill language concerning additional analysis to be conducted for the projects, the managers expect that additional time will be required for public comment on the DEIS but the managers do not specify a time for the comment period. However, the managers expect the agencies to address fully the implementation of these projects in their fiscal year 1999 budget justifications and convey to the Congress a sense of the scope, impact and cost for implementation.

Amendment No. 135: Deletes language proposed by the House and inserts alternative language proposed by the Senate that establishes a framework for Alaska native governance of the Alaska Native Medical Center.

Amendment No. 136: Inserts language which modifies a Senate provision precluding Alaska native villages from entering into a compact or contract which would withdraw funds out of the Alaska native regional health care corporations, changes a date in the provision, and amends the Coast Guard Authorization Act of 1996 to reflect a change in the use of property transferred to a native village. The House had no similar provision.

The managers have changed the effective date in this section to permit an existing contract with the Indian Health Service to be executed. The managers also have added a subsection making changes in a land conveyance to the Ketchikan Indian Corporation to reflect agreed to changes regarding the use of the property.

Amendment No. 137: Amends language inserted by the House and stricken by the Senate regarding the eviction of certain people from property in Sleeping Bear Dunes National Lakeshore. The revision allows the National Park Service to pursue such evictions provided that 90 days notice is given and provided that funds are available for the removal of the structures to be vacated. Fair market value rates will be charged while any occupancy continues beyond an expired reservation.

Amendment No. 138: Amends language included by the House and stricken by the Senate to prohibit agencies funded in this bill from expending funds for the nomination of sites under the Man and Biosphere Program until legislation specifically authorizing this program is enacted. With regard to both the World Heritage and Man and Biosphere programs, the managers agree that designation of U.S. sites under these programs cedes absolutely no authority to the United Nations or other international organizations, and should not be construed as imposing any new land use restrictions on lands included in either program. The managers further agree that agencies involved in both of these programs should redouble efforts to involve the public fully in deliberations over possible designations.

Amendment No. 139: Includes language proposed by the Senate restricting grant making to individuals, sub-granting, and seasonal support by the National Endowment for the Arts. The House had no similar provision.

Amendment No. 140: Inserts language proposed by the Senate authorizing the National Endowment for the Arts and the National Endowment for the Humanities to raise funds and deposit them in special interest bearing accounts for future use. The House had no similar provision. The managers believe that it is appropriate to provide the agencies with this ability, particularly in light of recent program reductions and discussions within Congress to establish a supplemental endowment fund. The managers intend that this new authority be used to augment the Federal contribution to the endowments. The managers also recognize that there is a potential for traditional arts and humanities fundraising efforts to be affected by NEA and NEH's use of this authority. Thus, the endowments should seek to tap new sources of support for the arts and humanities and not pursue a shift of private giving from the non-Federal to the Federal arts and humanities communities.

Amendment No. 141: Inserts language proposed by the Senate providing for reciprocal delegations of authorities between the Secretaries of the Interior and Agriculture for the management of public lands and forests. The House had no similar provision.

Amendment No. 142: Modifies language proposed by the Senate concerning a limitation of funding for any activities associated with national forest land management planning. The modification allows those plans currently in the revision process or under court order to proceed. The House had no similar provision.

The managers agree that the forest planning regulations which the Forest Service has written, but no implemented, are long overdue. The managers are concerned that the Secretary's decision to appoint a panel of scientists to study further the land management planning process will result in continued and unacceptable delay, and therefore the managers strongly urge the Secretary to issue new rules in at least an interim form while the panel conducts its review. The managers agree that a final rule should be published promptly and that the forest planning revision process should proceed in an orderly and efficient manner so that forest plans reflect current social, economic and resource conditions. Consequently, the managers have provided bill language which requires that no funding for new forest plan revisions be provided until a new rule is published. The new planning rule may be either interim or final. National forests which published a Notice of Intent to Revise their plan by October 1, 1997, or are court ordered, are exempt from this restriction. The managers agree that national forests may continue to amend existing forest plans following established procedures.

Amendment No. 143: Modifies language proposed by the Senate that prevents funding from being used to complete or issue the five year program under the Forest and Rangeland Renewable Resources Planning Act (RPA review). The House had no similar provision.

The managers are concerned about the duplication between the requirements for developing a strategic plan under the Government Performance Results Act (GPRA) and the RPA review. The managers encourage the Forest Service to work diligently to make the GPRA process successful, and to more efficiently use resources which otherwise may have been spent on the duplicative RPA review.

Amendment No. 144: Modifies language proposed by the Senate concerning cooperative agreements for watershed restoration and enhancement by limiting the application of the provision to fiscal year 1998 rather than making the provision permanent as proposed by the Senate. The House had no similar provision. The managers encourage the Forest Service to use this authority carefully for new projects so that they do not displace higher priority work on national forest system lands.

Amendment No. 145: Amends the Franklin Delano Roosevelt commission statute (69 Stat. 694) as proposed by the Senate to provide for the termination of the commission and for the use of unexpended funds for maintenance, repair, interpretation, and education. The House had no similar provision.

Amendment No. 146: Modifies language inserted by the Senate concerning priority land exchanges within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area by limiting the Secretary's authority to facilitate the transfers to September 30, 2000. The Senate proposed permanent authority. The House had no similar provision.

Amendment No. 147: Adjusts the boundaries of the Wenatchee National Forest in Chelan County, Washington, as proposed by the Senate. The House had no similar provision.

Amendment No. 148: Inserts language proposed by the Senate restricting the use of funds by the Department of Energy for the Center of Excellence for Sustainable Development without the approval of the House and Senate Committees on Appropriations. The House had no similar provision.

The managers are concerned that the Department of Energy established the Center of Excellence for Sustainable Development without justification and approval through the budget process. The information provided in response to Committee questions on the center has been slow in coming and less than candid. The Committees will review the merits of this program in the context of fiscal year 1999 budget priorities. In the meantime the managers expect the Department to use the funds and staffing devoted to this effort to work on the programs approved in the fiscal year 1998 budget. The Department should report to the Committees by October 30, 1997, on how it intends to comply with this direction. The managers caution the Department that incomplete and inaccurate information in this regard is unacceptable. The managers further expect the Department to disclose fully any other instances in which programs have been started without approval through the budget process. The fiscal year 1999 budget request must clearly identify each program to be funded in the appropriate activity. Initiatives by the Assistant Secretary should be clearly identified and justified in the policy and management account.

Amendment No. 149: Limits the use of funds to amend or replace Bureau of Land Management regulations on surface mining as proposed by the Senate. The House had no similar provision.

Amendment No. 150: Modifies language inserted by the Senate conveying the Wind

River Nursery site to Skamania County, Washington, in exchange for approximately 120 acres of county land. The House had no similar provision. The new language authorizes the Secretary of Agriculture to negotiate with Skamania County for the exchange of the Wind River Nursery site for county owned lands in the Columbia River Gorge National Scenic Area. During a two-year period ending September 30, 1999, the nursery is not to be conveyed to another party and is to be maintained in a tenantable condition by the Forest Service. The exchange is to be for equal value, however, the Secretary may accept services from the County in lieu of cash as the Secretary deems appropriate and the County may make cash payments in installments not to exceed a period of 25 years. The managers expect that future agreements should protect natural, cultural and historic values, the existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail as well as the continued research on the Wind River Experimental Forest and the T.T. Munger Research Natural Area. If the Secretary and the County fail to reach an agreement on an equal value exchange as defined in the section, the nursery site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

Amendment No. 151: Deletes language inserted by the Senate exempting residents in communities which receive lower-than-authorized PILT payments from paying user fees under the recreation fee demonstration program for the White Mountain National Forest in New Hampshire and inserts language renaming Walnut Creek NWR, IA as the Neal Smith National Wildlife Refuge.

Amendment No. 152: Modifies language proposed by the Senate restricting the use of funds for introduction of grizzly bears in the Selway-Bitteroot area of Idaho and Montana and for certain consultations under section 7(b)(2) of the Endangered Species Act. The House had no similar provision. The modification to the Senate language allows the Fish and Wildlife Service to publish a Record of Decision on the Environmental Impact Statement.

The managers understand that the Fish and Wildlife Service will not introduce any grizzly bears into the Selway-Bitteroot area in fiscal year 1998 and expect the Service to continue and intensify its public outreach and consultation efforts in the area.

Amendment No. 153: Modifies language proposed by the Senate concerning increases in fees charged by the Forest Service for recreation residence special use permit holders. The modification provides that fee increases which are in excess of 100% of the previous year's fees should be phased in over a three-year period in equal annual installments. The House had no similar provision.

Amendment No. 154: States the Sense of the Senate that Civil War battlefields should be preserved and should be given special priority in land acquisition. The House had no similar provision.

Amendment No. 155: States the Sense of the Senate that hearings should be conducted and legislation brought forward during this Congress addressing the issues of Federal and private sector funding for the arts and any needed modifications to the current funding mechanism. The House had no similar provision.

Amendment No. 156: Amends language proposed by the Senate to include additional reforms to the National Endowment for the Arts. The section provides, as proposed by the Senate, that the Endowment should give priority in making grants and awards to underserved populations. The House had no similar provision. In addition, the conference agreement has added a provision that gives priority to grants which encourage public knowledge, education, understanding and appreciation of the arts. The amendment also limits funding for any one State to no more than 15% of the total grants available during the fiscal year. Grants with a national impact, or which are applicable to several States, are exempted from the calculation.

Finally, the conference agreement revises the current size and composition of the National Council of the Arts. The reform reduces the total of Presidential appointments to the Council from 26 to 14 and adds 2 Representatives appointed by the Speaker of the House, 1 Representative appointed by the Minority Leader of the House, 2 Senators appointed by the Majority Leader of the Senate and 1 Senator appointed by the Minority Leader of the Senate. To allow a smooth transition to this new Council, existing members are allowed to serve out their terms. Congressionally appointed members are to serve in an ex officio capacity for two-year terms beginning in odd numbered years; however, initial appointments shall be made by December 31, 1997, with terms expiring December 31, 1998. The managers agree that Congressional members of the Council shall be non-voting on matters involving application review and grant selection, but may provide advice and counsel on broader issues of policy and procedure. As Presidentially appointed members' terms expire, new members may not be appointed by the President until the Council membership falls below 14. The managers intend that the newly comprised Council work diligently with the Chairperson of the NEA to foster public service that is more sensitive to the needs and desires of the nation.

Amendment No. 157: Modifies language proposed by the Senate directing the Forest Service to develop export policy and procedures on the use of Alaskan western red cedar and domestic processing. The House had no similar provision. The managers are very concerned that Alaska western red cedar is being exported despite significant domestic processing demand within the contiguous United States. The new language specifies conditions under which Alaska western red cedar will be made available for domestic processors in the contiguous United States at domestic rates. The managers are hopeful that these changes will allow greater use of western red cedar from Alaska in the contiguous 48 States. The managers have also included language which specifies that Forest Service timber sale accomplishments in Alaska will be based on volume sold and that all Alaska yellow cedar may be sold at export rates at the election of the timber sale holder. The managers direct the Forest Service to implement this policy no later than January 1, 1999.

Amendment No. 158: Deletes Senate language providing that $4,000,000 from previously appropriated emergency funds be used for reconstructing the Oakridge Ranger Station in Oregon, contingent upon a Presidential declaration and Congressional designation of an emergency, and inserts language restricting the use of funds for redevelopment of Pennsylvania Avenue. Funding for reconstructing the Oakridge Ranger Station has been included in the Forest Service reconstruction and construction account.

The amendment inserts language prohibiting the expenditure of any funds related to the redevelopment of Pennsylvania Avenue, including planning, without prior approval from the Committees. The managers believe that this project should not be initiated in fiscal year 1998 without the concurrence of Congress. The managers understand that this project will cost some $40,000,000 and are not inclined to provide additional resources at this time even for planning. The managers also are concerned that funds previously expended for planning on this project which were to be reimbursed by other Federal agencies have never been repaid. Given the significant backlog in critical repair and maintenance needs that the National Park Service has identified, this project should not commence until it has been carefully considered against other National Park Service priorities.

Amendment No. 159: Limits the use of funds as proposed by the Senate to implement guidelines or adjust plans for National Forests in Arizona and New Mexico. The House had no similar provision.

Amendment No. 160: Amends section 6901(2)(A)(i) of title 31, United States Code as proposed by the Senate to include populations of cities within unorganized boroughs of Alaska for the purposes of PILT. The House had no similar provision.

Amendment No. 161: Amends section 103(c)(7) of Public Law 104–333 as proposed by the Senate to provide for the appointment and compensation of officers of the Presidio Trust. The House had no similar provision.

TITLE IV

Amendment No. 162: Deletes language proposed by the House and stricken by the Senate which would have established a deficit reduction lock-box ledger in the Congressional Budget Office and inserts language establishing an environmental restoration fund.

The managers have agreed to establish an environmental restoration fund with the interest accrued to such fund to be used, subject to appropriation, to address deferred maintenance needs of the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service and the Forest Service; to provide for payments to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field; and to carry out marine research activities in the North Pacific. The fund is a modification of the National Parks and Environmental Improvement Fund proposed by the Senate in Amendment No. 81. The land acquisition element in the original proposal has been removed.

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

Amendment No.163: Modifies language proposed by the Senate that provides funding for priority land acquisitions and exchanges. The House had no similar provision. The modifications to the Senate language provide for a total fund of $699,000,000 and make a portion of these moneys available for critical maintenance needs.

The managers have provided funds for high priority land acquisitions and exchanges as requested by the Administration despite serious reservations about two particular acquisitions—the Headwaters Forest in California and the Crown Butte/New World Mine in Montana (near Yellowstone National Park). Because of the many uncertainties surrounding these acquisitions, the managers have agreed to bill language outlining the specific requirements that must be met before the acquisitions can be consummated.

The managers agree that legislation authorizing the Headwaters Forest acquisition should require a current appraisal, require a completed Environmental Impact Statement on the habitat conservation plan, cap the Federal commitment at the negotiated $250,000,000, address the issue of public access and require that the State of California's $130,000,000 cost share be available before release of the Federal funds. The managers, at the request of the Administration, have agreed that the Secretary of the Interior

may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's opinion of value should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Funding for the New World Mine acquisition is capped at $65,000,000 and the managers believe this acquisition also should have a current appraisal. The Secretary of Agriculture may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's valuation should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Both the Headwaters Forest appraisal and the Crown Butte/New World Mine appraisal should conform to the Department of Justice ''Uniform Appraisal Standards for Federal Land Acquisitions'' and other applicable laws and regulations governing Federal land acquisitions. The Comptroller General must review both appraisals, including an examination of the methodology and data used in conducting the appraisals. The Comptroller General should submit the results of each of those reviews to the appropriate Secretary and to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the House and Senate Committees on Appropriations.

With respect to the remainder of the $699,000,000, the managers have agreed to make these funds available with the understanding that they will be used over the next four fiscal years for high priority land acquisitions and exchanges, to address the critical repair and restoration needs of the four land management agencies, and for other purposes consistent with the Land and Water Conservation Fund statute. The managers agree to allocate the remaining $384,000,000 as follows: $10,000,000 for a payment to Humboldt County, California as part of the Headwaters Forest land acquisition; $12,000,000 for repair and maintenance of the Beartooth Highway as part of the Crown Butte/New World Mine land acquisition; and $272,000,000 to the Department of the Interior and $90,000,000 to the Forest Service for other priority land acquisitions and critical maintenance needs.

The Secretaries of Agriculture and the Interior should submit requests for the use of the remaining land acquisition and maintenance funds to the Committees for approval following reprogramming procedures. The managers encourage the Secretaries to emphasize the critical maintenance backlogs that they have identified on the public lands, which total more than $2 billion for the Forest Service and approximately $7 billion for the land management agencies in the Department of the Interior. Requests for additions to the public lands base should be evaluated carefully, and priority should be given to those acquisitions which complete a unit, consolidate lands for more efficient management, or address critical resource needs.

The funds provided for a payment to Humboldt County and the funds provided by repair and maintenance of the Beartooth Highway are included because of the unusual circumstances associated with the Federal acquisition of the Headwaters Forest and the Crown Butte mining interests. The managers do not intend Land and Water Conservation Fund moneys to be used for these purposes in the future nor to imply that Federal land acquisitions entitle local or State governments to mitigation payments either from the Land and Water Conservation Fund or from other sources.

Major Land Acquisitions—Authorization for Headwaters Forest and Crown Butte Properties. Sections 501 through 504 authorize two land acquisitions requested by the Administration, to be funded from the Land and Water Conservation Fund—the Crown Butte acquisition in Montana and the Headwaters Forest acquisition in California. The managers have provided, in section 504, a 180 day review period during which the authorizing committees will examine the issues associated with these transactions and recommend any appropriate changes to the relevant statutory language contained herein. The managers believe that it is appropriate that a more measured and thorough review of these complex and costly acquisitions be undertaken by the legislative committees of jurisdiction during the 180 day review period. The managers have agreed to allow amendments that are reported from the authorizing committees within the 180 days to be incorporated into the anticipated fiscal year 1998 supplemental appropriations bill. That bill is expected to be available as early as February 1998. After the 180 day review, if no modifications have been enacted, the funds appropriated by this Act are authorized to be spent, consistent with the requirements set forth in this title.

The managers are concerned that the government not pay more than fair value for the Crown Butte and Headwaters Forest properties. The managers expect that at least 30 days prior to executing each of these transactions, the Secretary of Agriculture, with respect to the Crown Butte acquisition, and the Secretary of the Interior, with respect to the Headwaters Forest acquisition, shall issue an opinion of value to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government in each transaction. The respective Secretary is expected to assume responsibility for the basis and accuracy of the opinion.

Headwaters Forest. Subsection (a) of section 501 contains the authority for up to $250 million to be spent for acquisition of the Headwaters Forest and a clause ensuring that any substantial expansion of the forest be specifically authorized.

Subsection (b) makes the authorization effective until March 1, 1999, consistent with the anticipated timetable for completion of the Headwaters Forest Agreement. This leaves some latitude for unforeseen delays while providing a date certain for the transactions authorized. This subsection also makes the authorization contingent on the following conditions: 1) the State of California must provide its share of the cost, 2) the State must approve the Pacific Lumber Company's sustained-yield plan, 3) the Pacific Lumber Company must withdraw two lawsuits, 4) an incidental take permit is issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, 5) there must be an appraisal, 6) to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, 7) there must be a completed environmental impact statement on the habitat conservation plan and full compliance with the National Environmental Policy Act, and 8) there must be adequate provision for public access. The authorizing committees can examine the status of each condition during the 180 day review period specified in section 504.

Subsection (c) permits the Headwaters Forest to be acquired for a value which differs from the appraisal if the Secretary of the Interior certifies in writing to Congress that such action is in the best interest of the United States.

Subsection (d) contains provisions to facilitate issuance of a Habitat Conservation Plan (HCP) based on sound science by requiring the Secretary of the Interior and the Secretary of Commerce to report to Congress on the scientific and legal standards and criteria that will be used for developing the HCP and the incidental take permit. The Endangered Species Act and its implementing regulations outline the HCP standard for listed species that are to be covered by an incidental take permit. The governing standards for unlisted species (candidate and noncandidate) that are to be covered by an incidental take permit are identical to the standards for listed species. An HCP provides assurances to a land owner for all species, both listed and unlisted, that are covered by an incidental take permit. The subsection also recognizes the uniqueness of the Headwaters Forest HCP. Should the HCP and incidental take permit not be approved, the agencies must report to the House and Senate committees on why the proposals were not sufficient to meet the applicable standards, and the statutory citations therefor, indicated by the Secretary under subsection (d)(1). This subsection does not change or waive any public review through normal National Environmental Policy Act and Endangered Species Act processes.

Subsection (e) directs a payment of $10,000,000 to Humboldt County within 30 days of acquisition of the Headwaters Forest. While the use of the funds by the county has no limitation, the payment is to offset economic impacts to the county government from the acquisition and to compensate the county for enhanced public safety costs associated with the controversy surrounding the Headwaters Forest.

Subsection (f) ensures that the Federal portion of the Headwaters Forest is considered Federal land for purposes of payments in lieu of taxes.

Subsection (g) limits the amount of Federal funds (above the first $100,000) that can be used each year for managing the Headwaters Forest to fifty percent of the total cost of management. This will ensure that there will be cost-sharing with other entities such as the State of California, charitable trusts and conservation groups. Language authorizing acceptance of donations is included to facilitate such cost-sharing. It is anticipated that the State of California will assume its proportional share of land management costs, but substantial funds should come from charitable foundations and groups that have favored acquisition of the Headwaters Forest. The Administration has consistently maintained that Federal funding needed for management of the Headwaters Forest will be minimal and that the State of California will participate in funding out-year activities associated with the acquired land. No detailed dollar figures were provided by the Administration for activities related to management of the forest. The authorized level of funding for the Federal portion of the Headquarters Forest has been set at $300,000, with an exception for law enforcement and emergencies. During the 180 day review period, the Administration should submit its financial plan for the Headwaters Forest to the authorizing and appropriations committees so that the committees can evaluate whether the authorized level of funding is appropriate.

Subsection (h) provides to the Secretary of the Interior, with concurrence of the Governor of California, authority to manage the Headwaters Forest in a trust. Because the property will be acquired jointly by the State of California and the United States, a trust arrangement allowing for management by both parties through a board of trustees may be a useful way to structure the relationship. This matter can be considered further during the 180 day review period and regularly thereafter.

Subsection (i) requires a concise management plan for the Headwaters Forest by the Secretary of the Interior or the Headwaters Trust once the Forest is acquired. The goals of the management plan, as stated by the Administration, should be to conserve and study the land, and the fish, wildlife and forests occurring on such land, while providing recreation opportunities, scientific study, and other management needs. Bill language is included to make clear that the National Environmental Policy Act (NEPA) applies to development and implementation of the management plan, notwithstanding the option to perform some of these functions through a trust. The Administration has stated the NEPA analyses are being developed for the proposed Headwaters Forest Habitat Conservation Plan. The managers believe that the New World Mine acquisition also must comply with NEPA requirements. The managers expect the relevant documents to be completed prior to consummation of each of these land acquisitions.

Subsection (j) provides the Secretary of the Interior with the flexibility to develop cooperative arrangements with the State of California for land management, allowing sharing of goods, services, and personnel when it is mutually beneficial and in the best interest of the United States.

Consistent with the final rule designating critical habitat for the marbled murrelet, the managers understand that when the HCPs are completed and incidental take permits for marbled murrelets issued, critical habitat will be lifted from the private landowners whose land is covered by the incidental take permit.

Crown Butte Properties. Section 502 authorizes the acquisition of land and interests in land that were to be used for development of a mine in Montana, north of Yellowstone National Park. The acquisition is to be made subject to the following conditions: 1) a consent decree has been lodged in the litigation regarding the cleanup of historical contamination in the New World Mining District; 2) an appraisal of the Crown Butte mining interests has been completed and, to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, and 3) the requirements of the National Environmental Policy Act have been fulfilled.

The managers have also incorporated a provision from the August 12, 1996 Agreement so that Crown Butte will place $22,500,000 in an account to perform cleanup activities.

This section also authorizes a one-time appropriation of $10,000,000 to make critical repairs to the Beartooth Highway, which serves Yellowstone National Park, and a one-time appropriation of $2,000,000 for snow removal and maintenance of the road by the Department of Agriculture. These funds will become available within 30 days of the acquisition of the Crown Butte properties.

The managers expect the Secretary of Agriculture to work with other Federal officials and with the appropriate officials in the States of Montana and Wyoming on a long term solution for repair and maintenance of the Beartooth Highway, including the potential use of Federal highway funding. The managers intend that the $12,000,000 provided in this conference agreement be used on an interim basis, pending a long term resolution. The managers do not object to the Department of Agriculture entering into cooperative arrangements with the Department of the Interior, or with other entities, to make the most effective use of the funds provided for repair and maintenance of the Beartooth Highway.

The managers expect the Administration to provide, to the Committees and to the legislative committees of jurisdiction, a letter with appropriate documentation verifying that Crown Butte Mines, Inc. has obtained agreement from private property owners whose interests are necessary to fulfill the Agreement. This letter must be provided no later than 30 days prior to the United States payment to Crown Butte Mines, Inc.

Section 503 provides for the transfer of $10 million in Federal mineral assets to the State of Montana at such time as the Crown Butte/New World Mine acquisition is consummated. The negotiated acquisition of the New World Mine preempted the usual NEPA and State permitting processes, which would have provided a forum in which the significant impact of the acquisition on State revenues could have been considered.

The managers expect the Secretary of the Interior, in consultation with the Governor of Montana, to study potential mineral resource development in Montana. This study should facilitate discussions between the State of Montana and the Federal government regarding future coal and other mineral development in Montana. The study should identify coal and other mineral assets that may be appropriate for transfer to the State of Montana. The study also should review opportunities for developing super compliance coal which meets the standards of Phase II of the Clean Air Act; focus, in particular, on development opportunities in the Ashland, Birney, Decker area of Montana; and examine the issue and impact of the checker board ownership pattern in Montana on coal development. The managers note that no new Federal coal reserves, other than reserves near existing mines, have been made available in Montana since 1969.

Section 504 provides a 180 day period during which neither the Headwaters Forest land acquisition nor the Crown Butte land acquisition may occur unless separate authorizing legislation is enacted. Within 120 days of enactment, the Secretaries of Agriculture and the Interior must individually report to the Committee on Resources of the House of Representatives and the Senate Committee on Energy and Natural Resources on the status of their efforts to meet the conditions set forth in this title involving the acquisition of interests to protect and preserve the Headwaters Forest and to protect and preserve Yellowstone National Park. For each day beyond 120 days after enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, the 180 day period is extended by one day.

Section 505 makes a technical correction to the Land and Water Conservation Fund statute to move a provision from title II to title I.

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

Amendment No. 164: Modifies language provided by the Senate under Title VI to make technical corrections to the Forest Resources Conservation and Shortage Relief Act of 1990 (FRCSRA) which provide for correct format, and changes Section 605(3)(3)(B) of the Act to require the use of regulations in effect prior to September 8, 1995, during the interim period in which the Forest Service prepares new regulations to implement the Act. An additional technical correction is made to Section 602(A)(3) to clarify which paragraph is referred to by the language. The House had no similar provision.

The managers have included language in Title VI which amends the Act by: (1) making the Washington State log export ban a complete and permanent ban on log exports from the State's public lands; (2) making it clear that FRCSRA does not restrict the domestic movement and processing of private timber, except in the State of Idaho; (3) protecting the ability of private tree farmers in Washington State to freely market their private timber; (4) making some timber processing facilities located in western Washington State more competitive for timber harvested from private and Federal lands; (5) providing the Secretaries concerned with discretion to impose reasonable timber making, branding, and reporting requirements and to waive such requirements when appropriate; and (6) clarifying other enforcement and due process provisions in FRCSRA.

The managers note that on September 8, 1995, the U.S. Department of Agriculture issued and made effective immediately the final rule to implement FRCSRA. Because of the unintended consequences and adverse impact this rule would have on the western forest products industry, particularly in Washington State—where Federal timber harvests have fallen from 1.5 billion board feet prior to enactment of FRCSRA to less than 100 million board feet in 1996, the final rule was suspended, resulting in the maintenance of the Washington State log export ban at 100%. Title VI clarifies and preserves the optimization of domestic processing of timber in western states and avoids the imposition of restrictions on the domestic transportation and processing of timber harvested on western private property. The managers provide the following explanation of each section:

Section 2(a). Use of Unprocessed Timber—Limitation on Substitution of Unprocessed Federal Timber for Unprocessed Timber from Private Land

Section 490(a)(3) provides that the substitution prohibitions do not limit the acquisition of timber originating on Federal land west of the 119th meridian in Washington State by a buyer-broker (i.e., a company that only exports timber originating from private lands owned by a third party, and over which the company has no long term exclusive harvest rights). A buyer-broker may acquire timber originating on Federal land west of the 119th meridian in Washington State either directly from a Federal agency or indirectly from a third party. A buyer-broker does not need a sourcing area in order to acquire timber harvested from Federal land west of the 119th meridian in Washington State. The 119th meridian in Washington State is a limitation only on the area from which a buyer-broker may acquire timer harvested from Federal land. There is no geographic limitation on the area from which a buyer-broker may acquire private timber, whether for purposes of domestic processing or export. Moreover, a buyer-broker may domestically process any private timber.

The sourcing area provisions in Section 490(c) of FRCSRA enable persons to freely market timber harvested from private lands in some areas and domestically process timber harvested from Federal lands in other

areas. Section 490(c) of FRCSRA is modified to differentiate between sourcing areas for processing facilities located within Washington State and sourcing areas for processing facilities located outside of the State.

Section 490(c)(3)(d) provides holders of sourcing areas for facilities located outside of Washington State with the option of excluding any or all Washington lands from their sourcing areas. This provision makes Washington timberlands irrelevant to sourcing area determinations for processing facilities located outside of Washington. The language provides that the Secretary may not condition approval of a sourcing area for a processing facility located outside of Washington on the inclusion or exclusion of any Washington lands. The decision to include or exclude Washington lands in such a sourcing area is at the discretion of the sourcing area applicant or holder.

Except for Idaho. FRCSRA's sourcing area provisions in section 490(c)(3) are modified to make it clear that FRCSRA does not restrict the domestic transporting or domestic processing of timber harvested on private property. Sourcing area boundaries for processing facilities in States other than Idaho and Washington are to be determined on private timber export and Federal timber sourcing patterns. Sourcing area boundaries for processing facilities located in Idaho are to be determined by Federal and private timber sourcing patterns, which could lead to restrictions on the domestic processing of some private timber at processing facilities with sourcing areas in Idaho.

Section 490(c)(6) provides for the establishment of sourcing areas in the State of Washington. The boundaries of such a sourcing area will be a circle, the radius of which will be the furthest distance the sourcing area applicant or holder proposes to haul timber harvested from Federal land to its processing facility. Sourcing area boundaries for processing facilities located in Washington State are solely determined by the sourcing area applicant or holder.

Section 490(c)(7) provides that a sourcing area is relinquished when the sourcing area holder provides written notice to the appropriate regional forester of the U.S. Forest Service, and that timber harvested from private land in a sourcing area is exportable after that sourcing area is relinquished and timber from Federal land in that sourcing area is no longer in the sourcing area holder's possession. Whether a sourcing area holder's Federal timber contract is still open is irrelevant to whether private timber from a relinquished sourcing area is exportable. This provision also makes it clear that relinquishing a sourcing area does not affect the exportability to timber harvested from private land located outside of the sourcing area.

A new subsection is added to FRCSRA at 490(d) to make it clear that nothing in this section restricts or authorizes restrictions on the domestic transportation or processing of timber harvested from private lands, with one exception. Because sourcing areas for processing facilities located in Idaho will be determined by both Federal and private timber movements, the Secretary may develop rules that prohibit an Idaho sourcing area holder from processing private timber that originates outside of its sourcing area. There are no restrictions on the domestic movement or processing of private timber for processing facilities located in States other than Idaho.

Section 2(b). Restriction on exports of unprocessed timber from State and public land

Section 491(b)(2) is amended by striking the requirement that the Secretary reduce the Washington State log export ban to 400 million board feet. That requirement is replaced with a permanent ban on the export of all logs harvested from lands owned by the State of Washington.

Section 3. Monitoring and enforcement

Section 492(c)(2)(C) has been added to clarify that the Secretary concerned must consider the seriousness of the offense in determining whether to impose a penalty for a particular violation of FRCSRA or its regulations. Where the Secretary determines there has been a minor infraction of FRCSRA or its regulations, the Secretary should delegate the matter to the contracting officer who need not impose a penalty.

Section 492(d)(1) has been modified to ensure that a person receives due process prior to the imposition of debarment for a violation of FRCSRA or its regulations.

Section 4. Definitions

Section 493(3) defines ''minor infraction'' to provide flexibility for inadvertent and minor non-compliance of the provisions in FRCSRA and its regulations.

Section 493(4) defines ''northwestern private timber open market area'' as the State of Washington. That phrase is used throughout this title where new provisions are added to protect investments in processing facilities and private timberlands located in Washington State.

Section 493(9)(B)(ix) defines ''unprocessed timber'' to allow exporters of private logs to acquire and domestically process incidental volumes of grade 3 and grade 4 saw logs from Federal lands into chips. This provision also allows exporters of private logs to domestically process small volumes of such logs into other products.

Section 493(11) defines ''violation'' to make it clearer that a person should not be penalized $50,000 or more per log handled in violation of FRCSRA or its regulations, but rather that ''violation'' refers to transgressions under a contract or purchase order.

Section 5. Regulations and review

Section 495 has been expanded to specify that reasonable painting and branding and reporting requirements should be imposed only where the benefits outweigh the burdens of complying with such requirements. Because of the minimal risk of small logs being exported and the substantial burdens of complying with painting and branding requirements, this provision prevents requiring painting or branding on the face of any log that is less than seven inches in diameter. Likewise, this provision restricts the imposition of painting and branding requirements on timber harvested from private land where the transfer of such timber is to a person who is eligible to purchase timber from Federal land or if both parties certify that the logs will be processed at the delivery site.

The Secretary is also authorized to waive painting and branding requirements if it is determined that the risk of export or substitution is low in the region. The Secretary may also waive painting and branding requirements for unprocessed timber originating from private lands within an approved sourcing areas.

The Secretary may also waive painting and branding requirements for timber harvested from Federal land if there has been no exporting in the area for an extended period, and a person certifies that any unprocessed timber to which the waiver applies that goes outside of that area will be branded.

Title VI provides for the issuance of new FRCSRA regulations no later than June 1, 1998, and provides further that the regulations under this title that are currently in effect (the regulations that were in effort prior to September 8, 1995) shall remain in effect until new regulations are issued.

TITLE VII—MICCOSUKEE SETTLEMENT

Amendment No. 165: Makes technical corrections to language proposed by the Senate dealing with the transfer of lands for the Miccosukee Tribe of Florida. The House had no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the Committee of Conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$13,514,435,000
Budget estimates of new (obligational) authority, fiscal year 1998	13,799,946,000
House bill, fiscal year 1998	12,952,829,000
Senate bill, fiscal year 1998	13,756,350,000
Conference agreement, fiscal year 1998	13,789,438,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+275,003,000
Budget estimates of new (obligational) authority, fiscal year 1998	−10,508,000
House bill, fiscal year 1998	+836,609,000
Senate bill, fiscal year 1998	+33,088,000

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, JR.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,
Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY,
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,
BARBARA BOXER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STRICKLAND (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. CHAMBLISS (at the request of Mr. ARMEY), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. SCOTT, for 5 minutes, today.
Mr. FORD, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. BARRETT of Wisconsin, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Ms. SANCHEZ, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. CLEMENT, for 5 minutes, today.
Mr. PRICE of North Carolina, for 5 minutes, today.
Mr. LEWIS of Georgia, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Mrs. MALONEY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mrs. LINDA SMITH of Washington, for 5 minutes each day, today and on October 23 and 24.
Mr. KOLBE, for 5 minutes, today.
Mr. FOLEY, for 5 minutes each day, today and on October 23.
Mr. METCALF, for 5 minutes, today.
Mrs. ROUKEMA, for 5 minutes, today.

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. FROST, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Ms. SANCHEZ.
Mr. SERRANO.
Mr. HAMILTON.
Mr. STOKES.
Mr. NEAL of Massachusetts.
Mr. KANJORSKI.
Mr. BERMAN.
Mr. STARK.
Mr. RANGEL.
Mr. SHERMAN.
Mr. WAXMAN.
Mr. FILNER.
Mr. LANTOS.
Mr. MANTON.
Mr. SKELTON.
Mr. HOYER.
Mr. DELLUMS.
Mr. MILLER of California.
Mr. BENTSEN.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. PORTMAN.
Mr. WELDON of Pennsylvania.
Mr. PAPPAS.
Mr. COBLE.
Mr. GILMAN.
Mr. WELLER.

(The following Members (at the request of Mr. THUNE) and to include extraneous matter:)

Mr. RANGEL.
Mr. MCINNIS
Ms. NORTON.
Mr. PAYNE.
Mr. HASTINGS of Florida.
Mr. ENGEL.
Mr. POSHARD.
Mr. OBERSTAR.
Mr. HORN.
Mr. BONIOR.
Mr. HOBSON.
Mr. BOB SCHAFFER of Colorado.
Mr. KIND.
Mr. STUPAK.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

ADJOURNMENT

Mr. THUNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, October 23, 1997, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report and amended report concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the 1st and 2d quarter of 1997, by various Committees, House of Representatives, pursuant to Public Law 95–384, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses	2/16	2/24	France						560.00		560.00
			Germany								
			Russia								
Committee total									560.00		560.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

F. JAMES SENSENBRENNER, Chairman, Oct. 7, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Sonny Callahan	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. Sonny Callahan	5/8	5/10	Nicaragua		468.50		(3)				468.50
Hon. Rodney Frelinghuysen	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1997—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. David Hobson	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							6,742.25				6,742.25
Hon. Joseph Knollenberg	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
William Inglee	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
	5/8	5/10	Nicaragua		468.50		(3)				468.50
Mark Murray	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Juliet Pacquing	3/30	4/2	Korea		915.00						915.00
	4/2	4/5	Japan		900.00						900.00
Commercial air							4,468.95				4,468.95
Timothy Peterson	6/13	6/17	France		1,168.00				50.00		1,218.00
Commercial air							3,549.05				3,549.05
John Plashal	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							4,247.25				4,247.25
	6/14	6/16	France		873.00		(3)				873.00
	6/16	6/16	Belgium								
John Shank	3/31	4/2	Guatemala		378.00		(3)				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Total					15,526.44		19,007.50		50.00		34,583.94
Surveys and Investigations staff:											
Frederick A. Brugger	6/22	6/25	Colombia		493.00		2,651.95		60.00		3,204.95
	6/25	6/28	Peru		585.75						585.75
Robert W. Catlin, Jr.,	6/24	6/25	Barbados		470.25		2,338.96		31.90		2,841.11
	6/26	6/28	Panama		258.00						258.00
John J. Clynick	6/21	6/25	Uruguay		677.00		3,739.95		42.40		4,459.35
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Norman H. Gardner	5/3	5/7	Israel		1,045.00		4,901.85		6.00		5,952.85
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		81.00		4,497.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
James A. Higham	6/24	6/26	Barbados		470.25		2,338.96		68.00		2,877.21
	6/26	6/28	Panama		258.00						258.00
Susan G. Joseph	6/22	6/25	Colombia		493.00		2.651/95		62.50		3.207.45
	6/25	6/28	Peru		585.75						585.75
Robert J. Reitwiesner	5/3	5/7	Israel		1,405.00		4,901.98		87.00		6,033.98
	5/7	5/10	Egypt		459.25						459.25
	6/24	6/26	Barbados		470.25		2,338.06		112.00		2,920.31
	6/26	6/28	Panama		258.00						258.00
R.W. Vandergrift, Jr.	5/3	5/7	Israel		1,045.00		4,901.98		579.00		6,525.98
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		402.74		4,819.69
	6/25	6/27	Argentina		448.00						448.00
	6/27	6/30	Chile		651.00						651.00
Frank J. Waldburger	6/21	6/25	Uruguay		677.00		3,739.95		38.00		4,454.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Peter T. Wyman	5/3	5/7	Israel		1,045.00		4,901.85		36.01		5,982.86
	5/7	5/10	Egypt		459.25						459.25
	6/22	6/25	Colombia		493.00		2,651.95		112.90		3,257.85
	6/25	6/28	Peru		585.75						585.75
Committee total					19,844.00		49,539.29		1,719.45		71,102.74

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON, Chairman, Oct. 1, 1997.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5536. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Addition to Quarantined Areas [Docket No. 97–102–1] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5537. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Removal of Quarantined Areas [Docket No. 97–056–7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5538. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cyromazine; Pesticide Tolerances for Emergency Exemptions [OPP–300563; FRL–5748–9] (RIN: 2070–AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5539. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pyrithiobac Sodium Salt; Time-Limited Pesticide Tolerance [OPP–300548; FRL–5742–5] (RIN: 2070–AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5540. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Amendment to the Production Flexibility Contract Regulations (RIN: 0560–AF25) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5541. A letter from the Manager, Federal Crop Insurance Corporation, Risk Management Agency, transmitting the Agency's final rule—General Crop Insurance Regulations, Canning and Processing Tomato Endorsement; and Common Crop Insurance Regulations, Processing Tomato Provisions [7 CFR Parts 401 and 457] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5542. A letter from the Director, Washington Headquarters Services, Department of Defense, transmitting the Department's final rule—OCHAMPUS; State Victims of Crime Compensation Programs; Voice Prostheses [DoD 6010.8–R] (RIN: 0720–AA42) received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

5543. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Restrictions on Advances to Non-Qualified Thrift Lenders [No. 97–62] (RIN: 3069–AA60) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5544. A letter from the Chairman, National Credit Union Administration, transmitting a report on flood insurance compliance by insured credit unions, pursuant to section 529(e)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994; to the Committee on Banking and Financial Services.

5545. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Risk-Based Capital Requirements; Transfers of Small Business Loan Obligations with Recourse [Docket No. 97–17] (RIN: 1557–AB14) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5546. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 111, H.R. 680, H.R. 2248, S. 996 and S. 1198, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

5547. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2016, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

5548. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Test Procedures for Furnaces and Boilers [Docket No. EE-RM–93–501] (RIN: 1904–AA45) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5549. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Procedural Rules for DOE Nuclear Activites; General Statement of Enforcement Policy [10 CFR Part 820] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5550. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Approval Under Section 112(1); State of Iowa [IA 016–1016; FRL–5912–6] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5551. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Kentucky; Indiana [KY95–9722a; IN82a-1; FRL–5901–2] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5552. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program [Region II Docket No. NY22–1–163, FRL–5913–7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5553. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Hampshire [NH–7157a–FRL–5906–8] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5554. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 [CC Docket No. 96–128] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5555. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure [CC Docket No. 96–262; CC Docket No. 94–1; CC Docket No. 91–213] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5556. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Administration of the North American Numbering Plan; Toll Free Service Access Codes [CC Docket No. 92–237; CC Docket No. 95–155] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5557. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees [WT Docket No. 97–82] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5558. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revision of the Requirements for a Responsible Head for Biological Establishments [Docket No. 96N–0395] (RIN: 0910–AA93) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5559. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 93F–0111] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5560. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Notice to Employees; Minor Amendment (RIN: 3150–AF66) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5561. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 98–03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5562. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98–02), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5563. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period October 1, 1996 to March 31, 1997 listing Voluntary Contributions made by the United States Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

5564. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 105–159); to the Committee on International Relations and ordered to be printed.

5565. A letter from the Director, Bureau of the Census, transmitting the Bureau's final rule—Census Tract Program for Census 2000—Final Criteria [Docket No. 961213356–7236–02] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5566. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List [97–018] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5567. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Bering Sea and Aleutian Islands [Docket No. 961107312–7021–02; I.D. 101497A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5568. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [Docket No. 970730185–7206–02; I.D. 093097A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5569. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No. 961107312–7021–02; I.D. 101697A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5570. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Illinois Regulatory Program [SPATS No. IL–081–FOR] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5571. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Schedules of Controlled Substances Placement of Butorphanol into Schedule IV [DEA–

166F] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5572. A letter from the Chairman, National Bankruptcy Review Commission, transmitting a report entitled ''Bankruptcy: The Next Twenty Years,'' pursuant to Public Law 103–394; to the Committee on the Judiciary.

5573. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Death of Appellant During Pendency of Appeal (RIN: 2900–AI86) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5574. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability [Rev. Proc. 97–50] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5575. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 97–49] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5576. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97–44] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 274. Resolution providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes (Rept. 105–336). Referred to the House Calendar.

Mr. REGULA: Committee of Conference. Conference report on H.R. 2107. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–337). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Budget discharged from further consideration. H.R. 2513 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TAUZIN:

H.R. 2691. A bill to reauthorize and improve the operations of the National Highway Traffic Safety Administration; to the Committee on Commerce.

By Mr. SMITH of Oregon:

H.R. 2692. A bill to combine the Consolidated Farm Service Agency and the Natural Resources Conservation Service of the Department of Agriculture as a single agency under an Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services and to ensure the equitable treatment of socially disadvantaged farmers and ranchers and employees of the Department who are members of a socially disadvantaged group; to the Committee on Agriculture.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. PASCRELL, Mr. COOK, Mrs. TAUSCHER, Mrs. KELLY, Mr. NEAL of Massachusetts, Ms. DELAURO, Mr. NADLER, Mr. LANTOS, Ms. SLAUGHTER, Ms. KILPATRICK, Mr. FROST, Mr. SANDERS, Mrs. THURMAN, Mr. FALEOMAVAEGA, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. MCGOVERN, Mr. EVANS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. GREEN, Mr. DELLUMS, Mr. RUSH, Mr. FILNER, Mr. SHERMAN, Ms. HOOLEY of Oregon, Mr. FAZIO of California, Mr. WYNN, Mr. BROWN of California, Mr. CONDIT, Mr. CLEMENT, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. HINCHEY, Mr. FORD, Ms. ESHOO, and Ms. WOOLSEY):

H.R. 2693. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN:

H.R. 2694. A bill to amend the Immigration and Nationality Act to authorize the Attorney General to continue to treat certain petitions approved under section 204 of such Act as valid notwithstanding the death of the beneficiary; to the Committee on the Judiciary.

By Ms. SANCHEZ:

H.R. 2695. A bill to amend the Internal Revenue Code of 1986 to encourage new school construction through the creation of a new class of bond; to the Committee on Ways and Means.

By Mr. COBLE (for himself and Mr. SHAW):

H.R. 2696. A bill to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mrs. MALONEY of New York, Mrs. MORELLA, Ms. WOOLSEY, Mr. PASCRELL, Mr. DELLUMS, and Mr. DINGELL):

H.R. 2697. A bill to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health with respect to research and related activities concerning osteoporosis and related bone diseases; to the Committee on Commerce.

By Mrs. MCCARTHY of New York:

H.R. 2698. A bill to improve teacher preparation at institutions of higher education; to the Committee on Education and the Workforce.

By Mrs. MORELLA (for herself, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY of New York, Ms. WOOLSEY, Ms. NORTON, Ms. WATERS, Mr. DAVIS of Virginia, Mr. HAYWORTH, Mr. UNDERWOOD, Mr. MEEHAN, Mr. WAXMAN, Mr. DELAHUNT, Mr. PASCRELL, Mr. LANTOS, and Mr. NADLER):

H.R. 2699. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Government Reform and Oversight.

By Ms. NORTON:

H.R. 2700. A bill to direct the Secretary of the Interior to convey certain lands to the District of Columbia for use for single-family homes for low and moderate income individuals and families; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. STARK, Mr. CARDIN, Mr. LEWIS of Georgia, and Mr. BECERRA):

H.R. 2701. A bill to amend title XVIII of the Social Security Act to carve out from payments to MedicareChoice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER:

H.R. 2702. A bill to authorize the Secretary of the Treasury to ban the importation of firearms that have been cosmetically altered to avoid the ban on semiautomatic assault weapons; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 2703. A bill to amend part C of title XVIII of the Social Security Act to continue after 2001 continuous open enrollment of individuals in MedicareChoice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mrs. MALONEY of New York, Mr. PASCRELL, Mrs. MORELLA, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2704. A bill to amend the Public Health Service Act to provide for an increase in the amount of funding for the information clearinghouse on osteopoorsis, Paget's disease, and related bone disorders; to the Committee on Commerce.

By Mr. PORTER (for himself, Mr. DREIER, and Mr. LANTOS):

H. Con. Res. 172. Concurrent resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes; to the Committee on International Relations.

By Mr. SAM JOHNSON:

H. Con. Res. 173. Concurrent resolution honoring the accomplishments of the many Americans who contributed to the development of supersonic flight technology; to the Committee on Science.

By Mr. WEXLER (for himself, Mr. ACKERMAN, and Mr. LANTOS):

H. Con. Res. 174. Concurrent resolution expressing the sense of Congress regarding the anti-American and anti-Semitic remarks of Malaysian Prime Minister Mahathir Mohamed; to the Committee on International Relations.

By Mr. GANSKE:

H. Res. 275. A resolution to amend the Rules of the House of Representatives to permit a committee to vote to allow live media coverage of the testimony of a subpoenaed witness; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. PORTER introduced A bill (H.R. 2705) for the relief of Edwardo Reyes and Dianelita Reyes; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. DICKEY and Mr. PETERSON of Minnesota.

H.R. 59: Mr. DELAY.

H.R. 182: Mr. CONYERS.

H.R. 351: Ms. RIVERS.

H.R. 371: Mr. OLVER.

H.R. 614: Mr. WELDON of Florida.

H.R. 676: Mr. BOUCHER, Mr. OBERSTAR, Mr. ACKERMAN, and Mr. FROST.

H.R. 777: Mr. LANTOS.

H.R. 815: Mr. JACKSON, Mr. RANGEL, Mr. SMITH of Oregon, and Mr. SISISKY.

H.R. 820: Mr. SCOTT.

H.R. 946: Mr. HAYWORTH.

H.R. 979: Mr. SMITH of Michigan, Mr. KILDEE, Mr. HOLDEN, Mr. KANJORSKI, Ms. MILLENDER-MCDONALD, Mr. DIXON, and Ms. ROYBAL-ALLARD.

H.R. 983: Ms. MILLENDER-MCDONALD.

H.R. 986: Mrs. CUBIN.

H.R. 991: Mr. BAESLER, Mr. ETHERIDGE, Mr. SKAGGS, Mr. MCINTYRE, and Mr. OLVER.

H.R. 992: Mr. WELDON of Florida and Mrs. CHENOWETH.,

H.R. 1023: Mr. LOBIONDO.

H.R. 1161: Mr. KLECZKA.

H.R. 1173: Mr. BOSWELL, Mr. BALDACCI, Ms. JACKSON-LEE, Mr. JACKSON, Ms. WOOLSEY, Mr. KENNEDY of Rhode Island, Mr. QUINN, Mr. MOAKLEY, Mr. LEWIS of Kentucky, Mr. HEFNER, Ms. SANCHEZ, Mr. PASTOR, Mr. BILBRAY, Mr. LAMPSON, and Mr. SANDLIN.

H.R. 1227: Mr. GOODLING, Mr. CHAMBLISS, and Mrs. NORTHUP.

H.R. 1231: Mrs. EMERSON.

H.R. 1232: Mr. MCGOVERN, Mr. MILLER of California, Mr. CALLAHAN, Mrs. FOWLER, Mr. DELAHUNT, and Mr. SMITH of Michigan.

H.R. 1234: Mr. RUSH.

H.R. 1256: Ms. STABENOW and Mrs. CHENOWETH.

H.R. 1371: Mr. KUCINICH.

H.R. 1387: Mr. SUNUNU.

H.R. 1415: Mr. TRAFICANT, Mr. MCINTYRE, Mr. MCNULTY, Mr. BOEHLERT, Mr. WATKINS, and Mr. DREIER.

H.R. 1425: Mr. STARK.

H.R. 1531: Mr. WAXMAN.

H.R. 1541: Mr. CAPPS.

H.R. 1542: Mr. INGLIS of South Carolina, Mr. MCINNIS, and Mr. NETHERCUTT.

H.R. 1773: Mr. EWING.

H.R. 1800: Mr. OBEY and Mr. PETERSON of Minnesota.

H.R. 1842: Mr. HILL and Mr. BLILEY.

H.R. 1891: Ms. RIVERS.

H.R. 2011: Mr. RYUN.

H.R. 2021: Mr. MILLER of Florida.

H.R. 2023: Mr. DELLUMS.

H.R. 2029: Mr. COBURN, Mr. RYUN, and Mr. LIVINGSTON.

H.R. 2110: Mr. WEXLER.

H.R. 2172: Mr. BOSWELL.

H.R. 2189: Mr. FROST, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. LAMPSON, Mr. TRAFICANT, Mr. FALEOMAVAEGA, Mr. BLILEY, Mr. ACKERMAN, Mr. KUCINICH, and Ms. KAPTUR.

H.R. 2191: Mr. BARR of Georgia.

H.R. 2194: Mr. TRAFICANT, Mrs. JOHNSON of Connecticut, Mr. TOWNS, Mrs. MALONEY of New York, Mr. LANTOS, Mr. RANGEL, Mrs. LOWEY, Mr. ENGEL, and Mr. MANTON.

H.R. 2292: Mr. BAESLER, Mr. ROYCE, Mr. GREENWOOD, Mrs. KENNELLY of Connecticut, Ms. RIVERS, Mr. FAZIO of California, Mr. SANDLIN, Mr. SCHIFF, and Mr. BENTSEN.

H.R. 2327: Mr. SHERMAN, Mr. FAWELL, Ms. DUNN of Washington, Mr. FROST, Mr. WHITE, Mr. EVANS, Mr. PETERSON of Minnesota, Mr. RAMSTAD, and Mr. SOUDER.

H.R. 2377: Mr. BAKER, Mr. MCDADE, Mr. UPTON, and Mr. PICKERING.

H.R. 2380: Mr. CHRISTENSEN.

H.R. 2392: Mr. GOODLING.

H.R. 2476: Mr. DINGELL.

H.R. 2483: Mr. MCKEON, Mr. ISTOOK, Mr. SHIMKUS, Mr. BUNNING of Kentucky, Mr. CHAMBLISS, Mr. CALVERT, Mrs. FOWLER, Mr. BOB SCHAFFER, Mr. GOODLING, Mr. CANNON, and Mr. HILL.

H.R. 2488: Ms. FURSE.

H.R. 2549: Mr. TRAFICANT.

H.R. 2560: Mr. DOOLEY of California, Mr. MCINTYRE, Ms. NORTON, Mr. UNDERWOOD, Mrs. MALONEY of New York, and Mr. PASTOR.

H.R. 2563: Mr. CHAMBLISS, Mr. HASTINGS of Washington, Mr. MENENDEZ, Mr. CALLAHAN, and Mr. NETHERCUTT.

H.R. 2584: Mr. SANDERS and Mr. WEYGAND.

H.R. 2595: Mr. BOEHNER and Mr. PICKERING.

H.R. 2598: Mr. TIAHRT.

H.R. 2609: Mr. MORAN of Kansas, Mr. CHAMBLISS, Mr. HOLDEN, Mr. CLYBURN, and Mr. KLUG.

H.R. 2611: Mr. COBURN and Mr. LEWIS of Kentucky.

H.R. 2625: Mr. COX of California, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. KINGSTON, Mr. COOKSEY, Mr. JONES, Mr. LARGENT, Mr. BALLENGER, Mr. GINGRICH, Mr. BUNNING of Kentucky, Mr. KING of New York, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. SALMON, Ms. DUNN of Washington, and Mr. MCINTOSH.

H.R. 2627: Mr. WEYGAND and Mr. MILLER of Florida.

H.R. 2639: Mr. PRICE of North Carolina, Mr. YATES, Mr. KING of New York, and Mr. DEUTSCH.

H.R. 2689: Mr. RADANOVICH.

H.J. Res. 78: Mr. GEKAS, Mr. GIBBONS, Mr. HASTINGS of Washington, Mr. RIGGS, Mr. SHUSTER, Mr. BRADY, and Mr. CANNON.

H.J. Res. 95: Mr. TANNER, Mr. JENKINS, Mr. HILLEARY, Mr. CLEMENT, Mr. FORD, Mr. DUNCAN, Mr. WAMP, Mr. GORDON, Mr. THOMPSON, Mr. TAYLOR of Mississippi, Mr. PARKER, and Mr. PICKERING.

H. Con. Res. 100: Mr. ANDREWS, Mr. SAXTON, Mr. HASTINGS of Florida, Mr. RUSH, Mr. PORTER, and Mr. WAMP.

H. Con. Res. 107: Mr. DEUTSCH.

H. Res. 37: Mr. WAMP and Mr. TAYLOR of Mississippi.

H. Res. 259: Ms. LOFGREN, Mr. HAMILTON, Mr. BALDACCI, Mr. CAPPS, Ms. RIVERS, Mr. FAZIO of California, Mrs. MALONEY of New York, Mr. ENGEL, Mr. BARRETT of Wisconsin, and Mr. POSHARD.

H. Res. 268: Mr. DELAY and Mr. SOUDER.

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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

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Senate

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

PRAYER

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

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

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

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

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

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. KYL. Thank you, Mr. President.

SCHEDULE

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

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

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

RECOGNITION OF LIZ HEASTON

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JAMES D. WOLFENSOHN OF THE WORLD BANK GROUP

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

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

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

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

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

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

THE CHALLENGE OF INCLUSION

(By James D. Wolfensohn)

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

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

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

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

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

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

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

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

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

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

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

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

THE STATE OF DEVELOPMENT CIRCA 1997

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

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

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

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

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

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

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

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

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

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

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

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

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

THE CHALLENGE AHEAD

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

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

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

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

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

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

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

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

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

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

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

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

THE DEVELOPMENT COMMUNITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE WORLD BANK GROUP'S RESPONSE

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

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

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

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

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

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

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

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

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

The New Bank is committed to quality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

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

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

As a development community we face a critical choice.

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

Or we can decide to make a real difference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Chair.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. D'AMATO. I thank the Chair.

THE GAZPROM DEAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Washington, DC, October 22, 1997.

Hon. MITCH MCCONNELL,

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

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

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

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

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

Sincerely,

ALFONSE M. D'AMATO,
Chairman.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

GERI MEAGHER

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

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

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

WOMEN IN MILITARY SERVICE TO AMERICA MEMORIAL

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

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

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

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

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

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

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

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

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

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

And yet, they served under brutal conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

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

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

The bill clerk read as follows:

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

The Senate proceeded to consider the joint resolution.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

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

The PRESIDING OFFICER. The Senator is correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

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

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

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

allowed to speak as in morning business.

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

Mr. WELLSTONE. I thank the Chair.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

A GLOBAL WARMING CHALLENGE

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask consent to speak as in morning business.

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

APPROACHING THE CLINTON-JIANG SUMMIT

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

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

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

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

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

First are the areas where we have mutual interests.

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

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

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

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

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

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

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

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

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

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

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

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

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

THE ISSUES: LOOKING TO THE FUTURE

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

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

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

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

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

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

IF THINGS GO WRONG ANYWAY

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

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

CONCLUSION

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

DRUG-FREE IOWA MONTH

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TRIBUTE TO BOBBY MULLER

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

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

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

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

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

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

[From the Army Times, October 13, 1997]

ONE MAN'S FIGHT FOR A BETTER WORLD

(By George C. Wilson)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPUBLICAN ATTACKS ON THE INDEPENDENCE OF THE FEDERAL JUDICIARY

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

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

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

(See exhibit 1.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT 1

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

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

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

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

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

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

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

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

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

Thanks for listening.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

Mr. ASHCROFT. Will the Senator yield?

Mr. BYRD. Yes.

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

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

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

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

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

Mr. BYRD. I thank my friend from Missouri.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1998

The Senate continued with the consideration of the joint resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In its most extreme form—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

INS PURSUIT OF CRIMINAL ALIENS

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

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

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

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

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

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

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

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

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

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

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

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

Here are some of those aliens that INS released:

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

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

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

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

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

I yield the floor.

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

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

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

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

HIGHWAY FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

Mr. BREAUX. I thank the President.

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

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

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

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

Mr. BYRD. I thank the Chair.

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

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

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

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

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

Mr. BYRD. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PAVEMENT MILES IN POOR TO FAIR CONDITION [1]

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

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

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

TOTAL DEFICIENT BRIDGES

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

TOTAL DEFICIENT BRIDGES—Continued

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

TOTAL DEFICIENT BRIDGES—Continued

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

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

[Preliminary data—dollars in thousands]

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

[1] Source of additional contract authority: CBO.

Mr. WARNER addressed the Chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. WARNER. I thank my distinguished colleague.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is a principle that I will not abandon.

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

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

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

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

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

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

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

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

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

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

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

Mr. BYRD. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator has 20 minutes.

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

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

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

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

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

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

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

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

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

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

Is the Senator the last speaker?

Mr. BAUCUS. I have no idea.

Mr. CHAFEE. Go to it.

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

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

And these investments help us compete globally. It is this competition that has helped us reach the economic growth we have today. But we have to invest more in the engine of the economy, our transportation network. Other nation's are investing more in infrastructure in order to catch up to us. If you look at what other countries spend on infrastructure, Japan is four times as a percentage of GDP and Europe twice as much as we do. Just look around the D.C. area. Anybody who drives around here, with all the pot holes and congestion, knows how much we need to improve the highways in this country.

So how do we meet these transportation needs? We begin by increasing the authorizations for transportation spending. We have to do that with the Byrd-Gramm amendment because we are faced with a budget resolution which has limited the amount of money that the Environment and Public Works Committee can spend. And these limits are too low.

So the amendment Senator BYRD is offering is a very creative way to meet the needs of our highway system. It is very simple. It says that if the savings, or a portion of the savings projected in OMB's midsession review are realized and if Congress decides to spend them, then transportation programs should be fully funded. Let me emphasize the key words here. If there are additional savings from the economy and if Congress decides to spend them, then transportation should be fully funded. So nothing is mandated. There is no automatic increased spending. All of that will be decided by Congress next year and in future years. We are only saying that we should authorize these additional funds so that if additional spending is available, the authorization process is complete. We do not mandate anything. We are not mandating the Budget Committee to take action. We are not mandating the Appropriations Committee to spend any additional money. We are just saying they should spend the additional savings if that savings is available.

Now, the total savings available, if OMB's midsession review is accurate, will be about $200 billion. That is to say that we in the Congress will have $200 billion more than we thought we had when we passed the last budget resolution. That is, the economy has been doing so well that there will be about $71 billion less in spending—that is less in unemployment compensation insurance, for example—and about $130 billion in additional revenues because the economy is doing so well. This is over a 5-year period. It is these savings that we are targeting in this amendment.

Let me also say what this amendment does not do. Some Senators have said, and I think it is true that it is based on incorrect information—it is not their fault; the amendment has not been available for them to read. Some Senators said, well, this amendment will cut other programs. It is going to cut Head Start. It is going to cut education programs.

Let me be clear. This amendment in no way cuts funding for any program. Let me repeat that. The effect of this amendment is not to cut any program. That is because we are only authorizing additional spending with the anticipation that future economic savings will be available to fund these authorizations. If we do not do this, if we are locked into the lower numbers in the underlying bill, we will not be able to increase these numbers during the six year authorization. Not unless the Environment and Public Works Committee writes a new bill to do so. We do not want to have to write a new highway bill every year. That does not make sense. But the important point is that increasing the contract authority will not cut the spending for other programs.

And this amendment does not bust the budget. Again, that is because it only increases the contract authority for transportation programs.

Another point. If this amendment does not pass, the balances in the highway trust fund will be $71 billion by the year 2003. That is not right. Congress would continue to use this money to mask the true budget deficit. It is phony business. It is smoke and mirrors to let that happen. It just is not right to let these balances accumulate to such a large degree to mask the true budget deficit. That is wrong. And again that would happen if this amendment does not pass. It just happens automatically if it doesn't pass.

I might also add, Madam President, that I hear some Senators who are unhappy with the formula in the underlying bill. They have asked for more money for their States. I have heard from many States. It is a rare State that doesn't make that plea.

There is only one way to help States get more money and that is to vote for the Byrd amendment. Every State will receive more contract authority. If we do not have this extra contract authority, there is no way we can help States get more money. So if you need more money and if you feel you are not being dealt with fairly, this amendment will help bring that result. We will not be able to help any States or any programs without more money.

Madam President, I have more points I want to make, but I think it is probably more appropriate to bring those points up when the amendment is actually before us. But I just wanted to summarize by saying that I ask Senators to read the amendment now that it is available and they will see it does not cause all these problems that some fear it will cause. And on the contrary, they will see that it does not bust the budget and will not cause a funding cut to other programs.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, I want to call to the attention of my colleagues, both here on the floor and elsewhere, that there will be a Domenici-Chafee amendment which will provide a simple, fast-track method to increase highway spending without requiring an entire new ISTEA bill. So let's put to rest the suggestion that all kinds of complications are going to have to be gone through in order to increase highway spending under the bill that is before us, plus the amendment that Senator DOMENICI and I will submit.

So, therefore, you say, what's the difference? What's the difference between the two bills? Domenici-Chafee provides a fast-track method to provide additional funding and the so-called Byrd bill, Byrd-Baucus-Warner-Gramm bill says there will be increased funding for highway spending. But, let me just tell you the difference, Madam President. What the Byrd bill says, it says, now, what the contract authority will be, and since that is to be apportioned in just the present proportions that exist amongst the States, that applies a chart immediately that will go out, telling each State what it will get for each successive year.

There is a hitch there, though. That's a promise, it appears. But the sponsors

are stressing that it is not a promise, that the appropriators do not have to provide that amount of money. Here is the problem under that approach. I just look here on page 2, ''Authorization Of Contract Authority: There shall be available from the Highway Trust Fund . . . to carry out this subsection [$5.x billion] for fiscal year 1999,'' $5.471 billion the next year, on and on it goes until it gets up to $5.781 billion.

That is contract authority. And, absent something occurring, that is what the States will get. But the question is, is that what the appropriations are going to be? Here is the hitch. Every State department of transportation will look, as I say, at these amounts, everybody can figure out what their percentage is now and, since the promise is they are going to get the same percentage, we will figure let's see, what does Rhode Island get out of this? Let's see, in fiscal year 2001 things look pretty good. You just take $5.573 billion, which is on top of the amounts we have already, the $21 billion, you just add that in and figure this is what we are going to get in Rhode Island. But Rhode Island is not—or Maine, or Montana or West Virginia—is not necessarily going to get these amounts which appear to be promises because they are not promises because the appropriators have to act.

So, it seems to me the proponents of the bill are riding two horses here. One, they are saying to every State, you are going to get 25 percent more, isn't that wonderful? At the same time they are saying, oh, there are no commitments. Nothing is done. We are not breaking the budget. We are just going to leave it to the appropriators. Other programs can get what they want.

The problem, it seems to me, is once you get these sums out there in contract authority, as is in the Byrd bill, that every department of transportation, every Governor will figure that is what is coming and there will be tremendous pressure on this body to come through on the promise, seeming promise. They will stress, rightfully, it is not a promise. But who knows what the requirements are going to be for the budget, on the budget in the year 2001? Or 2002? Or 2003? It may well be we want to spend more on education. We may want to spend more on health care. It may be we want to cut taxes. But here this is locking us in.

I know they will deny it is locking us in. Why, contract authority, that is just there, you can change it. But I will guarantee by this time tomorrow every State will have a chart showing what they are going to get for 1999, 2000, 2001, 2002, and 2003. And it will appear to be a promise. That, to me, I believe, is a definite flaw in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If the Senator will yield, if I understand the Senator, he is saying under the Byrd-Gramm-Baucus-Warner amendment it is true that it is up to the discretion of the Budget Committee and appropriations committees to make these decisions, but that they will be under such pressure that they will not be able to decide responsibly what is right for the country? That is what I understand the Senator to be saying.

Mr. CHAFEE. What I am saying is these amounts are listed here as contract authority. I mean that is the word. And that means that every single State will anticipate—they can work these percentages out. You don't have to be a Phi Beta Kappa to do that. And they will anticipate what they are getting.

Indeed, proponents are already saying every State is going to get 25 percent more. They don't know they are going to get 25 percent more. That is what I mean. They are riding one horse saying you are going to get 25 percent more because there it is, ''in contract authority.'' At the same time they are saying we leave it completely up to the appropriators, it is not necessarily 25 percent.

Which is it?

Mr. BAUCUS. I think it is very clear. The point of this is we transferred 4.3 cents to the highway trust fund. Those are dollars that Americans expect to be used for highways. And I think the Senator is correct in saying there is a very strong presumption that that contract authority will be spent someday. The Budget Committee and the Appropriations Committee along with the rest of Congress will decide if the contract authority will be spent. But that is only if economic savings are realized. But the beauty of the amendment is if for some reason it does not make sense next year to increase transportation spending, they still have that discretion. That is the beauty of it.

So, in answer to the Senator, it is very clear. It could not be more clear. Yes, there is a very strong presumption because the amendment says it should be spent. But it does not say it must be spent. It does not mandate that. But I personally feel it should be spent. The cosponsors of this amendment very strongly believe that those dollars should be spent.

But, still, we can't totally predict the future. I can't. I don't think anybody in this body can. So next year if for some reason the Budget Committee and Congress decides it wants to make some other decision, it can. And the Senator knows, under the terms of this amendment, the Budget Committee can. But the Senator also is correct in saying there is a strong presumption under this amendment that this money should be spent on highways if the savings are realized. Again, the amendment provides ''if the savings are realized.''

I have one question for the Senator. When are we going to see the amendment of the Senator?

Mr. CHAFEE. It will be available tomorrow.

Mr. BAUCUS. Tomorrow. Good.

Mr. CHAFEE. I might say I think the Senator is on weak ground to suggest I am slow. If I understand, the first discussion of the Byrd amendment was on October 9th. I know there is a gestation period here, but this has been unusually long. Whereas we have not been discussing our amendment publicly and talking about it, it is going to come. I think it was first going to come on the 10th; then it was going to come on Monday the 20th. Then we looked forward with bated breath for it on the 21st. Indeed, it has not even been submitted yet.

You could perfectly well revise this. I don't know why you haven't filed it.

Mr. BYRD. Madam President, will the Senator yield?

Mr. CHAFEE. Sure.

Mr. BYRD. Madam President, I call the attention of the Senator to a letter dated October 9th, signed by Mr. CHAFEE and by Mr. DOMENICI, to colleagues, in which the two Senators promise that there will be an amendment forthcoming. They even enclose an one-page summary of their amendment. And they say, ''We hope that we can have your support for this important matter.'' So on October 9th they had an amendment. That was before the recess occurred. They had an amendment, apparently, then, because they sent this to all their colleagues. I don't believe I received one. Maybe I did. I'm not sure.

In any event, they had the amendment then. Why have they waited until this date? They had it on October 9th. Today is October the 22nd, and we still don't see the amendment. But that is not so important.

May I say to the distinguished Senator from Rhode Island that the States know that they may not get the full authorized level. They never did under ISTEA, under ISTEA I, in previous years. They didn't get the authorized level.

May I also add I will be glad to join with the Senator and with Mr. DOMENICI in raising the caps. I will be happy to do that at the proper time, and I will urge that that be done. But there is time for that, yes.

Yes, the pressure is going to increase. No doubt about it. The pressures will increase because the people are going to want to get what they have been promised. Say what you like, but on May 22, 83 Senators voted that 4.3 cents should be returned to the trust fund and be spent on highway needs. That was 5 months ago. Only half of the task has been done, the transfer of the tax, but no spending of that revenue is currently authorized. So, I think when the people out in the various States, the hills and hollows, the seashores, read about this amendment they are, indeed, going to increase pressure to have us live up to the commitment that we know has been made and which was being urged by 83 Senators on May 22nd.

I thank my good-natured friend, Mr. CHAFEE. He is always very good natured, humorous, pleasing to get along

with. I enjoy serving with him. I thank him for yielding.

If he will yield just one moment further, I ask unanimous consent, Madam President, that the amendment that I am offering today on behalf of myself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER and 36 other Senators, be printed in the RECORD so that all Senators may read it tomorrow.

(The text of the amendment No. 1397 is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BYRD. And, while I am on the floor on my feet, I shall read the names of the other cosponsors. And we are expecting additional cosponsors, as I indicated earlier today, with several Senators saying they won't cosponsor but they would vote with us.

The following Senators have agreed up to this point to cosponsor the amendment: Senators AKAKA, ASHCROFT, BAUCUS, BREAUX, BRYAN, BUMPERS, BURNS, BYRD, CLELAND, COATS, COVERDELL, DEWINE, DORGAN, FAIRCLOTH, FEINSTEIN, FORD, GRAMM of Texas, GRAMS of Minnesota, HARKIN, HOLLINGS, HUTCHINSON of Arkansas, INHOFE, INOUYE, JOHNSON, KENNEDY, KERREY of Nebraska, KERRY of Massachusetts, LANDRIEU, LEAHY, LIEBERMAN, MCCAIN, MCCONNELL, MIKULSKI, REID of Nevada, ROCKEFELLER, SANTORUM, SESSIONS, SHELBY, SPECTER and WARNER.

I thank the Senator for allowing me the privilege of reading these names into the RECORD.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now resume the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee/Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee/Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee/Warner amendment No. 1314 (to amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to amendment No. 1317), to strike the limitation on obligations for administrative expenses.

CLOTURE MOTION

Mr. CHAFEE. Mr. President, I now send a cloture motion to the desk to the pending committee amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Trent Lott, John H. Chafee, Pat Roberts, Slade Gorton, Jon Kyl, Dan Coats, Ted Stevens, Mitch McConnell.

Mike DeWine, John W. Warner, Larry E. Craig, Don Nickles, Jesse Helms, Chuck Hagel, Dirk Kempthorne, Lauch Faircloth.

Mr. CHAFEE. Mr. President, for the information of all Senators, the cloture vote will occur on Friday of this week if cloture is not invoked earlier on Thursday. All Senators will be notified as to the exact time of this cloture vote.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ONE-CALL NOTIFICATION

Mr. FORD. Mr. President, I would like to clarify the intent of a portion of the Commerce Committee's ISTEA amendment that deals with State one-call (''call-before-you-dig'') programs. I'm interested in this language as it relates to the treatment of railroads. I understand that the provisions proposed to be added to the ISTEA legislation are the same as the provisions of S. 1115, the ''Comprehensive One-Call Notification Act of 1997.''

The Leader, together with the Minority Leader, introduced this bill as S. 1115 in July, and the Committee on Commerce, Science and Transportation already held a hearing on this bill in September.

Mr. LOTT. Senator FORD is correct. Thank you for focusing attention on this important safety aspect of the amendment. Our country increasingly depends on a reliable, safe, dependable underground infrastructure of pipelines and communications networks. To protect these facilities against damage from excavation activities, States have developed one-call programs. These programs notify facility owners of imminent excavation in the vicinity of those facilities. The owners can then mark the location of those facilities, protecting both the facilities and the excavator. My legislative goal is to augment and improve the effectiveness of these State programs.

Mr. FORD. Does the legislation impose mandates on States and require them to change their programs?

Mr. LOTT. The answer is an emphatic ''no.'' The legislation does not impose any federal mandate on the States to modify their existing one-call programs. The bill does not dictate the content of these programs from Washington. Period. The legislation does, however, encourage States to improve their programs, and it makes funding available for that purpose.

To be eligible for the funding, the State programs must meet certain minimum standards, but even those standards are performance-based, not prescriptive.

Frankly, legislation that contained a federal mandate for a one-call system was tried a few years ago, and it failed. There were endless fights over how the bill should be written precisely due to the fact that there are indeed 50 differing perceptions. Valid perceptions and experiences which match up to the many programs already in existence. This year, this mistake was avoided with this legislative approach—no mandates. And I am pleased to say that is why it enjoys broad support on both sides of the aisle.

In fact, at the conclusion of my remarks, I will ask unanimous consent to have printed in the RECORD a letter from Secretary of Transportation Slater, dated October 16, recognizing the importance of including one-call legislation as part of the reauthorization of the ISTEA legislation.

Mr. FORD. Among the minimum standards required for a program to be eligible for federal assistance is the requirement for ''appropriate participation by all excavators.'' However, the bill does not define these terms. Isn't that going to lead to a variety of inconsistent outcomes?

Mr. LOTT. What I have found is that there is not one single one-call definition that applies equally to all 50 States. The various State laws on the books have certain elements in common, but there are just as many differences, and those differences often are appropriate. Montana will not need the same law as Mississippi. For that reason, the bill allows States flexibility by not mandating a single definition written in Washington.

Mr. FORD. While there is not a definition of ''excavation'' in the bill, some definitions in other bills on this subject would have covered routine railroad maintenance. I am concerned that railroads might be required to participate in a program that places an undue burden on activities that pose little threats to underground facilities. How would the bill before us affect this matter?

Mr. LOTT. Again, I say to Senator FORD, the bill does not require States to change their existing programs. So it would not change the way railroads are treated under any existing State laws. I understand about 30 States laws now cover at least some railroad activities while about 10 specifically exempt railroads from coverage. The bill will not change the exemption in these States. Will not. The fact that 30 States have chosen to include railroads within their programs suggests that at least in these instances, State legislatures determined that some potential threat to underground facilities from railroad activity does exist. Again, this bill in and of itself will not require a change in how the railroad activity is treated. Will not.

However, I want to reiterate that what is appropriate for one State may not be appropriate for another. To receive Federal assistance under the bill, a State must only demonstrate that its program covers those excavators whose action poses a significant risk to underground facilities.

The State's decisions will not be measured and second-guessed against a national standard.

Mr. FORD. Railroads also raised the issue of whether it is appropriate to require them to participate in one-call systems as ''underground operators'' because railroads own their right-of-ways and know the location of their own facilities within those right-of-ways.

Mr. LOTT. Again, if States do not now require railroads to participate as operators of underground facilities, then there still is no provision in the bill that would change that status. Remember, no mandates. Most State programs do not require participation by persons whose underground facilities lie within their own property like a gas station. The bill in no way discourages States from continuing such common sense exclusions.

Mr. FORD. The railroads also urged Congress to provide for immediate response in the case of derailments and natural disasters. Does the bill address this issue?

Mr. LOTT. Again, this bill neither specifies or directs the details of a State program nor does it override existing State programs. All of the State programs of which I am aware allow for an immediate response in the event of an emergency. And this bill does not change this situation.

Mr. FORD. Finally, the railroad industry expressed concern that the bill could possibly interfere with the right-of-way agreements companies have negotiated between themselves. Can this concern be addressed?

Mr. LOTT. I want to personally assure Senator FORD that this bill does not override private contracts, just as it does not override existing State programs. If expert opinions believe doubt is created than I will offer an amendment to remove this consequence.

Mr. FORD. I thank the Leader for his clarifications regarding this legislation.

Mr. LOTT. Mr. President, I ask unanimous consent that the letter from Secretary Slater be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 16, 1997.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: Thank you for your continued support in developing legislation to enhance protection of America's underground utilities.

As you know, safety is the Department of Transportation's highest priority. Prevention of damage to underground facilities, including pipelines and telecommunications cables, is a key departmental safety initiative. That is why we included one-call legislation as part of the Administration's proposal to reauthorize the Intermodal Surface Transportation Efficiency Act (ISTEA).

Your continued leadership on one-call issues is critical to enacting legislation during this Congress. I am pleased that our respective bills share the same fundamental principles: that all underground facility operators must participate in one-call systems and that, with very limited exceptions, all excavators must call before they dig. I look forward to working with you to enact this important legislation.

Please do not hesitate to contact me or Mr. Steven O. Palmer, Assistant Secretary for Governmental Affairs, at 202–366–4573, if you have any questions or concerns.

Sincerely,

RODNEY E. SLATER.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 21, 1997, the Federal debt stood at $5,420,383,941,176.62. (Five trillion, four hundred twenty billion, three hundred eighty-three million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents)

One year ago, October 21, 1996, the Federal debt stood at $5,227,288,000,000. (Five trillion, two hundred twenty-seven billion, two hundred eighty-eight million)

Five years ago, October 21, 1992, the Federal debt stood at $4,060,086,000,000. (Four trillion, sixty billion, eighty six million)

Ten years ago, October 21, 1987, the Federal debt stood at $2,384,932,000,000. (Two trillion, three hundred eighty-four billion, nine hundred thirty-two million)

Fifteen years ago, October 21, 1982, the Federal debt stood at $1,140,014,000,000 (One trillion, one hundred forty billion, fourteen million) which reflects a debt increase of more than $4 trillion—$4,280,369,941,176.62 (Four trillion, two hundred eighty billion, one hundred sixty-nine million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 17TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 17, the United States imported 7,927,000 barrels of oil each day, 204,000 barrels less than the 8,131,000 imported each day during the same week a year ago.

While this is one of the few weeks that Americans imported less oil than the same week a year ago, Americans still relied on foreign oil for 55.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,927,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to concurrent resolution (H. Con. Res. 8) recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 282. An act to designate the United States Post Office building located at 153

East 110th Street, New York, New York, as the ''Oscar Garcia Rivera Post Building.''

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the ''Carlost J. Moorhead Post Office Building.''

H.R. 708. An act to require the Secretary of the Interior to conduct a study concerning grazing use and open space within and adjacent to the Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

H.R. 1789. An act to reauthorize the dairy indemnity program.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President.

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the ''David B. Champagne Post Office Building.''

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the ''Douglas Applegate Post Office.''

H.R. 2204. An act to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

H.R. 2464. An act to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such.

H.R. 2535. An act to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McCloskey Postal Facility.''

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes.

H.J. Res. 97. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 282. An act to designate the United States Post Office building located at 153 East 110th Street, New York, New York, as the ''Oscar Garcia Rivera Post Office Building''; to the Committee on Governmental Affairs.

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the ''Carlost J. Moorhead Post Office Building''; to the Committee on Governmental Affairs.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; to the Committee on Energy and Natural Resources.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

H.R. 1789. An act to reauthorize the dairy indemnity program; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President; to the Committee on Governmental Affairs.

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the ''Douglas Applegate Post Office''; to the Committee on Governmental Affairs.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McCloskey Postal Facility''; to the Committee on Governmental Affairs.

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

The following measure was read and referred as indicated:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere; to the Committee on Agriculture, Nutrition, and Forestry.

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Environment and Public Works:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes.

Pursuant to the order of the Senate of October 22, 1997, the following measures were considered jointly referred to the Committee on Finance and to the Committee on Governmental Affairs:

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, Kentucky.

H.R. 1953. An act to clarify State authority to tax compensation paid to certain employees.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

M. John Berry, of Maryland, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Ela Yazzie-King, of Arizona, to be a Member of the National Council on Disability for a term expiring September 17, 1999. (Reappointment)

Espiridion A. Borrego, of Texas, to be Assistant Secretary of Labor for Veterans' Employment and Training.

Patricia Watkins Lattimore, of the District of Columbia, to be an Assistant Secretary of Labor.

Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor.

Jeanette C. Takamura, of Hawaii, to be Assistant Secretary for Aging, Department of Health and Human Services.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1998.

David Satcher, of Tennessee, to be an Assistant Secretary of Health and Human Services.

David Satcher, of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years.

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Docs. 104–28 and 105–26 Migratory Bird Protocol With Canada and Migratory Bird Protocol With Mexico (Exec. Rept. 105–5).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 (Treaty Doc. 105–26), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the

instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term ''indigenous inhabitants'' as used in Article I means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article I, the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the United States and Canada Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, with Related Exchange of Notes, signed at Washington on December 14, 1995 (Treaty Doc. 104–28), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term ''indigenous inhabitants'' as used in Article II(4)(b) means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article II(4)(b), the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Ex. F, 96–1 U.S.-Mexico Treaty On Maritime Boundaries (Exec. Rept. 105–4).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), Tha the Senate advise and consent to the ratification of the Treaty on Maritime boundaries between the United States of America and the United Mexican States, signed at Mexico City on May 4, 1978 (Ex. F, 96–1), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

91) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research; to the Committee on Labor and Human Resources.

By Mr. INHOFE:

S. 1306. A bill to prohibit the conveyance of real property at Long Beach Naval Station, California, to China Ocean Shipping Company; to the Committee on Armed Services.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, Ms. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Con. Res. 56. A concurrent resolution authorizing the use of the rotunda of the Capitol for the ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I am today introducing a private relief bill on behalf of Belinda McGregor, the beloved sister of one of my constituents, Rosalinda Burton.

Mistakes are made everyday, Mr. President, and when innocent people suffer severe consequences as a result of these mistakes, something ought to be done to remedy the situation.

In the particular case of Ms. Belinda McGregor, the federal bureaucracy made a mistake—a mistake which cost Ms. McGregor dearly and it is now time to correct this mistake. Unfortunately, the only way to provide relief is through Congressional action.

Belinda McGregor, a citizen of the United Kingdom, filed an application for the 1995 Diversity Visa program. Her husband, a citizen of Ireland, filed a separate application at the same time. Ms. McGregor's application was among those selected to receive a diversity visa. When the handling clerk at the National Visa Center received the application, however, the clerk erroneously replaced Ms. McGregor's name in the computer with that of her husband.

As a result, Ms. McGregor was never informed that she had been selected and never provided the requisite information. The mistake with respect to

Ms. McGregor's husband was caught, but not in time for Ms. McGregor to meet the September, 1995 deadline. Her visa number was given to another applicant.

In short, Ms. McGregor was unfairly denied the 1995 diversity visa that was rightfully hers due to a series of errors by the National Visa Center. As far as I know, these facts are not disputed.

Unfortunately, the Center does not have the legal authority to rectify its own mistake by simply granting Ms. McGregor a visa out of a subsequent year's allotment. Thus, a private relief bill is needed in order to see that Ms. McGregor gets the visa to which she was clearly entitled to in 1995.

Mr. President, I have received a very compelling letter from Rosalinda Burton of Cedar Hills, UT which I am placing in the RECORD. Ms. Burton is Ms. McGregor's sister and she described to me the strong relationship that she and her sister have and the care that her sister provided when Ms. Burton was seriously injured in a 1993 car accident.

I hope that the Senate can move forward on this bill expeditiously. Ms. McGregor was the victim of a simple and admitted bureaucratic snafu. The Senate ought to move swiftly to correct this injustice.

Mr. President, I am also including in the record additional relevant correspondence which documents the background of this case.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CEDAR HILLS, UT,
September 23, 1997.

Hon. ORRIN HATCH,
U.S. Senate.

DEAR SENATOR HATCH. This is one of the many endless attempts to seek fairness and justification regarding a very unique and still unresolved case pertaining to the future of my beloved sister, Belinda McGregor.

This is a plea on my part for you to please allow me the opportunity to humbly express in this letter, my deepest concern which is also personally shared by Senator Edward Kennedy.

It would be a challenge to explain what once stated as ''the dream come true'' for my sister, Belinda, on to paper, but I hope you will grant me a moment of your time to read this attempt to seek your help, as my Senator.

Towards the end of 1993 I was the victim of a very serious car accident and I could not have coped without the support of my church and the tremendous help of my beloved sister, Belinda, after which she expressed a strong desire to come and live in Utah, to be close to me, her only sister. In 1994, therefore, a dream came true when, after applying for the DV1 Program, which is held yearly, my sister's husband David, was informed by the National Visa Center, that he was selected in the 1995 Diversity Visa Lottery Program. Finally, my sister had a chance to live near her family and friends. Belinda, who is Austrian/British, then working for the ''United Nations Drug Control Programme'' (UNDCP) at the UN Headquarters in Vienna, Austria, was so thrilled to be informed of the good news. Therefore, all the necessary documents were provided to the National Visa Center in New Hampshire.

Her patience was put to the test, as she did not hear from anybody during a lengthy period of time. She contacted the American Embassy in Vienna from time to time, but to no avail. She then tried contacting various offices and people without success and as a last resort made contract with Senator Edward Kennedy's office, who kindly looked into her case. She was so happy that someone took the time to check into ''the ongoings of the National Visa Center'' and you can imagine the surprise when Ms. Patricia First (Senator Kennedy's staff) contacted my sister to let her know the outcome of their investigation (Attachment [1]). I am also attaching a copy of Senator Kennedy's letter to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, United States Department of State. (Attachment [2]), which explains very clearly what actually had happened. Mr. McNamara, then Director of the National Visa Center, addressed his reply to Senator Kennedy (Attachment [3]). As my sister always wanted to come live and work near me, and always believed very strongly in fairness, she was convinced that the U.S. Government would then do anything possible to find a resolution to this predicament. By this time it was already April 1997 and being quite a determined lady due to her 3 year struggle, my sister, therefore, got in touch (via e-mail) with the newly appointed Director of the National Visa Center, Ms. Josefina Papendick. She explained the whole situation, sent copies of previous correspondence to Ms. Papendick but was always told (Attachments [4] [5]) that unfortunately there were no more visa numbers available as the deadline for the 1995 Diversity Visa Lottery was 30 September 1995. This was indeed a shock and disappointment that no effort or willingness was shown to rectify the matter, especially as the National Visa Center acknowledged their own mistakes. The McGregor family did everything within their power—submitted all necessary papers in a timely fashion, but due to serious errors made by the National Visa Center, were disqualified and their numbers were given to someone else. She realizes of course that she is only a minority but nevertheless—we all feel that injustice has been done.

This injustice prevented my sister in building her future here with me. For one tiny moment this special gift was placed in her hands, to build her own world, but was quickly taken, due to these errors made. As advised, my sister has since then applied every year for the DV1 Program under her Austrian Nationality.

She always worked in an international environment, her previous employment being with the drug control program of the United Nations and was confident her experience and skills would be invaluable and beneficial to her newly adopted homeland. In preparation for her invitation to immigrate, she sought independence immediately and acquired a secretarial position, which was put on hold for her. Unfortunately and with deep regret she had to abandon the offer when she was informed of the errors that were made.

She has been in contact with the honorable Senator Kennedy ever since and his kind office suggested that I contact you and maybe between you and Senator Kennedy this problem could be looked into and resolved.

The future happiness of my sister is as important as my own, and I hope and pray with all my heart, her tears of sadness will, via your understanding, help and determination, turn those tears to joy. Thank you for listening, dear Senator Hatch.

Yours sincerely,

ROSALINDA BURTON.

PS: Should you need any further information, please do not hesitate to contact Belinda at my address. Thank you.

FOOTNOTES

[1] Ms. Patricia First's (Senator Kennedy's office) e-mail to Belinda McGregor

[2] Senator Edward Kennedy's letter to Mary A. Ryan, Assistant Secretary for Consular Affairs.

[3] Mr. McNamara's reply to Senator Edward Kennedy.

[4] Ms. Josefina Papendick's letter to Belinda McGregor.

[5] Ms. Josefina Papendick's letter to Belinda McGregor.

ATTACHMENT ONE

FEBRUARY 15, 1996.

DEAR MS. MCGREGOR: I have received an answer from the State Department on the specifics of both your and your husband's diversity visa applications. It appears that the Department of State and National Visa Center grossly mishandled your applications. Our office has sent a letter to Mary Ryan, Assistant Secretary of Consular Affairs for the State Department. Ms. Ryan's Section oversees the visa process. I have attached the letter to Ms. Ryan which details the mistakes made by the National Visa Center in processing your applications.

The ultimate result seems to be that you were unfairly denied a diversity visa to which you were entitled. Please be assured our office is doing everything we can to find an administrative solution to your case. We are awaiting a response from the State Department, and I will communicate their response to you as soon as I receive it.

Again, I urge you to apply for the 1997 Diversity Visa Lottery, and I am sorry I cannot delivery better news. Please feel free to contact me should you have any questions. I can be reached at (202) 224–7878. I will update you as soon as I have any new information.

Sincerely,

PATRICIA FIRST.

ATTACHMENT TWO

U.S. SENATE,
Washington, DC, February 16, 1996.

MARY A. RYAN,
Assistant Secretary, Consular Affairs,
U.S. Department of State,
Washington, DC.

RE: 1995 Diversity Visa Lottery
Applicants: Belinda McGregor, David John McGregor
Case No: 95–EU–00020036

DEAR MS. RYAN: I am writing to request your assistance in resolving the above-referenced case. I am deeply concerned about the way this case was handled by the Department of State and the National Visa Center in New Hampshire.

Belinda McGregor, a citizen of the United Kingdom, and her husband, David John McGregor, a citizen of Ireland, each filed a separate application for the 1995 Diversity Visa Lottery program. As you know, although Belinda McGregor was born in the United Kingdom, she is eligible for the diversity program through her husband's Irish citizenship.

According to your visa office and the National Visa Center, Belinda McGregor's application was among those chosen as eligible to receive a diversity visa. When the National Visa Center received Belinda McGregor's application, however, the clerk handling her case erroneously assumed Ms. McGregor, as a citizen of the United Kingdom, was ineligible for the diversity program. The clerk, in an apparent attempt to remedy the problem, replaced Belinda McGregor's name in the computer with that of her husband, David John McGregor.

The National Visa Center then sent David John McGregor a notice that his name had

been selected in the 1995 Diversity Visa Lottery Program, and listed the additional information Mr. McGregor needed to provide to be eligible for a diversity visa (including, *inter alia*, educational background and an affidavit of support). David John McGregor provided this information about himself to the National Visa Center in a timely fashion. The McGregor's, who currently live in Austria, heard nothing more about Mr. McGregor's diversity application until they asked my office to inquire into the status of the application. Belinda McGregor was never informed that her application had been selected in the diversity lottery.

Upon receiving Mr. McGregor's completed information, a second clerk at the National Visa Center discovered that Belinda McGregor's name had been improperly changed to David John McGregor in the computer. This clerk changed the name back to Belinda McGregor, and noted the receipt of Mr. McGregor's information. The clerk, however, failed to inform the McGregor's that Belinda McGregor was the diversity applicant selected in the lottery, and, therefore, the National Visa Center needed information on Belinda McGregor, instead of David John McGregor.

Having not received any information on Belinda McGregor by the diversity visa entitlement date, September 30, 1995, the National Visa Center disqualified Belinda McGregor's application and gave her visa number to another applicant.

It appears that Belinda McGregor was unfairly denied the 1995 diversity visa which was rightfully hers due to a series of errors made by the National Visa Center. A review by your office of procedures at the National Visa Center may be in order. And, I would greatly appreciate your help in finding a solution to the McGregor's case in light of the serious errors committed by the Center. Thank you for your consideration.

Sincerely,

EDWARD M. KENNEDY.

ATTACHMENT THREE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, March 14, 1996.

DEAR SENATOR KENNEDY: I refer to your letter of February 16, to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, regarding the Diversity Lottery application for Ms. Melinda McGregor.

The Immigration Act of 1990 provides for an annual Diversity Immigration Program, making available each year by random selection 55,000 permanent residence visas in the United States. Visas are apportioned among six geographic regions based on immigration rates over the last five years, with a greater number of visas going to regions with lower rates of immigration.

The National Visa Center (NVC) acknowledges the allegations made in your correspondence as true and correct. However, there are no visa numbers available as the deadline for the 1995 Diversity Lottery was September 30, 1995. Unfortunately, we are unable to correct the situation at this time. Ms. McGregor may wish to apply for any future lotteries.

We have reviewed this incident with our staff and have taken steps to ensure that this error will not be repeated in the future.

I hope this information is helpful. Please do not hesitate to contact me if I can be of assistance to you in this or any other matter.

Sincerely,

BRIAN M. MCNAMARA,
Director.

ATTACHMENT FOUR

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER
Portsmouth, NH, April 21, 1997.

DEAR MS. MCGREGOR: Thank you for your letter of April 14 regarding the Diversity Lottery applications filed on your and Mr. John McGregor's behalf.

Please note that as a citizen of United Kingdom you were not eligible to apply for DV-lottery program in 1995. However, as a citizen or Ireland, Mr. McGregor was eligible to apply for this program and you were a derivative beneficiary of his application. Mr. McGregor's case was chosen at random and entered into the computer system at the National Visa Center (NVC). We assigned lottery rank number 95–EU–00020036 to this application.

Unfortuantely, the deadline for the completion of the DV–95 was September 30, 1995. If you were not issued a visa by this date, the application for the 1995 program is no longer valid.

Your correspondence indicates that you believe you may be eligible for immigrant visa issuance under the provision for the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Act 1996). However, this provision applies only to applicants who were residing in the U.S. and were unable to adjust their status. As you were residing outside the U.S. you are not eligible to be processed under the Act of 1996.

I hope this information is helpful. Please do not hesitate to contact me if I can be of further assistance to you in this or any other matter.

Sincerely.

JOSEFINA L. PAPENDICK,
Director.

ATTACHMENT FIVE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, July 3, 1997.

Mrs. BELINDA MCGREGOR,
Bexleybeath, Kent, England.

DEAR MRS. MCGREGOR: I am replying to your e-mailed messages requesting a review of your DV–95 application. Since no paper file is still available after all this time, I am unable to provide any new or additional information regarding the processing of your case.

I recognize your sincere wish to immigrate to the United States. However, I very much regret to inform you that there is no provision of law or regulations that would allow your DV–95 application to be processed after September 30, 1995.

If you wish to pursue your interest in living and working in the United States, the diversity program is an option available every year for applicants (or their spouses) who were born in eligible countries. For individuals who are not eligible under any family immigrant visa category, there are other visa classifications, both non-immigrant and immigrant, in the employment or professional fields to apply for. For more information on these, I suggest you contact the American Embassy in London.

I am sorry that this response cannot be more encouraging. I wish you and your family the best of luck in the future.

Sincerely,

JOSEFINA L. PAPENDICK,
Director.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and precompetitive engineering research; to the Committee on Labor and Human Resources.

THE NATIONAL RESEARCH INVESTMENT ACT OF 1998

Mr. GRAMM. Mr. President, President Clinton has talked a lot about building a bridge to the 21st century and, our philosophical differences aside, I want to help him build that bridge—with Bucky Balls.

''Bucky Ball'' is the nickname for Buckminsterfullerene, a molecular form of carbon that was discovered by Prof's. Robert F. Curl and Richard E. Smalley of Rice University in Houston. They won the 1996 Nobel Prize in chemistry for this discovery.

Bucky Balls were named after R. Buckminster Fuller, the architect famous for his geodesic domes, because this new molecule closely resembles his designs. The silly nickname notwithstanding, their discovery was a breakthrough that will have scientific and practical applications across a wide variety of fields, from electrical conduction to the delivery of medicine into the human body.

Bucky Balls are impervious to radiation and chemical destruction, and can be joined to form tubes 10,000 times smaller than a human hair, yet 100 times stronger than steel. Use of the molecules is expected to establish a whole new class of materials for the construction of many products, from airplane wings and automobile bodies to clothing and packaging material.

This may be more than you want to know about molecular physics, but think about it this way: Because we encourage the kind of thinking that leads to discoveries like Bucky Balls, the United States stands as the economic, military, and intellectual leader of the world. We achieved this not by accident, but by a common, unswerving conviction that America's future was something to plan for, invest in, and celebrate. Using the products of imagination and hard work, from Winchester rifles and steam engines to space shuttles, Americans built a nation. We're still building, but for what we need in the next century, we're going to have to turn to people like Curl and Smalley to give us materials like Bucky Balls, and the Government has a role to play.

Unfortunately, over the past 30 years, the American Government has set different priorities. In 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty-two years later in 1997, that figure has dropped by two-thirds. We spend a lot more money than we did in 1965, but we spend it on social programs, not science. We invest in the next elections, not the next generation.

The United States is underinvesting in basic research. That's right. The author of the landmark deficit reduction legislation known today as Gramm-Rudman supports the idea of the Government spending more money on something.

Not only do I support the idea of spending more on science and technology, I am today introducing a piece

of legislation to achieve that goal. I am pleased to be joined by Senators LIEBERMAN, DOMENICI, and BINGAMAN as I introduce S. 1305, the National Research Investment Act of 1998. This bill, an update of my earlier bill, S. 124, would double the amount spent by the Federal Government on basic scientific, medical, and precompetitive engineering research over 10 years from $34 billion in 1999 to $68 billion in 2008.

If we, as a country, do no restore the high priority once afforded science and technology in the Federal budget and increase Federal investment in research, it will be impossible to maintain the U.S. position as the technological leader of the world. Since 1970, Japan and Germany have spent a larger share of their national income on research and development than we have. We can no longer afford to fall behind. Expanding the Nation's commitment to research in basic science and medicine is a critically important investment in the future of our Nation. It means saying no to many programs with strong political support, but by expanding research we are saying yes to jobs and prosperity in the future.

I believe that if we want the 21st century to be a place worth building a bridge to, and if we want to maintain the U.S. position as the leader of the free world, then we need to restore the prominence that research and technology once had in the Federal budget. Our parent's generation fought two World Wars, overcame some of the worst economic conditions in the history of our Nation, and yet still managed to invest in America's future. We have an obligation to do at least an equal amount for our children and grandchildren.

Over the past 30 years, we have not lived up to this obligation, but it isn't too late to change our minds. The discovery of Bucky Balls is a testament to the resilience of the American scientific community. I believe that if we once again give scientists and researchers the support that they deserve, if we make the same commitment to our children's future that our parents made to ours, then the 21st century promises to be one of unlimited potential.

America is a great and powerful country for two reasons. First, we have had more freedom and opportunity than any other people who have ever lived and with that freedom and opportunity people like us have been able to achieve extraordinary things. Second, we have invested more in science than any people in history. Science has given us the tools and freedom has allowed us to put them to work. If we preserve freedom and invest in science, there is no limit on the future of the American people. I urge my colleagues to cosponsor this important legislation.

Mr. LIEBERMAN. Mr. President, the National Research Investment Act of 1998, which Senator GRAMM and I introduced this morning, is important legislation designed to reverse a downward trend in the Federal Government's allocation to science and engineering research. Although America currently enjoys a vibrant economy, with robust growth of over 4 percent and record low unemployment, we should pause for a moment to examine reasons which underlie our current prosperity.

In one of the few models agreed upon by a vast majority of economists, Dr. Robert Solow won the Nobel Prize for demonstrating that at least half of the total growth in the U.S. economy since the end of World War II is attributable to scientific and technological innovation. In other words, money spent to increase scientific and engineering knowledge represents an investment which pays rich dividends for America's future.

Dr. Solow's economic theory is the story of our Nation's innovation system—a system that has transformed scientific and technological innovation into a potent engine of economic growth for America. In broad terms, our innovation system consists of industrial, academic, and governmental institutions working together to generate new knowledge, new technologies, and people with the skills to move them effectively into the marketplace. Publicly funded science has shown to be surprisingly important to the innovation system. A new study prepared for the National Science Foundation found that 73 percent of the main science papers cited by American industrial patents in two recent years were based on domestic and foreign research financed by governments or nonprofit agencies.

Patents are the most visible expression of industrial creativity and the major way that companies and inventors are able to reap benefits from a bright idea. Even though industry now spends far more than the Federal Government on research, the fact that most patents result from research performed at universities, government labs, and other public agencies demonstrate our dependence on these institutions for the vast majority of economic activity. Such publicly funded science, the study concluded, has turned into a fundamental pillar of industrial advance.

Last week's awarding of the Nobel Prize to Dr. William Phillips from the Government's National Institute of Standards and Technology provides a wonderful example of how publicly funded science pays dividends. Dr. Phillips was honored for his work which used laser light to cool and trap individual atoms and molecules. I am told that the methods developed by Dr. Phillips and his coworkers may lead to the design of more precise atomic clocks for use in global navigation systems and atomic lasers, which may be used to manufacture very small electronic components for the next generation of computers. Dr. Phillips' achievement is the most visible recognition of the Department of Commerce's laboratory. Since 1901, however, the agency has quietly carried out research to develop accurate measurement and calibration techniques. The NIST laboratory, together with Commerce's technology programs, have greatly aided American business and earned our Nation billions of dollars in industries such as electrical power, semiconductor manufacturing, medical, agricultural, food processing, and building materials.

Yet, despite the demonstrated importance of publicly funded scientific research, the amount spent on science and engineering by the Federal Government is declining. Senator GRAMM has already noted that ''in 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty two years later, that figure has dropped by two-thirds to 1.9 percent.'' If you believe as I do, that our current prosperity, intellectual leadership in science and medicine and the growth of entire new industries are directly linked to investments made 30 years ago, then you have got to ask where will this country be 30 years from now?

At the same time, it is likely that several countries, particularly in Asia, will exceed on a per capita basis, the U.S. expenditure in science. Japan is already spending more than we are in absolute dollars on nondefense research and development. This is an historic reversal. Germany, Singapore, Taiwan, China, South Korea, and India are aggressively promoting R&D investment. These facts led Erich Bloch, the former head of the National Science Foundation, to write that the ''whole U.S. R&D system is in the midst of a crucial transition. Its rate of growth has leveled off and could decline. We cannot assume that we will stay at the forefront of science and technology as we have for 50 years.''

The future implications of our failure to invest can be better understood if we consider what our lives would be like today without the scientific innovations of those past 50 years. Imagine medicine without x rays, surgical lasers, MRI scanners, fiber-optic probes, synthetic materials for making medical implants, and the host of new drugs that combat cancer and even show promise as suppressors of the AIDS virus. Consider how it would be to face tough choices about how to protect the environment without knowledge of upper atmospheric physics, chemistry of the ozone layer or understanding how toxic substances effect human health. Imagine communication without faxes, desktop computers, the internet, or satellites. Less tangible but nonetheless disconcerting, is the prospect of a future for our country of free thinkers, if all new advances and innovation were to originate from outside of America's shores.

Although difficult, the partisan conflicts and rifts of the past several years may have performed a useful service in clarifying the debate over when public funding on research is justified. Senator GRAMM and I have discussed this

topic at some length. We believe it is a mistake to separate research into two warring camps, one flying the flag of basic science and the other applied science. Rather the research enterprise represents a broad spectrum of human activity with basic and applied science at either end but not in opposition. Every component along the spectrum produces returns—economic, social, and intellectual gains for the society as a whole. The Federal Government should patiently invest in science, medicine, and engineering that lies within the public domain. Once an industry or company begins to pursue proprietary research, then support for that particular venture is best left to the private sector. This is what we mean by the term ''precompetitive research.''

With introduction of the National Research Investment Act of 1998, we begin a bipartisan effort to build a consensus that will support a significant increase in Federal research and development efforts. I am particularly appreciative of the support given today from nearly 100 different scientific and engineering professional societies which collectively represent many more than 1 million members. Accomplishments of your members illuminate the role that science and engineering plays in the innovation process.

In a Wall Street Journal survey of leading economists published in March, 43 percent cited investments in education and research and development as the Federal action that would have the most positive impact on our economy. No other factors, including reducing Government spending or lowering taxes, scored more than 10 percent. While Senator GRAMM and I are certainly committed to fiscal responsibility and balancing the budget, we think that the country would be best served by promoting investments in education and R&D and reducing entitlement consumption spending. Failure to do so now may well imperil America's future economic vitality and our leadership in science and technology.

Mr. BINGAMAN. Mr. President, I am pleased to be an original cosponsor of S. 1305, the National Research Investment Act of 1998.

Boosting the strength of our R&D infrastructure is crucially important to the future health and prosperity of every inhabitant of my home State of New Mexico, just as it is to every American. The scientific, technical, and medical advances of the past 40 years have dramatically improved our standard of living. If we are to maintain these advances into the future, we cannot afford to stand still.

Unfortunately, we are now headed in the wrong direction. Federal funding for research and development has declined as an overall percentage of the Federal budget over the last 20 years. We now spend less than 2 cents of each dollar of Federal spending on science and engineering research and development. We need to do better. It is clear that if we want to create the kind of high-paying, high-technology jobs that will ensure a decent standard of living for American workers, we will need a much stronger commitment to investing in research and development.

Although the focus of this bill is ensuring a strong future for civilian R&D, it is important to recognize that the basic science and fundamental technology development supported by the Defense portion of our budget also contributes to our domestic prosperity. For our Nation to remain prosperous into the next century, we need both sources of support for basic science and fundamental technology to remain strong, even in a time of constrained budgets.

There was a time when our investment in research and development equaled that of the rest of the world combined. But through the years, we have allowed our commitment to slide, and have lost much ground compared to our international competitors. Mr. President, this is not where we want to be, and I hope that the National Research Investment Act of 1998 will put us on the path to a better future.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

THE RETIREE HEALTH BENEFITS PROTECTION ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing a bill that restores employer health coverage to individuals who, throughout their careers, were led to believe their retiree health benefits were secure. These retirees earned their benefits through years of labor and have reached an age when other private coverage is difficult if not impossible to find. The Retiree Health Benefits Protection Act of 1997 reempowers retirees whose employers renege, often without notice, on a commitment they made to retiree security and health.

The bill I am offering today melds two measures I first introduced in the 104th Congress. The goal is to restore retirees' rights and options when their former employer takes action to terminate their health benefits.

The legislation was drafted to address a serious problem brought to my attention by the retirees of the Morrell meatpacking plant in Sioux Falls, SD. In January 1995, more than 3,300 Morrell retirees in Sioux Falls and around the country were given 1 week's notice that their health benefits were being terminated.

Pre-Medicare retirees were offered continued health coverage for only one year under Morrell's group plan, if the retiree assumed the full cost of coverage. When this option lapsed in January 1996, many of these people became uninsured. These retirees, like so many who face this situation, had spent years building the company and taking lower pensions or wages in exchange for the promise of retiree health benefits.

This problem is unfortunately not limited to the Morrell retirees. Recent data confirms that a declining share of employers maintain health benefits for their retirees. In fact, the percentage of large employers offering such coverage has dropped by nearly 10 percentage points over the last 5 years. In 1991, 80 percent of large employers provided retiree benefits. As of 1996, 71 percent do.

Early retirees age 50–64 who lose their health benefits are especially vulnerable to becoming uninsured, because health insurance is expensive when purchased at an older age, or unavailable as a result of preexisting conditions.

The bill I am introducing today would establish a number of protections to address this alarming trend.

To minimize unexpected terminations of benefits, my bill would ensure that benefits are terminated or reduced only when evidence shows that retirees were given adequate warning—before their retirement—that their health care benefits were not promised for their lifetimes. If the contract language establishing retiree benefits is silent or ambiguous about the termination of these benefits, my bill would place the burden of proof on the employer to show that the plan allows for the termination or reduction of retiree health benefits.

To help protect coverage for retirees and their families until fair settlements are reached, if an employer's decision to terminate benefits is challenged in court, my bill requires the employer to continue to provide retiree health benefits while these benefits are in litigation.

To prevent early retirees and their families from being left uninsured, this legislation would extend so-called COBRA benefits to early retirees and their dependents whose employer-sponsored health care benefits are terminated or substantially reduced.

Broadly stated, COBRA currently requires employers to offer continuing health coverage for up to 18 months for employees who leave their place of employment. The employee is responsible for the entire cost of the premium, but is allowed to remain in the group policy, thus taking advantage of lower group rates. This legislation would extend the COBRA law to cover early retirees and their families who are more than 18 months away from Medicare eligibility.

This bill would not prohibit employers from modifying their retiree health benefits to implement legitimate cost-savings measures, such as utilization review or managed care arrangements.

Mr. President, retirees deserve this kind of health security.

Workers often give up larger pensions and other benefits in exchange for health benefits. Unfortunately, in the case of the Morrell employees and far too many others, the thanks they get for their sacrifices is that their benefits are taken away with no notice and no compensating increase in their pensions or other benefits.

Early retirees often have been with the same company for decades, perhaps all of their adult lives. They rightfully believe that a company they help build will reward their loyalty, honesty, and hard work.

It is time for this Congress to address this victimization of retirees by companies that put profits before integrity and cost-cutting before fairness. We should not simply sit back while this system creates another population of uninsured individuals. Instead, we should take this opportunity to preserve private coverage for as many retirees as possible and restore the financial security and freedom they earned and thought they could depend upon.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Retiree Health Benefits Protection Act''.

TITLE I—RETIREE HEALTH BENEFITS PROTECTION

SEC. 101. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

''SEC. 516. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

''(a) MAINTENANCE OF BENEFITS.—

''(1) IN GENERAL.—If—

''(A) retiree health benefits or plan or plan sponsor payments in connection with such benefits are to be or have been terminated or reduced under an employee welfare benefit plan; and

''(B) an action is brought by any participant or beneficiary to enjoin or otherwise modify such termination or reduction,

the court without requirement of any additional showing shall promptly order the plan and plan sponsor to maintain the retiree health benefits and payments at the level in effect immediately before the termination or reduction while the action is pending in any court. No security or other undertaking shall be required of any participant or beneficiary as a condition for issuance of such relief. An order requiring such maintenance of benefits may be refused or dissolved only upon determination by the court, on the basis of clear and convincing evidence, that the action is clearly without merit.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any action if—

''(A) the termination or reduction of retiree health benefits is substantially similar to a termination or reduction in health benefits (if any) provided to current employees which occurs either before, or at or about the same time as, the termination or reduction of retiree health benefits, or

''(B) the changes in benefits are in connection with the addition, expansion, or clarification of the delivery system, including utilization review requirements and restrictions, requirements that goods or services be obtained through managed care entities or specified providers or categories of providers, or other special major case management restrictions.

''(3) MODIFICATIONS.—Nothing in this section shall preclude a court from modifying the obligation of a plan or plan sponsor to the extent retiree benefits are otherwise being paid by the plan sponsor.

''(b) BURDEN OF PROOF.—In addition to the relief authorized in subsection (a) or otherwise available, if, in any action to which subsection (a)(1) applies, the terms of the employee welfare benefit plan summary plan description or, in the absence of such description, other materials distributed to employees at the time of a participant's retirement or disability, are silent or are ambiguous, either on their face or after consideration of extrinsic evidence, as to whether retiree health benefits and payments may be terminated or reduced for a participant and his or her beneficiaries after the participant's retirement or disability, then the benefits and payments shall not be terminated or reduced for the participant and his or her beneficiaries unless the plan or plan sponsor establishes by a preponderance of the evidence that the summary plan description or other materials about retiree benefits—

''(1) were distributed to the participant at least 90 days in advance of retirement or disability;

''(2) did not promise retiree health benefits for the lifetime of the participant and his or her spouse; and

''(3) clearly and specifically disclosed that the plan allowed such termination or reduction as to the participant after the time of his or her retirement or disability.

The disclosure described in paragraph (3) must have been made prominently and in language which can be understood by the average plan participant.

''(c) REPRESENTATION.—Notwithstanding any other provision of law, an employee representative of any retired employee or the employee' spouse or dependents may—

''(1) bring an action described in this section on behalf of such employee, spouse, or dependents; or

''(2) appear in such an action on behalf of such employee, spouse or dependents.

''(d) RETIREE HEALTH BENEFITS.—For the purposes of this section, the term 'retiree health benefits' means health benefits (including coverage) which are provided to—

''(1) retired or disabled employees who, immediately before the termination or reduction, have a reasonable expectation to receive such benefits upon retirement or becoming disabled; and

''(2) their spouses or dependents.''

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 515 the following new item:

''Sec. 516. Rules governing litigation involving retiree health benefits.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions relating to terminations or reductions of retiree health benefits which are pending or brought, on or after January 1, 1998.

TITLE II—RETIREE CONTINUATION COVERAGE

SEC. 201. EXTENSION OF COBRA CONTINUATION COVERAGE.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 2202(1) of the Public Health Service Act (42 U.S.C. 300bb–2(1)) is amended—

(i) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(ii) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of an event described in section 2203(6), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

''(i) under any other plan offered by the State, political subdivision, agency, or instrumentality involved; or

''(ii) notwithstanding paragraphs (4) and (5) of section 2741(b), through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1)) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 2202(2)(D)(i) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(i)) is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) is amended by adding at the end thereof the following new clause:

''(v) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in section 2203(6), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by adding at the end thereof the following new paragraph:

''(6) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 2208(3)(A).''.

(4) NOTICE.—Section 2206 of the Public Health Service Act (42 U.S.C. 300bb–6) is amended—

(A) in paragraph (2), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(B) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''.

(5) DEFINITION.—Section 2208(3) of the Public Health Service Act (42 U.S.C. 300bb–8(3)) is amended by adding at the end thereof the following new subparagraph:

''(C) SPECIAL RULE FOR RETIREES.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial reduction or elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

''(i) as the spouse of the covered employee;

''(ii) as the dependent child of the covered employee; or

''(iii) as the surviving spouse of the covered employee.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 602(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1)) is amended—

(i) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(ii) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of an event described in section 603(7), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

''(i) under any other plan maintained by the plan sponsor involved; or

''(ii) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 602(2)(D)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)(i)) is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end thereof the following new clause:

''(vi) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A GROUP HEALTH PLAN COVERING RETIREES, SPOUSES AND DEPENDENTS.—In the case of an event described in section 603(7), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by adding at the end thereof the following new paragraph:

''(7) The substantial reduction or elimination of group health plan coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 607(3)(C).''.

(4) NOTICE.—Section 606(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166) is amended—

(A) in paragraph (2), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(B) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''.

(5) DEFINITION.—Section 607(3)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(2)) is amended by striking ''603(6)'' and inserting ''603(6) or 603(7)''.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 4980B(f)(2)(A) of the Internal Revenue Code of 1986 is amended—

(i) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(ii) by adding at the end the following:

''(ii) CERTAIN RETIREES.—In the case of an event described in paragraph (3)(G), the qualified beneficiary may elect to continue coverage as provided for in clause (i) or may elect coverage—

''(I) under any other plan maintained by the plan sponsor involved; or

''(II) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 4980B(f)(2)(B)(iv)(I) of the Internal Revenue Code of 1986 is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subclause:

''(VI) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in paragraph (3)(G), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subparagraph:

''(G) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in subsection (g)(1)(D).''.

(4) NOTICE.—Section 4980B(f)(6) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(B) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''.

(5) DEFINITION.—Section 4980B(g)(1)(D) of the Internal Revenue Code of 1986 is amended by striking ''(f)(3)(F)'' and inserting ''(f)(3)(F) or (f)(3)(G)''.

SEC. 202. EFFECTIVE DATE.

This title shall take effect as if enacted on January 1, 1998.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

THE TAXPAYER PROTECTION ACT OF 1997

Mr. BREAUX. Mr. President, this afternoon, I rise to introduce legislation representing, I think, a very important step in giving American taxpayers an additional tool for them to use in solving problems that they have when they are entering into a dispute with the Internal Revenue Service. My bill would ensure that American taxpayers have someone with real authority and significant resources who will represent their interests when dealing with IRS, a true taxpayer advocacy organization which will be on the side of the American taxpayer and not on the side of Washington bureaucrats.

I want to also point out that I am proud to be a cosponsor of the Kerrey-Grassley bill, which is a broader restructuring of the entire Internal Revenue Service, that came about as part of the work that the bipartisan commission studied for over a year's time.

The bill, however, that I am introducing today will strengthen the part of the bill dealing with the Office of Taxpayer Advocate by making the advocate's office much more independent than it is now and giving it more muscle in representing the interests of American taxpayers.

Last month, our Senate Finance Committee had 3 days of hearings looking at the practices and procedures within the Internal Revenue Service. In addition to hearing from taxpayers who had been mistreated by the Internal Revenue Service, our committee also heard very shocking testimony from both current and former IRS employees. These witnesses clearly underscored the importance of doing some major changes in how the Internal Revenue Service operates.

We heard, for instance, Acting Commissioner of IRS Mike Nolan say, ''The IRS is undergoing tremendous change.''

That is very encouraging and also very long overdue. My concern is that there is a big disconnect between the Commissioner's office and over 100,000 IRS employees who work all over America, and even a greater disconnect between some of these employees—not all, but some—and the American taxpayer. This became very painfully clear as a result of our 3 days of hearings.

I want to point out that the IRS is a very convenient political punching bag for many, and speeches condemning the IRS are met with widespread applause at any type of a townhall meeting you want to have. But this is not an issue that we should demagog. Americans want us to solve the problem and not just pass the blame around and blame the other side for their failures.

As was the case with the balanced budget amendment, Republicans and Democrats need to come together in a bipartisan fashion and act responsibly to come up with some real changes that are going to help address this problem and protect the American taxpayer.

Unless we don't want a national defense or a public highway system or schools and national parks, we have to ask ourselves, what will we have if we just eliminated the Internal Revenue Service? When the Department of Defense, I am reminded, had all of these problems buying $200 toilet seats and $500 hammers, we didn't do away with the Department of Defense, we reformed it. We gave them specific instructions on how they should conduct their business. As a result, we still have a Department of Defense, thank goodness, but it is operating more efficiently and more effectively and not making the type of mistakes that we saw in the past. The bottom line is we reformed it. We have to do the same thing with the Internal Revenue Service.

There are many issues to look at when we talk about how to restructure. One is IRS management, how to model a new oversight structure at the IRS that would make it more responsive and accountable to their management problems.

There also is a separate issue, and that is how to strengthen the hand of the American taxpayer when they have to deal with the Internal Revenue Service and let our American taxpayers know that somewhere there is someone who is on their side when they have problems with the Federal Government and specifically with the IRS.

On the first issue of management, attention has focused on who should sit on the board of directors that runs an IRS and what kind of authority and responsibilities this board would have. I

think there is widespread agreement that the management and oversight of the IRS needs to improve dramatically. We need to have more private sector involvement in that board of directors.

The Finance Committee is going to have hearings on the restructuring question next week. I hope that we have a fair and open discussion about what needs to be done, because that is the only way a solution will be arrived at. I personally think we should try and model the management of IRS on a real board of directors, a concept that is part of the bill introduced by Senator KERREY and Senator GRASSLEY and also Congressmen PORTMAN and CARDIN in the House of Representatives. I am a cosponsor of their legislation and will be actively participating in getting that done.

There is no reason why the Internal Revenue Service shouldn't be just as advanced technologically from an organizational standpoint as any Fortune 500 company in America. Our goal should be to have an oversight board that improves the IRS accountability and also their operations. A better managed IRS will translate into better customer service for taxpayers.

But just as important, however, we need to look at ways to improve the everyday outcomes when taxpayers have a problem and have to engage with the IRS. An oversight board may solve some of those, but we need to put in place some independent group that is going to represent the interests of the American taxpayer on a day-to-day basis, and that is what my legislation would do.

Currently, the IRS has an Office of Taxpayer Advocate whose job is to represent the American taxpayers in dealings with the IRS. The problem with the current structure, however, is that this taxpayer advocate does not have enough independence. The taxpayer advocate in each district reports directly to the district director of the IRS. Taxpayers need someone who will work for them and represent their interests and not just be an employee of the IRS.

My bill would make the taxpayer advocate a great deal more independent by giving it more resources, more authority and more responsibilities. The American taxpayers would then have someone working for them and not just working for the IRS when they need help.

My bill would do the following:

No. 1: A national taxpayer advocate would be appointed directly by the President, with the advice and consent of the Senate. He or she would not continue to be appointed by the IRS Commissioner. The national taxpayer advocate would also not be selected from the ranks of the IRS, to make sure that person is truly independent.

No. 2: The national taxpayer advocate will make the hiring and firing decisions regarding the heads of the local taxpayer advocate office in the IRS district and service centers. No longer would the local taxpayer advocate be hired and fired by the district director.

No. 3: The initial contact between the IRS and the taxpayer will include a disclosure that the taxpayers have a right to contact their local taxpayer advocate and information on how to contact them so that the taxpayer will know that this office is there and it is there to protect their legitimate interests.

No. 4: The local taxpayer advocate office would have a separate phone number, fax number, and post office box apart from the IRS district office.

And finally, No. 5: The taxpayer advocate would also have the discretion not to disclose taxpayer information to IRS employees, another tool which could help taxpayers.

All of these measures are designed to give the taxpayer advocate a much stronger voice, a much stronger hand in representing American taxpayers. What taxpayers in this country need is someone who is on their side, not on the Government side, who has the resources to go up against the IRS.

I have been working closely with Senator KERREY and pleased he supports including my provision in the overall bill that they are planning to introduce. So, I think we are making progress. I think we ought to be doing it in a continued responsible fashion, in a bipartisan fashion. If we can get this done, I just suggest that the American taxpayer will now know that there is some office that is on their side representing their interests before their Government.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, MS. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human Resources.

THE EARLY CHILDHOOD DEVELOPMENT ACT

Mr. KERRY. Mr. President, I am delighted to introduce today the Early Childhood Development Act with Senator BOND. I want to thank Senator BOND for his leadership, both as a Governor who began the successful Parents as Teachers Program and for joining together in this bipartisan effort to develop a real world solution to real world problems.

Mr. President, there is no issue more important in America than the urgent needs of young children. This country must rededicate itself to investing in children, an investment which will have tremendous returns. Early intervention can have a powerful effect on reducing Government welfare, health, criminal justice, and education expenditures in the long run. By taking steps now we can significantly reduce later destructive behavior such as school dropout, drug use, and criminal acts. A study of the High/Scope Foundation's Perry Preschool found that at-risk toddlers who received preschooling and a weekly home visit reduced the risk that these children would grow up to become chronic lawbreakers by a startling 80 percent. The Syracuse University Family Development Study showed that providing quality early-childhood programs to families until children reached age 5 reduces the children's risk of delinquency 10 years later by 90 percent. It's no wonder that a recent survey of police chiefs found that 9 out of 10 said that ''America could sharply reduce crime if Government invested more'' in these early intervention programs.

These programs are successful because children's experiences during their early years of life lay the foundation for their future development. Our failure to provide young children what they need during this period has long-term consequences and costs for America. Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation. The electrical activity of brain cells actually changes the physical structure of the brain itself. Without a stimulating environment, the baby's brain suffers. At birth, a baby's brain contains 100 billion neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains 20 to 30 percent smaller than normal for their age.

Mr. President, reversing these problems later in life is far more difficult and costly. I want to discuss several examples.

First, poverty seriously impairs young children's language development, math skills, IQ scores, and their later school completion. Poor young children also are at heightened risk of infant mortality, anemia, and stunted growth. Of the 12 million children under the age of 3 in the United States today, 3 million—25 percent—live in poverty.

Second, three out of five mothers with children younger than 3 work, but one study found that 40 percent of the facilities at child care centers serving infants provided care of such poor quality as to actually jeopardize children's health, safety, or development.

Third, in more than half of the States, one out of every four children between 19 months and 3 years of age is not fully immunized against common childhood diseases. Children who are not immunized are more likely to contact preventable diseases, which can cause long-term harm.

And fourth, children younger than 3 make up 27 percent of the 1 million children who are determined to be abused or neglected each year. Of the 1,200 children who died from abuse and neglect in 1995, 85 percent were younger than 5 and 45 percent were younger than 1.

Unfortunately, Mr. President, our Government expenditure patterns are

inverse to the most important early development period for human beings. Although we know that early investment can dramatically reduce later remedial and social costs, currently our Nation spends more than $35 billion over 5 years on Federal programs for at-risk or delinquent youth and child welfare programs for children ages 12 to 18, but far less for children from birth to age 6.

Today we seek to change our priorities and put children first. I am introducing the Early Childhood Development Act of 1997 to help empower local communities to provide essential interventions in the lives of our youngest at-risk children and their families.

This legislation seeks to provide support to families by minimizing Government bureaucracy and maximizing local initiatives. We would provide additional funding to communities to expand the thousands of successful efforts for at-risk children ages zero to 6 such as those sponsored by the United Way, Boys and Girls Clubs, and other less well-known grassroots organizations, as well as State initiatives such as Success By Six in Massachusetts and Vermont, the Parents as Teachers program in Missouri, Healthy Families in Indiana, and the Early Childhood Initiative in Pittsburgh, PA. All are short on resources. And nowhere do we adequately meet demand although we know that many States and local communities deliver efficient, cost-effective, and necessary services. Extending the reach of these successful programs to millions of children currently underserved will increase our national well-being and ultimately save billions of dollars.

The second part of this bill would provide funding to States to help them provide a subsidy to all working poor families to purchase quality child care for infants, toddlers, and preschool children. We would not create a new program but would simply increase resources for the successful Child Care and Development Block Grant [CCDBG]. Child care for infants and toddlers is much more expensive than for older children since a higher level of care is necessary. Additional funding would also pay for improving the salaries and training level of child care workers, improving the facilities of child care centers and family child care homes, and providing enriched developmentally appropriate educational opportunities.

Finally, the bill would increase funding for the Early Head Start Program. The successful Head Start Program provides quality services to 4 and 5 year-olds. The Early Head Start program, which currently is a modest program funded at $200 million annually, provides comprehensive child development and family support services to infants and toddlers. Expanding this program would help more young children receive the early assistance they need.

I was delighted to be joined earlier today by Dr. Berry Brazelton and Rob Reiner to announce this bill. I want to thank Governor Dean of Vermont and Governor Romer of Colorado for supporting this legislation and the wide range of groups who support this legislation including the Association of Jewish Family & Children's Agencies, Boys and Girls Clubs of America, Children's Defense Fund, Child Welfare League of America, Coalition On Human Needs, Harvard Center for Children's Health, Jewish Council for Public Affairs, National Black Child Development Institute, Inc., National Council of Churches of Christ in the USA, Religious Action Center of Reform Judaism, and Rob Reiner of the I Am Your Child Campaign.

Children need certain supports during their early critical years if they are to thrive and grow to be contributing adults. I look forward to working with Senator BOND and both sides of the aisle to pass this legislation and ensure that all children arrive at school ready to learn.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Early Childhood Development Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—ASSISTANCE FOR YOUNG CHILDREN

Sec. 101. Definitions.
Sec. 102. Allotments to States.
Sec. 103. Grants to local collaboratives.
Sec. 104. Supplement not supplant.
Sec. 105. Authorization of appropriations.

TITLE II—CHILD CARE FOR FAMILIES

Sec. 201. Amendment to Child Care and Development Block Grant Act of 1990.

TITLE III—AMENDMENTS TO THE HEAD START ACT

Sec. 301. Authorization of appropriations.
Sec. 302. Allotment of funds.
Sec. 303. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings—

(1) The Nation's highest priority should be to ensure that children begin school ready to learn.

(2) New scientific research shows that the electrical activity of brain cells actually changes the physical structure of the brain itself and that without a stimulating environment, a baby's brain will suffer. At birth, a baby's brain contains 100,000,000,000 neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains that are 20 to 30 percent smaller than normal for their age.

(3) This scientific evidence also conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation.

(4) Since more than 50 percent of the mothers of children under the age of 3 now work outside of the home, our society must change to provide new supports so young children receive the attention and care that they need.

(5) There are 12,000,000 children under the age of 3 in the United States today and 1 in 4 lives in poverty.

(6) Compared with most other industrialized countries, the United States has a higher infant mortality rate, a higher proportion of low-birth weight babies, and a smaller proportion of babies immunized against childhood diseases.

(7) National and local studies have found a strong link between increased violence and crime among youth when there is no early intervention.

(8) The United States will spend more than $35,000,000,000 over the next 5 years on Federal programs for at-risk or delinquent youth and child welfare programs, which address crisis situations which frequently could be avoided or made much less severe with good early interventions.

(9) Many local communities across the country have developed successful early childhood efforts and with additional resources could expand and enhance opportunities for young children.

TITLE I—ASSISTANCE FOR YOUNG CHILDREN

SEC. 101. DEFINITIONS.

In this title:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) STATE BOARD.—The term ''State board'' means a State Early Learning Coordinating Board established under section 102(c).

(5) YOUNG CHILD.—The term ''young child'' means an individual from birth through age 5.

(6) YOUNG CHILD ASSISTANCE ACTIVITIES.—The term ''young child assistance activities'' means the activities described in paragraphs (1) and (2)(A) of section 103(b).

SEC. 102. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 103 for young child assistance activities.

(b) ALLOTMENT.—

(1) IN GENERAL.—From the funds appropriated under section 105 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

(2) YOUNG CHILD IN POVERTY.—In this subsection, the term ''young child in poverty'' means an individual who—

(A) is a young child; and

(B) is a member of a family with an income below the poverty line.

(c) STATE BOARDS.—

(1) IN GENERAL.—In order for a State to be eligible to obtain an allotment under this title, the Governor of the State shall establish, or designate an entity to serve as, a

State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 103.

(2) ESTABLISHED BOARD.—A State board established under paragraph (1) shall consist of the Governor and members appointed by the Governor, including—

(A) representatives of all State agencies primarily providing services to young children in the State;

(B) representatives of business in the State;

(C) chief executive officers of political subdivisions in the State;

(D) parents of young children in the State;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b), in the State;

(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

(H) representatives of local educational agencies.

(3) DESIGNATED BOARD.—The Governor may designate an entity to serve as the State board under paragraph (1) if the entity includes the Governor and the members described in subparagraphs (A) through (G) of paragraph (2).

(4) DESIGNATED STATE AGENCY.—The Governor shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this title and ensure accountability for the funds.

(d) APPLICATION.—To be eligible to receive an allotment under this title, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

(2) a comprehensive State plan for carrying out young child assistance activities;

(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 103(d)(2)(F)(iii) that describes the results referred to in section 103(d)(2)(F)(i).

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) is not less than 50 percent but is less than 60 percent;

(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent but is less than 70 percent; and

(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall contribute the remaining share (referred to in this paragraph as the ''State share'') of the cost described in subsection (a).

(B) FORM.—The State share of the cost shall be in cash.

(C) SOURCES.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

(f) STATE ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—A State may use not more than 5 percent of the funds made available through an allotment made under this title to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this title.

(2) WAIVER.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay for the State administrative costs.

(g) MONITORING.—The Secretary shall monitor the activities of States that receive allotments under this title to ensure compliance with the requirements of this title, including compliance with the State plans.

(h) ENFORCEMENT.—If the Secretary determines that a State that has received an allotment under this title is not complying with a requirement of this title, the Secretary may—

(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

(i) TECHNICAL ASSISTANCE.—From the funds appropriated under section 105 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance, to local collaboratives that receive grants under section 103, relating to the functions of the local collaboratives under this title.

SEC. 103. GRANTS TO LOCAL COLLABORATIVES.

(a) IN GENERAL.—A State board that receives an allotment under section 102 shall use the funds made available through the allotment, and the State contribution made under section 102(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

(b) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

(A) home visits for parents of young children;

(B) services provided through community-based family resource centers for such parents; and

(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

(2) may use funds made available through the grant—

(A) to provide, in the community, activities that consist of—

(i) activities designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(ii) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing projects (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

(iii) services for children with disabilities who are young children; and

(iv) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

(c) MULTI-YEAR FUNDING.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

(2) includes—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government for the county or other political subdivision in which the community is located;

(D) parents of young children in the community;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

(2) a comprehensive plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

(B) the unmet needs of young children, and parents of young children, in the community for young child assistance activities;

(C) the manner in which funds made available through the grant will be used—

(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

(ii) to improve results for young children in the community;

(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(E) the comprehensive methods that the collaborative will use to ensure that—

(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

(ii) the local collaborative will coordinate the activities of the local collaborative with—

(I) other services provided to young children, and the parents of young children, in the community; and

(II) the activities of other local collaboratives serving young children and families in the community, if any; and

(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 102(f), including the manner in which the collaborative will—

(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

(iii) prepare and submit to the State board annual reports describing the results;

(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

(f) DISTRIBUTION.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(g) LOCAL SHARE.—

(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the ''local share'') of the cost of carrying out the young child assistance activities.

(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

(3) FORM.—The local share of the cost shall be in cash.

(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor rural and urban areas, as defined by the Secretary.

(h) MONITORING.—The State board shall monitor the activities of local collaboratives that receive grants under this title to ensure compliance with the requirements of this title.

SEC. 104. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 1999, $500,000,000 for fiscal year 2000, $1,000,000,000 for each of fiscal years 2001 through 2003, and such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

TITLE II—CHILD CARE FOR FAMILIES

SEC. 201. AMENDMENT TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658C (42 U.S.C. 9858b) the following:

''SEC. 658C–1. ESTABLISHMENT OF ZERO TO SIX PROGRAM.

''(a) IN GENERAL.—

''(1) PAYMENTS.—Subject to the amount appropriated under subsection (d), each State shall, for the purpose of providing child care assistance on behalf of children under 6 years of age, receive payments under this section in accordance with the formula described in section 658O.

''(2) INDIAN TRIBES.—The Secretary shall reserve 2 percent of the amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

''(3) REMAINDER.—Any amount appropriated for a fiscal year under subsection (d), and remaining after the Secretary awards grants under paragraph (1) and after the reservation under paragraph (2), shall be used by the Secretary to make additional grants to States based on the formula under paragraph (1).

''(4) REALLOTMENT.—

''(A) IN GENERAL.—Any portion of the allotment under paragraph (1) to a State that the Secretary determines is not required by the State to carry out the activities described in subsection (b), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

''(B) LIMITATIONS.—

''(i) REDUCTION.—The amount of any reallotment to which a State is entitled to under subparagraph (A) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out the activities described in subsection (b).

''(ii) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this paragraph.

''(C) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant made to an Indian tribe or tribal organization under paragraph (2) that the Secretary determines is not being used in a manner consistent with subsection (b) in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations in accordance with their respective needs.

''(5) AVAILABILITY.—Amounts received by a State under a grant under this section shall be available for use by the State during the fiscal year for which the funds are provided and for the following 2 fiscal years.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts received by a State under this section shall be used to provide child care assistance, on a sliding fee scale basis, on behalf of eligible children (as determined under paragraph (2)) to enable the parents of such children to secure high quality care for such children.

''(2) ELIGIBILITY.—To be eligible to receive child care assistance from a State under this section, a child shall—

''(A) be under 6 years of age;

''(B) be residing with at least one parent who is employed or enrolled in a school or training program or otherwise requires child care as a preventive or protective service (as determined under rules established by the Secretary); and

''(C) have a family income that is less than 85 percent of the State median income for a family of the size involved.

''(3) INFANT CARE SET-ASIDE.—A State shall set-aside 10 percent of the amounts received by the State under a grant under subsection (a)(1) for a fiscal year for the establishment of a program to establish innovations in infant and toddler care, including models for—

''(A) the development of family child care networks;

''(B) the training of child care providers for infant and toddler care; and

''(C) the support, renovation, and modernization of facilities used for child care programs serving infants.

''(4) POVERTY LINE.—As used in this subsection, the term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

''(c) LEVELS OF ASSISTANCE.—

''(1) ADJUSTMENT OF RATES.—With respect to the levels of assistance provided by States on behalf of eligible children under this section, a State shall be permitted to adjust rates above the market rates to ensure that families have access to high quality infant and toddler care.

''(2) ADDITIONAL ASSISTANCE.—In administering this section, the Secretary shall encourage States to provide additional assistance on behalf of children for enriched infant and toddler services.

''(3) AMOUNT OF ASSISTANCE.—In providing assistance to eligible children under this section, a State shall ensure that an eligible child with a family income that is less than 100 percent of the poverty line for a family of the size involved is eligible to receive 100 percent of the amount of the assistance for which the child is eligible.

''(d) APPROPRIATION.—For grants under this section, there are appropriated—

''(1) $250,000,000 for fiscal year 1999;

''(2) $500,000,000 for fiscal year 2000;

''(3) $1,000,000,000 for each of fiscal years 2001 through 2003; and

''(4) such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

''(e) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

''(1) the appropriate child to staff ratios for infants and toddlers in child care settings, including child care centers and family child care homes; and

''(2) other best practices for infant and toddler care.

''(f) APPLICATION OF OTHER REQUIREMENTS.—

''(1) STATE PLAN.—The State, as part of the State plan submitted under section 658E(c), shall describe the activities that the State intends to carry out using amounts received under this section, including a description of the levels of assistance to be provided.

''(2) OTHER REQUIREMENTS.—Amounts provided to a State under this section shall be subject to the requirements and limitations of this subchapter except that section 658E(c)(3), 658F, 658G, 658J, and 658O shall not apply.''.

TITLE III—AMENDMENTS TO THE HEAD START ACT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by inserting before the period at the end the following: '', $4,900,000,000 for fiscal year 1999, $5,500,000,000 for fiscal year 2000, $6,100,000,000 for fiscal year 2001, and such sums as may be necessary for fiscal year 2002''.

SEC. 302. ALLOTMENT OF FUNDS.

Section 640(a)(6) of the Head Start Act (42 U.S.C. 9835(a)(6)) is amended—

(1) by striking ''1997, and'' and inserting ''1997,''; and

(2) by inserting after ''1998,'' the following: ''6 percent for fiscal year 1999, 7 percent for fiscal year 2000, 8 percent for fiscal year 2001, and 10 percent for fiscal year 2002,''.

SEC. 303. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 1998.

Mr. BOND. Mr. President. I rise today, along with my distinguished colleague from Massachusetts, Senator JOHN KERRY, to introduce the Early Childhood Development Act of 1997. Let me thank all who have worked so hard to develop this legislation.

The most important thing we can do to address the many social problems we face, is to recognize that the family is the centerpiece of our society and take steps to strengthen families and mobilize communities to support young children and their families.

This legislation follows up on recent scientific research showing that infant brain development occurs much more rapidly than previously thought, and that early, positive interaction with parents plays the critical role in brain development.

Not surprisingly parents have known instinctively for generations what science is just now figuring out: that reading to a baby, caressing and cuddling him, and helping him to have a wide range of good experiences will enhance his development. When children fail to receive love and nurturing at home when they do not receive quality child care, whether it is provided by centers, family child care homes, or relatives, they are far more likely to develop social and academic problems.

Yet parents today face burdens that were unimaginable a generation ago. Half of all marriages now end in divorce, and 28 percent of all children under the age of 18 live in a single-parent family. One in four infants and toddlers under the age of 3—nearly 3 million children—live in families with incomes below the Federal poverty level.

Many women, particularly in low- and moderate-income families, are essential in helping support their families financially and have entered the workforce in record numbers during the last generation. In many families, both parents work. Each day, an estimated 13 million children younger than 6—including 6 million babies and toddlers—spend some or all of their day being cared for by someone other than their parents. Children of working mothers are entering care as early as 6 weeks of age and spending 35 or more hours a week in some form of child care. Whether by choice or necessity, parents must try to find quality child care—which is not always available.

We are seeking, through this legislation, to provide families with support through early childhood education and more child care options. Our bill will support families—not bureaucracy—by building on local initiatives that are already working for families with infants and toddlers. We will help communities improve their services and supports to families with young children by expanding the thousands of successful efforts for families with children from birth to 6, such as those sponsored by the United Way and Boys and Girls Clubs as well as State initiatives such as Success by Six in Massachusetts and Vermont, the Parents as Teachers programs in Missouri and 47 other States, and the Early Childhood Initiative in Pennsylvania.

The Early Childhood Development Act will provide funds for early childhood education programs for all children that emphasize the primary role of parents and help give them the tools they need to be their children's best teachers. Parents are the key to a child's healthy development and as we all know, we will never solve our social problems unless we involve parents in the process and in their children's lives.

In addition, the bill will expand quality child care programs for families, especially for infants. And we will begin the Head Start Program earlier—when its impact could be much greater—at birth.

While Government cannot and should not become a replacement for parents and families, we can help families become stronger by providing support to help them give their children the encouragement, the love and the healthy environment they need to develop their social and intellectual capacities.

Our legislation balances the desire to provide support with the need to do so responsibly. I am proud that we have come together on a bipartisan basis to invest in programs that encourage family responsibility and obligation while helping families in need to reach those goals.

I am very optimistic that the spirit of bipartisanship will guide our consideration of this legislation and move it forward. Recent polls have shown that the overwhelming majority of Americans want early childhood development issues to be top priorities for our country. We must all work together to ensure that our most vulnerable citizens are given the care and protection they need and deserve.

Mr. President. I look forward to working with my colleagues to improve the quality of life for all children.

ADDITIONAL COSPONSORS

S. 19

At the request of Mr. DODD, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 358

At the request of Mr. DEWINE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 644

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 644, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers.

S. 732

At the request of Mr. FAIRCLOTH, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 732, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

S. 803

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 803, a bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

S. 943

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 983

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 983, a bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America.

S. 990

At the request of Mr. FAIRCLOTH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 990, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

At the request of Mr. DODD, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1037, supra.

S. 1042

At the request of Mr. CRAIG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SESSIONS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. ENZI], the Senator from Wyoming [Mr. THOMAS], the Senator from Kansas [Mr. ROBERTS] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 1084, a bill to establish a researh and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1096

At the request of Mr. KERREY, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Louisiana [Mr. BREAUX], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. ABRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1189

At the request of Mr. SMITH, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1204

At the request of Mr. COVERDELL, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. LOTT] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficently final to ripen certain Federal claims arising under the Constitution.

S. 1220

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1237

At the request of Mr. ENZI, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1237, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Oregon [Mr. SMITH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. GRAMS] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Resolution 96, A resolution proclaiming the week of March 15 through March 21, 1998, as ''National Safe Place Week''.

SENATE CONCURRENT RESOLUTION 56—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL

Mr. SPECTER submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENTS SUBMITTED

THE INTERMODAL TRANSPORTATION ACT OF 1997

DOMENICI (AND OTHERS) AMENDMENTS NOS. 1324–1327

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. INOUYE, Mr. BINGAMAN, and Mr. JOHNSON) submitted four amendments intended to be proposed by them to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for mass transit programs, and for other purposes; as follows:

AMENDMENT NO. 1324

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR INDIAN RESERVATION ROADS.—

(1) IN GENERAL.—Section 202(d) of title 23, United States Code, is amended—

(A) by striking ''(d) On'' and inserting the following:

''(d) INDIAN RESERVATION ROADS.—

''(1) IN GENERAL.—On'';

(B) in paragraph (1) (as so designated), by inserting '', and the amount set aside under paragraph (2),'' after ''appropriated''; and

(C) by adding at the end the following:

''(2) SET-ASIDE.—

''(A) IN GENERAL.—For each of fiscal years 1998 through 2003, before making an apportionment of funds under section 104(b), the Secretary shall set aside the amount specified for the fiscal year in subparagraph (B) for allocation in accordance with paragraph (1).

''(B) AMOUNTS.—The amounts referred to in subparagraph (A) are—

''(i) for fiscal year 1998, $25,000,000;

''(ii) for fiscal year 1999, $50,000,000;

''(iii) for fiscal year 2000, $75,000,000;

''(iv) for fiscal year 2001, $75,000,000;

''(v) for fiscal year 2002, $100,000,000; and

''(vi) for fiscal year 2003, $100,000,000.''.

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting ''and section 202(d)(2)'' after ''(f)''.

AMENDMENTS NO. 1325

At the appropriate place, insert the following:

SEC. . FUNDING FOR INDIAN RURAL TRANSIT PROGRAM.

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—Of amounts made available under section 5338(a) to carry out this section in each fiscal year, $10,000,000 shall be available for grants to Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) in accordance with this section for transportation projects in areas other than urbanized areas.

''(2) FORMULA ALLOCATION.—Amounts made available under paragraph (1) shall be allocated among Indian tribes—

''(A) with respect to fiscal years 1998 and 1999, by the Administrator of the Federal Transit Administration; and

''(B) with respect to each fiscal year thereafter, in accordance with a formula, which shall be established by the Secretary, in consultation with Indian tribes, not later than October 1, 1999.''.

AMENDMENT NO. 1326

On page 54, between lines 2 and 3, insert the following:

(d) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—Section 202(d) of title 23, United States Code, is amended—

(1) by striking ''(d) On'' and inserting the following:

''(d) INDIAN RESERVATION ROADS.—

''(1) IN GENERAL.—On'';

(2) in paragraph (1) (as designated by subparagraph (A)), by striking ''the Secretary shall allocate'' and inserting ''after making the allocation authorized by paragraph (2), the Secretary shall allocate the remainder of''; and

(3) by adding at the end the following:

''(2) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—For each fiscal year, the Secretary shall allocate $300,000 of the sums described in paragraph (1) to the Intertribal Transportation Association.''.

AMENDMENT NO. 1327

On page 127, strike line 8 and insert the following: bridges that—

''(A) provides for the allocation of funds reserved under paragraph (2) in accordance with the priorities established by the Bureau of Indian Affairs through application of the National Bridge Inspection Standards; and

''(B) accords highest priority in funding to bridges with the greatest deficiency.

ALLARD AMENDMENT NO. 1328

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

Beginning on page 14, strike line 6 and all that follows through page 18, line 5, and insert the following:

''(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

''(i) the total of all weighted non-attainment area and maintenance area populations in each State; bears to

''(ii) the total of all weighted non-attainment area and maintenance area populations in all States.

''(B) CALCULATION OF WEIGHTED NON-ATTAINMENT AREA AND MAINTENANCE AREA POPULATION.—For the purpose of subparagraph (A), the weighted nonattainment area and maintenance area population shall be calculated by multiplying the population of each area in a State that is a nonattainment area designated under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or as a maintenance area for ozone, carbon monoxide, or PM-10 by a factor of—

''(i) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area, as a transitional ozone nonattainment area (within the meaning of section 185A of the Clean Air Act (42 U.S.C. 7511e)), or as a maintenance area for any pollutant under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.);

''(ii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area, a moderate carbon monoxide nonattainment area with a design value of 12.7 parts per million or less at the time of classification, or a moderate PM–10 nonattainment area, under the part;

''(iii) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area, or a moderate carbon monoxide nonattainment area with a design value greater than 12.7 parts per million at the time of classification, under that part;

''(iv) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area, a serious carbon monoxide nonattainment area, or a serious PM–10 nonattainment area, under that part; or

''(v) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that part.

''(C) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

''(D) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

''(E) DEFINITION OF PM–10.—In this paragraph, the term 'PM–10' means particulate matter with an aerodynamic diameter smaller than or equal to 10 microns.

TORRICELLI AMENDMENTS NOS. 1329–1330

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1329

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the Comptroller General determines to be appropriate as a result of the study.

AMENDMENT NO. 1330

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the

Comptroller General determines to be appropriate as a result of the study.

McCAIN AMENDMENTS NOS. 1331–1332

(Ordered to lie on the table.)

Mr. McCAIN submitted two amendments intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1331

In the matter added by Amendment No. 1319, strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

AMENDMENT NO. 1332

Strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

McCAIN AMENDMENT NO. 1333

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place in the bill, add the following new section:

''SEC. . Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act.''

McCAIN AMENDMENT NO. 1334

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

At the end of the amendment, add the following new section:

''SEC. X008. Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act.''

SNOWE AMENDMENTS NOS. 1335–1336

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1335

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—

(1) PROGRAM.—Section 129(c) of title 23, United States Code, is amended—

(A) by inserting ''in accordance with paragraph (2) and sections 103, 133, and 149,'' after ''toll or free.'';

(B) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(C) by striking ''(e) Notwithstanding'' and inserting the following:

''(c) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

''(1) IN GENERAL.—Notwithstanding'';

(D) in subparagraph (C) (as redesignated by subparagraph (B)), by inserting ''or operated'' before the period at the end;

(E) in the first sentence of subparagraph (F) (as redesignated by subparagraph (B)), by striking ''sold, leased, or'' and inserting ''sold or''; and

(F) by adding at the end the following:

''(2) PROGRAM.—

''(A) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with paragraph (1).

''(B) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or ferry terminal facility using funds made available under subparagraph (C) shall be 80 percent.

''(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for obligation at the discretion of the Secretary in carrying out this paragraph $18,000,000 for each of fiscal years 1998 through 2000.

''(ii) AVAILABILITY.—Amounts made available under this subparagraph shall remain available until expended.''.

(2) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and the possessions of the United States—

(i) to identify ferry operations in existence as of the date of the study, including—

(I) the locations and routes served; and

(II) the source and amount, if any, of funds derived from Federal, State, or local government sources that support ferry operations; and

(ii) to identify potential domestic ferry routes in the United States and possessions of the United States and to develop information on the routes.

(B) REPORT.—The Secretary shall submit a report on the results of the study under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

AMENDMENT NO. 1336

On page 309, between lines 3 and 4, insert the following:

SEC. 18___. FUNDING TRANSFER.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in the table contained in section 1103(b) (105 Stat. 2027), in item 9, by striking ''32.1'' and inserting ''25.1''; and

(2) in the table contained in section 1104(b) (105 Stat. 2029)—

(A) in item 27, by striking ''10.5'' and inserting ''12.5''; and

(B) in item 44, by striking ''10.0'' and inserting ''15.0''.

At the appropriate place in subtitle D of title I, insert the following:

SEC. 14___. YOUNGER DRIVER SAFETY DEVELOPMENT DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a State or unit of local government; or

(B) a nonprofit organization.

(2) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation by reason of section 501(a) of such Code.

(3) YOUNGER DRIVER.—The term ''younger driver'' means a driver of a motor vehicle who has attained the age of 15, but has not attained the age of 21.

(b) GENERAL AUTHORITY.—The Secretary shall conduct a demonstration program to, with respect to younger drivers—

(1) reduce traffic fatalities and injuries among those drivers; and

(2) improve the driving performance of those drivers.

(c) GRANTS.—An eligible entity may submit an application, in such form and manner as the Secretary may prescribe for a grant award to conduct a demonstration project under the demonstration program under this section.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section—

(1) shall be designed to carry out the purposes specified in subsection (b); and

(2)(A) may include the development and implementation of a comprehensive approach to—

(i) the licensing of younger drivers (including graduated licensing); or

(ii) the education of younger drivers; or

(B) may address specific driving behaviors (including seat belt use, or impaired driving or any other risky driving behavior).

(e) REPORTS.—

(1) IN GENERAL.—Upon completion of a demonstration project under this section, the grant recipient shall submit to the Secretary a report that includes the findings of the grant recipient with respect to results of the demonstration project, together with any recommendations of the grant recipient relating to those results.

(2) DISTRIBUTION OF INFORMATION.—The Secretary shall ensure that, to the maximum extent practicable, the information contained in the reports submitted under this subsection is distributed to appropriate entities.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraph (2), funds authorized under this subsection shall be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 14___. AGGRESSIVE DRIVER COUNTERMEASURE DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) LARGE METROPOLITAN AREA.—The term ''large metropolitan area'' means a metropolitan area that is identified by the Administrator of the Federal Highway Administration as being 1 of the 27 metropolitan areas in the United States with the greatest degree of traffic congestion.

(2) METROPOLITAN AREA.—The term ''metropolitan area'' means an area that contains a core population and surrounding communities that have a significant degree of economic and social integration with that core population (as determined by the Secretary).

(3) SMALL METROPOLITAN AREA.—The term ''small metropolitan area'' means a metropolitan area with a population of—

(A) not less than 400,000 individuals; and

(B) not more than 1,000,000 individuals.

(b) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary shall carry out a demonstration program to conduct—

(A) 1 demonstration project in a large metropolitan area; and

(B) 1 demonstration project in a small metropolitan area.

(2) DEMONSTRATION PROJECTS.—Each demonstration project described in paragraph (1)—

(A) shall identify effective and innovative enforcement and education techniques to reduce aggressive driving; and

(B) may—

(i) investigate the use of new law enforcement technologies to reduce aggressive driving;

(ii) study the needs of prosecutors and other elements of the judicial system in addressing the problem of aggressive driving; and

(iii) study the need for proposed legislation.

(c) GRANTS.—

(1) IN GENERAL.—A State may submit an application, in such form and manner as the Secretary may prescribe, for a grant award to conduct a demonstration project under the demonstration program under this section.

(2) GEOGRAPHIC DIVERSITY.—In awarding grants under this subsection, the Secretary shall provide for geographic diversity with respect to the metropolitan areas selected, to take into account variations in traffic patterns and law enforcement practices.

(3) GRANT AGREEMENTS.—As a condition to receiving a grant under this section, each State that is selected to be a grant recipient under this section shall be required to meet the requirements of a grant agreement that the Secretary shall offer to enter into with the appropriate official of the State. The grant agreement shall specify that the grant recipient shall submit to the Secretary such reports on the demonstration project conducted by the grant recipient as the Secretary determines to be necessary.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section shall be designed to carry out 1 or more of the activities described in subsection (b).

(e) DISTRIBUTION OF INFORMATION.—

(1) EVALUATION AND REPORT.—Upon completion of the demonstration projects conducted under the demonstration program under this section, the Secretary shall—

(A) conduct an evaluation of the results of those projects; and

(B) prepare a report that contains the findings of the evaluation, including such recommendations concerning addressing the incidence and causes of aggressive driving as the Secretary determines to be appropriate.

(2) DISTRIBUTION.—

(A) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that the information contained in the reports submitted under this subsection is distributed to appropriate entities, including law enforcement agencies.

(B) PUBLIC INFORMATION AND EDUCATION CAMPAIGN.—In conjunction with carrying out the demonstration program under this section, the Secretary shall develop a comprehensive public information and education campaign to address aggressive driving behavior. The program shall include print, radio, and television public service announcements that highlight law enforcement activities and public participation in addressing the problem of aggressive driving behavior.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 1999 (of which not more than $165,000 may be used by the Secretary to carry out subsection (e)) and $500,000 for fiscal year 2000 (of which not more than $200,000 may be used to carry out subsection (e)).

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraphs (1) and (2), funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1338

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 139, line 22, insert ''or a unit of local government in the State'' after ''State''.

MURKOWSKI (AND STEVENS) AMENDMENTS NOS. 1339–1343

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. STEVENS) submitted five amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1339

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended—

(1) by striking ''may'' and inserting ''shall'';

(2) by inserting ''in accordance with sections 103, 133, and 149,'' after ''toll or free,'';

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(4) by striking ''(c) Notwithstanding'' and inserting the following:

''(c) CONSTRUCTION OF FERRY BOATS AND TERMINAL FACILITIES.—

''(1) IN GENERAL.—Notwithstanding''; and

(5) by adding at the end the following:

''(2) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or terminal facility using funds made available under paragraph (3) shall be 80 percent.

''(3) FUNDING.—

''(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account), for obligation at the discretion of the Secretary in carrying out this subsection $18,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.

''(4) APPLICABILITY OF OTHER PROVISIONS OF THIS CHAPTER.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to the apportionment formula and Federal share, shall apply to funds made available under paragraph (3), except as determined by the Secretary to be inconsistent with this subsection.''.

AMENDMENT NO. 1340

At the end of subtitle A of title I, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.

Section 311 of title 23, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Funds''; and

(2) by adding at the end the following:

''(b) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—

''(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

''(2) FUNDING.—

''(A) IN GENERAL.—From funds made available to carry out this title that are associated with the Interstate System, the Secretary may make available to carry out this subsection not to exceed $16,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.''.

AMENDMENT NO. 1341

On page 269, line 2, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 278, between lines 14 and 15, insert the following:

(b) REDUNDANT METROPOLITAN TRANSPORTATION PLANNING REQUIREMENTS.—

(1) FINDING.—Congress finds that the major investment study requirements under section 450.318 of title 23, Code of Federal Regulations, are redundant to the planning and project development processes required under other titles 23 and 49, United States Code.

(2) STREAMLINING.—

(A) IN GENERAL.—The Secretary shall streamline the Federal transportation planning and NEPA decision process requirements for all transportation improvements supported with Federal surface transportation funds or requiring Federal approvals, with the objective of reducing the number of documents required and better integrating required analyses and findings wherever possible.

(C) REQUIREMENTS.—The Secretary shall amend regulations as appropriate and develop procedures to—

(i) eliminate, effective as of the date of enactment of this section, the major investment study under section 450.318 of title 23, Code of Federal Regulations, as a stand-alone requirement independent of other transportation planning requirements;

(ii) eliminate stand-alone report requirements wherever possible;

(iii) prevent duplication by integrating planning and transportation NEPA processes by drawing on the products of the planning process in the completion of all environmental and other project development analyses;

(iv) reduce project development time by achieving to the maximum extent practical a single public interest decision process for Federal environmental analyses and clearances; and

(v) expedite and support all phases of decisionmaking by encouraging and facilitating the early involvement of metropolitan planning organizations, State departments of transportation, transit operators, and Federal and State environmental resource and permit agencies throughout the decisionmaking process.

AMENDMENT NO. 1342

On page 191, line 12, strike the semicolon at the end and insert '', except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;''.

AMENDMENT NO. 1343

On page 52, line 10, strike ''reservations.'' and insert ''reservations, and in the case of Indian reservation roads and transit facilities, to pay for the costs of maintenance of the Indian reservation roads and transit facilities.''.

HATCH (AND BENNETT) AMENDMENT NO. 1344

(Ordered to lie on the table.)

Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 144, strike line 5 and insert the following: the'' and inserting ''The''.

SEC. 1206A. WAIVER FOR HIGH-ALTITUDE, EXTERNAL-LOAD HOIST RESCUES.

The Secretary, acting through the Administrator of the Federal Aviation Administration, shall waive any regulation of the Federal Aviation Administration that prohibits the use of an Agusta A 109K2 helicopter by an entity that is not a public service agency (as that term is defined by the Administrator) to execute a high-altitude, external-load rescue with such a helicopter if the Secretary, acting through the Administrator, determines that the entity—

(1) has sufficient expertise to execute such a rescue; and

(2) is implementing sufficient safety measures.

BENNETT AMENDMENTS NOS. 1345–1346

(Ordered to lie on the table.)

Mr. BENNETT submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1345

At the end of subtitle A of title I, add the following:

SEC. 11 . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out section 104(k) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic event if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic event; and

(2) the project is otherwise eligible for assistance under section 104(k) of that title.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic event under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—From funds deducted under section 104(a) of title 23, United States Code, the Secretary may provide assistance for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—

(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic event.

(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such suns as are necessary for each of fiscal years 1998 through 2003.

AMENDMENT NO. 1346

At the appropriate place, insert the following:

SEC. . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(A) PURPOSE.—The purpose of this section is to provide assistance and support to State and local efforts on surface and aviation-related transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall give priority to funding for a mass transportation project related to an Olympic event from the Mass Transit Account of the Highway Trust Fund available to carry out 1 or more of sections 5307, 5309, and 5326 of title 49, United States Code, if the project meets the extraordinary needs associated with an international quadrennial Olympic event and if the project is otherwise eligible for assistance under the section at issue. For purposes of determining the non-Federal share of a project funded under this subsection, highway and transit projects shall be considered to be a program of projects.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in planning activities of States and Metropolitan planning organizations and sponsors of transportation projects related to an international quadrennial Olympic event under sections 5303 and 5305a of title 49, United States Code, and in developing intermodal transportation plans necessary for such projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—The Secretary may provide assistance from funds deducted under section 104(a) of title 23, United States Code, for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—

(1) GENERAL AUTHORITY.—The Secretary may provide assistance to States and local governments in carrying out transportation projects related to an international quadrennial Olympic event. Such assistance may include planning, capital, and operating assistance.

(2) FEDERAL SHARE.—The Federal share of the costs of projects assisted under this subsection shall not exceed 80 percent. For purposes of determining the non-Federal share of a project assisted under this subsection, highway and transit projects shall be considered to be a program of projects.

(f) ELIGIBLE GOVERNMENTS.—A State or local government is eligible to receive assistance under this section only if it is housing a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AIRPORT DEVELOPMENT PROJECTS.—

(1) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3) of title 49, United States Code, is amended by adding at the end the following:

''(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.''.

(2) DISCRETIONARY GRANTS.—Section 47115(d) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1998 through 2003.

THOMAS AMENDMENTS NOS. 1347–1350

(Ordered to lie on the table.)

Mr. THOMAS submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1347

At the appropriate place, insert the following:

SEC. . MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for

that fiscal year, is equal to the minimum guarantee threshold amount.

''(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

''(3) SOURCE OF FUNDS.—

''(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

''(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

''(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

''(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

''(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

''(C) OTHER REDUCTIONS.—

''(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

''(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

''(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

''(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

''(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

''(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter and up to 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

''(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

''(A) under section 5311, if the subgrantee is not serving an urbanized area; and

''(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.''.

AMENDMENT NO. 1348

Strike Section 1125 of the Committee Amendment and insert in lieu thereof the following new section:

SEC. 1125. AMENDMENT TO 23 U.S.C. § 302.

Section 302 of Title 23 United States Code is amended to read:

§ 302. State highway department

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State shall rely on entities in the private enterprise system—including but not limited to commercial firms in architecture, engineering, construction, surveying, mapping, laboratory testing, and information technology—to provide such goods and services as are reasonably and expeditiously available through ordinary business channels, and shall not duplicate or compete with entities in the private enterprise system.

(b) The Secretary shall promulgate regulations and procedures to inform each State and any other agency that administers this Act and each recipient of a grant or other Federal assistance of the requirements of subsection (a).

(c) The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to perform inherently governmental functions on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.

AMENDMENT NO. 1349

At the appropriate place in the amendment, insert the following new section and renumber any remaining sections accordingly:

''SEC. . WASTE TIRE RECYCLING RESEARCH PROGRAM.

(a) RESEARCH GRANTS AND CONTRACTS.—The Administrator may use funds to make a grant or enter into a contract or cooperative agreement with a person to conduct research and development on—

(1) waste tire/waste oil processing and recycling technologies; or

(2) the use, performance, and marketability of products made from carbonous materials and oil products produced from waste tire processing.

(b) RESEARCH PROGRAM.—The Administrator shall conduct a program of research to determine—

(1) the public health and environmental risks associated with the production and use of asphalt pavement containing tire-derived carbonous asphalt modifiers;

(2) the performance of asphalt pavement containing tire-derived carbonous asphalt modifiers under various climate and use conditions; and

(3) the degree to which asphalt pavement containing tire-derived carbonous asphalt modifiers can be recycled.

(c) DATE OF COMPLETION.—The Administrator shall complete the research program under subsection (b) of this section not later than 3 years after the enactment of this Act.

AMENDMENT NO. 1350

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR PARK ROADS AND PARKWAYS.—

(1) IN GENERAL.—Section 202(c) of title 23, United States Code, is amended—

(A) by striking ''(c) On'' and inserting the following:

''(c) PARK ROADS AND PARKWAYS.—

''(1) IN GENERAL.—On'';

(B) in paragraph (1) (as so designated), by inserting '', and the amount set aside under paragraph (2),'' after ''appropriated''; and

(C) by adding at the end the following:

''(2) SET-ASIDE.—For each of fiscal years 1998 through 2003, the Secretary shall set aside from funds deducted under 104(a) $50,000,000 for allocation in accordance with paragraph (1).''.

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting ''and section 202(c)(2)'' after ''(f)''.

HUTCHISON AMENDMENTS NO. 1351–1354

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted four amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1351

On page 99, strike lines 22 through 25 and insert the following:

''programs;

''(J) other factors to promote transport efficiency and safety, as determined by the Secretary; and

''(K) the ratio that the annual tonnage of commercial vehicle traffic at the border stations or ports of entry in each State bears to the annual tonnage of commercial vehicle traffic at the border stations or ports of entry of all States.''

AMENDMENT NO. 1352

On page 397, strike line 16 and insert the following:

''scribed in section 529.

''(3) CONTINUANCE OF PARTNERSHIP AGREEMENT.—Under the program, the Secretary shall continue in effect, at a funding level of $1,300,000 for each of fiscal years 1998, 1998, and 2000, a public-private, multimodal partnership agreement entered into by the Secretary before the date of enactment of this chapter providing for the integration of the freeway arterial, transit, railroad, and emergency management components of surface transportation management system.''

AMENDMENT NO. 1353

On page 302, strike line 5 and insert the following:

(g) TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.—Section 129(a)(3) of title 23, United States Code, is amended—

(1) by striking ''Before the Secretary'' and inserting the following:

''(A) IN GENERAL.—Before the Secretary'';

(2) by striking ''If the State'' and inserting the following:

''(B) Exceptions.—

''(i) IN GENERAL.—If the State''; and

(3) by adding at the end the following:

''(ii) TOLL FACILITIES FINANCED BY LOANS.—In the case of a toll facility owned and operated by a local government that is financed

by a loan to the local government under paragraph (7), if the local government certifies annually that the tolled facility is being adequately maintained, the limitations on the use of any toll revenues under subparagraph (A) shall not apply.''.

(h) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f)

AMENDMENT NO. 1354

At the end of the bill, add the following:

TITLE —AMTRAK REFORM AND ACCOUNTABILITY

SEC. 01. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) TABLE OF SECTIONS.—The table of sections for this title is as follows:

Sec. 01. Short title; table of sections.
Sec. 02. Findings.

Subtitle A—Reforms

PART 1—OPERATIONAL REFORMS

Sec. 101. Basic system.
Sec. 102. Mail, express, and auto-ferry transportation.
Sec. 103. Route and service criteria.
Sec. 104. Additional qualifying routes.
Sec. 105. Transportation requested by States, authorities, and other persons.
Sec. 106. Amtrak commuter.
Sec. 107. Through service in conjunction with intercity bus operations.
Sec. 108. Rail and motor carrier passenger service.
Sec. 109. Passenger choice.
Sec. 110. Application of certain laws.

PART 2—PROCUREMENT.

Sec. 121. Contracting out.

PART 3—Employee Protection Reforms

Sec. 141. Railway Labor Act Procedures.
Sec. 142. Service discontinuance.

PART 4—USE OF RAILROAD FACILITIES

Sec. 161. Liability limitation.
Sec. 162. Retention of facilities.

Subtitle B—Fiscal Accountability

Sec. 201. Amtrak financial goals.
Sec. 202. Independent assessment.
Sec. 203. Amtrak Reform Council.
Sec. 204. Sunset trigger.
Sec. 205. Access to records and accounts.
Sec. 206. Officers' pay.
Sec. 207. Exemption from taxes.

Subtitle C—Authorization of Appropriations

Sec. 301. Authorization of appropriations.

Subtitle D—Miscellaneous

Sec. 401. Status and applicable laws.
Sec. 402. Waste disposal.
Sec. 403. Assistance for upgrading facilities.
Sec. 404. Demonstration of new technology.
Sec. 405. Program master plan for Boston-New York main line.
Sec. 406. Americans with Disabilities Act of 1990.
Sec. 407. Definitions.
Sec. 408. Northeast Corridor cost dispute.
Sec. 409. Inspector General Act of 1978 amendment.
Sec. 410. Interstate rail compacts.
Sec. 411. Composition of Amtrak board of directors.
Sec. 412. Educational participation.
Sec. 413. Report to Congress on Amtrak bankruptcy.
Sec. 414. Amtrak to notify Congress of lobbying relationships.

SEC. 02. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and

(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

SUBTITLE A—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, is amended to read as follows:

''§ 24701. Operation of basic system

''Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.''.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) by striking ''90 days'' and inserting ''180 days'' in subsection (a)(1);

(2) by striking ''24707(a) or (b) of this title,'' in subsection (a)(1) and inserting ''discontinuing service over a route,'';

(3) by inserting ''or assume'' after ''agree to share'' in subsection (a)(1); and

(4) by striking ''section 24707(a) or (b) of this title'' in subsections (a)(2) and (b)(1) and inserting ''paragraph (1)''.

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking '', 24701(a),''.

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a);

(2) by striking subsection (b) and inserting the following:

''(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.''.

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

Section 24101(c)(2) of title 49, United States Code, is amended by inserting '', separately or in combination,'' after ''and the private sector''.

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(B) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

''(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.''.

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

''(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

''(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

''(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

''(B) Subparagraph (A) shall not apply to transportation funded predominantly by a

State or local government, or to ticket selling agreements.''.

(b) POLICY STATEMENT.—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.''.

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: ''Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.''.

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 3253b(m)) applies to a proposal in the possession or control of Amtrak.

SUBTITLE B—PROCUREMENT

SEC. 121. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking ''(2)'' in subsection (a)(2) and inserting ''(b)''; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) This compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) NO PRECEDENT FOR FREIGHT.—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad's employees.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished,

including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

SUBTITLE D—USE OF RAILROAD FACILITIES

SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

''(a) LIMITATIONS.—

''(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

''(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater; and

''(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

''(2) For purposes of this subsection, the term 'claim' means a claim made directly or indirectly—

''(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier or private rail car operators; or

''(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

''(3) Notwithstanding paragraph (1)(A), in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the action was brought, subject to the provisions of paragraph (1).

''(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsection (a), incurred after the date of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.''.

(e) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

''28103. Limitations on rail passenger transportation liability.''.

SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) of title 49, United States Code, is amended by inserting ''or on January 1, 1997,'' after ''1979,''.

SUBTITLE B—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast corridor and that required outside the Northeast corridor, and shall include rolling stock requirements, including capital leases, ''state of good repair'' requirements, and infrastructure improvements.

(d) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Three individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Three individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a

trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC.—204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 of Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202;

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 201; and

(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—

(1) DEVELOPMENT OF PLANS.—Within 90 days after the Council makes a finding under subsection (a)—

(A) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(B) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

(2) CONGRESSIONAL ACTION OR INACTION.—If within 90 days after receiving the plans submitted under paragraph (1), an Act to implement a restructured and rationalized intercity rail passenger system does not become law, then Amtrak shall implement the liquidation plan developed under paragraph (1)(B) after such modification as may be required to reflect the recommendations, if any, of the Inspector General of the Department of Transportation and the General Accounting Office.

SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.''.

SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''.

SEC. 207. EXEMPTION FROM TAXES.

(a) IN GENERAL.—Subsection (l) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of paragraph (1) as precedes ''exempt'' and inserting the following:

''(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are'';

(2) by striking ''tax or fee imposed'' in paragraph (1) and all that follows through ''levied on it'' and inserting ''tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom'';

(3) by striking the last sentence of paragraph (1);

(4) by striking ''(2) The'' in paragraph (2) and inserting ''(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The''; and

(5) by inserting after paragraph (1) the following:

''(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

''(A) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION

Year of assessment	*Percentage of exemption*
1997	40
1998	60
1999	80
2000 and later years	100

''(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

SUBTITLE C—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

''(1) $1,138,000,000 for fiscal year 1998;

''(2) $1,058,000,000 for fiscal year 1999;

''(3) $1,023,000,000 for fiscal year 2000;

''(4) $989,000,000 for fiscal year 2001; and

''(5) $955,000,000 for fiscal year 2002, for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.''.

SUBTITLE D—MISCELLANEOUS

SEC.—401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking ''rail carrier under section 10102'' in subsection (a)(1) and inserting ''railroad carrier under section 20102(2) and chapters 261 and 281''; and

(2) by amending subsection (c) to read as follows:

''(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502 (a) and (d), and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.''.

SEC.—402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking ''1996'' and inserting ''2001''.

SEC.—403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC.—404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 243 of that title, are repealed.

SEC.—405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking ''the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)'' and inserting ''a high-speed rail passenger transportation area''.

SEC.—406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to

any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC.—407. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting '', including a unit of State or local government,'' after ''means a person'' in paragraph (7), as so redesignated.

SEC.—408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC.—409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Amtrak,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The proceeding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations;

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

SEC.—410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking ''and publicly owned intracity or intercity bus terminals and facilities.'' in paragraph (2) and inserting ''facilities, including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of both.''.

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking ''standard.'' in paragraph (4) and inserting ''standard; or''

(3) by inserting after paragraph (4) the following:

''(5) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

''(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.''.

SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking ''3'' in paragraph (1)(C) and inserting ''4'';

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

''(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

''(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.'';

(4) by striking subparagraphs (D) and (E) of paragraph (1);

(5) by inserting after subparagraph (C) the following:

''(D) 3 individuals appointed by the President of the United States, as follows:

''(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

''(ii) one individual with technical expertise in finance and accounting principles.

''(iii) one individual selected as a representative of the general public.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) The Secretary may be represented at a meeting of the Board by his designate.''.

The amendments made by this section shall not affect the term of any sitting director as of the date of enactment.

SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

DEWINE AMENDMENTS NOS. 1355–1356

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1355

On page 236, strike line 16 and insert the following: subsection (a).

SEC. 1408. SCHOOL TRANSPORTATION SAFETY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, recommend a new data collection regiment and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation;

(iii) mass transportation operators; and

(iv) employee organizations;

(B) academic and policy analysts; and

(C) other interested parties.

(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(A) $200,000 for fiscal year 1998; and

(B) $200,000 for fiscal year 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1409. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATORY TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended by adding at the end of the following:

''(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations that require that the relevant commercial motor vehicle safety standards issued under subsection (a) apply to all interstate school transportation operations conducted by local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).''.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) the status of compliance by private for-hire motor carries and local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in meeting the requirements of section 31136 of title 49, United States Code; and

(2) any activities carried out by the Secretary or 1 or more States to enforce the requirements referred to in paragraph (1).

AMENDMENT NO. 1356

Beginning on page 225, strike line 12 and all that follows through page 227, line 13, and insert the following:

''(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that—

''(A) provides, as a minimum penalty, that an individual convicted of a second offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense shall receive—

''(i)(I) a license suspension for not less than 1 year; or

''(II) a license restriction for not less than 1 year permitting the individual to drive only a vehicle that is equipped with a functioning ignition interlock device;

''(ii) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

''(iii)(I) an assignment of 30 days of community service; or

''(II) 5 days of imprisonment; and

''(B) provides that each of the sanctions under subparagraph (A) shall be increased by 10 percent for each subsequent such offense within a 5-year period.

''(b) TRANSFER OF FUNDS.—

''(1) FISCAL YEARS 2001 AND 2002.—

''(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

''(i) for alcohol-impaired driving countermeasures; or

''(ii) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

''(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

''(i)) from the apportionment of the State under section 104(b)(1);

''(ii) from the apportionment of the State under section 104(b)(3); or

(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

''(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

''(A) for alcohol-impaired driving countermeasures; or

''(B) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

McCAIN AMENDMENTS NOS. 1357–1364

(Ordered to lie on the table.)

Mr. McCAIN submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1357

At the appropriate place, insert the following:

SEC. —. HIGHWAY DEMONSTRATION PROJECTS.

(a) FINDINGS.—The Senate finds that—

(1) 10 demonstration projects totaling $362 million were listed for special line-item funding in the Surface Transportation Assistance Act of 1982;

(2) 152 demonstration projects totaling $1.4 billion were named in the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(3) 64 percent of the funding for the 152 projects had not been obligated after 5 years and State transportation officials determined the projects added little, if any, to meeting their transportation infrastructure priorities;

(4) 538 location specific projects totaling $6.23 billion were included in the Intermodal Surface Transportation Efficiency Act of 1991;

(5) more than $3.3 billion of the funds authorized for the 538 location specific-projects remained unobligated as of January 31, 1997;

(6) the General Accounting Office determined that 31 States plus the District of Columbia and Puerto Rico would have received more funding if the Intermodal Surface Transportation Efficiency Act location-specific project funds were redistributed as Federal-aid highway program apportionments;

(7) this type of project funding diverts Highway Trust Fund money away from State transportation priorities established under the formula allocation process and under the Intermodal Surface Transportation and Efficiency Act of 1991;

(8) on June 20, 1995, by a vote of 75 yeas to 21 nays, the Senate voted to prohibit the use of Federal Highway Trust Fund money for future demonstration projects;

(9) the Intermodal Surface Transportation and Efficiency Act of 1991 expires at the end of Fiscal Year 1997; and

(10) legislation is pending in the House of Representatives sets aside $4.3 billion in new mandatory spending for so-called ''high priority'' projects.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) notwithstanding different views one existing Highway Trust fund distribution formulas, funding for demonstration projects or other similarly titled projects diverts Highway Trust Fund money away from State priorities and deprives States of the ability to adequately address their transportation needs;

(2) State are best able to determine the priorities for allocating Federal-Aid-To-Highway monies within their jurisdiction;

(3) Congress should not divert limited Highway Trust Funds resources away from State transportation priorities by authorizing new highway projects; and

(4) Congress should not authorize any new demonstration projects, similarly-titled projects, or legislative discretionary projects.

AMENDMENT NO. 1358

On page 40, strike lines 1 through 16.

AMENDMENT NO. 1359

Notwithstanding any provision of law, authorizations and appropriations for demonstration projects shall lapse for any project for which funds have not been obligated within three years.

AMENDMENT NO. 1360

Notwithstanding any other provision of law, the Secretary shall limit obligations for demonstration projects, or any similarly titled high priority projects that are authorized or appropriated.

AMENDMENT NO. 1361

At the appropriate place, insert the following:

SEC. 105. PROTECTION OF CHILDREN FROM AIR-BAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at

section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

AMENDMENT NO. 1362

At the appropriate place, insert the following:

SEC. . AIRBAG DEPLOYMENT RULE-MAKING PROCEDURE.

The Secretary shall provide notice and an opportunity for public comment for establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles.

AMENDMENT NO. 1363

At the appropriate place, insert the following:

SEC. . DOT TO DETERMINE ELIGIBILITY FOR AIRBAG SWITCH USE.

If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

AMENDMENT NO. 1364

At the end of the amendment, insert the following:

SECTION 1. SHORT TITLE; APPLICATION WITH PRECEDING PROVISIONS AND AMENDMENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intermodel Transportation Safety Act of 1997''.

(b) APPLICATION.—The provisions of this Act appearing after this section, including any amendment made by any such provision, supersede any provision appearing before this section to the extent that the provisions or amendments appearing after this section conflict with and cannot be reconciled with the provisions (including amendments) appearing before this section. For purposes of this subsection, conflicts of enumeration or lettering of subdivisions of any provision of law amended by this Act, and conflicts of captions of any provision of law amended by this Act, shall be ignored.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; application with preceding provisions of amendments.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

Title I—Highway Safety

Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Sec. 104. Airbags.
Sec. 105. Protection of children from airbag harm.

Title II—Hazardous materials transportation reauthorization

Sec. 201. Findings and purposes; definitions.
Sec. 202. Handling criteria repeal.
Sec. 203. Hazmat employee training requirements.
Sec. 204. Registration.
Sec. 205. Shipping paper retention.
Sec. 206. Unsatisfactory safety rating.
Sec. 207. Public sector training curriculum.
Sec. 208. Planning and training grants.
Sec. 209. Special permits and exclusions.
Sec. 210. Administration.
Sec. 211. Cooperative agreements.
Sec. 212. Enforcement.
Sec. 213. Penalties.
Sec. 214. Preemption.
Sec. 215. Judicial review.
Sec. 216. Hazardous material transportation reauthorization.
Sec. 217. Authorization of appropriations.

Title III—Comprehensive One-call Notification

Sec. 301. Findings.
Sec. 302. Establishment of one-call notification programs.

Title IV—Motor Carrier Safety

Sec. 401. Statement of purpose.
Sec. 402. Grants to States.
Sec. 403. Federal share.
Sec. 404. Authorization of appropriations.
Sec. 405. Information systems and strategic safety initiatives.
Sec. 406. Improved flow of driver history pilot program.
Sec. 407. Motor carrier and driver safety research.
Sec. 408. Authorization of appropriations.
Sec. 409. Conforming amendments.
Sec. 410. Automobile transporter defined.
Sec. 411. Repeal of review panel; review procedure.
Sec. 412. Commercial motor vehicle operators.
Sec. 413. Penalties.
Sec. 414. International registration plan and international fuel tax agreement.
Sec. 415. Study of adequacy of parking facilities.
Sec. 416. National minimum drinking age—technical corrections.
Sec. 417. Application of regulations.
Sec. 418. Authority over charter bus transportation.
Sec. 419. Federal motor carrier safety investigations.
Sec. 420. Foreign motor carrier safety fitness.
Sec. 421. Commercial motor vehicle safety advisory committee.
Sec. 422. Waivers; exemptions; pilot programs.
Sec. 423. Commercial motor vehicle safety studies.
Sec. 424. Increased MCSAP participation impact study.

Title V—Rail and Mass Transportation Antiterrorism; Safety

Sec. 501. Purpose.
Sec. 502. Amendment to the ''wrecking trains'' statute.
Sec. 503. Terrorist attacks against mass transportation.
Sec. 504. Investigative jurisdiction.
Sec. 505. Safety considerations in grants or loans to commuter railroads.
Sec. 506. Railroad accident and incident reporting.
Sec. 507. Vehicle weight limitations—mass transportation buses.

Title—VI Sportfishing and Boating Safety

Sec. 601. Amendment of 1950 Act.
Sec. 602. Outreach and communications programs.
Sec. 603. Clean Vessel Act funding.
Sec. 604. Boating infrastructure.
Sec. 605. Boat safety funds.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by striking ''section 4007'' and inserting ''section 4004''.

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) by striking the period at the end of subparagraph (A) and subparagraph (B) of paragraph (1) and inserting a semicolon;

(2) by inserting '', including Indian tribes,'' after ''subdivisions of such State'' in paragraph (1)(C);

(3) by striking the period at the end of paragraph (1)(C) and inserting a semicolon and ''and''; and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS—Section 402(c) of such title is amended by—

(1) by inserting ''the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and'' after ''except that'' in the sixth sentence; and

(2) by striking the seventh sentence.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

''(i) APPLICATION IN INDIAN COUNTRY.—

''(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

''(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

''(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

''(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

''(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.''.

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

''(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.''

(f) SAFETY INCENTIVE GRANTS.—Section 402 of such title is amended by striking subsection (k) and inserting the following:

''(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

''(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l) or (m) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

''(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l) or (m) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l) or (m) shall not exceed—

''(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

''(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

''(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

''(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 7 of the following:

''(A) .08 BAC PER SE LAW.—A law that provides that any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(B) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

''(C) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system shall include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

''(D) STOPPING MOTOR VEHICLES.—Either—

''(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

''(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

''(E) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

''(F) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

''(G) DRIVERS WITH HIGH BAC'S.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

''(H) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessment of first time offenders; and incorporation of treatment into judicial sentencing.

''(I) TESTING FOR BAC.—An effective system for increasing the rate of testing for blood alcohol concentration of motor vehicle drivers at fault in fatal accidents.

''(2) BASIC GRANT B.—Either of the following:

''(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; or

''(B) 0.08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(3) BASIC GRANT C.—Both of the following:

''(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

''(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

''(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than 2 fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

''(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

''(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

''(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

''(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

''(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

''(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

''(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a 'zebra' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

''(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

''(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

''(I) USE OF PASSIVE ALCOHOL SENATORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

''(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age. The Secretary shall determine what penalties are effective.

''(6) DEFINITIONS.—For the purpose of this subsection, the following definitions apply:

''(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

''(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

''(i) which contains any amount of an alcoholic beverage; and

''(ii)(I) which is open or has a broken seal, or

''(II) the contents of which are partially removed.

''(m) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

''(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

''(A) Demonstrates, to the satisfaction of the Secretary, that it has—

''(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

''(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

''(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

''(B) Provides, to the satisfaction of the Secretary—

''(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

''(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

''(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

''(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $250,000, subject to the availability of appropriations. The Secretary may award a grant of up to $25,000 for one year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable that State to qualify for first-year funding to begin in the next fiscal year.

''(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS; SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

''(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

''(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

''(C) Reports annually on its progress in implementing the multi-year plan.

''(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.''.

(g) OCCUPANT PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

''§ 410. Safety belts and occupant protection program

''The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 4 of the following:

''(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT OCCUPANTS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

''(B) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of its safety belt use law.

''(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

''(D) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems. The states are to submit to the Secretary an evaluation or report on the effectiveness of the programs at least three years after receipt of the grant.

''(E) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

''(F) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statwide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

''(2) BASIC GRANT B.—Both of the following:

''(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first 3 years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

''(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

''(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

''(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

(C) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

''(5) DEFINITIONS.—As used in this subsection—

''(A) 'child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

''(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

''(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

''(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

''(F) 'Safety belt' means—

''(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of that chapter is amended by striking the item relating to section 410 and inserting the following:

''410. Safety belts and occupant protection program''.

(h) DRUGGED DRIVER RESEARCH AND DEMONSTRATION PROGRAM.—Section 403(b) of title 23, United States Code, is amended—

(1) by inserting ''(1)'' before ''In addition'';

(2) by striking ''is authorized to'' and inserting ''shall'';

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) by inserting after subparagraph (B), as redesignated, the following:

''(C) Measures that may deter drugged driving.''.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end thereof the following:

''(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

''(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

''(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

''(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

''(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.''.

(b) ACCESS TO REGISTER INFORMATION.—Section 30305(b) is amended by—

(1) by striking ''request.'' in paragraph (2) and inserting the following: ''request, unless the information is about a revocation or suspension still in effect on the date of the request'';

(2) by inserting after paragraph (6) the following:

''(7) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).

''(8) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.'';

(3) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10); and

(4) by striking ''paragraph (2)'' in paragraph (10), as redesignated, and inserting ''subsection (a) of this section''.

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsection (l) of that section—

(i) $117,858,000 for fiscal year 1998;

(ii) $123,492,000 for fiscal year 1999;

(iii) $126,877,000 for fiscal year 2000;

(iv) $130,355,000 for fiscal year 2001;

(v) $133,759,000 for fiscal year 2002; and

(vi) $141,803,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of section 402(l) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;

(ii) $28,500,000 for fiscal year 1999;

(iii) $29,273,000 for fiscal year 2000;

(iv) $30,065,000 for fiscal year 2001;

(v) $38,743,000 for fiscal year 2002; and

(vi) $39,815,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of section 410 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;

(ii) $14,618,000 for fiscal year 1999;

(iii) $15,012,000 for fiscal year 2000;

(iv) $15,418,000 for fiscal year 2001;

(v) $17,640,000 for fiscal year 2002; and

(vi) $17,706,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection 402(n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;

(ii) $8,770,000 for fiscal year 1999;

(iii) $9,007,000 for fiscal year 2000; and

(iv) $9,250,000 for fiscal year 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving research and demonstration programs of section 403(b)(1) of title 23, United States Code, by the National Highway Traffic Safety Administration, $2,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) SECTION 403 HIGHWAY SAFETY AND RESEARCH.—For carrying out the functions of the Secretary, by the National Highway Traffic Safety Administration, for highway safety under section 403 of title 23, United States Code, there are authorized to be appropriated $60,100,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $61,700,000 for fiscal year 2003.

(3) PUBLIC EDUCATION EFFORT.—Out of funds made available for carrying out programs under section 403 of title 23, United States Code, for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003, the Secretary of Transportation shall obligate at least $500,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(4) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(i) $1,605,000 for fiscal year 1998;

(ii) $1,680,000 for fiscal year 1999;

(iii) $1,726,000 for fiscal year 2000;

(iv) $1,772,000 for fiscal year 2001;

(v) $1,817,000 for fiscal year 2002; and

(vi) $1,872,000 for fiscal year 2003.

SEC. 104. AIRBAGS.

(a) RULEMAKING PROCEDURE REQUIRED FOR DEPLOYMENT THRESHOLD DETERMINATION.—Before establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles under any provision of law, the Secretary shall provide notice and an opportunity for public comment.

(b) DEPARTMENT OF TRANSPORTATION TO DETERMINE ELIGIBILITY FOR ON/OFF SWITCH.—If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

SEC. 105. PROTECTION OF CHILDREN FROM AIRBAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

TITLE II—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 201. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

"§ 5101. Findings and purposes

''(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according to the Department of Transportation estimates;

''(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

''(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

''(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

''(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

''(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

''(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner;

''(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce; and

''(9) emergency response personnel have a continuing need for training on responses to releases of hazardous materials in transportation and small businesses have a continuing need for training on compliance with hazardous materials regulations.

''(b) PURPOSES.—The purposes of this chapter are—

''(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

''(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

''(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.''.

(b) DEFINITIONS.—Section 5102 is amended by—

(1) striking paragraph (1) and inserting the following:

''(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

''(A) between a place in a State and a place outside of the State;

''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

''(C) on a United States-registered aircraft.'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) 'hazmat employee' means an individual who—

''(A) is—

''(i) employed by a hazmat employer,

''(ii) self-employed, or

''(iii) an owner-operator of a motor vehicle; and

''(B) during the course of employment—

''(i) loads, unloads, or handles hazardous material;

''(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

''(iii) performs any function pertaining to the offering of hazardous material for transportation;

''(iv) is responsible for the safety of transporting hazardous material; or

''(v) operates a vehicle used to transport hazardous material.

''(4) 'hazmat employer' means a person who—

''(A) either—

''(i) is self-employed,

''(ii) is an owner-operator of a motor vehicle; and

''(iii) has at least one employee; and

''(B) performs a function, or uses at least one employee, in connection with—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce, or

''(iii) manufacturing, reconditioning, or testing containers, drums, or other

packagings represented as qualified for use in transporting hazardous material.'';

(3) by striking ''title.'' in paragraph (7) and inserting ''title, except that a freight forwarder is included only in performing a function related to highway transportation'';

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

''(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

''(10) 'package' or 'outside package' means a packaging plus its contents.

''(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation.'';

and

(6) by striking ''or transporting hazardous material to further a commercial enterprise;'' in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and ''transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material''.

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

''5101. Findings and purposes''.

SEC. 202. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section

SEC. 203 HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking ''and sections 5106, 5108(a)–(g)(1) and (h), and''.

SEC. 204. REGISTRATION.

Section 5108 is amended by

(1) by striking subsection (b)(1)(C) and inserting the following:

''(C) each State in which the person carries out any of the activities.'';

(2) by striking subsection (c) and inserting the following:

''(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.'';

(3) by striking ''552(f)'' in subsection (f) and inserting ''552(b)'';

(4) by striking ''may'' in subsection (g)(1) and inserting ''shall''; and

(5) by inserting ''or an Indian tribe,'' in subsection (1)(2)(B) after ''State,''.

SEC. 205. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting ''After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 206. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking ''Secretary, in consultation with the Interstate Commerce Commission,'' and inserting ''Secretary''.

SEC. 207. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' in subsection (a) and inserting ''UPDATING.—In'';

(2) by striking ''develop and'' in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking ''developed'' in the first sentence of subsection (b);

(5) by inserting ''or involving an alternative fuel vehicle'' after ''material'' in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

''(d) DISTRUBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous materials.''.

SEC. 208. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking ''of'' in the second sentence of subsection (e) and inserting ''received by'';

(2) by striking subsection (f) and inserting the following:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material, Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State and Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.''; and

(3) by adding at the end thereof the following:

''(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.''.

SEC. 209. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

''§ 5117. Special permits and exclusions'';

(2) by striking ''exemption'' each place it appears and inserting ''special permit'';

(3) by inserting ''authorizing variances'' after ''special permit'' the first place it appears; and

(4) by striking ''2'' and inserting ''4'' in subsection (a)(2).

(b) Section 5119(c) is amended by adding at the end thereof the following:

''(4) Pending promulgation of regulations under this subsection, States may participate in a program of uniform forms and procedures recommended by the working group under subsection (b).''

(c) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

''5117. Special permits and exclusions''.

SEC. 210. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

''(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

''(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

''(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

''(2) make the records, reports, and information available when the Secretary requests.

''(c) INSPECTION.—

''(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

''(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

''(B) the transportation of hazardous material in commerce.

''(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.''.

SEC. 211. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

''(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.''.

SEC. 212. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting ''inspect,'' after ''may'' in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: ''Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.'';

(2) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

''(d) OTHER AUTHORITY.—

''(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

''(A) open and examine the contents of a package offered for, or in, transportation when—

''(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

''(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

''(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

''(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

''(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

''(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

''(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

''(B) notifies the shipper that the package was opened for examination.

''(e) EMERGENCY ORDERS.—

''(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

''(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

''(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.''

SEC. 213. PENALTIES.

''(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: ''A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.''.

''(b) Section 5123(c)(2) is amended to read as follows:

''(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and''.

(c) Section 5124 is amended to read as follows:

''§ 5124. Criminal penalty

''(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.''.

SEC. 214. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and ''the purposes of this chapter,'' after ''this chapter'' the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking ''prescribes after November 16, 1990.'' and inserting ''prescribes.''.

(c) INDEPENDENT APPLICATION OF PREEMPTION STANDARDS.—Section 5125 is amended by adding at the end thereof the following:

''(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (a), (b)(1), (c), and (g) of this section and section 5119(c)(2) is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.''.

SEC. 215. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

''§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

''(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.''.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

''5127. Judicial review.''.
''5128. Authorization of appropriations.''.

SEC. 216. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 215 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

''§ 5128. High risk hazardous material; motor carrier safety study

''(a) STUDY.—The Secretary of Transportation shall conduct a study—

''(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

''(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

''(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

''(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

''(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

''(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

''(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.''.

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking ''not later than November 16, 1991.'' and inserting ''based upon the findings of the study required by section 5128(a).''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

''5128. High risk hazardous material; motor carrier safety study
''5129. Authorization of appropriations''.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

''(1) $15,492,000 for fiscal year 1998;
''(2) $16,000,000 for fiscal year 1999;
''(3) $16,500,000 for fiscal year 2000;
''(4) $17,000,000 for fiscal year 2001;
''(5) $17,500,000 for fiscal year 2002; and
''(6) $18,000,000 for fiscal year 2003.''; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115 of this title.

''(d) PLANNING AND TRAINING.—

''(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(a) of this title.

''(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(b) of this title.

''(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(f) of this title.''.

TITLE III—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 301. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 302. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

''CHAPTER 61. ONE-CALL NOTIFICATION PROGRAMS

''Sec.
''6101. Purposes.
''6102. Definitions.
''6103. Minimum standards for State one-call notification programs
''6104. Compliance with minimum standards
''6105. Review of one-call system best practices
''6106. Grants to States
''6107. Authorization of appropriations

'§ 6101. Purposes.

''The purposes of this chapter are—

''(1) to enhance public safety;

''(2) to protect the environment;

''(3) to minimize risks to excavators; and

''(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

''§ 6102. Definitions.

''For purposes of this chapter—

''(1) ONE-CALL NOTIFICATION SYSTEM.—The term ''one-call notification system'' means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities on order to prevent damage to underground facilities in the course of such excavation.

''(2) STATE ONE-CALL NOTIFICATION PROGRAM—The term ''State one-call notification program'' means the State statutes, regulators, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

''(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''§ 6103. Minimum standards for State one-call notification programs

(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

(1) appropriate participation by all under ground facility operators;

(2) appropriate participation by all excavators; and

''(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

''(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

''(1) damage to types of underground facilities; and

''(2) activities of types of excavators.

''(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

''(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

''(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

''(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a *de minimis* risk to public safety or the environment.

''(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

''(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

''(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

''(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

''(4) equitable relief; and

''(5) citation of violations.

''§ 6104. Compliance with minimum standards

''(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

''(b) APPLICATION.—

''(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

''(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

''(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

''(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

''(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

''(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative once-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

''(d) REPORT.—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

''(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

''(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

''(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

''(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

''§ 6105. Review of one-call system best practices

''(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

''(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public

service disruption. As part of the study, the Secretary shall at a minimum consider—

''(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

''(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

''(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

''(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

''(5) the effectiveness and accuracy of mapping used by one-call notification systems;

''(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

* * * * *

sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

''(I) does not make that report;

''(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered or;

''(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

''(ii) Any such person, or an officer, agent, or employee of that person, who—

''(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

''(II) knowingly files a false report with the Secretary;

''(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

''(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

SEC. 414. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the item relating to sections 31702, 31703, and 31708 in the chapter a analysis for that chapter.

SEC. 415. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest area that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry. The studies shall be recompleted no later than 36 months after enactment of this Act.

SEC. 416. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS

Section 158 of title 23, United States Code, is amenmded—

(1) by striking ''104(b)(2), 104(b)(5), and 104(b)(6)'' each place it appears in subsection (a) and inserting ''104(b)(3), and 104(b)(5)(B)''; and

(2) by striking subsection (b) and inserting the following:

''(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.''.

SEC. 3417. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

''(g) APPLICATION TO CERTAIN VEHICLES.—Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 12 months after such date of enactment, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operations of commercial motor vehicles from the application of those regulations.''.

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

''(B) is designed or used to transport—

''(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

''(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or''.

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

''§ 31318. Application of regulations to certain operators

''Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment, except to the extent that the Secretary determines, after notice and opportunity for public comment, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''.

(d) DEADLINE FOR CERTAIN DEFINITIONAL REGULATIONS.—The Secretary shall issue regulations implementing the definition of commercial motor vehicles under section 31132(1)(B) and section 31301(4)(B) of title 49, United States Code, as amended by this Act within 12 months after the date of enactment of this Act.

SEC. 418. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking ''route or relating'' and inserting ''route;''; and

(2) by striking ''required.'' and inserting ''required; or to the authority to provide intrastate or interstate charter bus transportation.''.

SEC. 419. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators for border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 420. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to meet the safety fitness and other regulatory requirements under this title.

(b) REPORT.—Within 120 days after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under the section; and

(3) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers.

SEC. 421. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 422. WAIVERS; EXEMPTIONS; PILOT PROGRAMS.

(a) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 311.—Section 31136(e) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6); and

(2) by striking the subsection caption and paragraph (1) and inserting the following:

''(e) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, waivers, or exemptions under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for non-emergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

(b) WAIVERS EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 313.—Section 31315 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''After notice''; and

(2) by adding at the end thereof the following: ''(b) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, or exemption under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for non-emergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) The Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

SEC. 423. COMMERCIAL MOTOR VEHICLE SAFETY STUDIES.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study of the impact of safety and infrastructure of tandem axle commercial motor vehicle operations in States that permit the operation of such vehicles in excess of the weight limits established by section 127 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS WITH STATES.—The Secretary shall enter into cooperative agreements with States described in subsection (a) under which the States participate in the collection of weight-in-motion data necessary to achieve the purpose of the study. If the Secretary determines that additional weight-in-motion sites, on or off the Dwight D. Eisenhower System of Interstate and Defense Highways, are necessary to carry out the study, and requests assistance from the States in choosing appropriate locations, the States shall identify the industries or transportation companies operating within their borders that regularly utilize the 35,000 pound tandem axle.

''(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study, together with any related legislative or administrative recommendations. Until the Secretary transmits the report to the Congress, the Secretary may not withhold funds under section 104 of title 23, United States Code, from any State for violation of the grandfathered tandem axle weight limits under section 127 of that title.

SEC. 424. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal years 1996 and 1997 agrees to enter into a cooperative agreement with the Secretary to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The Secretary may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall submit to the Secretary each year the results of such safety evaluations.

(2) TERMINATION BY SECRETARY.—If the Secretary finds such an agreement not in the public interest based on the results of such evaluations after 2 years of full participation, the Secretary may terminate the agreement entered into under this section.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary to be less strict than those in effect as of September 30, 1997.

TITLE V—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 501. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 502. AMENDMENTS TO THE ''WRECKING TRAINS'' STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§ 1992. Terrorist attacks against railroads

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

''(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

''(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

''(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

''(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

''(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm or other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that could be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given to that term in section 921 of this title;

''(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

''(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

''(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

''(8) 'railroad carrier' has the meaning given to the term in section 20102(2) of title 49, United States Code;

''(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

''(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

''(11) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) In the analysis of chapter 97 of title 18, United States Code, item ''1992'' is amended to read:

''1992. Terrorist attacks against railroads''.

SEC. 503. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails sets fire to, or disables a mass transportation vehicle or vessel;

''(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by mass transportation provider;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including

a train control system, centralized dispatching system, or rail grade crossing warning signal;

''(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of mass transportation provider on the property of a mass transportation provider;

''(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law'

''(C) the possession of a firearm or other dangerous weapon by a Federal official or member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm of other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' had the meaning given to that term in section 921 of this title;

''(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

''(6) serious bodily injury' has the meaning given to that term in section 1365 of this title, and

''(7) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

''1994. Terrorist attacks against mass transportation.''.

SEC. 504. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 505. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

''(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or convenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.''.

SEC. 506. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—On a periodic basis not more frequent than monthly, as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.''.

SEC. 507. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking ''the date on which'' and all that follows through ''1995'' and inserting ''January 1, 2003''.

TITLE—VI SPORTFISHING AND BOATING SAFETY

SEC. 601. AMENDMENT OF 1950 ACT.

Whenver in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 602. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes ''(a)'' by 2 ems;

(2) by inserting ''For purposes of this Act—'' after the section caption;

(3) by striking ''For the purposes of this Act the'' in the first paragraph and inserting ''(1) the'';

(4) by indenting the left margin of so much of the text as follows ''include—'' by 4 ems;

(5) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(A)'', ''(B)'', ''(C)'', and ''(D)'', respectively;

(6) by striking ''department.'' and inserting ''department;''; and

(7) by adding at the end thereof the following:

''(2) the term 'outreach and communications program' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the nation's aquatic resources, and to further safety in fishing and boating; and

''(3) the term 'aquatic resource education program' means a program designed to enhance the public's understanding of aquatic resources and sport-fishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.''.

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f);

(2) by inserting after subsection (b) the following:

''(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

(1) $5,000,000 for fiscal year 1998;
(2) $6,000,000 for fiscal year 1999;
(3) $7,000,000 for fiscal year 2000;
(4) $8,000,000 for fiscal year 2001;
(5) $10,000,000 for fiscal year 2002; and
(6) $10,000,000 for fiscal year 2003,

shall be used for the National Outreach and Communications Program under section X08(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for that program may be expended by the Secretary under subsection (e).'';

(3) by inserting a comma and ''for an outreach and communications program'' after ''Act'' in subsection (d)), as redesignated;

(4) by striking ''subsections (a) and (b),'' in subsection (d), as redesignated, ''subsections (a), (b), and (c),'';

(5) by adding at the end of subsection (d), as redesignated, the following: ''Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section X08(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purpose except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''; and

(6) by striking subsections (a), (b), and (c),'' in subsection (e), as redesignated, and inserting ''subsections (a), (b), (c), and (d),''.

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking ''12 ½ percentum'' each place it appears in subsection (b) and inserting ''15 percent'';

(2) by striking ''10 percentum'' in subsection (c) and inserting ''15 percent'''

(3) by inserting ''and communications'' in subsection (c) after ''outreach''; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

''(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

''(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating partnership Council, a national plan for outreach and communications.

''(2) CONTENT.—The plan shall provide—

''(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

''(B) for the establishment of a national program.

''(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 604 of this Act—

''(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach or communications program under the plan; or

''(B) to fund contracts with States or private entities to carry out such a program.

''(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

''(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the secretary. In developing the plan, a State shall—

''(1) review the national plan developed under subsection (d);

''(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

''(3) establish priorities or the State outreach and communications program proposed for implementation.''.

SEC. 603. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

''(b) USE OF BALANCE AFTER DISTRIBUTION.—

''(1) FISCAL YEAR 1998.—For fiscal year 1998, of the balance remaining after making the distribution under subsection (a), an amount equal to $51,000,000 shall be used as follows:

''(A) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

''(C) $31,000,000 shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(2) FISCAL YEARS 1999–2003.—For each of fiscal years 1999 through 2003, the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $84,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

''(C) the balance shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(3) Amounts available under subparagraphs (A) and (B) of paragraph (1) and paragraph (2) that are unobligated by the Secretary of the Interior after 3 years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.

SEC. 604. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of public facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section X03, is amended by adding at the end thereof the following:

''(g) SURVEYS.—

''(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

''(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

''(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

''(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.''

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of public facilities, and access to those facilities, for transient nontrailerable recreational vessels to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(1)(C) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777c(b)(1)(C)) to make grants to any State to

pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of public facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''nontrailerable recreational vessel'' means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) ''public facilities for transient nontrailerable recreational vessels'' includes mooring buoys, daydocks, navigational aids, seasonal slips, or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable recreational vessels; and

(4) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

SEC. 605. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) by striking ''3 years'' in paragraph (1) and inserting ''2 years''; and

(2) by striking ''3-year'' in paragraph (2) and inserting ''2-year''.

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).''; and

(2) by striking subsection (c) and inserting the following:

''(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) The caption for section 13106 of title 46, United States Code, is amended to read as follows:

§ 13106. Authorization of appropriations''.

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

''13106. Authorization of appropriations''.

TITLE VII—MISCELLANEOUS

SEC. 701. ENFORCEMENT OF WINDOW GLAZING STANDARDS FOR LIGHT TRANSMISSION.

Section 402(a) of title 23, United States Code, is amended by striking ''post-accident procedures.'' and inserting ''post-accident procedures, including the enforcement of light transmission standards of glazing for passenger motor vehicles and light trucks as necessary to improve highway safety.''.

DOMENICI AMENDMENT NO. 1365

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

In the language proposed to be stricken, at the appropriate place insert the following:

Notwithstanding any other provision of this Act, any amount of contract authority which is provided in this Act for the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991, which exceeds $147,387,000,000 for fiscal years 1998 through 2002 shall only be available to the extent provided in advance in appropriation acts.

REID AMENDMENTS NOS. 1366–1367

(Ordered to lie on the table.)

Mr. REID submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1366

On page 253, between lines 15 and 16, insert the following:

''(3) LAKE TAHOE REGION.—Notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region (as defined in the Lake Tahoe Regional Planning Compact), by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

AMENDMENT NO. 1367

At the appropriate place, insert the following:

SEC. . LONGER COMBINATION VEHICLES.

(a) INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 127(d) of title 23, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''configuration type was'' and inserting the following ''configuration type—

''(i) was'';

(II) by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(ii) consists of combination of a truck tractor and 2 trailers or semitrailers.''; and

(ii) in each of subparagraphs (D), (E), and (F), by inserting before the period at the end the following: '', except that the State may not allow the operation of any combination of a truck tractor and more than 2 trailers or semitrailers''; and

(B) in paragraph (3), by adding at the end the following:

''(F) ADDITIONAL REVISION.—

''(i) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register a revision of the list published under subparagraph (D) that reflects the amendments made by section ——(a) of the Intermodal Surface Transportation Efficiency Act of 1997.

''(ii) REVIEW AND CORRECTION PROCEDURE.—The revised list published under clause (i) shall be subject to the review and correction procedure described in subparagraph (E).''.

''(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply beginning on the date that is 180 days after the date of enactment of this Act.

PROPERTY-CARRYING UNIT LIMITATION.—Section 31112 of title 49, United States Code, is amended—

(1) in subsection (b), by striking ''A State'' and inserting ''Subject to subsection (h), a State'';

(2) in subsection (c), by striking ''In addition'' and inserting ''Subject to subsection (h), in addition'';

(3) in subsection (d), by adding at the end the following:

''(5) Paragraphs (1) through (3) are subject to the limitation under subsection (h).'';

(4) in subsection (e), by adding at the end the following:

''(5) Not later than 120 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall publish in the Federal Register a revised list that reflects the limitation under subsection (h).'';

(5) in subsection (f), by striking ''This section'' and inserting ''Except as provided in subsection (h), this section''; and

(6) by adding at the end the following:

''(h) LIMITATION WITH RESPECT TO LONGER COMBINATION VEHICLES.—Beginning on the date specified in section ——(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1997, each State shall take such action as may be necessary to ensure that no longer combination vehicle (as that term is defined in section 127(d)(4) of title 23, United States Code) that consists of a combination of a truck tractor and more than 2 trailers or semitrailers may operate on the Interstate System.''.

JOHNSON AMENDMENT NO. 1368

(Ordered to lie on the table.)

Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 136, strike line 22 and insert the following:

specified in subparagraph (G).''.

SEC. 1128. TAX-EXEMPT FUEL FOR MASS TRANSPORTATION RECIPIENTS.

(a) GASOLINE.—Section 6421(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking ''or'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

''(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service for the recipient, but only to the extent that mass transportation service is provided, or''.

(b) OTHER FUELS.—Section 6427(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking ''or'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

''(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service for the recipient, but only to the extent that mass transportation service is provided, or''.

(c) CONFORMING AMENDMENT.—Section 6427(b)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) EXCEPTION FOR CERTAIN TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus which engaged in the transportation described in subparagraph (B) or (C) of paragraph (1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used after the date of enactment of this Act.

JOHNSON (AND OTHERS) AMENDMENT NO. 1369

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. LEVIN, and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for that fiscal year, is equal to the minimum guarantee threshold amount.

''(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

''(3) SOURCE OF FUNDS.—

''(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

''(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

''(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

''(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

''(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

''(C) OTHER REDUCTIONS.—

''(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

''(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

''(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

''(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

''(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

''(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter. Not more than 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

''(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

''(A) under section 5311, if the subgrantee is not serving an urbanized area; and

''(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.''.

STEVENS AMENDMENT NO. 1370

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . MUNICIPALITY OR FERRY AUTHORITY.

(a) Notwithstanding any other provision of law, section 5333(b) of Title 49, United States Code, shall not apply to a grant to a municipality or ferry authority for a ferry operated between points which are not connected by road to the remainder of the United States, Canada, or Mexico and which is replacing service that has been or will be diminished by the applicable State or ferry authority within 24 months of the date of passage of this amendment.

(b) The Federal Transit Administration is authorized to award a grant to a municipality or ferry authority required by State law to operate its ferry without any guarantee from other municipal receipts or financing.

SPECTER AMENDMENTS NOS. 1371–1372

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1371

On page 309, after line 3, insert the following:

''Sec. . DESIGNATION OF HIGH PRIORITY CORRIDORS.

''Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended by inserting after paragraph (29) the following:

''(30) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania.

''(31) The U.S. route 219 Corridor from the vicinity of Bradford, Pennsylvania to the vicinity of Salisbury, Pennsylvania.''

AMENDMENT NO. 1372

On page 105, line 13, strike ''$40,000,000'' and insert ''$50,000,000''.

On page 105, line 14, strike ''$50,000,000'' and insert ''$70,000,000''.

On page 105, line 15, strike ''$60,000,000'' and insert ''$80,000,000''.

On page 105, line 16, strike ''$70,000,000'' and insert ''$100,000,000''.

On page 395, line 8, strike ''$120,000,000'' and insert ''$115,000,000''.

On page 395, line 8, strike ''$125,000,000'' and insert ''$120,000,000''.

On page 395, line 9, strike ''$130,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$135,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$140,000,000'' and insert ''$130,000,000''.

On page 395, line 11, strike ''$150,000,000'' and insert ''$135,000,000''.

On page 398, line 7, strike ''$100,000,000'' and insert ''$95,000,000''.

On page 398, line 7, strike ''$110,000,000'' and insert ''$105,000,000''.

On page 398, line 8, strike ''$115,000,000'' and insert ''$110,000,000''.

On page 398, line 9, strike ''$130,000,000'' and insert ''$120,000,000''.

On page 398, line 9, strike ''$135,000,000'' and insert ''$125,000,000''.

On page 398, line 10, strike ''$145,000,000'' and insert ''$130,000,000''.

LEVIN AMENDMENTS NOS. 1373–1376

(Ordered to lie on the table.)

Mr. LEVIN submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1373

On page 29, strike lines 7 through 19 and insert the following:

''(i) each State's percentage of the total sums made available from the Highway Trust Fund for the fiscal year; bears to

On page 29, lines 23 and 24, strike ''(other than the Mass Transit Account)''.

On page 31, strike lines 8 and 9 and insert the following:

''(B) shall—

''(i) in the case of amounts allocated under subsection (a)(1)(A), be available for any purpose eligible for funding under this title, title 49, or the Intermodal Surface Transportation Efficiency Act of 1997; and

''(ii) in the case of amounts allocated under subsection (a)(1)(B), be available for any purpose eligible for funding under this title.

On page 31, line 11, strike ''(a)'' and insert ''(a)(1)(B)''.

On page 31, line 23, strike the quotation marks and the following period.

On page 31, between lines 23 and 24, insert the following:

''(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—Any obligation limitation established by the Intermodal Surface Transportation Efficiency Act of 1997 or any subsequent Act shall not apply to obligations made under this section, unless the provision of law establishing the limitation specifically amends or limits the applicability of this subsection.''.

AMENDMENT NO. 1374

At the end of subtitle H of title I, add the following:

SECTION 18 . USE OF BRIDGE REINFORCEMENT TECHNOLOGY IN SOUTHFIELD, MICHIGAN.

(a) IN GENERAL.—The Secretary shall make funds available to the State of Michigan to carry out a project to construct the Bridge Street bridge in the city of Southfield, Michigan, using advanced carbon and glass composites as reinforcements for concrete, instead of steel, in the manufacture of prestressed bridge beams and bridge decks.

(b) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,300,000 for each of fiscal years 1998 and 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

AMENDMENT NO. 1375

On page 125, lines 5 and 6, strike ''not less than 15 percent'' and insert ''not less than 25 percent, nor more than 35 percent,''.

On page 156, strike lines 21 through 23 and insert the following:

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking ''80'' and inserting ''82''; and

(ii) in subparagraph (B)—

(I) by striking ''tobe'' and inserting ''to be''; and

(II) by adding at the end the following: ''A project under this subparagraph shall be undertaken on a road that is classified as below a principal arterial.''; and

On page 274, strike lines 3 through 7 and insert the following:

''(ii) NONMETROPOLITAN AREAS.—

''(I) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed jointly by the State, elected officials of affected local governments, and elected officials of subdivisions of affected local governments that have jurisdiction over transportation planning, through a process developed by the State that ensures participation by the elected officials.

''(II) REVIEW.—Not less than once every 2 years, the Secretary shall review the planning process through which the program was developed under subclause (I).

''(III) APPROVAL.—The Secretary shall approve the planning process if the Secretary finds that the planning process is consistent with this section and section 134.

On page 286, between lines 10 and 11, insert the following:

SEC. 1605. STUDY OF PARTICIPATION OF LOCAL ELECTED OFFICIALS IN TRANSPORTATION PLANNING AND PROGRAMMING.

(a) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the study required under subsection (a).

AMENDMENT NO. 1376

In lieu of the matter proposed to be inserted, insert the following:

1. SHORT TITLE.

This Act may be cited as the ''Short-Term ISTEA Extension Act of 1997''.

SEC. 2. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) MAJOR PROGRAMS.—

(1) IN GENERAL.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) is amended by adding at the end the following:

''(d) FEDERAL-AID HIGHWAYS FOR PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety construction programs $11,942,375,000 for the period of October 1, 1997, through March 31, 1998.

''(B) DISTRIBUTION.—Amounts made available under subparagraph (A) shall be distributed in accordance with this subsection.

''(2) CERTAIN DISCRETIONARY PROGRAMS.—Of the amounts made available under paragraph (1), the Secretary shall deduct, for the period of October 1, 1997, through March 31, 1998—

''(A) $32,500,000 to carry out section 118(c)(2) of title 23, United States Code; and

''(B) $30,250,000 to carry out the discretionary program under paragraphs (1) and (2) of section 144(g) of that title.

''(3) STATE ALLOCATION PERCENTAGES.—Using amounts remaining after making the deductions under paragraph (2) and application of paragraphs (4) and (5), the Secretary shall determine the amount to be apportioned to each State in accordance with the percentage specified for the State in the following table:

"State	Percentage
Alabama	2.1138
Alaska	0.9988
Arizona	1.6077
Arkansas	1.4268
California	9.3057
Colorado	1.2912
Connecticut	1.8229
Delaware	0.4157
District of Columbia	0.4436
Florida	4.7766
Georgia	3.6171
Hawaii	0.6435
Idaho	0.6314
Illinois	3.4058
Indiana	2.5115
Iowa	1.082
Kansas	1.0732
Kentucky	1.7883
Louisiana	1.5431
Maine	0.5871
Maryland	1.5643
Massachusetts	1.8584
Michigan	3.2075
Minnesota	1.4147
Mississippi	1.3196
Missouri	2.4028
Montana	0.7957
Nebraska	0.8027
Nevada	0.6218
New Hampshire	0.4764
New Jersey	2.4404
New Mexico	0.8767
New York	5.1849
North Carolina	2.9155
North Dakota	0.6972
Ohio	3.4675
Oklahoma	1.6553
Oregon	1.2105
Pennsylvania	3.878
Rhode Island	0.6208
South Carolina	1.6819
South Dakota	0.629
Tennessee	2.3345
Texas	7.0623
Utah	0.7969
Vermont	0.3912
Virginia	2.647
Washington	1.8263
West Virginia	1.2008
Wisconsin	1.8776
Wyoming	0.625
Puerto Rico	0.431.

''(4) STATE PROGRAMMATIC DISTRIBUTION.—

''(A) IN GENERAL.—Of the funds to be apportioned to each State under paragraph (3), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under subparagraph (B)—

''(i) for the Interstate maintenance program under section 119 of title 23, United States Code;

''(ii) for the National Highway System under section 103 of that title;

''(iii) for the bridge program under section 144 of that title;

''(iv) for the surface transportation program under section 133 of that title;

''(v) for the congestion mitigation and air quality improvement program under section 149 of that title;

''(vi) for minimum allocation under section 157 of that title;

''(vii) for Interstate reimbursement under section 160 of that title;

''(viii) for the donor State bonus under section 1013(c);

''(ix) for hold harmless under section 1015(a);

''(x) for the 90 percent of payments adjustments under section 1015(b);

''(xi) for metropolitan planning under section 134 of that title;

''(xii) for section 1015(c); and

''(xiii) for funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

''(B) FORMULA.—The amount that each State shall be apportioned under this subsection for each item referred to in subparagraph (A) shall be determined by multiplying—

''(i) the amount apportioned to the State under paragraph (3); by

''(ii) the ratio that—

''(I) the amount of funds apportioned for the item to the State for fiscal year 1997; bears to

''(II) the total of the amount of funds apportioned for the items to the State for fiscal year 1997.

''(C) MINIMUM ALLOCATION.—Funds apportioned to States under this subsection for minimum allocation under section 157 of title 23, United States Code, shall not be subject to any obligation limitation.

''(D) ADMINISTRATION.—Funds authorized under this subsection shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code.

''(5) GENERAL OPERATING EXPENSES AND TERRITORIAL HIGHWAYS.—

''(A) GENERAL OPERATING EXPENSES.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount that would be required to be deducted under section 104(a) of title 23, United States Code, from the aggregate of amounts to be apportioned to all States for programs to which the deduction under that section would apply if that section applied to the apportionment.

''(B) TERRITORIAL HIGHWAYS.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount required to be deducted under section 104(b)(1) of title 23, United States Code, for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands from the aggregate of amounts to be apportioned to all States for the National Highway System under this subsection.''.

(2) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 104(h) of title 23, United States Code, is amended by inserting after ''1997'' the following: ''and $7,500,000 for the period of October 1, 1997, through March 31, 1998''.

(3) WOODROW WILSON BRIDGE.—Section 104(i)(1) of title 23, United States Code, is amended by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

(4) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of title 23, United States Code, is amended by inserting after ''1997,'' the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(5) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—Section 133(f) of title 23, United States Code, is amended by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

(B) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 104(b)(3)(B) of title 23, United States Code, is amended in the first sentence by inserting after ''1997,'' the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(b) FEDERAL LANDS HIGHWAYS.—Section 1003(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) in subparagraph (A)—

(A) by striking ''1992 and'' and inserting ''1992,''; and

(B) by inserting before the period at the end the following: '', and $95,500,000 for the period of October 1, 1997, through March 31, 1998'';

(2) in subparagraph (B)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: ''and $86,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(3) in subparagraph (C)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: '', and $42,000,000 for the period of October 1, 1997, through March 31, 1998''.

(c) CERTAIN ALLOCATED PROGRAMS.—

(1) HIGHWAY USE TAX EVASION.—Section 1040(f)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat 1992) is amended in the first sentence by inserting before the period at the end the following: ''and $2,500,000 for the period of October 1, 1997, through March 31, 1998''.

(2) SCENIC BYWAYS PROGRAM.—Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1998) is amended in the first sentence—

(A) by striking ''1994, and'' and inserting ''1994,''; and

(B) by inserting before the period at the end the following: '', and $7,000,000 for the period of October 1, 1997, through March 31, 1998''.

(3) FERRY BOAT CONSTRUCTION.—Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting after ''1997'' the following: '', and $9,000,000 for the period of October 1, 1997, through March 31, 1998,''.

(d) FISCAL YEAR 1998 OBLIGATION LIMITATION.—

(1) IN GENERAL.—Section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1916) is amended—

(A) in subsection (a)—

(i) in paragraph (5), by striking ''and'' at the end;

(ii) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(7) $21,500,000,000 for fiscal year 1998.''; and

(B) by adding at the end the following:

''(h) SPECIAL RULE FOR FISCAL YEAR 1998.—The Secretary shall distribute—

''(1) on October 1, 1997, 50 percent of the limitation on obligations for Federal-aid highways and highway safety construction programs imposed by the Department of Transportation and Related Agencies Appropriations Act, 1998; and

''(2) on July 1, 1998, 50 percent of the limitation.''.

(2) LIMITATION.—Nothing in this section (including the amendments made by this section) shall apply to any funds made available before October 1, 1997, for carrying out—

(A) sections 125 and 157 of title 23, United States Code; and

(B) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

SEC. 3. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) NHTSA HIGHWAY SAFETY PROGRAMS.—Section 2005 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) in paragraph (1)—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting before the period at the end the following: '', and $83,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(2) in paragraph (2), by inserting before the period at the end the following: ''and $22,000,000 for the period of October 1, 1997, through March 31, 1998''.

(b) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''5'' and inserting ''6''; and

(B) in paragraph (3), by striking ''and fifth'' and inserting ''fifth, and sixth'';

(2) in subsection (d)(2)(B), by striking ''two'' and inserting ''3''; and

(3) in the first sentence of subsection (j)—

(A) by striking ''1997, and'' and inserting ''1997,''; and

(B) by inserting before the period at the end the following '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

(c) NATIONAL DRIVER REGISTER.—Section 30308(a) of title 49, United States Code, is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting after ''1997,'' the following: ''and $1,855,000 for the period of October 1, 1997, through March 31, 1998,''.

(d) OBLIGATION LIMITATION.—The total of all obligations for highway traffic safety grants under sections 402 and 410 of title 23, United States Code, for fiscal year 1998 shall not exceed $186,500,000.

SEC. 4. FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by inserting '', and for the period of October 1, 1997, through March 31, 1998'' after ''1997''.

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 5337 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting ''and for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).''.

(c) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end following:

''(F) $1,284,792,000 for the period of October 1, 1997, through March 31, 1998.''; and

(B) in paragraph (2), by adding at the end the following:

''(F) $213,869,000 for the period of October 1, 1997, through March 31, 1998.'';

(2) in subsection (b)(1), by adding at the end the following:

''(F) $1,162,708,000 for the period of October 1, 1997, through March 31, 1998.'';

(3) in subsection (c), by inserting ''and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'';

(4) in subsection (e), by inserting ''and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'';

(5) in subsection (h)(3), by inserting ''and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998'' after ''1997'';

(6) in subsection (j)(5)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) the lesser of $1,500,000 or an amount that the Secretary determines is necessary is available for the period of October 1, 1997, through March 31, 1998.'';

(7) in subsection (k), by striking ''or (e)'' and inserting ''(e), or (m)''; and

(8) by adding at the end the following:

''(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

''(1) $125,000 to carry out section 5316(a).

''(2) $1,500,000 to carry out section 5316(b).

''(3) $500,000 to carry out section 5316(c).

''(4) $500,000 to carry out section 5316(d).

''(5) $500,000 to carry out section 5316(e).''.

(d) OBLIGATION LIMITATIONS.—

(1) DISCRETIONARY GRANTS AND LOANS.—The total of all obligations from the Mass Transit Account of the Highway Trust Fund for carrying out section 5309 of title 49, United States Code, relating to discretionary grants and loans, for fiscal year 1998 shall not exceed $2,000,000,000.

(2) FORMULA TRANSIT PROGRAMS.—The total of all obligations for formula transit programs under sections 5307, 5310, 5311, and 5336 of title 49, United States Code, for fiscal year 1998 shall not exceed $2,210,000,000.

SEC. 5. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) MOTOR CARRIER SAFETY FUNDING.—Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraphs (1) through (5), by striking ''not more'' each place it appears and inserting ''Not more''; and

(2) by adding at the end the following:

''(6) Not more than $45,000,000 for the period of October 1, 1997, through March 31, 1998.''.

(b) OBLIGATION LIMITATION.—The total of all obligations for carrying out the motor carrier safety program under section 31102 of title 49, United States Code, for fiscal year 1998 shall not exceed $85,325,000.

SEC. 6. EXTENSION OF RESEARCH PROGRAMS.

(a) BUREAU OF TRANSPORTATION STATISTICS.—Section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2172) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Chapter I''; and

(2) in the first sentence of subsection (b)—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting before the period at the end the following: '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

(b) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended—

(1) by striking ''1992 and'' and inserting ''1992,''; and

(2) by inserting before the period at the end the following: '', and $56,500,000 for the period of October 1, 1997, through March 31, 1998''.

(c) RESEARCH AND TECHNOLOGY PROGRAM.—Section 307 of title 23, United States Code, is amended in subsections (b)(2)(B), (e)(13), and (f)(4) by inserting after ''1997'' each place it appears the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(d) EDUCATION AND TRAINING PROGRAM.—Section 326(c) of title 23, United States Code, is amended in the second sentence by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

SEC. 7. 1-YEAR EXTENSION OF HIGHWAY TRUST FUND EXPENDITURES.

(a) GENERAL EXPENDITURE AUTHORITY AND PURPOSES.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''October 1, 1997'' and inserting ''October 1, 1998''; and

(2) by striking the last sentence and inserting the following new flush sentence:

''In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.''.

(b) TRANSFERS TO OTHER ACCOUNTS.—

(1) Paragraphs (4)(A)(i) and (5)(A) of section 9503(c), and paragraph (3) of section 9503(e), of such Code are each amended by striking ''October 1, 1997'' and inserting ''October 1, 1998''.

(2) Subparagraph (E) of section 9503(c)(6) of such Code is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(c) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(1) by striking ''October 1, 1997'' and inserting ''October 1, 1998''; and

(2) by striking all that follows ''the enactment of'' and inserting ''the last sentence of subsection (c)(1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Amend the title so as to read: ''A bill to authorize through March 31, 1998, funds for construction of highways, for highway safety programs, and for mass transit programs.''.

SPECTER AMENDMENT NO. 1377

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 117, after line 22, insert the following:

''(5) MAGLEV PILOT PROJECT.—Notwithstanding any other provision of this section, of the amounts made available for fiscal year 1999 by this section, $5,000,000 shall be available to carry out conceptual design and development of a high speed MAGLEV project for which initial research and development funds were provided in 1991 by the Federal Transit Administration and which is intended to serve an international airport in Western Pennsylvania.''

ABRAHAM (AND LEVIN) AMENDMENTS NOS. 1378–1383

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted six amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1378

On page 136, after line 22, add the following:

SEC. 11 . AMBASSADOR BRIDGE ACCESS, DETROIT, MICHIGAN.

Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to and construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1) and (3) of section 104(b) of that title.

AMENDMENT NO. 1379

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . MODIFICATION OF HIGH PRIORITY CORRIDOR.

Section 1105(c)(18) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by striking ''(18) Corridor from Indianapolis,'' and inserting the following:

''(18)(A) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,''; and

(2) by adding at the end the following:

''(B) Corridor from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

''(C) Corridor from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.''.

AMENDMENT NO. 1380

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . INTERNATIONAL BRIDGE, SAULT STE. MARIE, MICHIGAN.

The International Bridge authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

AMENDMENT NO. 1381

On page 304, after line 24, add the following:

(p) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of title 23, United States Code, is amended by adding at the end the following:

''(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution of real property, funds, material, or a service in connection with a project elegible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, material, or service.''.

AMENDMENT NO. 1382

On page 136, after line 22, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAY PROGRAM.

Section 311 of title 23, United States Code, is amended—

(1) by striking ''Funds made available'' and inserting the following:

''(a) USE OF ADMINISTRATIVE FUNDS.—Funds made available'';

(2) by striking ''construction of projects for'' and inserting the following: ''construction of—

''(1) projects for''; and

(3) by striking ''may designate. With the consent'' and inserting the following: ''may designate; and

''(2) transportation projects associated with the economic redevelopment of real property that was the subject of a base closure.

''(b) USE OF APPORTIONED FUNDS.—With the consent''.

AMENDMENT NO. 1383

On page 156, strike lines 18 through 24 and insert the following:

(1) in subsection (c), by striking ''subsection (b)(1)'' and inserting ''subsections (b)(1) and (d)(3)(B)(ii)'';

(2) in subsection (d)—

(A) in paragraph (2), by striking ''10'' and inserting ''8''; and

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking ''80'' and inserting ''82''; and

(ii) in subparagraph (B)—

(I) by striking ''Of the amounts required tobe'' and inserting the following:

''(i) IN GENERAL.—Of the amounts required to be''; and

(II) by adding at the end the following:

''(ii) ROADS CLASSIFIED AS MINOR COLLECTORS.—Not more than 15 percent of the amounts required to be obligated under this subparagraph may be obligated for roads functionally classified as minor collectors.''; and

(3) in subsection (e)—

ABRAHAM AMENDMENT NO. 1384

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike line 18 and insert the following:

(1) in subsection (b)(9), by striking ''section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act'' and inserting ''section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))'';

(2) in subsection (d)—

On page 156, line 24, strike ''(2)'' and insert ''(3)''.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1385

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 130, strike lines 19 through 22 and insert the following:

(4) in paragraph (3)—

(A) by inserting ''or maintenance of the standard'' after ''standard''; and

(B) by striking ''or'' at the end;

(5) in paragraph (4)—

(A) by inserting ''or maintenance'' after ''attainment''; and

(B) by striking the period at the end and inserting ''; or''; and

(6) by inserting after paragraph (4) the following:

''(5) to purchase mass transit vehicles or to construct mass transit facilities.''.

ABRAHAM AMENDMENT NO. 1386

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the end of the amendment add the following:

SEC. . BLOCK GRANT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by section 901(d) of the Taxpayer Relief Act of 1997, is amended by adding at the end the following:

''(f) ESTABLISHMENT OF BLOCK GRANT ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Block Grant Account', consisting of such amounts as may be transferred or credited to the Block Grant Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO BLOCK GRANT ACCOUNT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Block Grant Account the block grant portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, 1997.

''(B) BLOCK GRANT PORTION.—For purposes of subparagraph (A), the term 'block grant portion' means an amount determined at the rate of .3 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.

''(3) EXPENDITURES FROM ACCOUNT.—

''(A) IN GENERAL.—The applicable percentage of the amounts in the Block Grant Account shall be available, as provided by appropriation Acts, to each State for making expenditures after September 30, 1997, for projects which are or would otherwise be funded under the Intermodal Surface Transportation Efficiency Act of 1997.

''(B) APPLICABLE PERCENTAGE.—The applicable percentage for any State in any fiscal year is the State's percentage of the total expenditures allocated to all States from the Highway Trust Fund (other than the Block Grant Account) for the preceding fiscal year.

''(C) ENFORCEMENT.—If the Secretary determines that a State has used funds under this paragraph for a purpose that is not described in subparagraph (A), the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.''.

DOMENICI AMENDMENTS NOS. 1387–1394

(Ordered to lie on the table.)

Mr. DOMENICI submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1387

Beginning on page 339, strike line 11 and all that follows through page 341, line 16, and insert the following:

''(ii) in cooperation with other Federal departments, agencies, and instrumentalities and multipurpose Federal laboratories; or

''(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

''(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

''(D) FUNDS.—

''(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

''(I) to carry out this subsection, the Secretary shall use—

''(aa) funds made available under section 541 for research, technology, and training; and

''(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

''(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

''(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

''(i) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

''(ii) multipurpose Federal laboratories.

AMENDMENT NO. 1388

On page 385, line 13, strike ''and'' after the semicolon.

On page 385, line 17, strike the period and insert a semicolon.

On page 385, between lines 17 and 18, insert the following:

''(15) to promote the deployment of new intelligent transportation system technologies at international ports of entry into the United States to detect and deter illegal narcotic smuggling; and

''(16) to promote the deployment of intelligent transportation systems to expedite the movement of commercial cargo through international ports of entry into the United States.

AMENDMENT NO. 1389

On page 371, line 6, strike ''and'' after the semicolon.

On page 371, line 10, strike the period and insert ''; and''.

On page 371, between lines 10 and 11, insert the following:

''(6) the development of new nondestructive bridge evaluation technologies and techniques.

AMENDMENT NO. 1390

At the appropriate place, insert the following:

SEC. . DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.

(a) COMMERCIAL ZONE DEFINED.—The term ''commercial zone'' means a zone containing lands adjacent to, and commercially a part of, 1 or more municipalities with respect to which the exception described in section 13506(b)(1) of title 49, United States Code, applies.

(b) DESIGNATION OF ZONE.—

(1) IN GENERAL.—The area described in paragraph (2) is designated as a commercial zone, to be known as the ''New Mexico Commercial Zone''.

(2) DESCRIPTION OF AREA.—The area described in this paragraph is the area that is comprised of Dona Aña County and Luna County in New Mexico.

(c) SAVINGS PROVISION.—Nothing in this Act shall affect any action commenced, or pending before the Secretary of Transportation or Surface Transportation Board before the date of enactment of this Act.

AMENDMENT NO. 1391

On page 320, strike lines 11 and 12 and insert the following:

''(I) surface transportation safety;

''(J) infrastructure finance studies; or

''(K) development and testing of innovative technologies for bridge construction and nondestructive evaluation.

AMENDMENT NO. 1392

On page 98 line 13, insert '', and is projected to grow in the future,'' after ''103–182)''.

On page 98 line 17, insert '', and is projected to grow,'' after ''grown''.

AMENDMENT NO. 1393

On page 389, line 4, insert ''the national laboratories,'' after ''universities,''.

AMENDMENT NO. 1394

On page 122, line 6, strike ''of the'' and insert the following: ''of—

(1) the''.

On page 122, line 11, strike the period and insert ''; and''.

On page 122, between lines 11 and 12, insert the following:

(2)(A) Interstate Business Loop 35 in Santa Rosa, New Mexico, connecting United States Route 84 and United States Route 54 to Interstate Route 40;

(B) New Mexico Route 14 in Sante Fe, New Mexico, connecting Interstate Route 25 and United States Route 84; and

(C) United States Route 550 from Farmington, New Mexico, to Aztec, New Mexico.

BROWNBACK AMENDMENT NO. 1395

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike lines 19 and 20 and insert the following:

(A) in paragraph (2)—

(i) by striking ''ACTIVITIES.—10'' and inserting the following: ''ACTIVITIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), 8''; and

(ii) by adding at the end the following:

''(B) WAIVER BY THE SECRETARY.—The Secretary may waive the application of subparagraph (A) with respect to a State upon receipt of a petition from the State requesting the waiver.''; and

DOMENICI AMENDMENT NO. 1396

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 345, strike line 14 and insert the following: report required under section 5221(d) of title 49.

''(d) REVISED NATIONAL LABORATORY OVERHEAD RATES.—In connection with activities conducted under this section through a national laboratory, the Secretary of Energy shall establish a revised overhead rate that—

''(1) is commensurate with services of the national laboratory actually used by the Secretary of Transportation; and

''(2) does not reflect overhead charges associated with legacy wastes and security for nuclear operations or any other additional charges.''.

BYRD (AND OTHERS) AMENDMENT NO. 1397

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER, Mr. AKAKA, Mr. ASHCROFT, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CLELAND, Mr. COATS, Mr. COVERDELL, Mr. DEWINE, Mr. DORGAN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Ms. LANDRIEU, Mr. LEAHY, Mr. LIEBERMAN, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

Strike the last word and insert the following:

SEC. 1128. GAS TAX HONESTY PROGRAM.

(a) IN GENERAL.—

(1) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the funds authorized for the gas tax honesty program under this subsection among the States in the ratio that—

(A) the total of the apportionments to each State under section 104 of title 23, United States Code, and allocations to each State under section 105(a) of that title; bears to

(B) the total of all apportionments to all States under section 104 of that title and allocations to all States under section 105(a) of that title.

(2) ELIGIBLE PROJECTS.—A State may obligate funds authorized for the gas tax honesty program under this subsection for any project eligible for funding under section 133(b) of title 23, United States Code.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,370,000,000 for fiscal year 1999, $5,471,000,000 for fiscal year 2000, $5,573,000,000 for fiscal year 2001, $5,676,000,000 for fiscal year 2002, and $5,781,000,000 for fiscal year 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(4) TREATMENT OF APPORTIONMENTS.—Fifty percent of the amounts apportioned under paragraph (1) shall be subject to section 133(d) of title 23, United States Code.

(b) SPENDING ADJUSTMENT FOR HIGHWAY PROGRAMS.—

(1) IN GENERAL.—If—

(A) the baseline projections for the fiscal year 1999 budget resolution contain the savings in budget outlays for fiscal years 1998 through 2002 (as compared to budget outlay levels projected in the Balanced Budget Agreement) that are contained in the President's fiscal year 1998 midsession review; and

(B) the assumptions for the fiscal year 1999 budget resolution allow these outlay savings to be spent;

that resolution should ensure that any additional spending of these savings be used to fully fund the highway spending resulting from this Act, as modified by this section.

(2) MAXIMUM AMOUNT.—The amount of additional spending provided in the resolution shall not exceed the savings identified in paragraph (1)(A) for the applicable fiscal year.

(c) OTHER ADJUSTMENTS.—

(1) IN GENERAL.—Notwithstanding sections 1116, 1117, and 1118, and the amendments made by those sections—

(A) in lieu of the amounts authorized to be appropriated under section 1116(d)(5)—

(i) there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 1116(d) $50,000,000 for fiscal year 1999 and $100,000,000 for each of fiscal years 2000 through 2003; and

(ii) there are authorized to be appropriated to carry out section 1116(d) $125,000,000 for fiscal year 1998 and $25,000,000 for each of fiscal years 1999 through 2003;

(B) in addition to the funds made available under the amendment made by section 1117(d), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) in the manner described in, and to carry out the purposes specified in, that amendment $415,000,000 for fiscal year 1999, $415,000,000 for fiscal year 2000, $450,000,000 for fiscal year 2001, $440,000,000 for fiscal year 2002, and $480,000,000 for fiscal year 2003, except that the funds made available under this subparagraph—

(i) shall be subject to the obligation limitations established under section 1103 or any other provision of law; and

(ii) notwithstanding section 118(g)(1)(C)(v) of title 23, United States Code, shall be subject to subparagraphs (A) and (B) of section 118(g)(1) of that title; and

(C) in addition to the sums made available under section 1101(1), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Interstate and National Highway System program $90,000,000 for each of fiscal years 1999 through 2003, which funds shall be allocated by the Secretary for projects described in subparagraphs (A), (B), and (C) of section 104(k)(1) of title 23, United States Code, to any State for which—

(i) the ratio that—

(I) the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914), and allocations under sections 1103 through 1108 of that Act (105 Stat. 2027), for the period of fiscal years 1992 through 1997; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1992 through 1997;

is less than or equal to 1.00;

(ii) the ratio that—

(I) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1998 through 2003;

is less than or equal to 1.00, as of the date of enactment of this Act; and

(iii) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act, as of the date of enactment of this Act, is less than the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991, and allocations under sections 1103 through 1108 of that Act, for the period of fiscal years 1992 through 1997.

(2) CONTRACT AUTHORITY.—Funds authorized under subparagraphs (A)(i) and (C) of paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that funds made available under paragraph (1)(C) shall remain available until expended.

(3) LIMITATION.—No obligation authority shall be made available for any amounts authorized under this subsection in any fiscal year for which any obligation limitation established for Federal-aid highways is equal to or less than the obligation limitation established for fiscal year 1998.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 23, 1997, at 9 a.m.

in room 485 of the Russell Senate Office Building to conduct a markup on S. 109, to provide Federal housing assistance to native Hawaiians; S. 156, the Lower Brule Sioux Tribe Infrastructure Trust Fund Act; S. 1079, to permit the leasing of mineral rights within the boundaries of the Ft. Berthold Reservation; and H.R. 79, the Hoopa Valley Reservation South Boundary Adjustment Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, October 29, 1997, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on S. 1077, a bill to amend the Indian Gaming Regulatory Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 30, 1997, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of B. Kevin Gover to be Assistant Secretary for Indian Affairs, Department of the Interior.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

• Mr. DODD. Mr. President, on October 16, our colleague, Senator JOE BIDEN gave a very important and insightful assessment of United States foreign policy with respect to Bosnia. The occasion for those remarks was that Senator BIDEN was being honored by Fairleigh Dickinson University by being chosen as the first individual to hold a newly established chair at the university—the Fatemi University Chair in International Studies.

In accepting this honor, Senator BIDEN focused his remarks on a current and some what daunting foreign policy challenge that looms before us in the coming months—Bosnia. As is always the case, JOE gave his candid and unvarnished assessment of the current situation in Bosnia—what's gone right and what's gone wrong. He also sets forth how he believes U.S. policy should evolve over the coming months, if the United States is to enhance the prospects for fostering peace and stability in that war-torn country and in maintaining its leadership in shaping the course of world events. His comments were very thoughtful and very much on target from my point of view.

Mr. President, I urge all of my colleagues to take a moment to read Senator BIDEN's remarks. It would be time well spent.

I ask that the text of Senator BIDEN's remarks be printed in the RECORD.

The remarks follow:

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

(By Joseph R. BIDEN, Jr.)

I. INTRODUCTION

It would be a very high honor under any circumstances to be called to the fatemi university chair in international studies here at Farleigh Dickinson University.

Although I'm not sure I deserve the distinction, I feel honored to be the first to hold that chair.

This is for me, as I know it is for many of you, an extra-special occasion, and an extra-special honor.

Not only because of the very high standing in the foreign policy community the graduate institute of international studies has earned for Farleigh Dickinson.

Not just because of the pre-eminent position Dr. Fatemi occupied in the field of international studies,

But also because I have had the very great privilege of knowing Dr. Fatemi and his family personally, through the friendship of his son Fariborz. So besides an opportunity to discuss foreign policy with you, this is a kind of homecoming for me.

That's the way Dr. Fatemi and his family made even a stranger feel upon entering their household, and that kind of hospitality was a direct reflection of the kind of man he was.

I knew beforehand of his record as a diplomat, as a writer and teacher, and as an exemplar of the richness and integrity of an ancient but still vital culture.

What I discovered when I met him was that the man was even more impressive than his credentials. Despite his many achievements, he always put his newest acquaintance instantly at ease.

If you were his guest, he became your friend, and when he was your friend, you became, eagerly and irresistibly, his student. That was not just because of his learning and the experience he gained over a long and productive life.

He became a valued friend and mentor primarily because it was his nature to do so. He was undeniably bright and intellectually challenging. But he was also gentle, unassuming and encouraging.

He taught by example rather than precept; he radiated wisdom and good will in equal measure.

It was impossible not to leave his presence wiser than you arrived.

The breadth of his scholarship was astonishing, and simply being exposed to it was an invigorating experience.

But it was the clarity of his insights into the maelstrom of the Middle East and the passions of the islamic fundamentalists that were most valuable to me.

The views I am about to express on Bosnia, are, of course, mine alone. But if I manage to shed any light on that bloody confrontation, much of the credit must go to Nasrollah Fatemi, who opened his hearth, his heart and his mind to me in a way I shall never forget.

Bosnia, of course, has significance far beyond the borders of the former Yugoslavia.

It has turned out to be one of the most serious challenges for America's foreign policy in the post-cold-war era. It has produced 5 years of debate in congress. It is the centerpiece of any discussion about American military intervention around the world. In short, it has become a critical test of our foreign policy.

Rightly or wrongly, whether United States foreign policy in this era is viewed as a success or failure will depend in large part on the success or failure of our policy in Bosnia. So we better get it right.

II. FROM ''LIFT AND STRIKE'' TO DAYTON

At the outset, let me state the obvious: I have cared deeply about Bosnia for a long time, since the beginning of the war. Some would say I bring ''historical baggage'' to the issue. I care not just because of the strategic implications—as Bosnia goes, so goes NATO—but for humanitarian reasons.

Appalled by the naked Serbian aggression and genocidal attacks on Bosnian civilians, in September 1992 I called for a ''lift and strike'' policy. That was shorthand for lifting the illegal and immoral arms embargo against the Bosnian Government, which was the victim of aggression, and launching air strikes against the Bosnian Serb aggressors.

My views were not widely shared at that time. As the war escalated—with massacres, ''ethnic cleansing,'' and rapes—a few other senators, including Bob Dole and JOE LIEBERMAN, joined my call for action. But it took more than two years of failed diplomacy—and a quarter-million killed and two million homeless—before we finally came around to the much-derided ''lift and strike'' policy in the fall of 1995.

Guess what? The policy worked! The Serbian bullies sued for peace, and under the leadership of Ambassador Dick Holbrooke we were able to hammer out the Dayton accords in November 1995. I'm leaving out the details—all the peace plans that didn't work—but in a nutshell that's what happened.

Honest people may disagree about the compromises that were made at Dayton. I think the accords accomplished as much as we could have hoped for, given the obvious reluctance of our Government, and of our European allies, to get more deeply involved militarily.

And I wish I could say that even the modest results envisioned in Dayton had been achieved. But they have not. It's true that conditions today are far better than the bloody mayhem that existed during the war. The killing has stopped.

But we are only halfway to the full peace envisioned in the Dayton accords. The question is: ''How do we get the rest of the way? How do we finish the job?

III. BOSNIA TODAY

Having returned 6 weeks ago from my third trip to Bosnia, I am certainly aware of the contradictions, the ambiguities, the ironies, and the uncertainties of Bosnia today. Bosnia and Herzegovina might be labeled the classical land of ''yes, but.''

Yes, there has been ongoing conflict among the various religious groups in Bosnia—the Orthodox Serbs, the Catholic Croats, and the Muslim South Slavs—for centuries.

But, for most of the time, these conflicts were kept under control, usually by an outside hegemon: first the Ottoman Turks, then the Austrian Habsburgs, and more recently the Communists under President Tito.

When violence broke out in the spring of 1992, a cosmopolitan society existed in much of Bosnia. Sarajevo, for example, had one of the highest rates of inter-marriage in all of Europe. What killed the ''live and let live'' character of Sarajevo were unscrupulous, ultra-nationalist politicians, many of whom were searching for a new ''-ism'' to replace communism, an ideology that had been discredited.

Yes, there were elements of civil war in Bosnia, but there was also blatant aggression from Serbia across an internationally recognized border. In fact, it was through the overwhelming advantage of the weaponry, the salaries, and the support services furnished by Slobodan Milosevic that the Bosnian Serbs perpetrated their systematic slaughter.

The ''yes, but'' dichotomy persists in Bosnia today.

Yes there has been considerable progress in Bosnia since Dayton, but a huge amount remains to be accomplished.

Yes the 50 percent unemployment rate in the Bosnian Croat Federation is huge, but it has come down from 90 percent in only one year. Incidentally, it still hovers at 90 percent in the Republika Srpska, which has been denied all but a trickle of international aid because it has refused to implement the Dayton accords.

Yes, Bosnian Serbs regularly try to paralyze many of the institutions of national government created at Dayton, but the Parliament has begun to meet, and even the three-member presidency shows signs of life.

Yes, the nationalist parties representing the Serbs, Muslims, and Croats are narrow-minded and corrupt, and in many ways resemble the characteristics of the old Yugoslav league of Communists, which they supplanted.

But even in this cynical Bosnian political arena there is hope. In last month's municipal elections a non-nationalist, multi-ethnic coalition triumphed in Tuzla, one of Bosnia's largest cities.

A non-nationalist opposition also exists in the Republika Srpska. I met with three of its leaders in Banja Luka. They are confident that they—not Kardžić and his thugs from Pale, not President Plavšić—are the wave of the future.

Yes, more than two-thirds of the indicted war criminals remain at large—an international disgrace. But, ladies and gentlemen, just last week, under strong pressure from Washington, Croatia and the Bosnian Croats surrendered 10 indicted Bosnian Croats to the Hague.

Virtually every observer of Bosnia believes that Dayton cannot be implemented until indicted war criminals are indicted and transported to the International Tribunal at the Hague to stand trial.

The other major precondition for progress in Bosnia is the return of refugees and displaced persons that was mandated by the Dayton accords.

Yes, this will be the most difficult of all the Dayton tasks to accomplish.

But , contrary to popular belief, even here there has been noteworthy progress. As many as 150,000 refugees have returned to Bosnia from abroad, and another 160,000 persons who were displaced within Bosnia have returned to their homes.

Most of these have returned to areas where their ethnic group is in the majority, but an ''open cities'' program has induced several towns—even a half-dozen villages in the Republika Srpska—to accept returnees from other groups in return for economic assistance.

On my last trip, I visited one of these sites in a suburb of Sarajevo occupied by the Bosnian Serbs during the war and returned to the federation by Dayton. The U.S. Agency for International Development and its subcontractor, Catholic Relief Services, are helping returning refugees to rebuild their homes.

I was moved by the selfless dedication of the young Americans and Europeans working at this important task.

Finally let me address the issue of security in Bosnia today. In a country that has recently suffered some of the worst atrocities of the 20th century, the citizens need physical security. For the Muslims and Croats, who were forced into an alliance in 1994 by the United States, this means guaranteeing their ability to deter renewed Serbian aggression in the future.

Toward that end, the ''train and equip'' program, led by retired U.S. military officers, is molding a unified force under joint command. We have supplied three hundred million dollars worth of equipment. I visited the training center in Hadžići (haj-eech-ee), near Sarajevo, where Muslims and Croats are studying and training.

On the local level, in the Federation, multi-ethnic police forces are being formed. Believe it or not, joint Muslim-Croat police units are now patrolling Mostar, scene of some of the worst warfare in 1993 and early 1994. So there is progress here as well.

IV. NEXT STEPS

In citing these examples of progress, I do not want to suggest for a moment that conditions in the Federation, let alone in the Republika Srpska, are rosy.

They are not. But everyone to whom I spoke in Bosnia agreed on two things: First, significant progress has been made in the Federation; and second, it is absolutely essential for the international military force to remain in Bosnia after June 1998 to guarantee that progress will continue.

So what should our policy be in Bosnia in the coming months? I believe we should redouble the efforts we are already making.

Yes, I would like to see a multi-ethnic, multi-religious society re-emerge like the one that existed in Sarajevo before the war. But, I fear that too much blood has been shed and too many atrocities committed for that to happen in the near future.

More realistic, and politically feasible, is the development of a multi-ethnic state. Most likely that will mean a confederation with a good degree of de-centralization in all but foreign policy and defense.

Am I sure that we can achieve the goal of a democratic, decentralized Bosnia? No, I am not. Last year I would have rated the odds 1 in 20.

As a result of the progress made in the last 12 months, I would now estimate the odds on success at about 50-50, if we stay the course.

But 50-50 looks mighty good compared to the probable outcome if we followed the advice of those now calling for a renegotiation of Dayton and a formal partition of Bosnia. ''Snatching defeat from the jaws of victory'' might be a slight exaggeration, but this policy prescription tends in that direction.

Those who favor partition seem unaware of the progress already made in Bosnia and blind to the calamities that would result from scrapping Dayton.

Warfare would almost certainly erupt again, with higher casualties, given the new military balance.

But renewed fighting would only be part of the tragedy. The vile ethnic cleansers and the war criminals would see their policies vindicated. Europe's remaining anti-democratic rulers like Serbia's Milosević and Belarus's Lukashenka would be emboldened.

Moreover, if we pulled the plug on Bosnia just as international efforts are beginning to bear fruit, we could kiss goodbye American leadership in NATO. In fact, the plan to enlarge NATO, I predict, would fail in the Senate.

And soon thereafter, even the future of NATO itself would be cast in doubt. After all, if Bosnia is the prototypical European crisis of the 21st century—and if NATO is unable to solve Bosnia—then why bother spending billions of dollars on NATO every year?

So, leaving Bosnia would be a fool's paradise. Just as certainly as night follows day, an American abdication of responsibility and withdrawal from Bosnia would eventually cost us more in blood and treasure than we would ever spend in the current course.

Let me sum up: the tragedy in Bosnia and Herzegovina, although complex, ultimately boils down to old-fashioned oppression. It was preventable, and, with the requisite American and European steadfastness, it is solvable.

By continuing to lead the effort to put Bosnia and Herzegovina back on its feet and guarantee its citizens a chance to lead productive lives, the United States will be both living up to its ideals and furthering its national self-interest. Thank you.●

NATIONAL TESTING

● Mr. CRAIG. Mr. President, as you know, the Labor/HHS/Education conference committee is considering funding for national education testing. I want to make it clear where I stand on this important issue and point out to my fellow conferees the task before us.

While I support higher standards for our schools, I cannot support national testing. National testing, despite what some of its supporters might say, is the first step toward a unified national curriculum. It is my firm belief that these decisions are better left to the States and locally elected school boards.

Some might argue that testing to a national standard would not affect curriculum. However, to do well on the tests, students will have to be taught accordingly. This was pointed out by Acting Secretary of Education Marshall Smith who said: ''to do well in the national tests, curriculum and instruction would have to change.''

Even the Washington Post agrees that the test would be ''a dramatic step toward a national guideline for what students should be learning in core subjects.''

Mr. President, the schools of Idaho are doing well, and our students continually score above the national average in core subjects, without being told what and how to teach by Washington bureaucrats.

Supporters of the tests argue that a national standard would be acceptable because it would be based on standards developed by the Department of Education: the National Assessment of Education Progress [NAEP]. However, the NAEP framework is fundamentally flawed. These standards are so out-of-touch that no State in 50 has adopted them. Now we're being asked to force the States to teach within the NAEP framework.

Most offensive, Mr. President, is the fact that the NAEP framework does not measure basic skills or the student's ability to perform tasks. The NAEP framework focuses on whole language and new math concepts and awards credit for more than one response, even if the response is wrong. National testing would force local school districts to adopt these flawed strategies.

I believe that the correct course for us to take is to direct resources to the classroom instead of forcing national standards on teachers and students. Let's assist local educators and our students in rising to the existing standards—standards set and supported by local and State leaders.

Mr. President, the Senate has voted on this matter once, when the appropriations bill was on the floor. I, along with most of our colleagues, voted for the compromise offered by Mr. GREGG. This vote has been interpreted by some, including many in the administration, as Senate support for national testing. This is not the case, and I caution anyone from reading too much into that particular vote.

I voted for the compromise, and I do not support national testing in any form. The true message of the vote is the Senate's willingness to alter the President's proposal and its interest in the language included in the House version of the bill.

Finally, Mr. President, let me publicly thank my colleague, Senator ASHCROFT, for his leadership on this issue. I am pleased to cosponsor his measure, S. 1215, which would prohibit the Federal Government from developing these flawed national tests.●

A TRIBUTE TO RUTH BECKER

● Mr. KOHL. Mr. President, I rise today to honor a distinguished Wisconsinite, Mrs. Ruth (Nowicki) Becker of Altoona, WI. Mrs. Becker, who just turned 75, attended the dedication of the Memorial to the Women in Service at Arlington National Cemetery on October 18, 1997. Ruth is one of approximately 1.8 million women who have served in the U.S. Armed Forces and we honor her as does the memorial for serving our country proudly.

Mrs. Becker enlisted in the U.S. Navy in 1944 and served as a WAVE, Women's Auxiliary for Volunteer Emergency Service, during World War II. Ruth's responsibilities took her to New York City and Washington, DC where she worked in naval communications for Pacific theater operations until February 1946.

Ruth is a charter member for the women's memorial project which has transformed Arlington National Cemetery's 75-year-old main entrance gate into a shrine honoring the Nation's women veterans. The memorial will house a museum, a 196-seat auditorium, a Hall of Honor, and an education center on military history. Mr. President, Ruth Becker served our country with pride and we honor her, as we also honor all women who have served our country proudly.●

NOMINATION OF DALE KIMBALL

● Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Dale Kimball, who has been nominated by President Clinton for the position of U.S. district judge for the district of Utah, and I urge my colleagues to do the same. I am acquainted with Mr. Kimball personally and know that he comes before the Senate with an already distinguished record as a lawyer and litigator, an individual demonstrably well qualified for the position of Federal district court judge.

After working as an associate and then as a partner with a leading Utah law firm, Van Cott, Bagley, Cornwell & McCarthy, for 8 years, Dale Kimball became a founding partner, and is now the senior partner, at what has become one of my State's most distinguished firms; Kimball, Parr, Waddoups, Brown & Gee.

During his 30-year career, Mr. Kimball has developed extensive expertise in various areas of civil practice, particularly the litigation in Federal and State court of complex business cases involving such matters as energy, antitrust, securities fraud, insurance, and contracts. As an experienced litigator, Dale Kimball is particularly well-qualified to serve as a trial court judge. The respect Dale Kimball has earned from the Utah legal community is reflected in his selection as Distinguished Lawyer of the Year by the Utah State Bar in 1996.

Dale Kimball's dedication to the practice of law is matched by his dedication to serving his community. He has been a member of the board of the Pioneers Theater Co., Alta View Hospital, the Desert News Publishing Co., the Jordan Education Foundation, and the J. Reuben Clark Law Society.

I am confident that Dale Kimball will be a worthy addition to the Federal district court in Utah, and I am very pleased that the Senate has confirmed his nonination.●

RETIREMENT OF WILLIAM P. CROWELL

● Mr. MOYNIHAN. Mr. President, the National Security Agency has recently lost to retirement its deputy director, William P. Crowell. As David Kahn has recently written in Newsday, Mr. Crowell has taken NSA and ''brought the super-secret spy organization into its public, post-Cold War posture.'' For too long, we have been learning our cold war history from Soviet Archives. Bill Crowell set about to change that at the National Security Agency. He directed the establishment of the National Cryptologic Museum, which I have visited and commend to my colleagues, and helped to make public the hugely important VENONA project.

The VENONA intercepts comprise over 2,000 coded Soviet diplomatic messages between Moscow and its missions in North America. The NSA and its predecessors spent some four decades decoding what should have been an unbreakable Soviet code. Led by Meredith Gardner, these cryptanalysts painstakingly decoded these messages word by word. They would then pass on the decoded messages to the FBI, which conducted extensive investigations to determine the identities of the Soviet agents mentioned in the messages. The resulting VENONA decrypts detail the Soviet espionage effort in the United States during and after the Second World War.

We need access to much more of this type of information. Not only does VENONA allow us to learn our history, but in releasing it to the public, not insignificant gaps in the government's knowledge of this material are being filled. For instance, the identity of one of the major atomic spies at Los Alamos was recently discovered by clever journalists using the published VENONA messages. Joseph Albright and Marcia Kunstel of Cox News and, working independently, Michael Dobbs of The Washington Post, identified the agent codenamed MLAD as Theodore Alvin Hall, a 19-year-old physicist working at Los Alamos. Hall provided crucial details of the design of the atomic bomb which enabled the Soviet Union to develop a replica of the bomb dropped on Nagasaki.

Bill Crowell recognized the historic value of VENONA and played an important role in getting this material released, along with Dr. John M. Deutch, and with the gentle prodding of the Commission on Protecting and Reducing Government Secrecy. Mr. Crowell should receive a medal for his work.

Mr. Crowell retires after a long career of government service. He served as a senior executive of the National Security Agency for 17 years. He was appointed Deputy Director of the agency by the President in 1994. In addition to his work which has already been described, Mr. Crowell has worked in recent years to help craft a responsible Administration policy regarding encryption technology. I ask to have the article by David Kahn in Newsday, which announces his retirement and highlights some of his accomplishments, printed in the RECORD. I salute Mr. Crowell for his dedicated service and wish him well in his future pursuits.

The article follows:

[From Newsday, Oct. 6, 1997]

NATIONAL SECURITY OFFICIAL RETIRES—HELPED REFOCUS AGENCY'S AIMS

(By David Kahn)

The National Security Agency has said goodbye to its retiring deputy director, who largely brought the super-secret spy organization into its public, post-Cold War posture.

William P. Crowell was the force behind the establishment of the National Cryptologic Museum, which exhibits what had been some of the nation's deepest secrets; the revelation of the VENONA project, which broke Soviet spy codes early in the Cold War; and the National Encryption Policy, which seeks to balance personal privacy with national security.

Succeeding Crowell will be Barbara McNamara, who, like Crowell, is a career employee of the agency, which breaks foreign codes and makes American Codes for the United States government.

McNamara is the second female deputy director of the agency. The first, Ann Z. Caracristi, who served from 1980 to 1982, is the sister of the late Newsday photographer Jimmy Caracristi.

More than 500 present and past members of the agency attended Crowell's recent retirement ceremony at its glossy, triple-fenced headquarters at Fort Meade, Md. They applauded as he was presented with awards for his intelligence and executive services and with a folded American flag that had flow over the agency.

They laughed as a picture, claimed to be his retirement portrait, was unveiled: It was a photograph of Crowell, notorious for his love of motorcycles, astride his fancy bike. During his acceptance speech, Crowell choked up when he thanked his wife, Judy, a former agency employee and fellow motorcyclist, for her help.

The agency director, Air Force Lt. Gen. Kenneth Minihan, recited some of the administrative landmarks of Crowell's career.

Crowell, 58, a native of Louisiana, began in New York City in 1962 as an agency recruiter. In 1969, when he sought an assignment to operations, he became instead an executive assistant to the then-director. He eventually got to operations, where he rose to be chief of W group, whose function remains secret, and then chief of A group, which focused on the then-Soviet Union. After a year in private industry, he rose through other posts to the deputy directorship on Feb. 2, 1994.

Among his organizational accomplishments were conceiving a crisis action center and linking the agency with other producers of intelligence to improve information exchange.

His more public initiatives included the museum and the VENONA disclosures, which sought to maintain public support for the agency after the disappearance of the Soviet Union. The National Encryption Policy seeks to enable the agency to read the messages of terrorists and international criminals who use computer-based, unbreakable ciphers while enabling individuals to use good cryptosecurity to preserve such rights as security on the Internet.●

GIVING CHILDREN IN THE NATION'S CAPITAL A CHANCE TO SUCCEED

● Mr. BROWNBACK. Mr. President, last week, a remarkable event took place while Congress was in recess. Two private citizens gave 1,000 low-income children in the District of Columbia a chance.

On Monday, October 13, 1997, Ted Forstmann, the newly elected chairman of the Washington Scholarship Fund, and John Walton, director of Wal-Mart Stores, Inc., each contributed $3 million for students in the District to receive a quality education. The Washington Scholarship Fund currently provides private school scholarships to 460 low-income District students. With the contributions from Mr. Forstmann and Mr. Walton, the Washington Scholarship Fund will be able to provide these needed scholarships to an additional 1,000 low-income students.

Mr. Forstmann made it very clear that this initiative is not a political statement for or against public education in the District. This is simply a commitment to give children a chance to succeed. In describing the prospects of many of the District's children to William Raspberry of the Washington Post, Mr. Forstmann said, ''It's like being born already dead. There are too many children like that, and I just feel we have to do what we can for them.''

In praising this powerful gesture for children, my hope, Mr. President, is that corporate America will follow Mr. Forstmann and Mr. Walton's example. Responsible business investments include investing in human capital and the value-added impact of a quality education. There is no better investment than America's children.●

HONORING RAYMOND W. FANNINGS

● Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure and my privilege to join the family, friends and colleagues of a distinguished citizen of Chicago, IL, Mr. Raymond W. Fannings, in honoring him as he retires from the Chicago Child Care Society. Mr. Fannings served as executive director of the Chicago Child Care Society for the past 18 years.

Raymond Fannings leaves the agency with a rich legacy. He has more than 35 years of faithful and distinguished service in the field of child welfare. His contributions are widely recognized and his many community service awards serve as a testament to his compassion, commitment, talent, and vision. As the first African-American Executive Director of the Chicago Child Care Society, he has built bridges and forged interracial coalitions in behalf of the values held and goals pursued by this renowned social service provider.

Under Mr. Fannings' leadership, the Chicago Child Care Society expanded its mission and became a moving force in the development and provision of family preservation services. Raymond Fannings also recognized the importance of responding to community needs. He dedicated substantial resources to both develop and implement services in many of the economically distressed communities surrounding his agency.

During Mr. Fannings' illustrious career, he served as president of the Child Care Association of Illinois and as a board member of the United Way Crusade of Mercy. He is the current president of both the Child Care Association of Illinois and the Black Executive Directors Coalition. He has served on the Child Advisory Committee, the Governmental Affairs Committee for United Way, and the United Way Board of Directors. He is also a board member of the Free People's Clinic, president of the St. Mark Credit Union, and an active member of St. Mark United Methodist Church in Chicago.

Mr. Raymond Fannings has distinguished himself as one of Chicago's most valuable leaders, and his achievements and dedication are a shining example to us all. His efforts have opened avenues of faith, hope, and opportunity for many children and their families. As my neighbor and friend, I know that retirement will only be the beginning of a new chapter of his advocacy for children and for community. I wish him all the best in his future endeavors.●

TRIBUTE TO DEAN KAMEN FOR HIS CONTRIBUTIONS TO SCIENCE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dean Kamen of Manchester, NH. Mr. Kamen was recently inducted into the renowned National Academy of Engineers for his invention and commercialization of biomedical devices and fluid measurement and control systems.

Mr. Kamen is currently the president of DEKA Research and Development Corp. of Manchester, NH. He studied at Worcester Polytechnic Institute, where he earned his degrees in physics and has also received an honorary doctorate of science degree from Worcester Polytechnic Institute as well as Daniel Webster College. Dean has more than 35 U.S. patents attributed to him which range from a volumetric pump with replaceable reservoir assembly to an integral intravenous fluid delivery device.

Dean's innovations and significant contributions to the field of engineering have strengthened the economy of New Hampshire as well as the Nation. Dean is also recognized for using skills and influence to promote scientific inquiry at this critical time in America, a time when more young people are needed in the fields of science. Combining sports and scientific discovery, Dean established the FIRST robotics competition for young people. He is currently working on a science and technology museum project in Manchester, NH, which will be a valuable addition to the town, as well as the scientific community.

Entrance into the National Academy of Engineers is an extremely prestigious honor. In fact, it is among the highest honors with which an engineer can be bestowed. Engineers are nominated and then elected to the academy by the current membership. Becoming a member is a validation of an engineer's great contributions to science by his peers, and many scientists work to achieve this honor throughout their lives. Dean is one of 85 engineers and 8 foreign associates who was inducted into the academy in early October.

Dean's induction into the National Academy of Engineering is only one of the numerous honors he has received. He is a fellow with the American Institute of Medical and Biological Engineering, in addition to being appointed a senior lecturer at the Massachusetts Institute of Technology.

Renowed the world over in various science fields for inventions and advances in engineering, Dean has established a tradition of greatness with his work. In 1995 he was awarded the Hoover Medal for ''innovation that has advanced medical care worldwide, and for innovative and imaginative leadership in awakening America to the excitement of technology and its surpassing importance in bettering the lot of mankind.'' Dean has also received the International John W. Hyatt Service to Mankind Award for service to humankind through the use of plastics.

I have known Dean for over a decade, and I am very proud of the important advances he has made in engineering. He has increased the quality of lives through his engineering feats not just in New Hampshire, but also the United States and the world. He represents the very best in science today: a man of great expertise, capability, and integrity. The Granite State is fortunate to have Dean working in our State. His innovations in engineering are priceless. Both Dean, as well as the other members of the National Academy of Engineering, are national treasures. I congratulate Dean Kamen on this distinguished honor; it could not have been bestowed on a more deserving individual.●

THE 1997 WALTER B. JONES MEMORIAL AND NOAA EXCELLENCE AWARDS FOR COASTAL AND OCEAN RESOURCE MANAGEMENT

● Mrs. MURRAY. Mr. President, this morning the National Oceanic and Atmospheric Administration [NOAA] presented the 1997 Walter B. Jones Memorial and NOAA Excellence Awards for Coastal and Ocean Resource Management. A number of distinguished citizens, students, and public servants were honored for their commitment to the protection, conservation, and sustainable use of our Nation's precious coastal resources. I would like to offer my praise and admiration to all of the award recipients for their hard work and dedication to this critical area of ecological and economic concern.

Over one-half of the U.S. population resides within 50 miles of the coast. All of these people and the associated development and other activities that accompany them place extraordinary pressure on the ecosystems, watersheds, and communities on our coasts. Coastal areas provide incredible commercial, recreational, and aesthetic benefits to the American people. The Walter B. Jones and NOAA awards recognize individuals who have taken on the challenge of protecting these coastal areas and ensuring these benefits are not lost.

While I congratulate all of the award recipients, I would like to acknowledge two Washington State recipients in particular. Recipients of the Excellence in Coastal and Marine Graduate Study Award, Lillian Ferguson and John Field, from the University of Washington School of Marine Affairs. I am honored to have these two bright graduate students represent Washington State and our commitment to the protection of coastal areas.

Lillian Ferguson's works focuses on management of maritime transportation and marine protected areas. As a summer intern (1996) for the Olympic Coast National Marine Sanctuary [OCNMS] she developed a program for documentation and analysis of vessel traffic in the congested entrance and approaches to the Strait of Juan de Fuca. Her work formed the basis for recent implementation of the program by the OCNMS this year. This prototype program may be suitable for adoption in many similar situations in the United States and abroad. During the academic year 1996–97, Lillian is the Project Assistant for the Safe Marine Transportation Forum [SMART Forum]. In this capacity she promotes dialogue among more than 20 stakeholder interests on marine safety and transportation on Puget Sound. Lillian has also contributed as a research assistant to the National Coastal Zone Management Effectiveness Study recently completed for OCRM/NOAA. Her thesis work analyzes the development of interjurisditional collaboration in managing marine environments between the NMS Program and the U.S. National Park Service. Lillian has made significant contributions with the work she has already completed. Her thesis should be quite informative and valuable in improving interjurisdictional cooperation between the NMS Program and other Federal and State entities.

John Field's work focuses on the initial impacts of regional climate change. For approximately 2 years John has been a Research Assistant in the Integrated Regional Assessment Program for the Pacific Northwest sponsored by NOAA through the Joint Institute for Study of the Atmosphere and Ocean [JISAO, Principal Investigator Ed Miles]. His role and responsibilities have been especially difficult to perform given the scant attention to systematic monitoring of coastal impacts. John has done a superb job of combining disparate data sets, anecdotal information, and informed experience to document key issues and trends relevant to projected Global Climate Change scenarios. His efforts form the stage on which interdisciplinary team-based integration can take place. John coauthored with Marc Hershman a report on this work and is currently completing his thesis documenting and expanding somewhat on the findings. This research should assist the development of coastal impact scenarios under regional climate change assessments elsewhere. Besides this work John has been the coordinator for a very successful joint seminar between the School of Marine Affairs and the fishing industry. In addition, John has been working during the summer on a seabed coring project led by Prof. Robert Francis to obtain Paleo-records of fish and shellfish abundance in the North Pacific.

Both of these award recipients have worked hard for the sake of our coastal resources in Washington State. As they move on from graduate work and enter the work force either in public service, nongovernmental organizations, or private industry, I know they will continue in their commitment to the protection, conservation, and sustainable use of our coastal resources. With students such as Lillian and John in our graduate schools, I am confident about the future of our coastal areas as the challenges confronting these areas and those of us who care about them become increasingly complex. And to Lillian and John, congratulations.●

THE WOMEN'S RESOURCE CENTER

● Mr. FRIST. Mr. President, Friday, October 24, in my hometown of Nashville, TN, the National Association of Women Business Owners/Nashville Chapter and the Nashville Foundation for Women Business Owners will recognize the establishment of an exciting and worthwhile project—The Women's Resource Center.

The first in Tennessee, the Women's Resource Center is designed to further enhance business opportunities for women, by providing technical assistance, training, and education. I am proud that Nashville is currently among the 10 fastest growing metropolitan areas for women-owned businesses, and this center will ensure continued economic growth and increase participation from women interested in founding and growing their own businesses.

Like most visionary ideas, this one would not have happened without community support, and women who clearly saw the need for the center and rose to the occasion to make their dream come true. My congratulations go to all of the Nashville members of the Foundation for Women Business Owners and the National Association of Women Business Owners, and especially to local entrepreneurs who as ''founding mothers'' provided the initial capital to match funds from the Small Business Administration.

When Alexis de Toqueville traveled this young Nation, he wrote, ''If I were asked to what the singular prosperity and growing strength of the American people ought mainly to be attributed, I should reply—to the superiority of their women.'' His words still ring true today, and the realization of the Women's Resource Center is further testimony to the superiority and the achievements of these outstanding women business owners in Nashville, TN. I am honored to serve as their U.S. Senator.●

THE SALE OF THE FEDERAL BUILDING IN BAKERSFIELD, CA

● Mr. MCCAIN. Mr. President, during Senate consideration of the Fiscal Year 1998 Treasury Postal Appropriations bill, I submitted for the RECORD a list of projects which I found to be low-priority, unnecessary or wasteful spending, that circumvented the normal, merit-based prioritization process. On October 15, 1997, I forwarded this list to President Clinton and recommended he use his line-item veto authority to eliminate these projects. Included in this list was language contained in the Conference Report which directed that the Bakersfield Federal Building in California be sold.

It has been brought to my attention that this Federal building went through the proper screening process by GSA in order to ascertain if it was needed for any further Federal use. No Federal Government agency expressed an interest in utilizing this property.

Furthermore, I am informed that the sale of this property, through a process of competitive bidding, will result in a profit to the American taxpayer. The Conference Committee directed the sale of this building only after the GSA screening was completed and it was determined that this was in fact surplus Federal property.

Therefore, Mr. President, I applaud the actions of the Committee and Rep. BILL THOMAS of California, and withdraw my objection to the sale of this property as well as my recommendation that the President veto this provision.●

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 56, submitted earlier today by Senator SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 56) authorizing the use of the rotunda of the Capitol for a ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

MEASURES JOINTLY REFERRED—S. 613 AND H.R. 1953

Mr. CHAFEE. Mr. President, I ask unanimous consent that S. 613 and H.R. 1953 be considered jointly referred to the Finance Committee and the Governmental Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE DISCHARGED AND REFERRED—S. 1268

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1268 and the bill be referred to the Environment and Public Works Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Indian Affairs Committee be immediately discharged from further consideration of the following nominations, and further that the Senate then proceed to their consideration:

Michael Naranjo, Jeanne Givens, Barbara Blum, Letitia Chambers.

I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Michael A. Naranjo, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Jeanne Givens, of Idaho, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2002.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Letitia Chambers, of Oklahoma, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, OCTOBER 23, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, October 23. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 11 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of Senators FAIRCLOTH and FORD, 30 minutes; Senators CRAIG and HAGEL, 35 minutes; Senator FEINSTEIN, 15 minutes; Senator SHELBY, 10 minutes; Senator TORRICELLI, 15 minutes; Senators KEMPTHORNE and ROBB, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the cloture vote occur on the modified amendment to S. 1173 at the hour of 11 a.m. on Thursday. I further ask unanimous consent that immediately following the cloture vote, the Senate proceed to a vote on passage of the continuing resolution, H. J. Res. 97, regardless of the outcome of the first cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Mr. President, tomorrow morning following the period of morning business the Senate will conduct two consecutive rollcall votes beginning at 11 a.m. The first vote will be on cloture on the committee amendment to the ISTEA legislation, to be followed by a vote on passage of the continuing resolution.

If cloture is not invoked at 11 a.m. on Thursday, it is hoped that the second cloture vote will occur Thursday afternoon. Therefore, Members can anticipate rollcall votes throughout Thursday's session of the Senate.

It is the leader's hope that the Senate can make progress on the highway legislation—it is my hope, too, I might add—during tomorrow's session. In addition, if any appropriations conference reports become available, it would be expected that the Senate consider those reports in short order.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

Thereupon, the Senate, at 7:13 p.m., adjourned until Thursday, October 23, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1997:

DEPARTMENT OF DEFENSE

DARYL L. JONES, OF FLORIDA, TO BE SECRETARY OF THE AIR FORCE, VICE SHEILA WIDNALL, RESIGNED.

DEPARTMENT OF LABOR

RICHARD M. MCGAHEY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE ANNE H. LEWIS.

DEPARTMENT OF STATE

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

DEPARTMENT OF DEFENSE

WILLIAM J. LYNN III, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER), VICE JOHN HAMRE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHAEL L. BOWMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 22, 1997:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

MICHAEL A. NARANJO, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

JEANNE GIVENS, OF IDAHO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2002.

BARBARA BLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

LETITIA CHAMBERS, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2000.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE OXON RUN PARKWAY LAND TRANSFER AND RESTORATION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Ms. NORTON. Mr. Speaker, today, I introduced the Oxon Run Parkway Land Transfer and Restoration Act, a bill which directs the National Park Service to convey to the District of Columbia all right, title, and interest of the United States to approximately 25 acres of land in Southeast DC, in Ward 8. The purpose of my legislation is to enable a group of churches, the Washington Interfaith Network [WIN], working with the District of Columbia government, to build more than 300 units of low- and moderate-income housing, almost entirely with church-gathered funds. WIN is a coalition of 43 churches. They stand ready to invest $2.5 million at no interest to finance the construction of these homes. Among the major contributors are: First, the Catholic Archdiocese of Washington, second, the Episcopal Archdiocese of Washington, third, the United Methodist Church, and fourth, the Evangelical Lutheran Church in America.

My understanding is that the Interior Department supports this transfer. The land is bordered on the northeast by South Capitol Street, on the west by Oxon Run Parkway, and on the southeast by the Maryland-DC border. Presently, the land is administered by the District of Columbia but is actually owned by the National Park Service. In 1972, the Park Service transferred jurisdiction to the District of Columbia of approximately 100 acres of land in Southeast DC, that includes the approximately 25 acres addressed in my legislation. However, the transfer was made under condition that the land be used for recreation and related purposes. My legislation removes this legal impediment to construction of low and moderate income housing on this land and enables the future homeowners to own full title to their property.

The transfer which I propose is a modest but important step in restoring one of the city's vital residential neighborhoods and the city's overall morale and financial health. Ward 8, the most disadvantaged in the city, has experienced devastating loss of population in significant part because of the absence of affordable housing. In addition, the land which I propose to transfer from the Park Service to the District is currently in a deplorable condition and is an embarrassment to the Park Service and the city. Although this piece of land is ostensibly recreational parkland, it has become unsightly neighborhood dumpyard. Transfer of this land to the District for construction of a residential neighborhood will not only enable environmental cleanup of the property but will also provide desperately needed housing at a site that has become a terrible eyesore.

TRIBUTE TO FRED HOLSTEN

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to Fred Holsten of South Brunswick, NJ. He was honored Monday, August 4, for his 20 years of volunteer service to Middlesex County Fair by the trustees of the annual fair.

Since retiring as chief of police in South Brunswick in 1974, Mr. Holsten has served many organizations such as the Lion's Club and the International Association of Chiefs of Police. In his over 20 years of service to the Middlesex County Fair, Mr. Holsten has come to be affectionately known as Uncle Fred. Since Mr. Holsten has joined the fair, it has grown to offer a great family atmosphere for all those in Middlesex County. As a result, worthy causes that receive funds from the fair have benefited greatly.

Mr. Speaker, Mr. Holsten has set a great example. After an extensive time of service as police chief, he continues as a volunteer. This selfless service to his community is a great example of the indelible American spirit that only makes our country stronger.

I, too, commend Mr. Fred Holsten for the unselfish, heartwarming dedication he has shown.

HONORING RIVERDALE NEIGHBORHOOD HOUSE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. ENGEL. Mr. Speaker, the Riverdale Neighborhood House is a settlement house serving 5,000 residents of the northwest Bronx, providing programs for parents, their infants and toddlers, and after school programs. It not only serves young families, but provides outreach and support to homebound senior citizens. Its teen center offers job training and a place to congregate, or as the teens might say, ''hang out.'' Riverdale Neighborhood House also had a pool for local residents, a summer camp for kids, and a thrift shop.

Not only does the Riverdale Neighborhood House do a lot of good for the community, it has been doing it for a long time for this year it celebrates its 125th anniversary. RNH started as a neighborhood lending library for workers to which Riverdale residents subsequently gave land and money to promote social services as well as a reading room. In time it helped servicemen in the Spanish American War, fought problems of sanitation and contagious diseases, aided soldiers' families in World Wars I and II, opened a kindergarten and a seeming infinite number of programs to aid the community and its residents.

On its anniversary, RNH is honoring Paul Elston, a member of its board who has served on so many organizations working for the community that his life would deem to epitomize public service. Riverdale Neighborhood House and people like Paul Elston deserve the acclaim of all people, for they show the benefit and goodness which flows to the community when good people act to benefit all of us.

A TRIBUTE TO WOMEN IN MILITARY SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to pay tribute to a courageous group of women who have played an important role in shaping the future of women in the military. On October 18, 1997, the Women in Military Service Memorial was dedicated to the millions of courageous women who have served and continue to serve our country in the armed services. The dedication of this memorial is another page in American history that will give women in the military the recognition they have so longed deserved. This memorial is a reminder and representation of the invaluable service, sacrifice, and dedication women have given our country.

Mount Holyoke College, the oldest continuing institution of higher education for women in the country, resides in my district and is very proud and grateful for the Women in Military Service Memorial. Joanne Creighton, president of Mount Holyoke College, wrote a letter to Brig. Gen. Wilma L. Vaught, who was responsible for the organization taking the lead to build the memorial, paying tribute to the Women in Military Service Memorial. Mr. Speaker, it is with great honor that I submit the letter written to Brigadier General Vaught from Joanne Creighton, president of Mount Holyoke College.

As a women's college, we support activities that recognize women and women's varied contributions to the world. It is vital that the experiences of women be known and included as a visible part of history. The women's memorial, which honors and remembers the service, sacrifice, and achievement of the nearly 2 million American servicewomen who have defended America through our Nation's history, accomplishes all of these important tasks and is, therefore, a welcomed and much-needed addition to our Nation's heritage.

Fittingly, it was 55 years ago this November 9, during World War II, that Mount Holyoke was part of the history which is about to be honored by the new memorial. From across the country, women came to Mount Holyoke's campus to receive the training they needed to serve the country. Along with our nearby sister institution Smith College, Mount Holyoke served as one of the very few training centers for women officers. It was a privilege to function during that historic

time as a training site for the Women's Reserve of the Marine Corps and the Navy's WAVES [Women Accepted for Volunteer Emergency Service] program.

WAVES, the young women in uniform living and learning at Mount Holyoke, studied such subjects as naval organization, personnel, and administration along with the Navy's etiquette, customs, and traditions. While in training for 5 weeks, WAVES lived in Rockefeller Hall—a campus residential hall that was renamed the U.S.S. Rockefeller—sleeping in double decker beds, eating the same meals as Mount Holyoke students here at the same time. Classes for WAVES were held on campus, drills were held on the athletic fields, and the women marched to meals and to classes wearing their dark blue uniforms. Reveille was at 6:15 a.m. for these women and the day included five recitations, two study periods, drill, athletic recreation, and an evening lecture. It was a rigorous indoctrination, as it was then called, for these women and we salute them today, just as we did many years ago.

After completing their WAVES training, the women were commissioned and offered to active duty. During the 18 months the Navy occupied the U.S.S. Rockefeller approximately 2,500 officers were graduated and went out to duty throughout the United States. They played an important role in our American story and it is with deep gratitude for their efforts that we pay tribute to them and all the others who, in a range of roles, served the country.

We join wholeheartedly in this first major memorial to U.S. military women and this celebration of a very important page in history. We also commend you for the success of the foundation, which you established in 1987, and which has overseen the design, development, and construction of this new structure, and the creation of the week-long commemoration of American servicewomen that will launch the women's memorial.

Sincerely,

JOANNE CREIGHTON.

Mr. Speaker, the people of the 2d Congressional District in Massachusetts will be forever grateful for the invaluable service and dedication women in the military have provided in defense of the United States. This memorial is very welcome in our Nation's Capital and I, along with Mount Holyoke College, rise to congratulate all the women in the military for this milestone in American history.

TRIBUTE TO ROBERT GEORGE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Robert George, a constituent of mine who for 30 years put on a long white beard and a red suit to play Santa at Christmas time. Many people have played Santa at shopping malls, private parties and amusement parks. What makes Mr. George unusual is that he was Santa at several White House Christmas functions.

Though a staunch Democrat, Mr. George was very much a bipartisan Santa. He began playing St. Nick at the White House during the Eisenhower years, and continued through the Kennedy, Johnson, Nixon, Ford, Carter, Reagan, and Bush administrations. He has one of the more unusual political scrapbooks I have seen; pictures of Santa and the Carters, Santa and Gerald Ford, Santa and the Nixons, Santa and John Kennedy and Santa and the Eisenhowers.

In addition to the photos, Mr. George has a collection of thank you letters from inhabitants of the White House. I especially enjoyed the note from Barbara Bush, written when her husband was Vice President, which included this closing line: ''The stuffed animals will be great successes with our grandchildren, and we both appreciate your generosity.''

Mr. George has been Santa in more places than the White House. He has participated in Christmas parades in Hollywood, Tulsa, Toledo and Phoenix, and has appeared on numerous television programs through the years.

When he's not Santa, Mr. George is still infused with the spirit of giving. He has spent more than a decade aiding the LA Mission, and has been quite active with Easter Seals, the Starlight Foundation, and the Make-A-Wish Foundation.

If you call Mr. George at home, he answers with the number of days until Christmas. He is obviously a man who loves his work.

I ask my colleagues to join me today in saluting Robert George, whose dedication to making this a better world inspires us all.

TRIBUTE TO THE HUNTS POINT LOCAL DEVELOPMENT CORP.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Hunts Point Local Development Corp. for 10 years of success working for the economic revitalization of the Hunts Point community in the South Bronx.

Today, the Hunts Point Local Development Corp. [HPLDC] celebrates its 10th anniversary with a 10th annual tent party at the Hunts Point Cooperative Market in my South Bronx congressional district.

HPLDC was established in 1988 as a nonprofit community-based organization to act as an engine for economic development in Hunts Point.

During the past 10 years, HPLDC has been instrumental in providing the services that corporations and residents need to succeed in commerce. Its wide range of programs and services to the community include: a bilingual entrepreneurial development program, industrial park business advocacy, computer literacy training, Internet training, and commercial revitalization. Through its Business Outreach Center, HPLDC provides counseling, seminars, workshops, and management technical assistance to small business and entrepreneurs.

Today, the dynamic Hunts Point community encompasses 600 businesses and 19,000 employees, and is the largest distribution center in the Northeast. To HPLDC's credit, the corporation has provided assistance to more than 500 entrepreneurs and businesses and has helped secure over 4 million dollars in small business loans.

Among other important achievements, HPLDC was chosen to serve as the administrator for the Hunts Point economic development zone. It also lobbied for inclusion of the Hunts Point community in the New York City Federal Empowerment Zone for the South Bronx.

HPLDC received an excellence award from the U.S. Small Business Administration for small business development. Most recently, it has launched efforts to help rebuild the New York City 41st Police precinct and to establish a new U.S. Postal Office in Hunts Point.

Mr. Speaker, I ask my colleagues to join me in recognizing the Hunts Point Local Development Corp. for a decade of achievements spurring economic development in Hunts Point, and in wishing them continued success.

A SPECIAL TRIBUTE TO THE LATE ADA BERRYMAN: AN OHIO PIONEER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STOKES. Mr. Speaker, throughout history, there have been trailblazers who have achieved important firsts and made enormous contributions to the development of this Nation. While the names of some of these individuals are recorded in the annals of history, there are many others who should be recognized.

I rise to acknowledge the contributions of Mrs. Ada Berryman, a former resident of Warren, OH, who was the first African-American to be appointed to the State Housing Board. This feat by Mrs. Berryman in the late 1940's was just one of many achievements during her lifetime.

Mrs. Berryman was born in 1910 in Troy, AL. When she was young, her family fled to Ohio to escape the segregation of the South. Mrs. Berryman resided in Warren, OH, for 45 years. She is credited with the founding of the Warren Chapter of the NAACP. It was Ohio Governor Frank Lausche who saw fit in the late 1940's to appoint Mrs. Berryman to the State Housing Board. She became the first African-American to be chosen for this important State board. In addition to her appointment to the housing board, Mrs. Perryman served as president of the Warren Urban League board, and as a member of the Trumbull County Welfare Board.

Mrs. Berryman was also active in the Democratic Party. She was a member of the NAACP Federated Democratic Women of Ohio. In 1957 Mrs. Perryman ran for city council on the Democratic ticket. She won the primary election, but was defeated in the November general election.

Mr. Speaker, Ada Perryman passed away in 1967 at the age of 56. Throughout her life, she sought to make a difference. She challenged segregation, she challenged the political system, and she challenged our society. I want to note that a member of Mrs. Berryman's family, her granddaughter, Ada Posey, serves as Acting Director of the Office of Administration for the White House. She brought to my attention the achievements of this remarkable individual. I share the family's pride in Mrs. Berryman's accomplishments. I am pleased to share this information with my colleagues.

TRIBUTE TO PATSY GUADNOLA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. McINNIS. Mr. Speaker, I'd like to a take a minute to tell you about a woman who has been instrumental in the lives of so many children on the Western Slope of Colorado. Her name is Patsy Guadnola and she taught music in Glenwood Springs for over 51 years. She was such a knowledgeable and patient teacher that she even taught music to me. Ms. Guadnola is the type of individual that we could all learn from, as she has given so much of herself to the people.

Ms. Guadnola is the youngest of 10 brothers and sisters who were Italian immigrants. She has witnessed the town of Glenwood Springs evolve from a town of dirt roads and a two lane bridge to a town now considering a light rail system and a bypass for its main street.

Her love of music, children, and family has been the constant that has rooted her so deeply in the community. When she was just a child, her brothers and sisters contributed money so that she might take piano lessons. When she was 12, she began playing the organ on Sundays at St. Stephen's Catholic Church, a commitment she continues to this day.

Following Ms. Guadnola's graduation from the University of Northern Colorado and the Julliard School of Music, she returned home and began work as the music teacher at the Glenwood public schools for grades 1 to 12. She taught in the very same room where she discovered her own desire to one day become a music teacher herself.

For 40 years Ms. Guadnola taught music in the elementary and high school. Following her retirement from the public school, Ms. Guadnola went on to teach music for 11 more years at St. Stephen's Catholic School.

With a career spanning 51 years, Ms. Guadnola has enjoyed watching many locals grow from children to adults.

Ms. Guadnola's legacy lives around her in the people she has taught and continues to see. In her former students she sees a little bit of herself living on especially in those who have gone on to a career in music or teaching.

Mr. Speaker, it is people like Patsy Guadnola who make the Western Slope of Colorado the wonderful place it is. She is truly an inspiration to us all, and as one who learned so much from her myself, I can say she will always be greatly appreciated for what she has done.

MEDICAL RESEARCH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 15, 1997 into the CONGRESSIONAL RECORD:

SETTING FUNDING PRIORITIES FOR MEDICAL RESEARCH

The United States is the world's leader in medical research. We spend more each year on research to cure and prevent disease than any other nation, and we are also at the forefront of developing new and innovative treatments for diseases ranging from heart disease to breast cancer to AIDS. The benefits of this research are manifest. Americans are living longer than ever before, and we are much more successful at fighting disease.

The federal government will spend about $13 billion on medical research this year, which is 37% of the total amount spent on research by all sectors. An important issue for Congress, the medical community and average Americans is how that money is spent. In general, Congress gives the National Institutes of Health (NIH), the government's lead agency for medical research, broad discretion in setting research priorities, that is, in deciding how funding is allocated to research on various cancers and other diseases. Congress has earmarked money in recent years for specific types of illnesses, such as breast cancer and prostate cancer. But by and large, NIH is still the lead decisionmaker. This approach is premised on the view that NIH, rather than Congress, has the expertise to make the best professional judgments about funding priorities and will make its decisions based on public health requirements and hard science, not political pressures.

LOBBYING FOR RESEARCH DOLLARS

There is some concern, however, that this process is becoming increasingly politicized. One measure of this change has been the proliferation of groups lobbying the federal government for research dollars. There are over 2,800 registered lobbyists on health issues, including 444 specifically on medical research. Lobbying on research funding is not necessarily a bad thing. It can, for example, bring attention to illnesses which have been underfunded and otherwise provide decisionmakers with helpful information.

The question, though, is how far lobbying can go before it undermines the integrity of the decisionmaking process. Lobbying for research dollars is intense, with different advocacy groups fighting for limited resources. The NIH budget, unlike most agency budgets in this period of government downsizing, has nearly doubled in the last decade. It is nonetheless uncertain whether these increases can be sustained under the recent balanced budget agreement. Furthermore, competition for NIH grants is intense. About 75% of the research grant proposals submitted to NIH do not receive funding. Lobbying efforts appear in some cases to have succeeded in shifting more research dollars to certain diseases, particularly AIDS and breast cancer.

HOW FUNDING IS ALLOCATED

NIH-funded research is wide-ranging. It encompasses everything from accident prevention to basic research on the root causes of disease to research on specific diseases, such as heart disease, diabetes and AIDS. NIH considers many factors when allocating research dollars among various diseases, including economic and societal impacts, such as the number of people afflicted with a disease; the infectious nature of the disease; the number of deaths associated with a particular disease; as well as scientific prospects of the research.

Congressional debate has focused on how NIH funds research on specific diseases. Comparing funding levels can be a tricky business. Research on one disease can have benefits in other research areas. Likewise, funding of basic research may not be categorized as funding for a specific disease even though the basic research may be related to the fundamental understanding and treating of the disease. Nonetheless, NIH does categorize funding by disease area and, according to the most recent statistics, it dedicates $2.7 billion to cancer research, including $400 million to breast cancer research; $2.1 billion to brain disorders; $1.5 billion to AIDS research; and $1 billion to heart disease. Other well-known diseases get lesser amounts. For example, diabetes research gets $320 million, Alzheimer's research $330 million, and Parkinson's research $83 million.

NIH critics say that these funding priorities fail to focus on those diseases which afflict the largest number of Americans, but rather emphasize those illnesses which get the most media and public attention as well as the most effective lobbying efforts. For example, the leading cause of death in the U.S. is heart disease, followed by cancer, stroke and lung disease. AIDS-related deaths rank eighth. A recent study suggested that in 1994 NIH spent more than $1,000 per affected person on AIDS research, $93 on heart disease, and $26 on Parkinson's.

CONCLUSION

Congress has held hearings this year on how NIH sets its funding priorities, and is now considering a proposal to direct an independent commission to study the matter and make recommendations on how to improve funding decisions. Others have proposed more dramatic measures, such as having Congress, rather than NIH, earmark funds or at least set funding guidelines for the agency.

I am wary of proposals to involve Congress too directly in the funding decisions of the NIH. Medical research involves complex questions of science and technology, and Congress is not well-equipped to make policy judgments in this area. I am concerned that, if Congress took to micro-managing agency decisions in this way, special interests would overwhelm the process. Funding allocation should be guided by science and public health demands, not by lobbying efforts or politics, and the process used by NIH has been successful. Its research has produced advances in the treatment of cancer, heart disease diabetes and mental illness that have helped thousands of American families.

I am, nonetheless, sympathetic to the view that the NIH should give more attention when setting priorities to the societal and economic costs associated with particular disease areas. Setting funding priorities, particularly in an era of tight Federal budgets, is a difficult process and involves difficult choices. When NIH decides to emphasize one area of research, it necessarily means less funding will be available for other, worthy areas of research. The key point is that the decisionmaking process be generally insulated from political pressures.

HEART OF GOLD

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. BERMAN. Mr. Speaker, it is no surprise to my colleagues, Mr. WAXMAN and Mr. DIXON, and me that Carmen Warschaw has been named the Heart of Gold Honoree by the Medallion Group of Cedars Sinai Medical Center and will be given this prestigious award on October 25, 1997.

Few people in America have contributed so much intellect, time, energy, and passion to

improving our world, our country, and our greater Los Angeles community than has Carmen Warschaw.

Each of us has known Carmen, and her husband Louis, personally and professionally for more than 30 years. She has had an immense impact on our lives and our careers. None of us would likely have reached our positions were it not for Carmen Warschaw. She is a close personal friend, trusted adviser, candid—sometimes acerbic, but always humorous—critic, and a model of what community service and good citizenship ought to be. Our admiration for her is indescribable.

It would be impossible—and if possible, give the appearance of carrying coals to Newcastle—to try to list a fraction of Carmen's honors, areas of interest, awards, positions of responsibility, and titles. It would sound as if we were praising a dozen public spirited people—not just Carmen Warschaw.

Nor could we discuss the myriad stories and legends—both factual and perhaps embellished by time—that surround this fascinating, witty, charming Whirling Dervish of national and local Democratic politics, civil rights, women's rights, health care, art, culture, and Jewish community involvement.

One story will suffice. Several years ago, then, as now, a major leader in the Democratic Party, Carmen was double-crossed in a backroom deal. When Carmen confronted her nemesis, she was told that next time she should get it in writing. Ever since, Carmen has handed out pens with the inscription, Get it in writing, Love, Carmen, and ever since, successive generations of California Democratic leaders have repeated the admonition—and the story.

While making an enormous mark on the larger society, Carmen is a wonderful wife, mother, and grandmother. We have had the pleasure of being close to the entire Warschaw family, her husband Lou, daughters Susan and Hope, sons-in-law Carl Robertson and John Law and grandchildren Cara, Chip, and Jack.

Our comments today are occasioned by yet another Warschaw milestone. Carmen and Louis have—with their characteristic generosity—endowed the Carmen and Louis Warschaw Chair in Neurology at Cedars-Sinai Medical Center.

We ask our colleagues to join us in honoring Carmen Warschaw, an extraordinary woman whose zest for living and profound sense of compassion are examples for us all. She has—and is continuing to—truly enriched our lives.

MICHAEL TURNER A COMMUNITY CRIME FIGHTER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HOYER. Mr. Speaker, I rise today to recognize Michael Tucker, one of my constituents, who was recently honored for his leadership and community work in crime prevention. The National Crime Prevention Council and Ameritech selected Special Agent Turner to receive the Ameritech Awards of Excellence in Crime Prevention. Special Agent Turner is one of 8 winners selected from 140 nominations.

Special Agent Turner, the demand reduction coordinator for the DEA's Washington Field Division, is a pioneer in the coordination of law enforcement officials with local citizens to combat crime in their communities. He has had numerous successes in South Boston, Virginia, and Halifax County where he helped these communities fight drugs and crime. Most recently, Special Agent Turner has worked with the DEA in Washington, DC, to provide leadership in reducing homicides and violent crimes in the East Capitol Dwellings and Greenway communities. Additionally, he has worked with the 6th District Police Department Community Services section to create youth programs and neighborhood watch groups. He, along with the D.C. Police Department, helped to organize the orange hat patrol groups.

Special Agent Turner's work to help foster community involvement in law enforcement has led to a sharp decline in the homicide rate in DC's 6th Police District and the creation of many new prevention programs in community organizations. Organizations such as the Boys and Girls Clubs and Drug Abuse Resistance Education Plus have become involved with these new prevention programs.

I would like to thank the National Crime Prevention Council and Ameritech for honoring Michael Turner with the Ameritech Awards in Excellence in Crime Prevention. I applaud NCPC's dedication to helping fight crime and building community support and, I appreciate Ameritech's commitment to supporting crime prevention initiatives.

It is evident from Special Agent Turner's work that he is not afraid to identify a troubled community which is plagued with crime, to roll up his sleeves and to take personal action to solve a problem. I ask my colleagues to join me in congratulating Special Agent Turner for this well deserved honor.

SALUTE TO BROWARD COUNTY'S AFRICAN AMERICAN LIBRARY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I am honored to pay tribute today to the Broward County African American Library, which opens in my congressional district this Saturday, October 25. One of the great milestones in learning opportunities, this sanctuary of history, learning and culture promises to become one of south Florida's greatest libraries. Its purpose is to showcase the immeasurable contributions of African-Americans in this country as well as in our native Africa. Beyond that, however, it will stand as a beacon for the educational uplift of an entire community.

The great historian, educator, and author David Walker, once commented about the importance of libraries for African-Americans:

''I would crawl on my hands and knees through mud and mire, to the feet of a learned man, where I would sit and humbly supplicate him to instill into me that which neither devils nor tyrants could remove, only with my life—for colored people to acquire learning in this country makes tyrants quake and tremble on their sandy foundations.''

This is the kind of idealism that propels the outstanding individuals who have devoted their lives to making the Broward County African American Library a reality. I am pleased to salute their achievement, and to praise their enormous efforts in this significant undertaking.

The significance of this project to the growth and development of Broward County is immeasurable. I am pleased to commend the individuals who have committed their lives and their livelihood to making this library a dream come true, a dream founded upon the notion that to study each other—our accomplishments, our traditions, our culture—our accomplishments, our traditions, our culture—is to know each other.

Mr. Speaker, I rise today to pay tribute to the Broward County African American Library, as it steers our community toward greater progress and understanding.

INTRODUCTION OF LEGISLATION TO REPEAL ''LOCK-IN'' OF MEDICARE BENEFICIARIES IN MANAGED CARE PLANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STARK. Mr. Speaker, I am today introducing legislation to repeal a provision in the Balanced Budget Act of 1997 that would ''lock'' Medicare beneficiaries into a managed care plan. My bill would continue the present policy which permits continuous open enrollment—and disenrollment—in HMO's by Medicare beneficiaries.

The BBA provides that in 2002 Medicare beneficiaries have half a year to get out of a Medicare+Choice plan that they have enrolled in. In 2003 and forever thereafter, they have only 3 months each year to decide to disenroll.

Mr. Speaker, many HMO's do a good job making people happy while they are healthy. Like fire engines at the Fourth of July parade, they look good and make people feel safe. The test comes when there is a fire—or in the case of an HMO, when a person gets sick. There is strong evidence that many HMO's do not do well when a person becomes ill, particularly when one faces a chronic illness or disability and needs rehabilitation. Today under Medicare, an HMO enrollee who finds they need help and the HMO is not delivering can on a month-by-month basis leave and seek care in another HMO or in the fee-for-service sector.

Beginning in 2002, that right will end.

There are good policy reasons for limiting the enrollment and disenrollment of people in HMO's. For example, coordinating periods of open enrollment provides a wonderful chance to compare plans and to encourage more competitive pricing of HMO products as they compete for business during an annual open enrollment period. Further, a bad HMO can make a huge profit by encouraging the disenrollment of people once they become sick and it makes financial sense for Medicare to limit this opportunity for gaming.

Mr. Speaker, these good reasons are overridden in my mind by the danger that lock-in creates for people who become seriously ill and who needs treatment that an HMO may refuse to provide. There are good economic

reasons for Medicare to limit disenrollment—but those economic reasons are going to kill some of our seniors and disabled. Thus, I support repeal of the BBA lock-in.

We simply do not know enough about quality of care in HMO's to justify a lock-in. Perhaps some day when there are much better measurements of outcomes and quality we could put a limit on the timing of enrollment and disenrollment. But that time is not here yet, and I fear the proposed lock-in will be deadly.

Friends of the managed care movement should support this amendment, because it will remove a fear that many Medicare beneficiaries will have of joining an HMO and then being stuck in it for most of a year. If there is continuous open enrollment and disenrollment, more people are likely to try managed care without the fear of being stuck in a nonresponsive bureaucracy or assigned to a quack of a gatekeeper.

Mr. Speaker, I do not expect this legislation to move in the 105th Congress—but as we get closer to 2002 and the lock in of beneficiaries, I expect that the interest will grow dramatically. I urge my colleagues to support this legislation in the months to come.

TRIBUTE TO MARY JEANNE KLYN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PORTMAN. Mr. Speaker, I would like to take this opportunity to recognize a friend and constituent, University of Cincinnati Vice President for Public Affairs Mary Jeanne Klyn. Mrs. Klyn, or MJ as she is known by her many fans, will be retiring in February 1998, after 22 years of service to the university.

In 1975, when she came to UC from the Greater Cleveland Growth Association, MJ was named the university's first-ever female vice president. During her term at UC, MJ has developed a legendary reputation as a committed, energetic, and effective representative of the university.

She first demonstrated leadership in the successful campaign to bring UC into the State university system. Since then, she has secured stable funding for UC's academic and research programs, and has worked hard for building projects that mark the rebirth of the university's campus. She played a key role in the Shoemaker Center, the Barrett Cancer Center, and the designation of the UC College of Engineering as one of only 10 NASA Federal Research Centers.

Throughout her time of service to the university, she has also become known as a dedicated advocate for the entire city of Cincinnati. A consultant to the Greater Cincinnati Chamber of Commerce, MJ has served as member of the boards of WCET public television and the Cincinnati Convention and Visitors Bureau. She chaired the chamber's Committee to Welcome New Industries, and is a member of Women in Communication, and a recent recipient of their Movers and Shakers Award.

University of Cincinnati President Joseph A. Steger said, ''It is rare that we can say in truth that someone is irreplaceable, but M.J. truly is. She has helped orchestrate most of the major strides achieved by the university over the past two decades. There is no question that she is beloved by everyone.''

MJ is beloved in Cincinnati and will be missed by the university. Those of us who have had the privilege of working with her look forward to continuing friendship and wish her well.

TRIBUTE TO THE CITICENTRE DANCE THEATRE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. DELLUMS. Mr. Speaker, on October 26, 1997, the CitiCentre Dance Theatre will be celebrating their 20th anniversary. Founded in 1977 by Halifu Osumare, CitiCentre Dance Theatre is Oakland's oldest multiethnic arts organization. CitiCentre is also dedicated to the principal of bringing dance and the community together.

CitiCentre understands that dance rejuvenates and reinvigorates the community, and believes strongly that dance must be returned to ordinary people. Through the diverse offering of dance classes—from belly dance and ballet, to jazz and African dance forms, this unique organization allows people of all ages and background to come together to experience the joy of dance. CitiCentre has done a lot to accomplish their goals in their 20 years of existence. CitiCentre has averaged over 600 students per month taking classes. It was also estimated that 100,000 East Bay residents have received dance instruction at CitiCentre.

CitiCentre is a community center that reflects diversity and the spirit of the East Bay. Through dance, they have explored the commonalities among cultures, and how racial and cultural diversity can work to enrich the participants, which can only lead to a greater understanding among each other. CitiCentre is also dedicated to the preservation and presentation of the dance heritage of people of African descent. These classes include West African, Congolese, Brazilian, Cuban, Haitian, Jazz, and Tap. The instruction teaches more than just dance steps, it communicates the world views of these related cultures. CitiCentre also works with the local schools, the police department, as well as other community groups to expose the young people to the art of dance.

Over the years, CitiCentre has acquired nationally known expert performers and instructors. Expanding over a wide variety of dance companies, these performers and instructors were affiliated with such groups as: the Dance Theater of Harlem, the bill T. Jones Co., the Alvin Ailey Dance Theater, and Les Ballet Africians. This gives the ordinary person the unique opportunity to work with and learn from world famous dancers.

CitiCentre is a community-based organization that doesn't sacrifice the excellence and professionalism in the interest of its community spirit. When cultures come together and interact CitiCentre becomes the unique multicultural face of my district, a community of diverse people and cultures. I take pride in their accomplishments and growth as the community celebrates 20 years of dance with CitiCentre.

ST. MARY'S SCHOOL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. POSHARD. Mr. Speaker, it gives me great pleasure to congratulate St. Mary's School in Mattoon, IL for being named the 1997 State Champion of Illinois for the President's Council on Physical Fitness and Sports. This is the third year in a row the school has won this prestigious award. St. Mary's performance during the 1996–97 school year, in which 67.69 percent of students performed at the 85th percentile rank, was the best among all Illinois schools.

It is not by accident or luck that St. Mary's has performed so well in this nationally recognized competition. The physical requirements are among the most demanding in high school sports, and include a 1 mile run-walk, curl-ups, a sit and reach stretch, pull-ups, and a shuttle run. The students train hard under the tutelage of Mike Martin, who puts in countless hours, year after year, even going as far as to construct weights and an obstacle course. Our Nation has many heroes in the world of sports, from Michael Jordan, Mark McGuire and Cal Ripken, Jr., to Jackie Joyner-Kersee and Tara Lipinski. But none is more important than Mike Martin who gives of himself so that others may reach new heights. This kind of dedication is truly remarkable.

Mr. Speaker, we hear a great deal today about how America's youth are unmotivated, lazy, and apathetic. I beg to disagree. The students at St. Mary's are proving what hard work can accomplish. The benefits of good health are just the beginning. They are learning habits and values, such as discipline, teamwork, and respect, that will lead to success in their future endeavors. As a former high school coach, I know about the joys of athletic competition; the beauty in giving your all, and win or lose, not being ashamed because you gave your maximum effort. We sometimes lose sight of these ideals among the contract disputes and big money of professional sports, but they are alive and well in Mattoon, IL. I am proud to represent St. Mary's school and the Mattoon area in the U.S. Congress, and salute them again for this magnificent achievement.

TRIBUTE TO KATE BROGAN

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to call attention to the outstanding service of Kate Brogan of Branchburg, a young girl that should serve as a role model to all of us.

Miss Brogan has showed us that expressions of love and compassion need not be hindered by one's age. Whether we are 9 or 99, this country can only grow stronger when generations come to serve one another.

When Kate was only 8, she began helping her disabled, elderly neighbor Marjorie Martin. Kate helped with household chores and enjoyed keeping Ms. Martin company, whether it was playing games or just talking. Now 14,

Miss Brogan also visits the Agape House in Somerville, helping homeless families get back on there feet. Kate believes that, ''Seeing the reaction and knowing that you are helping someone gives you a warm feeling inside.''

As a result of her work, Kate was recently recognized as one of the top student volunteers in New Jersey. Kate was also chosen from a pool of more than 15,000 students across the Nation for her essays describing her volunteer work with Ms. Martin. But even as Kate is recognized for her work, she continues to do more. Using money she earns from babysitting, Kate also sponsors a disadvantaged young girl for $12 a month.

Mr. Speaker, I would also like to give thanks to Kate's parents, Elaine and James, who are also valuable volunteers in their own community. It has been their guiding example that has set Kate on her path of service. Their own compassion and dedication radiates in their child's spirit and actions.

Kate had said she has tried to spread her spirit of volunteering to her peers but runs into difficulty. I say to Kate, persevere and your great example shall convince them. Mr. Speaker, it is my honor to congratulate Kate and wish her continued success in her first year at Immaculata High School next year.

HONORING THE REVEREND DR. MAJOR McGUIRE III

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. ENGEL. Mr. Speaker, the Reverend Dr. Major McGuire is celebrating his 11th anniversary of pastoral ministry at the Emmanuel Baptist Church. In that time, he and his wife, the Reverend Darlene Thomas-McGuire, minister of education and youth, have contributed to its growth, brining in 400 members to the Emmanuel family.

The Reverend McGuire also initiated a number of programs which contributed to the growth and development of the church and surrounding community in the Bronx.

Rev. Major McGuire was born in Baltimore. He attended Morgan State University and Towson State University in Baltimore. He accepted the call to preach the gospel of Jesus Christ and was licensed in 1974. Three years later he was named Under Shepherd of the Riverview Missionary Baptist Church in Coeymans, NY, and in May of that year was ordained from the New Shiloh Baptist Church in Baltimore. He later served at the Bethel Baptist Church in Mount Kisko.

He continued his education, ultimately receiving his masters of divinity degree from the Union Theological Seminary in New York City in 1983. He was awarded the Martin Luther King Distinguished Leadership Award from the State University of New York and in 1983 was named as an Outstanding Young Man of America.

In 1986, he became pastor of the Emmanuel Baptist Church. He, his wife, and their four children have made their church and community a landmark to the family and to worship. The Reverend McGuire made his church into a dramatic force for good. We salute him and the accomplishments of his ministry.

TRIBUTE TO THE MEMORY OF BISHOP GERALD JULIUS KAUFMAN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. SERRANO. Mr. Speaker, I rise to express my deepest sympathy to the family and friends of Bishop Gerald Julius Kaufman, a man of the cloth who dedicated his life to the service of our community. Bishop Kaufman passed away on April 25.

Bishop Kaufman was sought by people from all ages. He was the chief shepherd of the Love Gospel Assembly, in my South Bronx congressional district. Established in 1970, the assembly is now one of the largest ministries in the New York City area.

At a special ceremony celebrated outside the church on October 9th, the community renamed part of the Grand Concourse, the main street in the Bronx, after him. It is now ''Bishop Gerald J. Kaufman Way''.

Kaufman was born in 1935 to Jewish parents Fred and Julia Kaufman in New York City. He demonstrated his strong will and perseverance by winning the battle against 12 years of substance abuse. His immense love for God and desire to be trained in the faith brought him to the Zion Bible School in Rhode Island, where he graduated with honors.

In 1967, Kaufman was ordained into ministry at the Zion Bible Institute. He continued his religious education at Vision Christian University, in Hawaii, where he received a B.S.L., Th.M., D. Min., L.H.D. and Ph.D.

Bishop Kaufman's service to God and his social ministry at the Love Gospel Assembly gave birth to a program which now feeds 500 to 700 people daily, a Care Service Ministry, and an Antioch School of Urban Ministry dedicated to train men and women in urban ministry.

Kaufman's fruitful work at Love Gospel Assembly spread far beyond the Bronx. He facilitated the opening of churches in Orlando, FL; Aguadilla and Bayamon, PR; Bridgetown, Barbados; and Ghana, Africa. He oversaw 23 ordained ministers, 22 licensed ministers, 16 pastors, and 45 missionaries.

Among other recognitions, Kaufman received a citation of merit and proclamation for dedicated community work from the Bronx Borough President's Office. Committed to his community, he also served on the board of directors of the Youth Challenge International organization and the Barnabas Ministries, and as chaplain of the Police Benevolent Association for the Federal Protective Services.

Mr. Speaker, I would like to join the family, friends, and members of the community in their prayers for the soul of Bishop Gerald Julius Kaufman. His legacy of love for our inner city neighborhood has not gone unnoticed. It is a blessing to all of our communities.

A SPECIAL TRIBUTE TO JOHN M. COYNE: ''AMERICA'S LONGEST-SERVING MAYOR''

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STOKES. Mr. Speaker, I am especially pleased to pay tribute to an individual who has earned a very special place in the history of public service. In just a few weeks, John M. Coyne, the Mayor of Brooklyn, OH, will be honored for having served 50 years in this post. I join residents of the City of Brooklyn, the 11th Congressional District of Ohio, his colleagues, friends, and many others in recognizing Mayor Coyne on this auspicious occasion.

President Bill Clinton affectionately describes John Coyne as ''this nation's longest-serving mayor.'' Indeed, Mayor Coyne holds the record for consecutive terms of service. In his 50 years of leading the City of Brooklyn, he has displayed a level of dedication and commitment that is unmatched.

Mr. Speaker, when John Coyne took office as mayor in 1948, Brooklyn was still a small village. Today, we celebrate a city that is a shining model for communities across America. Under Mayor Coyne's leadership, the City of Brooklyn led the country in promoting the first mandatory seatbelt law. He also administered ordinances to ban assault-type weapons, and started a mandatory curbside recycling program. With John Coyne at the helm, the City of Brooklyn has benefitted from millions of dollars in funding to support important transportation, recycling, recreation, and economic development initiatives.

Beyond his mayoral assignment, John Coyne also served five consecutive terms as Chair of the Cuyahoga County Democratic Party, the 13th largest county in the country. In this post, he pursued a course of action to make the Democratic Party inclusive of all races, creeds, colors, and religions. Under his chairmanship, more minorities were appointed or elected to public office in Cuyahoga County than under any other chairman in our history. He always stated to me, ''Congressman, I don't see color, I see people.''

I am proud of my personal association with Mayor Coyne. He has shared a very long friendship with me, my later brother, mayor and Ambassador Carl B. Stokes, and my daughter, Judge Angela R. Stokes. Additionally, I am grateful to him for the support he has given me each year enabling me to provide an annual Christmas party for poor and disadvantaged families in my congressional district.

Mr. Speaker, as he is honored for 50 consecutive years of public service, I join many others who are congratulating Mayor Coyne. I am also pleased to note that proceeds from the upcoming gala will benefit the John M. Coyne Endowed Public Service Scholarship at the Cleveland State University Maxine Goodman Levin College of Urban Affairs. I extend my warn congratulations to Mayor Coyne, his devoted wife, Jean, and members of the Coyne family. We wish the Nation's ''longest-serving mayor'' many, many more years at the helm.

ADDRESS TO GREEN CROSS ON WATER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. MILLER of California. Mr. Speaker, I had the opportunity last Friday to speak at the International Freshwater Symposium sponsored by Green Cross International and Global

Green USA in Los Angeles. The meeting, which was chaired by Green Cross President Mikhail Gorbachev, the former president of the Soviet Union, was attended by many of the leading water policy scholars, advocates, and administrators in California. I would like to share my remarks at the conference with my colleagues.

In addition, I know that all Members of the House will want to join me in paying tribute to those who received awards from Global Green USA for their outstanding leadership in environmental advocacy. The Founder's Award was given to the president emeritus and founder of Global Green USA, Diane Meyer Simon. The Entertainment Industry Environmental Leadership Award was given to actor Pierce Brosnan for his work on dolphin protection and other issues. James Quinn, the president and CEO of Collins Pine Co., one of the leading U.S. companies practicing sustained yield forest management. The Individual Environmental Leadership Award went to David Brower, the legendary founder of Friends of the Earth and Earth Island Institute, a great leader in environmental causes in California and nationwide for decades. And the International Environmental Leadership Award was given to the National Geographic for its outstanding educational and scientific work:

INTERNATIONAL FRESHWATER SYMPOSIUM

President Gorbachev, fellow panelists, ladies and gentlemen, I am very pleased to participate in this program today.

Much of the world has struck a Faustian bargain over the past century; develop natural resources to promote economic growth with little consideration for long term environmental damage or remediation. Nowhere has this trade-off been more dramatic, or more cataclysmic, than in the case of water development in the American West.

In California, as in the Aral Sea, or the forests of Indonesia, or the polluted rivers of Eastern Europe, we are paying a huge environmental price for short-term economic growth. Correcting those past errors will not be cheap or without political risk.

Because of our rapid economic development, we in the United States committed serious resource management blunders earlier than many other nations. But we also have been among the first to recognize the errors of the past and to develop, if haltingly, innovative solutions.

Western water policy provides a textbook example. The great dams, reservoirs and waterways planned over the last century were supposed to reconfigure Nature for 500 years. Now, in the Pacific Northwest, in Utah, Arizona, North Dakota and California, we are confronting the urgent need to redefine the mission of these projects.

The goal of the great water planners in arid California was to make the deserts bloom and to permit cities to flourish. The decisions to build the great dams and canals were made by farsighted, powerful and wealthy interests who spent far more time asking ''How'' than ''Should we?'' We built dams when destruction of wetlands and fisheries was ignored; we became addicted to subsidies in an era when long-term deficits and inflation were not considered; we allowed irrigation of low-quality lands without adequate drainage; we allowed urban growth that within a generation will push the population of our water-short state to nearly that of France and Britain.

We created, in short, a population, an economy and a political system that thirsted for water, and that has created a host of economic and environmental problems.

On the cusp of the 21st Century, as we were compelled to modernize a water policy conceived in the twilight of the 19th, many doubted that the political system could exercise the bold leadership that is essential to alter destructive, costly habits.

And yet, five years ago, we did begin a unique experiment to conform water policy to the environmental, political and economic standards of our own time. Interestingly, these changes were not initiated by local officials in California, but rather were imposed by the national government which recognized that reform was urgent.

The Central Valley Project Improvement Act included, for the first time, environmental restoration and fish and wildlife mitigation as fundamental purposes of a major federal water project. This law represents something rather remarkable, even for those who are utterly disinterested in water policy. The CVPIA is fundamentally a mandate to reconfigure our most crucial resource in a way that preserves the vitality of the economy, and then does more.

Unlike earlier periods, we are not basing policy solely on what engineering, money and political muscle can achieve. Now, we must pay attention to what science and ethics tell us is necessary to pass a healthy, diverse and prosperous California on to future generations.

Policy can no longer only benefit those who arrived first and struck their best bargains. Today, fishermen and hunters, Native Americans, fish and wildlife, the environment itself, must be included. The CVPIA law established the right of all of these parties to a seat at an expanded table and to participate fully in making the fundamental decisions about how we remedy the severe mistakes of the past and plan for more equitable sharing of our resources in the future.

Securing such change is difficult enough within a single, heterogeneous state like California. Adding the overlay of clashes between cultures, nations and religions, make solutions seem impossible unless great tenacity is displayed by political and other leaders.

And yet, we in California have begun to make great progress, in no small part because all parties have begun to recognize the inevitability of change; to understand that it is cheaper, better science and smarter business to help create a new framework than to be the last defender of the old order.

I am encouraged that the progress we are making through the CALFED process and CVPIA implementation, however halting and difficult it is at times, represents the only course for California. And it can serve as a successful model for those in the Middle East, in South America, and elsewhere where water politics threatens both political stability and environmental quality.

Lastly, Mr. President, may I say that it is an honor to participate in this meeting with you. Your willingness to venture great thoughts and take enormous risks—both political and personal—stand as one of the great legacies of our century, and I am tremendously gratified that you are lending your distinguished efforts to resolving the problems of the environment around this world.

MOOD OF THE COUNTRY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, October 22, 1997 into the CONGRESSIONAL RECORD:

THE MOOD OF THE COUNTRY

This is an unusual time in American politics. The Cold War is over. Communism has been defeated. The federal budget is basically in balance. Americans are feeling better about themselves and upbeat about the economy. Politicians in Washington are asking themselves what the American people want us to do or not to do.

POSITIVE VIEW OF COUNTRY

Politicians are looking for issues and symbols to capture the attention of voters. Most of us remember that only a few years ago they were angry and wanted to take out revenge on incumbents. Today voters seem much more content and their mood more agreeable.

Economic issues have always been the dominant feature of American politics. Today those issues have not moved off the minds of voters but their concerns are muted, due, I suspect, in large measure to the strong economy and the agreement between the Congress and the President to balance the budget and to cut taxes. By a wide margin Americans feel that the country is headed in the right director, and two thirds say they are satisfied with the state of the U.S. economy—the highest satisfaction levels we have seen in the 1990s.

Most people I talk to across southern Indiana believe that the economy is doing well, and many tell me their personal situation has improved in recent years. The performance of the economy has been impressive, with solid, noninflationary growth, low unemployment, and stable inflation. Unemployment in some southern Indiana counties is at 2%—the lowest in a generation. All of this translates into a sense that people want things to remain pretty much as they are, and they aren't looking to Washington for major policy changes.

VIEW OF GOVERNMENT

There is also a strong level of satisfaction with the political status quo in Washington. There is a feeling that we are finally getting done what they wanted us to do, and people are pleased that the nasty tone and partisan bickering in Congress has subsided somewhat. Americans like the way both parties worked together to balance the budget, and it is clear to me that they are satisfied with divided government. We have a Democratic President and a Republican Congress. Republicans control 30 of the 50 state houses; the Democrats control more of the court houses. More people identify themselves as Democrats, but the balance is fairly even and volatile.

This general support for divided government seems to stem, in part, from the desire to prevent either party from going too far. The American people have made it clear that they want us to govern from the center.

At the same time, I get the sense that the American people are increasingly disengaged from government, at least the federal government. They now seem to have more important things to do in their own lives than to follow every development in Washington.

ISSUES

Politicians are always trying to determine what the mandate of the voters is. No single issue dominates, but several concerns do come through.

I'm impressed that education has soared to the top of the public policy concerns of Americans. It is remarkable to me how often improving the quality of education comes up on the conversations I have with voters. Parents, of course, are particularly concerned because they see education as the pathway

to success for their children, and local business leaders increasingly talk about their need for well-educated, skilled workers. All the education issue—national testing, vouchers, school choice—have become hot-button issues. Even so, I think most Americans are satisfied with the schools in their communities, which makes all of the interest in education a little puzzling.

Everyone thinks we need to look out for the middle class. People often tell me they are concerned about their ability to meet major health care and college costs, and they want to make sure that the government helps promote opportunity. They especially support efforts to promote education and skills training, which they see as key to opportunity and a bright future for their families. A large number of voters still talk to me about declining moral values as the biggest problem in the country. They want to make sure that traditional values are promoted, and they are very concerned about drug abuse in their communities.

As always, the politician is receiving mixed signals today. Many Americans want additional tax cuts; but they also want us to begin to develop spending plans for the looming budget surplus, and they opt for more spending on education and health care.

Although people feel positive about the economy, and interest in reducing the deficit has declined sharply, it would be a mistake to think that economic issues have disappeared. In a recent public meeting, I spent three quarters of the time talking about jobs and trade and other economic issues. But it is also clear that people are focused on health, education, crime, and the environment. They also very much want to protect Social Security and Medicare. What impresses the politician most, I think, is that no single issue dominates the voters' ranking of concerns.

CONCLUSION

Satisfaction with the economy and widespread support for the balanced budget agreement reached this summer has meant that the voters aren't looking for major changes. My own impression is that American are rejecting politicians whom they consider too extreme, and they want the politicians to be compassionate and strongly supportive of the middle class. They favor a mainstream, centrist approach that is based on fiscal responsibility, opportunity, and traditional values. I also think the views of voters are very fluid today, and that things could easily change in the future, particularly if there is a change in the outlook for the economy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 23, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 24

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Carolyn Curiel, of Indiana, to be Ambassador to Belize, Victor Marrero, of New York, to be an Alternate Representative of the United States to the 51st Session of the General Assembly of the United Nations, Christopher C. Ashby, of Connecticut, to be Ambassador to the Oriental Republic of Uruguay, and Timothy Michael Carney, of Washington, to be Ambassador to the Republic of Haiti.

SD–419

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the National export strategy.

SD–538

Governmental Affairs

To hold hearings on H.R. 1953, to clarify State authority to tax compensation paid to certain employees.

SD–342

OCTOBER 27

2:00 p.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the safety and reliability of the nuclear stockpile.

SD–342

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings to examine proposals to deter youth from using tobacco products.

SD–430

OCTOBER 28

9:00 a.m.

Environment and Public Works

To hold hearings on the nomination of Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration, Department of Transportation.

SD–406

10:00 a.m.

Foreign Relations

To hold hearings to examine costs, benefits, burdensharing and military implications of NATO enlargement.

SD–419

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To hold hearings on pending nominations.

SD–226

Labor and Human Resources

To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.

SD–430

2:00 p.m.

Budget

To hold hearings to examine the state of American education.

SD–608

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings to examine the potential impacts on, and additional responsibilities for, federal land managers imposed by the Environmental Protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing Section 169A and 169B of the Clean Air Act.

SD–366

Foreign Relations

To hold hearings on the nominations of Richard Frank Celeste, of Ohio, to be Ambassador to India, Shaun Edward Donnelly, of Indiana, to be Ambassador to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently as Ambassador to the Republic of Maldives, Edward M. Gabriel, of the District of Columbia, to be Ambassador to the Kingdom of Morocco, Cameron R. Hume, of New York, to be Ambassador to the Democratic and Popular Republic of Algeria, Daniel Charles Kurtzer, of Maryland, to be Ambassador to the Arab Republic of Egypt, James A. Larocco, of Virginia, to be Ambassador to the State of Kuwait, and Edward S. Walker, Jr., of Maryland, to be Ambassador to Israel.

SD–419

2:30 p.m.

Select on Intelligence

To hold hearings on proposed legislation with regard to intelligence disclosure to Congress.

SD–106

OCTOBER 29

9:30 a.m.

Indian Affairs

To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.

SD–106

10:00 a.m.

Budget

To hold hearings to examine U.S. policy implications for NATO enlargement, European Union expansion and the European Monetary Union.

SD–608

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Joint Economic

To hold hearings to examine the role of monetary policy in a healthy economic expansion.

SD–138

11:00 a.m.

Foreign Relations

To hold hearings on the nominations of Amy L. Bondurant, of the District of Columbia, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador, Terrence J. Brown, of Virginia, to be Assistant Administrator for Management, and Thomas H. Fox, of the District of Columbia, to be an Assistant Administrator for Policy and Program Coordination, both of the Agency for International Development, Department of State, and Kirk K. Robertson, of Virginia, to be Executive Vice President of the Overseas Private Investment Corporation, U.S. International Development Cooperation Agency.

SD–419

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 638, to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the monument.

SD–366

Foreign Relations

To hold joint hearings with the United States Senate Caucus on International Narcotics Control to examine United States- Mexican cooperation in efforts to combat drugs.

SD–106

Foreign Relations

To hold hearings on the nominations of Joseph A. Presel, of Rhode Island, to be Ambassador to the Republic of Uzbekistan, Stanley Tuemler Escudero, of Florida, to be Ambassador to the Republic of Azerbaijan, B. Lynn Pascoe, of Virginia, for the rank of Ambassador during his tenure of service as Special Negotiator for Nagorno-Karabakh, Steven Karl Pifer, of California, to be Ambassador to Ukraine, Kathryn Linda Haycock Proffitt, of Arizona, to be Ambassador to the Republic of Malta, James Catherwood Hormel, of California, to be Ambassador to Luxembourg, and David B. Hermelin, of Michigan, to be Ambassador to Norway.

SD–419

United States Senate Caucus on International Narcotics Control

To hold joint hearings with the Committee on Foreign Relations to examine United States-Mexican cooperation in efforts to combat drugs.

SD–106

OCTOBER 30

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal land in accordance with the principles of multiple use and sustained yield.

SD–366

Indian Affairs
To hold hearings on the nomination of Kevin Gover, of New Mexico, to be Assistant Secretary of the Interior for Indian Affairs.
SR–485

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

2:00 p.m.
Budget
To hold hearings to examine funding for international affairs.
SD–608

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.
SD–366

NOVEMBER 3

10:00 a.m.
Indian Affairs
To hold hearings on provisions of H.R. 1604, to provide for the division, use, and distribution of judgement funds of the Ottawa and Chippewa Indians of Michigan.
SR–485

NOVEMBER 4

10:00 a.m.
Judiciary
To hold hearings to examine competition, innovation, and public policy in the digital age.
SD–226

NOVEMBER 5

2:00 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings to examine the report of the President's Commission on Critical Infrastructure Protection.
SD–226

NOVEMBER 6

12:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342

CANCELLATIONS

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

POSTPONEMENTS

OCTOBER 23

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 943 and H.R. 2005, bills to revise Federal aviation law to declare that nothing in such law or in the the Death on the High Seas Act shall affect any remedy existing at common law or under State law with respect to any injury or death arising out of any aviation incident occurring on or after January 1, 1995.
SR–253

OCTOBER 27

10:00 a.m.
Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
SR–485

Wednesday, October 22, 1997

Daily Digest

HIGHLIGHTS

The House passed H.J. Res. 97, Continuing Appropriations Extension.

The House passed H.R. 1534, Private Property Rights Implementation Act.

House Committees ordered reported 9 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S10911–S11000

Measures Introduced: Six bills and one resolution were introduced, as follows: S. 1304–1309 and S. Con. Res. 56. **Page S10950**

Measures Passed:

Authorizing Use of Capitol Rotunda: Senate agreed to S. Con. Res. 56, authorizing the use of the rotunda of the Capitol for the ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. **Page S10999**

Continuing Appropriations: Senate began consideration of H.J. Res. 97, making further continuing appropriations for the fiscal year 1998.

Pages S10918–19, S10927–37

Senate will continue consideration of the resolution on Thursday, October 23, 1997, with a vote to occur thereon.

ISTEA Authorization: Senate resumed consideration of S. 1173, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, with a modified committee amendment (the modification being a substitute for the text of the bill), taking action on amendments proposed thereto, as follows: **Page S10947**

Pending:

Chafee/Warner Amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization. **Page S10947**

Chafee/Warner Amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature. **Page S10947**

Chafee/Warner Amendment No. 1314 (to Amendment No. 1313), of a perfecting nature. **Page S10947**

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions. **Page S10947**

Lott Amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs. **Page S10947**

Lott Amendment No. 1318 (to Amendment No. 1317), to strike the limitation on obligations for administrative expenses. **Page S10947**

A third motion was entered to close further debate on the modified committee amendment and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion could occur on Friday, October 24, 1997. **Page S10947**

Senate will continue consideration of the bill on Thursday, October 23, 1997, with a cloture vote on the modified committee amendment to occur thereon.

Executive Reports of Committees: Senate received the following executive reports of a committee:

Report to accompany U.S.-Mexico Treaty on Maritime Boundaries (Ex. F, 96th Cong., 1st Sess.) (Exec. Rept. No. 105–4). **Page S10950**

Report to accompany Migratory Bird Protocol with Canada and Migratory Bird Protocol with Mexico (Treaty Docs. 104–28 and 105–26) (Exec. Rept. No. 105–5). **Pages S10949–50**

Nominations Confirmed: Senate confirmed the following nominations:

Michael A. Naranjo, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and

Arts Development for a term expiring May 19, 2002.

Jeanne Givens, of Idaho, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2002.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Letitia Chambers, of Oklahoma, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

Pages S10999–S11000

Nominations Received: Senate received the following nominations:

Daryl L. Jones, of Florida, to be Secretary of the Air Force.

Richard M. McGahey, of New York, to be an Assistant Secretary of Labor.

William Dale Montgomery, of Pennsylvania, to be Ambassador to the Republic of Croatia.

William J. Lynn, III, of the District of Columbia, to be Under Secretary of Defense (Comptroller).

2 Navy nominations in the rank of admiral.

Pages S10999–S11000

Messages From the House: **Pages S10948–49**

Measures Referred: **Page S10949**

Executive Reports of Committees: **Pages S10949–50**

Statements on Introduced Bills: **Pages S10950–61**

Additional Cosponsors: **Pages S10961–62**

Amendments Submitted: **Pages S10962–93**

Notices of Hearings: **Pages S10993–94**

Additional Statements: **Pages S10994–99**

Adjournment: Senate convened at 12 noon, and adjourned at 7:13 p.m., until 9 a.m., on Thursday, October 23, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10999.)

Committee Meetings

(Committees not listed did not meet)

NATO ENLARGEMENT

Committee on Appropriations: Committee continued hearings to examine the costs of enlarging NATO membership to include Poland, Hungary, and the Czech Republic and the impact of enlargement on Department of Defense readiness, receiving testimony from Gen. Henry H. Shelton, Chairman, Joint Chiefs of Staff; and Gen. Wesley K. Clark, Commander in Chief, United States European Command.

Hearings continue tomorrow.

TEACHING HOSPITAL AUDITS/MEDICAL RESEARCH FUNDING

Committee on Appropriations: On Tuesday, October 21, Subcommittee on Labor, Health and Human Services, Education and Related Agencies concluded hearings to examine the billing practices of physicians at teaching hospitals and related Medicare requirements, after receiving testimony from Michael F. Mangano, Principal Deputy Inspector General, and Barbara Wynn, Director, Plan and Provider Purchasing Policy Group, Health Care Financing Administration, both of the Department of Health and Human Services; Jordan J. Cohen, Association of American Medical Colleges, Washington, D.C.; C. McCollister Evarts, PennState Geisinger Health System/Pennsylvania State University College of Medicine, University Park.

Also, subcommittee concluded hearings on a legislative proposal to increase funding for medical research and provide a 5 year extension of exclusivity for certain pharmaceutical products, after receiving testimony from Daniel P. Perry, Alliance for Aging, and James Love, Center for Study of Responsive Law, both of Washington, D.C.; Gina Cioffi, Cooley's Anemia Foundation, Brooklyn, New York; Scott Hallquist, Immunex International, Inc., Seattle, Washington; and Kenneth Clarkson, University of Miami, Miami, Florida.

YEAR 2000 LIABILITY AND DISCLOSURE

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Financial Services and Technology held hearings to examine potential litigation which may result from the Year 2000 computer problem and its impact on the financial services industry, and proposed legislation to require United States corporations to fully disclose all information concerning their Year 2000 remediation efforts and potential liabilities, receiving testimony from Brian Lane, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission; Jeff Jinnett, LeBoeuf Computing Technologies, New York, New York; Dana D. McDaniel, Williams, Mullen, Christian & Dobbins, Richmond, Virginia; Harris N. Miller, Information Technology Association of America, Arlington, Virginia; and Robert B. Austrian, NationsBanc Montgomery Securities Inc., San Francisco, California.

Hearings were recessed subject to call.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

H.R. 858, to direct the Secretary of Agriculture to conduct a pilot project on designated lands within Plumas, Lassen, and Tahoe National Forests in the State of California to demonstrate the effectiveness of the resource management activities proposed by the Quincy Library Group and to amend current land and resource management plans for these national forests to consider the incorporation of these resource management activities, with an amendment in the nature of a substitute, and in lieu of S. 1028, Senate companion measure;

H.R. 960, to validate certain conveyances of land from the Southern Pacific Railroad Company to the Redevelopment Agency of the City of Tulare, California;

S. 814, to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest, with an amendment in the nature of a substitute;

S. 799, to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property, with an amendment in the nature of a substitute;

H.R. 765, to ensure the maintenance of a free-roaming herd of wild horses at Cape Lookout National Seashore, with an amendment in the nature of a substitute;

S. 940, to provide for a study of the establishment of Midway Atoll as a national memorial to the Battle of Midway, with an amendment in the nature of a substitute;

H.R. 848, to extend the deadline under the Federal Power Act applicable to the construction of the AuSabel Hydroelectric Project in the State of New York;

H.R. 651, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington;

H.R. 652, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington;

H.R. 1217, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington;

H.R. 1184, to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric project in the State of Washington;

S. 538, to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project in the State of Idaho to the Burley Irrigation District, with an amendment in the nature of a substitute; and

The nomination of M. John Berry, of Maryland, to be Assistant Secretary of the Interior for Policy, Management and Budget.

OZONE AND PARTICULATE MATTER RESEARCH ACT

Committee on Environment and Public Works: Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety concluded hearings on S. 1084, to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter to reinstate the original standards under the Clean Air Act, after receiving testimony from James A. Martin, Martin's Famous Pastry Shoppe, Inc., Chambersburg, Pennsylvania, on behalf of the American Bakers Association; Adam Sharp, American Farm Bureau Federation, Washington, D.C.; Ande Abbott, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, Fairfax, Virginia; Jason S. Grumet, Northeast States for Coordinated Air Use Management, Boston, Massachusetts; George D. Thurston, New York University School of Medicine, New York, New York; and Tom Smith, Griffin, Georgia, on behalf of the National Coalition of Petroleum Retailers.

AFGHANISTAN

Committee on Foreign Relations: Subcommittee on Near Eastern and South Asian Affairs concluded hearings to examine the current situation with regard to the ongoing war in Afghanistan and its implications for the United States, after receiving testimony from Karl F. Inderfurth, Assistant Secretary of State for South Asian Affairs; Zalmay Khalilzad, Project AIRFORCE/RAND Corporation, Washington, D.C.; Marty F. Miller, Unocal Corporation, Sugar Land, Texas; and Thomas E. Gouttierre, Center for Afghanistan Studies/University of Nebraska, Omaha.

CAMPAIGN FINANCING INVESTIGATION

Committee on Governmental Affairs: Committee resumed hearings to examine certain matters with regard to the committee's special investigation on campaign financing, receiving testimony from Stephen Smith and Chief Petty Officer Charles McGrath, both of the White House Communications Agency.

Hearings continue tomorrow.

NOMINATION

Committee on the Judiciary: Committee concluded hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice, after the nominee, who was introduced by Senators D'Amato, Akaka, Feinstein, and Boxer, testified and answered questions in his own behalf. Testimony was also received from Susan Au Allen, U.S. Pan Asian American Chamber of Commerce, and Gerald A. Reynolds, Center for New Black Leadership, both of Washington, D.C.; Andrew C. Peterson, Morgan, Lewis and Bockius, Los Angeles, California; and Barbara Towers, Hawthorne, California.

BUSINESS MEETING

Committee on Labor and Human Resources: Committee ordered favorably reported the following business items:

S. 1294, to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program, with an amendment in the nature of a substitute;

S. 1237, to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, with an amendment in the nature of a substitute; and

The nominations of David Satcher, of Tennessee, to be an Assistant Secretary of Health and Human Services, and to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, Jeanette C. Takamura, of Hawaii, to be Assistant Secretary of Health and Human Services for Aging, Espiridion A. Borrego, of Texas, to be Assistant Secretary of Labor for Veterans' Employment and Training, Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor, Susan Robinson King, of the District of Columbia, to be Assistant Secretary of Labor for Public Affairs, Patricia Watkins Lattimore, of the District of Columbia, to be Assistant Secretary of Labor for Administration, Robert H. Beatty Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission, and Ela Yazzie King, of Arizona, to be a Member of the National Council on Disability.

SMALL BUSINESS TAX POLICY

Committee on Small Business: Committee held hearings to examine the impact of tax law reform on the small business community, receiving testimony from Jack Faris, National Federation of Independent Business, Karen Kerrigan, Small Business Survival Committee, Todd McCracken, National Small Business United, John S. Satagaj, Small Business Legislative Council, and Bennie L. Thayer, National Association for the Self-Employed, all of Washington, D.C.; Charles E. Kruse, Missouri Farm Bureau, Jefferson City, on behalf of the American Farm Bureau Federation; and Terry Neese, Terry Neese Personnel Services, Oklahoma City, Oklahoma, on behalf of the Association of Women Business Owners.

Hearings were recessed subject to call.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 14 public bills, H.R. 2691–2704; and 4 resolutions, H. Con. Res. 172–174, and H. Res. 275, were introduced. **Pages H9038–39**

Reports Filed: Reports were filed as follows:

H. Res. 274, providing for consideration of H.R. 2646, to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, (H. Rept. 105–336).

Conference Report on H.R. 2107, making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1998, and for other purposes. (H. Rept. 105–337). **Pages H9004–34, H9038**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Snowbarger to act as Speaker pro tempore for today. **Page H8931**

Continuing Appropriations Extension: The House passed H.J. Res. 97, making further continuing appropriations for the fiscal year 1998. **Pages H8937–38**

Earlier, the House agreed to H. Res. 269, the rule that provided for consideration of the joint resolution by a voice vote. **Pages H8934–37**

Private Property Rights Implementation Act: By a recorded vote of 248 ayes to 178 noes, Roll No. 519, the House passed H.R. 1534, to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution. **Page H8940**

Rejected the Lofgren motion to recommit the bill to the Committee on the Judiciary. **Pages H8963–64**

Agreed To:

The Traficant amendment that requires that whenever a Federal agency takes an agency action limiting the use of private property, the agency shall give notice to the owners explaining their rights. **Pages H8955–56**

Rejected:

The Boehlert amendment in the nature of a substitute that strikes Section 2, allowing property owners to appeal local land use decisions in Federal courts and establishes an expedited process for land use disputes with the Federal government (rejected by a recorded vote of 178 ayes to 242 noes, Roll No. 518). **Pages H8956–61**

The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of the bill. **Page H8964**

The House agreed to H. Res. 271, the rule that provided for consideration of the bill by a voice vote. Pursuant to the rule, the amendment printed in Part 1 of H. Rept. 105–335, the report accompanying the rule was considered as adopted. **Pages H8938–40**

Subsequently, agreed by unanimous consent to consider an amendment offered by Representative Traficant, as though printed in the report accompanying the rule. **Pages H8950–51**

Amtrak Reform and Privatization Act: The House completed general debate on H.R. 2247, to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak. Consideration of amendments will begin on October 23. **Pages H8972–78**

The House agreed to H. Res. 270, the rule that is providing for consideration of the bill by a yea and nay vote of 226 yeas to 200 nays, Roll No. 520. **Pages H8964–72**

FDA Regulatory Modernization Act: The House insisted on its amendments to S. 830, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products and asked for a conference. Appointed as conferees: Representatives Bliley, Bilirakis, Barton of Texas, Greenwood, Burr, Whitefield, Dingell, Brown of Ohio, Waxman, and Klink. **Page H8978**

Quorum Calls—Votes: One yea-and-nay vote and two recorded votes developed during the proceedings of the House today and appear on pages H8961, H8963–64, and H8971–72. There were no quorum calls.

Adjournment: Met at 10:00 a.m. and adjourned at 8:18 p.m.

Committee Meetings

COMMODITY FUTURES TRADING COMMISSION—GOVERNMENT PERFORMANCE RESULTS ACT REPORT

Committee on Agriculture: Subcommittee on Risk Management and Specialty Crops held a hearing to review the Commodity Futures Trading Commission's Government Performance Results Act Report. Testimony was heard from Richard J. Hillman, Acting Associate Director, Financial Institutions and Markets Issues, General Government Division, GAO; and Brooksley Born, Chairperson, Commodity Futures Trading Commission.

INTERNATIONAL MONEY LAUNDERING—BLACK-MARKET PESO BROKERING

Committee on Banking and Financial Services: Subcommittee on General Oversight and Investigations held a hearing to review law enforcement efforts to combat international money laundering occurring through ''black-market peso brokering''. Testimony was heard from the following officials of the Department of the Treasury: Allen Doody, Assistant Director, Operations, U.S. Customs Service; Greg Passic, Senior Special Agent, Financial Crimes Enforcement Network; and Al James, Senior Special Agent, Criminal Investigation Division, IRS; and ''Ms. Doe,'' former money launderer utilized by the Colombian drug cartels.

MISCELLANEOUS MEASURES

Committee on Commerce: Subcommittee on Energy and Power concluded hearings on H.R. 655, Electric Consumers' Power to Choose Act of 1997, and also

the following bills: H.R. 338, Ratepayer Protection Act; H.R. 1230, Consumers Electric Power Act of 1997; H.R. 1359, to amend the Public Utility Regulatory Policies Act of 1978 to establish a means to support programs for electric energy conservation and energy efficiency, renewable energy, and universal and affordable service for electric consumers; and H.R. 1960, Electric Power Competition and Consumer Choice Act of 1997. Testimony was heard from Stephen Wright, Vice President, National Relations, Bonneville Power Administration, Department of Energy; George Costello, Legislative Attorney, American Law Division, Congressional Research Service, Library of Congress; John Hanger, Commissioner, Public Utility Commission, State of Pennsylvania; and public witnesses.

READING EXCELLENCE ACT

Committee on Education and the Workforce: Ordered reported amended H.R. 2614, Reading Excellence Act.

FEDERAL EMPLOYEES HEALTH CARE PROTECTION ACT; FEDERAL EMPLOYEES LIFE INSURANCE IMPROVEMENT ACT

Committee on Government Reform and Oversight: Subcommittee on Civil Service approved for full Committee action amended the following bills: H.R. 1836, Federal Employees Health Care Protection Act of 1997; and H.R. 2675, Federal Employees Life Insurance Improvement Act.

ADMINISTRATION'S POLICY TOWARD SOUTH ASIA

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on the Administration's Policy Toward South Asia. Testimony was heard from Karl F. Inderfurth, Assistant Secretary, Bureau of South Asian Affairs, Department of State.

IMPACT OF CHILD LABOR ON FREE TRADE

Committee on International Relations: Subcommittee on International Economic Policy and Trade and the Subcommittee on International Operations and Human Rights held a joint hearing on the Impact of Child Labor on Free Trade. Testimony was heard from Andrew Samet, Acting Deputy Secretary, International Labor Affairs, Department of Labor; and public witnesses.

OVERSIGHT—TVA AND FEDERAL POWER MARKETING ADMINISTRATIONS—APPLICATION OF ANTITRUST LAWS

Committee on the Judiciary: Held an oversight hearing on the Application of the Antitrust Laws to the Tennessee Valley Authority and the Federal Power Marketing Administrations. Testimony was heard from Ed Christenbury, General Counsel, TVA; Douglas Smith, Deputy General Counsel, Energy Policy, Department of Energy; and public witnesses.

LINE ITEM VETO

Committee on National Security: Held a hearing on the President's line item veto action on the fiscal year 1998 Defense and Military Construction Appropriations. Testimony was heard from the following officials of the Department of Defense: Maj. Gen. Clair F. Gill, USA, Director, Army Budget, Office of the Assistant Secretary, Financial Management, Department of the Army; Rear Adm. James F. Amerault, USN, Director, Budget, Financial Management Division, Department of the Navy; and Maj. Gen. George T. Stringer, USAF, Deputy Assistant Secretary, Budget, Department of the Air Force.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: S. 423, to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason; H.R. 434, amended, to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico; S. 459, to amend the Native American Programs Act of 1974 to extend certain authorizations; H.R. 1739, amended, BWCAW Accessibility and Fairness Act of 1997; H.R. 1842, to terminate further development and implementation of the American Heritage Rivers Initiative; H.R. 2283, amended, Arches National Park Expansion Act of 1997; and S. 731, to extend the legislative authority for construction of the National Peace Garden memorial.

EDUCATIONAL SAVINGS ACCOUNTS—PUBLIC AND PRIVATE SCHOOLS

Committee on Rules: Granted, by voice vote, a modified closed rule providing 1 hour of debate on H.R. 2646, Educational Savings Accounts for Public and Private Schools Act of 1997. The rule provides that the bill shall be considered as read for amendment. The rule also provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means, as modified by the amendment printed in part 1 of the report of the Committee on Rules, as adopted. The rule provides for consideration of the further amendment printed in part 2 of the report, if offered by Representative Rangel of New York or his designee, against which all points of order are waived, which shall be considered as read for amendment and shall be debatable for 1 hour equally divided between the proponent and an opponent. Finally, the rule provides one motion to recommit, with or without instructions. Testimony

was heard from Chairman Archer and Representative Rangel.

LOAN PROGRAMS AND THEIR EFFECTIVENESS

Committee on Small Business: Held a hearing on the SBA's 7(a) and 504 loan programs and their effectiveness in serving economically distressed and disadvantaged areas. Testimony was heard from Aida Alvarez, Administrator, SBA; and public witnesses.

IRS RESTRUCTURING AND REFORM ACT OF 1997

Committee on Ways and Means: Ordered reported amended H.R. 2676, Internal Revenue Service Restructuring and Reform Act of 1997.

BILLS VETOED

H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortion. Vetoed October 10, 1997.

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 23, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, to continue hearings to examine the costs of enlarging NATO membership to include Poland, Hungary, and the Czech Republic, 10 a.m., SD–192.

Full Committee, business meeting, to mark up S. 1292, disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45 (Military Construction Appropriations for Fiscal Year 1998), 2:30 p.m., SD–192.

Committee on Armed Services, to hold hearings on the nominations of Lt. Gen. Peter J. Schoomaker, USA, to be Commander-in-Chief, United States Special Operations Command and for appointment to the grade of general, and Lt. Gen. John A. Gordon, USAF, to be Deputy Director of Central Intelligence and for appointment to the grade of general, 10 a.m., SR- 222.

Full Committee, business meeting, to consider pending nominations, 4:15 p.m., SR–222.

Committee on Banking, Housing, and Urban Affairs, to hold hearings on S. 318, to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and S. 1228, to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, 10 a.m., SD–538.

Full Committee, to hold hearings on pending nominations, 2:30 p.m., SD–538.

Committee on the Budget, to hold hearings to examine public pension programs in Europe, 10 a.m., SD–608.

Committee on Commerce, Science, and Transportation, business meeting, to mark up certain provisions of legislation relating to intermodal transportation safety, 10 a.m., SR–253.

Committee on Energy and Natural Resources, to hold oversight hearings on the issue of peaceful nuclear cooperation with China, 10 a.m., SD–366.

Subcommittee on National Parks, Historic Preservation, and Recreation, to hold hearings on S. 633, to adjust the boundary of the Petroglyph National Monument, and S. 1132, to modify the boundaries of the Bandelier National Monument, 2 p.m., SD–366.

Committee on Environment and Public Works, to hold hearings to examine the Army Corps of Engineers flood control project at Devils Lake, North Dakota, 9 a.m., SD–406.

Committee on Finance, to hold hearings on the nomination of Charles Rossotti, of the District of Columbia, to be Commissioner of Internal Revenue, Department of the Treasury, 10 a.m., SD–215.

Committee on Foreign Relations, to hold hearings on the nominations of Daniel Fried, of the District of Columbia, to be Ambassador to the Republic of Poland, Peter Francis Tufo, of New York, to be Ambassador to the Republic of Hungary, Alexander R. Vershbow, of the District of Columbia, to be United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador, Thomas J. Miller, of Virginia, for the rank of Ambassador during his tenure of service as Special Coordinator for Cyprus, David Timothy Johnson, of Georgia, for the rank of Ambassador during his tenure of service as Head of the United States Delegation to the Organization for Security and Cooperation in Europe, Kathryn Walt Hall, of Texas, to be Ambassador to the Republic of Austria, and James Carew Rosapepe, of Maryland, to be Ambassador to Romania, 2 p.m., SD–406.

Subcommittee on International Economic Policy, Export and Trade Promotion, to hold hearings to examine United States economic and strategic interests in the Caspian Sea region, 2 p.m., SD–419.

Committee on Governmental Affairs, to continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing, 10 a.m., SH–216.

Committee on the Judiciary, business meeting, to consider pending calendar business, 10 a.m., SD–226.

Committee on Labor and Human Resources, to hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation, 10 a.m., SD–430.

Committee on Indian Affairs, business meeting, to consider pending calendar business, 9 a.m., SR–485.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see pages E2053–54 in today's Record.

House

Committee on Agriculture, hearing to review H.R. 2185, USDA Accountability and Equity Act of 1997, and other civil rights measures, 9:30 a.m., 1300 Longworth.

Committee on the Budget, hearing on Securing America's Future: Preparing the Nation for the 21st Century, 10 a.m., 210 Cannon.

Committee on Commerce, Subcommittee on Oversight and Investigations, hearing on the Department of Energy's Implementation of Contract Reform: Mismanagement of Performance-Based Contracting, 10 a.m., 2322 Rayburn.

Subcommittee on Telecommunications, Trade, and Consumer Protection, hearing on Reauthorization of the Consumer Product Safety Commission and GAO report CPSC: Better Data Needed to Help Identify and Analyze Potential Hazards, 9:30 a.m., 2123 Rayburn.

Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations, hearing on H.R. 1415, Patient Access to Responsible Care Act of 1997, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Human Resources, hearing on ''Job Corps Oversight: Recruitment and Placement Standards'', 10 a.m., 2247 Rayburn.

Committee on International Relations: Subcommittee on Africa, to mark up H. Res. 273, condemning the military intervention by the Government of the Republic of Angola into the Republic of the Congo, 2:30 p.m., 2200 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing and markup of the following: H.J. Res. 91, granting the consent of Congress to the Apalachicola-Chattahoochee-Flint River Basin Compact; H.J. Res. 92, granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact; H.J. Res. 95, granting the consent of Congress to the Chickasaw Trail Economic Development Compact; and H.J. Res. 96, granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact, 10 a.m., 2141 Rayburn.

Subcommittee on Courts and Intellectual Property, hearing on the following measures: H.R. 2652, to amend title 17, United States Code, to prevent the misappropriation of collections of information; and the Vessel Hull Design Protection Act, 9:30 a.m., 2226 Rayburn.

Subcommittee on Crime, hearing on the implementation of the Communications Assistance for Law Enforcement Act of 1994, 10 a.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up H.R. 2376, National Fish and Wildlife Foundation Establishment Act Amendments of 1997; and hold a hearing on the following bills: H.R. 2304, to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resource System; H.R. 2401, to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System; and H.R. 2556, Wetlands and Wildlife Enhancement Act of 1997, 2 p.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on Recreational Residence Use Fees on National Forest System Lands, 10 a.m., 1334 Longworth.

Committee on Rules, to consider the following: Conference Report to accompany H.R. 2107, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998; and H.R. 2616, Charter Schools Amendments Act of 1997, 3 p.m., H–313 Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Allegations of Sexual Harassment at the FAA, 10:15 a.m., 2167 Rayburn.

Subcommittee on Aviation, to mark up the following measures: H.R. 2626, to make clarifications to the Pilot Records Improvement Act of 1996; H.R. 1454, Community Flight Safety Act of 1997; H.R. 2476, to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers, 3 p.m., 2167 Rayburn.

Subcommittee on Public Buildings and Economic Development, hearing on H.R. 2118, Ban on Smoking in Federal Buildings Act, 10:30 a.m., 2253 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Oversight and Investigations, hearing on VA Inspector General Reports on Alleged Mismanagement at the Charleston, South Carolina and Pittsburgh, Pennsylvania VA Medical Centers, and on related matters, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Social Security, to continue hearings on the Future of Social Security for this Generation and the Next, 10 a.m., B–318 Rayburn.

Subcommittee on Trade, to mark up H.R. 1432, African Growth and Opportunity Act; and to hold a hearing on the use and effect of unilateral trade sanctions, 10:30 a.m., 1100 Longworth.

Joint Meetings

Conferees, on H.R. 2159, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, 10:30 a.m., H–140, Capitol.

Next Meeting of the SENATE

9 a.m., Thursday, October 23

Senate Chamber

Program for Thursday: After the recognition of certain Senators for speeches and the transaction of any morning business (not to extend beyond 11 a.m.), Senate will resume consideration of S. 1173, ISTEA legislation, with a cloture vote on the modified committee amendment to occur thereon, following which Senate will vote on H.J. Res. 97, Further Continuing Appropriations, 1998.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, October 23

House Chamber

Program for Thursday: Consideration of H.R. 2646, Education Savings Act for Public and Private Schools (modified closed rule, 1 hour of general debate); and

Complete consideration of H.R. 2247, Amtrak Reform and Privatization Act (modified closed rule).

Extensions of Remarks, as inserted in this issue

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