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Senate

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

PRAYER

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

Gracious Father, our hearts are filled with gratitude. We are thankful that You have chosen to be our God and have chosen us to know You. Your love embraces us and gives us security; Your joy uplifts us and gives us resiliency; Your peace floods our hearts and gives us serenity; Your Spirit fills us and gives us strength.

We truly believe that Your loving hand is upon our lives; help us to be sensitive to every guiding nudge of direction. Keep us from making up our minds and then asking for Your approval. Keep us from acting as if we have Your answers to all questions. Keep us humble in our search for our applications of Your truth to the matters that face us. Free us from condemnatory judgments, and save us from the exhaustion and frustration of rushing up self-chosen paths without Your guidance.

Give us insight to see Your path for our lives, and the patience and endurance to walk in it with our hands firmly in Yours. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator WARNER of Virginia, is recognized.

Mr. WARNER. I thank the distinguished Presiding Officer, the President pro tempore of the Senate. I join with many others in recognizing how our distinguished senior Senator from South Carolina is always there present to open the U.S. Senate. That, in and of itself, is a record that merits the attention of all.

SCHEDULE

Mr. WARNER. Mr. President, this morning the Senate will be in a period of morning business until 10 o'clock. At 10 a.m., under rule XXII, a live quorum will begin. Once a quorum is established, the Senate will proceed to a cloture vote on the modified committee amendment to S. 1173, the highway legislation. Following that vote, the Senate will begin approximately 90 minutes of debate on the Interior appropriations conference report. If all of that time is used, Members can anticipate a second vote at approximately 12:15.

Under the previous order, at 12:30, the Senate will recess for the weekly policy luncheons to meet. Hopefully, when the Senate reconvenes at 2:15, the Senate will begin consideration of either the Amtrak legislation dealing with the pending strike, or Amtrak reform which would address the strike.

In addition, the Senate may begin debate on Senator COVERDELL's education IRA legislation, H.R. 2646. Therefore, Members can anticipate rollcall votes throughout today's session of the Senate.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Virginia is recognized to speak for up to 5 minutes.

Mr. WARNER. I thank the Chair.

THE NEED TO ADDRESS THE HIGHWAY BILL

Mr. WARNER. Mr. President, my remarks this morning go to the need for this body to begin to address the substantive provisions of the highway bill, S. 1173. As the Senate full knows, I am privileged to be the chairman of the subcommittee which, over the course of a period of the year, developed this piece of legislation. Many Senators have traveled great distances. We had hearings in several places throughout the United States and a number of hearings here, of course, in our committee room. But a lot of hard work went into this bill.

Now, the question on cloture involves the Senate consideration of the campaign finance bill. I leave to the respective leaders who, as nearly as I can determine, are trying to work diligently to resolve the procedural conflict involving that piece of legislation, campaign finance reform, as it relates to this bill. But as I read through the order that was prepared by the leader's office this morning reciting other pieces of legislation to which this body will turn, the question, of course, rises, why can't we go ahead with the ISTEA bill?

Again, I leave that to the leaders. They have worked on this diligently and indeed there are developments every hour on the hour. So it is difficult for any of us not involved in the negotiations to explain the exact reasons.

But the reason I asked to take the floor this morning is that we are witnessing here in this country, in the past week, and particularly yesterday, a very precipitous decline in our stock market, commodity markets, and the like. It clearly manifests an instability.

As I look at this piece of legislation, this is an absolute building block of stability for America's economy. This bill has literally millions and millions of jobs related to it. Now, highways, bridges, and other infrastructure requirements take months to plan—engineering, financial, consideration by the respective legislative bodies and highway commissions of the several States. It is a process which was carefully crafted in the 1991 bill over a period of

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

6 years. The reason we put in a 6-year bill was to provide the type of stability that enables those from the Governor and State legislatures to the various highway boards and commissions to do that type of planning.

All across this country today, in the wake of the instability of the marketplace and other economic indicators, millions and millions of men and women are dependent for their livelihood on this program going forward in an orderly way. Highways can't be built overnight. Weather has a very definite impact on the ability of the hands of these laboring people to build these highway systems. In some States, that envelope of weather is a matter of several months, primarily because of the weather conditions. But indeed during the course of the intense heat of summer, again, there are restrictive periods in which roads and highways can be built. It is for that reason that I ask this morning that we cannot be oblivious to what is taking place in the marketplace of our country and all over the world, this instability, at a time when this bill will be a very steady building block to add stability.

This vote will be the fourth to invoke cloture so that the Senate can proceed to the consideration of this legislation to reauthorize our Nation's surface transportation programs. This is needed because of the intent regarding campaign financing.

Mr. President, the funding level is $145 billion. Stop and think about that—$145 billion. That would benefit every single State. We have tried in this bill to equitably and fairly distribute these funds that would go from the State in the form of gasoline taxes, petroleum taxes associated with trucks, and diesel, and so forth—up to the highway trust fund and revolve and come back. We have tried to equitably distribute these funds, more so than in the 1991 ISTEA. The funding level in ISTEA II, which is the present bill, is $145 billion. It is a 20-percent increase in funding over the 1991 ISTEA I.

This funding level, if I may say, is significantly higher than recommended by the administration in their proposal that came to the Congress. The United States has the largest transportation system in the world, with 170,000 miles of National Highway System routes, 900,000 miles of other Federal aid roads, and 3.7 million miles of other public roads. Our national network of highways carries 136 million cars, 58 million light trucks, 6.9 million freight trucks, and 686,000 buses. In 1995, cars and light trucks, mostly personal vehicles, were driven 2.2 trillion miles.

What is alarming to learn, however, is that nearly half of our major road system is in mediocre or fair condition. I will repeat that. Half of this vast communications system is in mediocre or fair condition. This lack of investment clearly jeopardizes safety, the individual personal safety of those on the highways, and the mobility of the traveling public, as well as our economic competitiveness.

Now, I don't presume to give the causes for this problem in the market today, but anybody who wishes to be informed can certainly listen carefully, as I have done in the last 24 hours, to others who presumably have a better knowledge. But this problem is precipitated less by the U.S. economy, if at all—because that economy is relatively healthy—but more by the world marketplace, and primarily in Asia. It is a one-world competitive market, and the ability of this Nation to compete in that market is very, very significantly dependent on the efficiencies, the safety of this infrastructure of highways and roads and bridges. Mr. President, again, it is the competition in the world financial markets, primarily the deterioration of the situation in Asia that is causing the precipitous decline in our markets. I subscribe that that same competition exists in every other walk of life relative to the ability of the American working men and women to compete with their hands and their minds with others throughout the world. It is a one-world market.

I remember so well visiting, in Luray, VA, a plant that manufactures blue jeans. Now, blue jeans are almost a language in the world over today in many respects. I saw Virginians down over their machines sewing the particular garments being made that day.

I turned to the plant manager, who was escorting me through and I said, ''How can we compete with the blue jeans manufacturers elsewhere in the world?'' It was very interesting. I said, ''We are complying with all the environmental requirements, with the wage laws, the workers are well paid, well cared for, with health programs; how can we compete with those plants that are operating while we are sleeping in the Asian market?''

He said, ''Come with me.''

We walked down and I saw a bank of computers that take the orders in, relay the orders to the workbench, products are manufactured, put on a conveyor belt, and then he beckoned me and we went outside. There were a half-dozen semi-trailers being loaded, box after box. He said to me very simply, ''That order came in this morning, that garment was manufactured to the specifications of the merchant that placed that order, and the finished product is put in that truck and that truck travels overnight and that pair of jeans is on the store shelf the following morning.''

Asia cannot compete because of the infrastructure of transportation, the ability of this plant and other plants all over America to, within 24 hours, turn around an order and have that product on the shelf.

That is what is at stake, the ability to turn around these products in the face of a deteriorating infrastructure all across this country.

Mediocre and fair condition. That is half of the Nation's road system. That extrapolates into jobs, millions and millions of men and women of the United States ready to go to work provided in this bill and provide the needed stability that we are lacking today in view of these tragic declines in the world markets.

Transportation provides the link between business, industries, and consumers. Transportation and related industries employ 9.9 million people in the United States, slightly more than 7 percent of the total work force in this Nation. According to the Department of Transportation, for every $1 billion invested in highway and bridge projects, over 42,000 new jobs are created. As one of the largest sectors of our economy, transportation represents nearly 11 percent of the gross domestic product. It is just behind the basic services of housing, health care, and food.

Another compelling statistic confirms that transportation remains a sound investment for the American taxpayers. For every dollar spent, there is an economic return of $2.60.

Mr. President, I therefore urge my colleagues to consider these facts and let us not bring upon this institution that old adage that while Rome burned, Nero fiddled. We have to come to grips with this procedural question on campaign finance reform, but this type of legislation must go forward to provide the economic stability that is necessary at this very hour in America.

So I close, Mr. President, by urging all Senators who will be coming to the floor very shortly to express their views to perhaps take a look at what is happening in the international financial markets. It is impacting this country. Take a look at what is happening because while campaign finance is an important issue, it could really be perceived in the workplace by those who carry the lunch buckets, those who bend and sweat and toil to build America's roads and bridges, as the ant that toppled the mountain of jobs that are involved in this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Senator is recognized to speak for up to 10 minutes.

VOLUNTARY NATIONAL TESTING

Mr. BINGAMAN. Mr. President, I want to take a few minutes this morning to debunk a few myths that are being spread about how the Senate voluntary national testing plan would

work and explain why a so-called compromise that has been discussed here in the Capitol in the last few days misses the mark almost entirely.

As many of my colleagues here in the Senate already know, the opponents of a voluntary national test are blocking what in my view is a reasonable and carefully crafted proposal to improve our schools. Over a month ago here in the Senate, we voted 87 to 13 in support of this proposal. Since then, the opponents of it have refused to even sit down at the table and talk about the issue. In fact, they have threatened to shut down the Federal Government again rather than to allow States and school districts and parents to decide for themselves whether or not they want to use these new tests.

In recent weeks, the opponents of voluntary national testing have tried to spread a series of myths about the proposal that was passed by the Senate. Many of these are described on the chart here. Let me just go through a few of them.

First of all, one of the myths is that this is ''just another test.'' In reality, these national tests would provide essential information to parents that none of the commercial tests presently available provide, by allowing a comparison. The tests that are being considered by us in this legislation would allow a comparison between students across the Nation as to their level of performance on reading in the fourth grade and mathematics at the eighth grade.

Another myth is that the tests are not voluntary. The claim is that they are not voluntary. In fact, we have written into the language of the bill a specific requirement that they be voluntary; a prohibition against any impediment or any force being put on a State or district or community that chooses not to use the tests.

Another of the myths is that they would not do anything, when in reality we have various States and communities and school districts around the Nation that are showing that high standards and uniform measures of achievement can engage and empower area communities to put more emphasis on their schools and increase the learning that occurs there.

But, despite the mischaracterizations of the voluntary testing proposal, I am glad to report that educators and business leaders and the American public support this proposal overwhelmingly, the proposal that the President sent forward. I know this from having heard it from people on the front lines.

This last Friday we had a meeting with various people. An elementary school parent and PTA member, Laura Scott, told about how important independent tests were for parents who are handing their children over to schools and need all the leverage they can get to make sure the education their children are getting in those schools is adequate. Gov. Roy Romer of Colorado spoke about the efforts that are being made in Colorado to develop their tests in these various subjects and how he would appreciate a chance to know how his State is doing relative to other States. He could not see any justification for each of the 50 States having to reinvent the wheel. Obviously, the President's proposal would eliminate the need for that. The Governor of North Carolina, Jim Hunt, also spoke eloquently about the importance of having benchmarks so that he can determine the appropriateness of the education that is being provided to his own grandchildren in the public schools of North Carolina.

From a business perspective, Alan Wurtzel, of the National Alliance of Business, and Chris Larson, of the Technology Network, described how important uniform measures of achievement are to preparing a qualified work force for the 21st century and how the business community insists upon objective measurements of achievement in the training that they do. And they believe that same concept makes a lot of sense in our schools as well.

Representing large, urban school districts, Philadelphia School Superintendent David Hornbeck said that the tests, as he saw it, would be, and the phrase he used was a ''sword of equality'' for poor and minority students in Philadelphia and elsewhere who today are receiving an inferior education, unfortunately, in many of these school systems but, by virtue of this kind of objective performance testing, would be able to improve the situation.

Most recently, opponents of the voluntary national tests came up with the so-called compromise proposal that in my view reveals a basic misunderstanding about what the voluntary national testing proposal is supposed to do. The proposed compromise preserves the status quo. It relies on a type of test —the type which many of our school districts are now using—which creates the impression that students are doing better than they really are. We could refer to this proposal as the Lake Woebegone proposal. It is clearly a situation, which we have today, where ''all the children are above average.''

First off, the compromise they are proposing is not much different from an outright prohibition on the development of any new tests. Further development of a voluntary national test would be immediately and completely prohibited under this compromise, so-called compromise, that has been discussed. That is nothing else but protecting the status quo, in denying States, denying school districts the choice to participate in a national measure of student achievement. Seven States have already indicated they want to participate and 15 major school districts have opted to do so.

Second, this proposed compromise wouldn't really accomplish anything useful in terms of focusing more attention on world-class standards for all children. That is because instead of developing new national tests on fourth grade reading and eighth grade math, this antitesting proposal would fund a $3 million study of the feasibility of linking various commercial tests that are already there with each other. These commercial tests that would be linked under this study do not conform to the rigorous academic standards of the National Assessment of Educational Progress. The whole idea behind this development of a fourth grade reading test and eighth grade math test is we want these kinds of rigorous national academic standards that are reflected in the National Assessment of Educational Progress available for all schools to look at.

In addition, the tests that would be studied are all ''norm-referenced'' tests, which means their scores are all reported by percentiles. They show how you scored compared to others, but they do not show how you score relative to any kind of objective criteria, as to whether or not you can read at a reasonable level or do math at a reasonable level.

In many ways, this proposal misses the point. It suggests that the current hodgepodge of commercial tests can adequately solve the problem. It proposes to preserve the status quo rather than allowing States and districts to make their own choices. It undercuts the National Assessment for Educational Progress which is the most rigorous national measure of student achievement. And this so-called compromise is completely unsatisfactory in that it would block the proposal we agreed to here in the Senate, to allow this test to be developed by the National Assessment Governing Board.

Here in the Senate, the compromise that was negotiated, it was clear, was supported overwhelmingly by a bipartisan group of Senators. Leading scholars in this field such as Checker Finn and Bill Bennett supported that compromise. Since then, 43 Senators have pledged to block the appropriations bill or to uphold a veto, if the President is required to veto the bill, if that original compromise is not maintained.

So, if testing opponents want the National Academy of Sciences to study whether commercial or even State-developed tests are as rigorous as the National Assessment of Educational Progress, I have no problem with that. I think studies can sometimes be useful. But until it is clear that State and commercial tests are up to the task, I believe we should be able to go ahead with the voluntary national test development and that funding should be kept in the bill and not be prohibited as the House is considering doing.

Mr. President, I know there are others waiting to speak. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. 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. GRAMS. Mr. President, I also ask unanimous consent I be able to speak as in morning business.

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

THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. GRAMS. Mr. President, I am here this morning on the floor to talk about the very important ISTEA legislation that is being held up in the Senate here for many, many different reasons. But the introduction of the Senate's Intermodal Surface Transportation Efficiency Act of 1997 represents the results of intense negotiations between Chairman CHAFEE, Senator WARNER, and Senator BAUCUS, each of whom have represented three different legislative approaches to the reauthorization of ISTEA.

I thank each of these Senators for the work they have done to bring this bill to the floor because the citizens of my home State of Minnesota strongly support a 6-year reauthorization bill, funded at the highest levels. This should be one of our top priorities before we adjourn this session. Unfortunately, however, this very important piece of legislation is being held up by other Senators seeking to impose a political agenda on a very vital transportation spending issue. Again, it is being held up by Senators who want to impose a political agenda on vital transportation spending.

Their effort to halt this crucial transportation spending bill are far more egregious than other attempts in the past to influence legislation by holding it hostage. It is inconceivable to me that we would not consider this bill on its own merits. The question of why not is being asked by every State concerned about the availability of transportation funds for continuing projects. It is ironic that Senators claiming to support labor issues would now thumb their noses at the same hard-working Americans who feed and clothe their families through the salaries they earn working on transportation projects, not to mention how important those projects are for improved safety and for meeting our growing transportation needs.

ISTEA must be considered before we adjourn for the year. There has been a real effort to reach a compromise that achieves balance among the 50 States. This balance is required to address unique transportation needs in the different regions of our country: The congestion needs of the growing South, the aging infrastructure needs of the Northeast, as well as the national transportation needs of the rural West and the Midwest. Almost every State shares in the growth in dollars contained in the bill compared with the funding levels that they received under ISTEA back in 1991.

I was proud to join Senator WARNER as a cosponsor of STEP 21 earlier this year, as Minnesota was a member of the STEP 21 coalition, and I am pleased that much of the bill has been incorporated now into this piece of legislation.

Mr. President, this bill attempts to preserve the principles of ISTEA that have proven to be successful. We need to ensure that our transportation growth contributes to the preservation of our environment.

We need to continue to build upon the shared decisionmaking among the Federal, State, and local governments in the transportation planning process. We also need a transportation bill that is based on a formula that is fair. This bill will either succeed on the doctrine of fairness or it will fall victim to politics as it has in the past.

I am pleased the ISTEA reauthorization attempts to ensure a fair allocation of funds. The new formula was determined with objective factors, such as the number of miles of the National Highway System and each State's contributions to the highway trust fund.

Under this legislation, every State will receive a minimum return of 90 percent of their contributions to the highway trust fund. That is a very different guarantee from the so-called 90-percent minimum allocation in ISTEA. This is a real guarantee.

Finally, we must have a transportation bill that makes an improvement in streamlining as well as flexibility. This bill streamlines ISTEA's five major programs down into three, and they are the National Highway System, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Program.

The Federal focus on our most important network of roads, the National Highway System, which includes our interstate system, is maintained. The streamlining and the flexibility provided by the ISTEA reauthorization will give Minnesota the ability to make its own transportation decisions, and that is a great step forward. Other States also would have the same freedom.

This bill attempts to get a reasonable rate of return for Minnesota. In this bill, my State will receive 1.50 percent of Federal apportionment dollars, which represents an increase from the 1.43 percent of actual dollars under the 1991 ISTEA.

The bill would also increase my State's share by over $82 million per average year above the 1991 authorization level.

I am also pleased to be a cosponsor of the Byrd-Gramm amendment which allows the Federal gas tax of 4.3 cents now dedicated to the highway trust fund to actually be spent on highways. This will provide Minnesota the necessary additional revenue that is so critical to meeting our infrastructure needs.

Mr. President, the political games must end. The reauthorization of ISTEA has expired. We need to go forward and we need to approve a new highway reauthorization bill.

It has been proven again and again that transportation spending is one of the most important, it is one of the most cost-effective investments in our Nation's future. For every $1 billion spent on transportation, we create 60,000 jobs, jobs that are now at risk again while some Senators attempt to hold this legislation prisoner in exchange for the advancement of their particular political agendas. I ask my colleagues this morning to help liberate this political hostage to allow the ISTEA legislation to proceed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Thank you, Mr. President.

REVENUE SHARING OF OUTER CONTINENTAL SHELF FEDERAL RECEIPTS FROM OIL AND GAS PRODUCTION

Ms. LANDRIEU. Mr. President, I rise today to bring to the attention of the Senate and, hopefully, to the Nation, a concern that is very important to my constituents in the State of Louisiana and to other coastal States. I rise to address this issue in order to begin what I hope will be an educational process for all of us.

As you know, the Federal Government, through the Minerals Management Service and the Bureau of Land Management at the Department of the Interior shares with the States 50 percent of the mineral revenues from Federal lands inside the boundary of States, to offset the impacts of onshore mineral development. Unlike the States that support onshore development of Federal mineral resources, Louisiana, particularly, and Texas, Alaska, California, Mississippi, Alabama, and Florida receive comparatively little of the revenues received by the Federal Government for offshore oil and gas development on the Outer Continental Shelf.

I intend very shortly to introduce legislation to realign the OCS revenues to reflect a more fair and more just allocation. This legislation will also address historical and anticipated impacts on infrastructure and environmental needs that have been identified over the course of time. I raise this issue as the Senate today, Mr. President, will be voting on the Interior and related agencies appropriations conference report this afternoon. That bill

contains funding for land and water conservation and the National Historic Preservation Fund. All of those moneys, almost up to $1 billion authorized, comes from OCS revenues. So the Federal Treasury has been a great beneficiary, and many States, of course, have shared in these revenues.

This year also marks the 50th anniversary of oil and gas exploration and production in the United States off the gulf coast. We have come a long way from the early days when a few intrepid souls dared to combine their resources to take a risk on a black pitch-like substance that was seeping out of the hills of Pennsylvania. They discovered that this substance would burn. From that substance kerosene was derived and then came gasoline and numerous other petroleum products that support the American economy and the American lifestyle today.

Oil and gas development has long been the lifeblood of my State—through good times and bad, through the early years of this century and the bust years of the 1980's. In Louisiana, as in other oil-patch States, there was an abundance of oil and gas. Many people dug wells, plugged them, and made and lost fortunes.

In the 1970's, there was an oil boom that no one thought would end, but it did. During that time, businesses sprang up in Oklahoma and Texas and throughout the oil patch with businesses building headquarters in cities like Tulsa, Houston, and Dallas. In the Gulf of Mexico, oil and gas platforms appeared. People discovered a wealth of reserves in coastal waters and, later, in Federal waters, particularly off the coast of Louisiana.

Mr. President, I want to share with you today, and many Members of the Senate, that all of the production in the gulf identified is by these squares that are blocked off. You can see that almost 90 percent, from approximately this line to all the way over is off Louisiana's coast. About 90 percent of the production is supported off Louisiana's coast, and that is the point I want to make today. It is not all the coastal States supporting it equally. Louisiana is contributing a huge amount to this development, which is contributing a huge amount of money to the Federal Treasury.

The history of OCS development and State versus Federal ownership was defined in the time of President Truman. There was a great deal of discussion on this issue between interested parties, with no real solution as to how these proceeds should be fairly divided. The controversy continued briefly through the forties and fifties. Finally, legislation came in 1953. This act established a 3-mile State water boundary for Louisiana, Mississippi, and Alabama and, for historical reasons, a 10-mile border for Texas and the gulf coast of Florida.

The understanding was that States would own the resources up to 3 miles out from their coastal boundaries, and the Federal Government would own the resources beyond the 3-mile mark, and that lasted for years. In addition, in 1985, a new zone was created through an amendment to the Outer Continental Shelf Lands Act, the 8g zone. So between 3 and 6 miles, the States on the coast can now benefit in some additional ways, but rather minor, from the oil and gas derived from that 3- to 6-mile zone.

The most recent Federal law to apply to the Outer Continental Shelf was passed in the last Congress, through the leadership of my predecessor, former Senator Bennett Johnston. This measure, the Outer Continental Shelf Deepwater Royalty Relief Act, provided a royalty incentive for companies that wished to explore in deep waters off the continental shelf but were constrained by the cost of deepwater drilling.

Today, as a result of this act, you can see from the previous chart that there have been record sales and bids off the gulf coast, particularly in Louisiana. In March of this year, lease sale No. 166 was held in the central gulf, and 103 companies bid on over 5,000 blocks comprising 27 million acres offshore Alabama, Louisiana, and Mississippi. The companies made record bids. Fifty-one percent of these blocks were in 800 meters of water. The deepest block was in 9,000 feet of water.

The mind-boggling total value of these bids was in excess of $800 million. Mr. President, five additional sales are planned beginning in March. All of this is due to the Deep Water Royalty Relief Act which has created thousands of good paying jobs in the energy industry, both onshore and offshore. The Federal Treasury has benefited substantially. The Federal Treasury received an amount of $2.8 billion from these leases in 1995. Louisiana contributed $2.1 billion. These figures do not include corporate taxes and taxes that were also collected for the Federal Treasury.

I need to clarify the funding situation for those who are listening today. When there is onshore oil and gas production, States are entitled to 50 percent of the royalties. Alaska gets 90 percent onshore. For coastal States with offshore production in 8g, States receive only 27 percent, and beyond the 6-mile mark for Louisiana, Mississippi, and Alabama, States are not entitled to any percentage. That is the point of this discussion.

In conclusion, let me say that we need to make this distribution more fair and more equitable. With the amounts of money that are being distributed based on 50 percent for onshore, based on 90 percent for Alaska, but now under the current law, outside of this 6 miles, the coastal States receive almost nothing. The amount of money being generated is greater and greater every year. Just last year, as I mentioned, it was up to $2.8 billion received by the Federal Treasury. And of that amount, Louisiana received less than $16 million from contributing over 90 percent of the production totaling almost $3 billion. We received only $15.9 million.

For 50 years, Louisiana has borne the brunt of the impacts associated with oil and gas production in the Gulf of Mexico. While we acknowledge that hosting offshore production has provided some economic rewards in the State, Louisiana cannot tax the production on the OCS, nor do we receive a share of the governmental payments on the OCS. There has been damage to onshore staging areas, damage from activities by the Corps of Engineers, and deterioration of infrastructure such as roads and highways that are used to get equipment and workers to the offshore fields. The State of Louisiana has not received appropriate compensation for the use of its land and the environmental impacts of this production.

Moreover, Mr. President, we have a very fragile environment in south Louisiana. I have visited Port Fouchon, in La Fourche Parish many times. La Fourche Parish is a rural, relatively isolated parish at the bottom of the ''L'' in Louisiana, if you picture the State in the form of the letter ''L.'' The people there are of modest means, and do their best to make a good living. Port Fouchon is Louisiana's only port on the Gulf of Mexico. Its proximity to the deepwater oil and gas discoveries makes it the port of choice for an increasing number of businesses. Over 6,000 people depend on the port as an avenue to and from offshore facilities. In just 3 years, Port Fouchon has tripled the amount of cargo it handles—from 10 million to over 30 million tons in 1996.

Near Port Fouchon is the Louisiana Offshore Oil Port [LOOP]. LOOP is a state of the art offshore facility located 20 miles south of Port Fouchon. LOOP is connected through five pipelines to over 30 percent of the Nation's refining capacity. Recently, the deepwater platform Mars, by Shell Oil, was connected by pipeline to LOOP. Consequently, LOOP will be handling a significant portion of the Gulf of Mexico's domestic deepwater oil production. Couple this with the recently announced goal that the MMS would like to increase oil production in the gulf from 1.7 to 2 million barrels of oil a day. This is an extremely ambitious schedule. Such an increase would amount to an additional $600 million in royalties by the year 2000. Yet, there has been little attention to infrastructure in La Fourche Parish, and little attention to the environment. According to Bob Thompson, president of LOOP, ''Nearly all of LOOP's logistical support for offshore operations comes directly through Port Fouchon, and hence across substandard roadways. We must improve our highway infrastructure to accommodate this new business.'' Currently, over 80 deepwater prospects are identified off coastal Louisiana. An astounding 75 percent of these are in the Port Fouchon service area. Terrebonne and St. Mary Parishes, St. Bernard, and Jefferson which

are adjacent to La Fourche, will also support industry activity. Many of the parishes need additional help as well as other coastal States. These new demands will put a great deal of stress on an already besieged environment. Mr. President, these areas and their fragile environments in Louisiana were sacrificed long ago for the benefit of industry investment and development. I intend to ensure that these areas will be ignored no longer.

Since the early 1990's, the Minerals Management Service at the Department of the Interior and various heads of environment and natural resource departments from a number of States have been holding talks and negotiations over revenue sharing from the funds collected from activity in the gulf. This month, in fact, tomorrow, the OCS Policy Committee will be meeting in Galveston, TX, to vote on a revenue sharing initiative. I commend this method of consensus building that the Department, industry, and the States have undertaken to address revenue sharing and its implementation. But I want to go further than just recognizing their actions, Mr. President.

In the next few weeks, I will be filing the bill to bring this issue to the attention of the U.S. Senate to ask for a greater distribution and a more fair distribution to those States impacted so that we can continue to support this industry, but in return this industry can and the Federal Treasury can invest back into Louisiana and other coastal States so we can continue this drilling in an environmentally sensitive way.

Through advances in technology and favorable laws, we have come upon a great resource for this Nation, to reduce our dependence on foreign oil. At the same time, we must take advantage of this economic boon to reinvest in our environment, to repair damage to our wetlands, and to take stock of our natural resources and their value as we benefit in the coming years from activity in the gulf.

Thank you, Mr. President. I thank you for the time.

WALTER GREY HEMPHILL, JR., WORLD WAR II HERO

Mr. COCHRAN. Mr. President, funeral services will be held today in my State for Walter Grey Hemphill, Jr., a World War II hero, who was also a very close personal friend.

He was best known in our community as a former star athlete at Byram High School, who was recruited to play football at the University of Mississippi in 1941, as a successful coach and teacher at his alma mater, a respected vice president and general manager of Deviney Construction Co., an active member and chairman of the deacons at the First Baptist Church of Byram, and as a past worthy patron of the Order of the Eastern Star.

While most of his friends knew that Walter Grey Hemphill, Jr., had been a veteran of World War II, few were aware of the details of his combat experiences. The fact that he was one of the true heros of the Battle of the Bulge was not something he talked about very easily.

The citation he received awarding him the Silver Star for valor in battle described his bravery under fire and his willingness to risk his life to save the lives of his fellow paratroopers of the 101st Airborne Division in the fighting near Bastogne, Belgium, in December 1944. He destroyed a German gun emplacement with an explosive charge at close range while under heavy enemy fire. His courageous action saved the lives of the members of his unit, but he was seriously wounded in the process. He received two Purple Hearts and spent over a year in hospitals recovering from his injuries.

After the war, he returned to the University of Mississippi and, although unable to play football, he earned his bachelor and master's degrees and became my high school world history teacher, as well as my football, basketball, and baseball coach. He was also our close neighbor whose friendship I enjoyed and appreciated. I'm confident that the lessons I learned from him on the athletic fields, in the classrooms, and in our neighborhood provided me with a firm foundation of values, attitudes, and work habits that made future academic and professional success possible.

I will always remember and be grateful for his generous acts of kindness, his fair but firm discipline, and his thoughtful leadership.

He is survived by a dear and loving wife, Elsie, and a devoted daughter, Patricia Windham, to whom I extend my sincerest condolences.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Trent Lott, John H. Chafee, John Ashcroft, Larry Craig, Don Nickles, Mike DeWine, Frank Murkowski, Richard Shelby, Gordon Smith, Robert Bennett, Craig Thomas, Pat Roberts, Mitch McConnell, Conrad Burns, Spence Abraham, and Jesse Helms.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 6]

Abraham	Gorton	McConnell
Ashcroft	Grams	Moynihan
Bennett	Grassley	Murkoswski
Biden	Gregg	Murray
Bingaman	Hagel	Nickles
Breaux	Hatch	Roberts
Bumpers	Hollings	Santorum
Cleland	Hutchinson	Sarbanes
Coats	Hutchison	Sessions
Collins	Jeffords	Smith (NH)
Coverdell	Kennedy	Smith (OR)
Craig	Landrieu	Specter
Daschle	Leahy	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Wellstone
Feingold	Mack	
Ford	McCain	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Act, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—52

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

NAYS—48

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

The PRESIDING OFFICER. On this vote the yeas are 52, the nays are 48.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. CHAFEE addressed the Chair.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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 to speak for 2 minutes out of order.

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

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. BAUCUS. Mr. President, I would just like to say a few words about where we are on the highway bill. It is due to internal political discussion and confrontation that we have not been able to move on the highway bill. There has been a bipartisan effort to try to get an agreement on campaign finance reform. We are still at loggerheads.

Mr. President, it is imperative that we in the Senate find some way to get a highway bill passed. It has been a month now since the authorization expired. It expired on September 30. We in the Senate are derelict by not passing highway legislation.

I say that because there are many States that are going to run out of money very soon. My State of Montana will run out the first part of February. It takes a long time to let contracts, to bid on contracts, to get the pipeline lined up so dollars are out to the States for jobs. I have been in favor of the 6-year bill. It only makes sense that we have some continuity in our highway program.

This is not some abstract theory, Mr. President. This is jobs. This is local people, cities and counties and States, that very much depend upon this multibillion-dollar program. So I urge us to find some pragmatic, practical way to get some form of a highway bill passed. I hope it is 6 months. It may not be 6 months. I hope it is 6 years. It may not be 6 years. But we have to pass something so when we go home over the holidays we will at least have built a bridge so next year we take up a full 6-year bill and find a way to get that passed.

I urge my colleagues to find some way to solve this impasse now so we as a practical matter do our duty to get highway legislation passed.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time to comment on the remarks just made by the senior Senator from Montana. I share his view.

Obviously, this is a very significant concern for all of our States and for a lot of Governors and those who are making decisions in their departments of transportation.

There are really two approaches. The first approach is for us to reach an agreement to allow campaign finance reform to be set for a certain date early next year. I think there are good-faith negotiations continuing, and I am hopeful they will produce the desired result.

But that is the first option. Then we can take up the 6-year bill and complete our work, as I know many of our colleagues, including this Senator, would like to do.

The second option is the one that the Senator from Montana alluded to. We can do what the House has already done. We can take up a 6-month bill. We can improve upon the 6-month bill that the House has proposed. I think we could use our allocation, our numbers and be in a much better position to go to conference. But certainly no one should object to moving a 6-month bill if we can't get agreement on a longer bill.

So either way, Mr. President, we have an option. We can take up the 6-year bill—hopefully, that is still possible—only if we can get campaign finance reform. Who knows what will happen in conference even with a 6-year bill. But at least the Senate will have acted. Short of that, there is absolutely no reason why we cannot take up a 6-month bill. We could do it on a unanimous-consent basis if we wished, and I hope we could do that as a second option should we not resolve the first.

However, I do believe we must act. We must resolve this matter prior to the end of this session. I am confident that, working together, we can find a way to do that.

I yield the floor.

Mr. CHAFEE addressed the Chair.

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

Mr. CHAFEE. Mr. President, I would ask that I might proceed for 4 minutes as in morning business.

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

Mr. CHAFEE. Mr. President, I point out we have been on this highway bill, the surface transportation legislation, for nearly 3 weeks. This was, I believe, the fourth cloture vote so that we could move on and deal with the bill.

We could not get cloture. The other side didn't want us to have cloture. So that's why we are in this jam. This legislation before us is a 6-year bill. It came out of the committee unanimously. There may be variations and amendments. That is fine. We ought to have a chance to bring them up and vote on them.

But we could not do that, Mr. President. I think that is very regrettable. Now people are backing off and saying let's possibly have a 6-month bill. I think that is a disaster; nobody can do any long-range planning with a 6-month piece of legislation.

So I think it is very unfortunate the way this has worked out. I am not sure what the next order of business is or what the next step in connection with this highway legislation will be, but I feel very badly that we did not get cloture so we could go ahead and deal with a good bill, bring up the amendments and vote on them one way or another. But we were unable to do that, and I regret it.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

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

Mr. KERRY. Mr. President, I would like to respond briefly to the Senator from Rhode Island and make it as clear as I think it can be made clear that this is about one issue. It is not about ISTEA. It is not about the transportation needs of the country. It is about campaign finance reform.

That is all this is about. We have been pressing for months to be able to get the ability to debate and have a full-fledged legislative effort on campaign finance reform. We have been denied the right to have one vote on the substance of real campaign finance reform, not one vote.

The reason we are in this predicament is exclusively the resistance on the part of the Republicans to permit us to have a date certain and the ability to be able to legislate on campaign finance reform.

That is all this is about. There are as many Members on the Democratic side of the aisle who want to vote for ISTEA as there are on the Republican side. ISTEA will ultimately pass the Senate, and it will pass overwhelmingly. This is about whether or not we are going to face one of the most important issues the people in this country want to face, that a group of people are resisting and will not allow the democratic process to work. It is that simple. I hope no one will confuse it in the days ahead. This could be resolved in a matter of hours by reasonably permitting those of us who seek campaign finance reform to know that we can return after the recess and be able to vote in February or March and have the Senate properly discuss the issue of campaign finance reform.

This is an issue that, on the Republican side, Senator MCCAIN has said and on our side the leadership has said and a number of us have said, is not going to go away.

If there is any lesson we have learned in the Senate, it is that when there is the kind of issue that has a sufficient number of votes for the underlying bill, they do not go away. We have seen that on the minimum wage. We have seen it on a host of other issues through history here. I am confident that we can come together around some reasonable approach to campaign finance reform.

We have acknowledged to Senator MCCONNELL and others that this is an issue which will take 60 votes. We know that. We are not suggesting that this can be resolved other than by coming together with some kind of consensus that will resolve the capacity of either side to filibuster. We know that.

But until we get to the business of legislating, of actually proposing amendments and working with that kind of energy, we are never going to know if we can reach that kind of consensus, and that is what this fight is about.

So I hope no one confuses it as somehow surrogate or secret opposition to ISTEA. It is not. It is about the unwillingness of the Republicans at this point in time to set a date certain for campaign finance reform and to permit us to come back and do the business of the Senate. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Might I ask colleagues whether or not there would be an opportunity to speak 5 minutes in morning business? Is that all right with my colleagues?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Chair recognizes the Senator from Minnesota for 5 minutes.

UNITED STATES-CHINA SUPPORT

Mr. WELLSTONE. Mr. President, I rise to address the direction of our country's relationship with China. Right now, the Clinton administration is busy with the state visit of Chinese President Jiang Zemin. A state visit is the highest, most formal diplomatic event hosted by the United States. The champagne will flow, and flattering toasts will be made.

I disagree with this red carpet treatment, Mr. President. There is no question that United States-Chinese relations are crucial and important for both countries. It is wrong, however, for the United States to host a state visit for President Jiang Zemin until we see significant progress made on human rights in China. Instead of a ceremonial visit, we should be holding a working visit with the Chinese leadership, focusing on the critical issues that exist between our two nation, like human rights, weapons proliferation, and trade.

China continues to wage a war against individual freedoms and human rights. Hundreds, and perhaps thousands, of dissidents and advocates of political reform were detained just last year. They included human rights and pro-democracy activists, and members of religious groups. Many have been sentenced to long prison terms where they have been beaten, tortured, and denied medical care.

Scores of Roman Catholics and Protestants were arrested. A crackdown in Tibet was carried out during the ''Strike Hard'' campaign. Authorities ordered the closure of monasteries in Tibet and banned the Dalai Lama's image. At one monastery which was closed, over 90 monks and novices were detained or disappeared.

Harry Wu, a man of extraordinary courage and character, has documented China's extensive forced labor system. His research has identified more than 1,100 labor camps across China, many of which produce products for export to dozens of countries around the world, including the United States.

Because he criticized his government, Harry Wu was also imprisoned in these camps. For 19 years in 12 different forced labor camps across China, Harry was forced to mine coal, manufacture chemicals, and build roads. He survived beatings, torture, and starvation. He witnessed the death of many of his fellow prisoners from brutality, disease, starvation, and suicide.

According to Amnesty International, throughout China, mass summary executions continue to be carried out. At least 6,000 death sentences and 3,500 executions were officially recorded last year. The real figures are believed to be much higher.

Our own State Department reported that in 1996: ''All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administration detention, or house arrest. No dissidents were known to be active at year's end.''

Mr. President, that is a chilling, deeply disturbing statement. It cuts to the core values of our Nation. And it was made by our own Government, and this administration. Yet, this week, the administration will welcome President Jiang with pomp and circumstance. These actions indicate that, where China is concerned, what we have is not a policy of constructive engagement, but one of unconditional engagement.

Let us put some names and human faces to the statistics and generalities we have all heard with regards to China.

In May 1996, Wang Hui was detained. She was the wife of a jailed labor activist. While detained, she was denied water and other liquids. She tried to kill herself by hanging. According to Human Rights Watch, after being cut down by police, she was punished with severe beating.

Ngawang Choephel is a Fulbright Scholar from Middlebury College. He studied music, and returned to his homeland to document the ancient music and culture of Tibet. It is disappearing under the heel of the Chinese Government. As a result of his work, he was convicted in February, and sentenced to 18 years imprisonment for espionage. His crime—sending videotapes of ethnic Tibetan music and dancing out of China.

Last year, Wang Dan was sentenced to 11 years in prison on charges of conspiring to subvert the Chinese Government. Prior to sentencing, Wang had already been held 17 months in incommunicado detention. His crime: He was a leader of the Tiananmen movement.

Two years ago, Beijing sentenced Wei Jingsheng to 14 more years of incarceration for the crime of peacefully advocating democracy and political reform. Wei had been arrested and sentenced after he wrote wall posters on the Democracy Wall outside Beijing. They argued for true democracy and denounced Deng Xiaoping.

I have read Mr. Wei's work and his letter from prison. I can't tell you how impressed and moved I was by them. As a political scientist, I seldom, if ever, have read such an eloquent and intelligent espousal of democracy and human rights. Making the letters all the more remarkable is the fact that they were written while Wei was in prison or labor camps, mostly in solitary confinement. He has been jailed for all but 6 months of the last 18 years.

Wei Jingshen is not only China's most prominent dissident and prisoner of conscience, but ranks with the greatest fighters for democracy and human rights of this century. He brings to mind Martin Luther King, Nelson Mandela, and, of course, Alexander Solzhenitsyn. I was honored to join many of my colleagues in nominating Wei for the Nobel Peace Prize.

Last week, Mr. Wei's sister came to the United States to tell the administration that he is dying in jail, and that this summit may be his last chance of emerging from detention alive. It is urgent that the Chinese Government release Wei and that he be given the medical care that he desperately needs, but has been denied.

By agreeing to this state visit without any significant concessions on human rights, like the release of Wei Jingsheng, the Clinton administration squandered its strongest source of leverage with Beijing.

This is not to say that all dialog between the United States and China or that working level visits are wrong. Instead, I believe that the symbolism of a state level visit is inappropriate given our strong disagreement with China over its human rights record. That is why I cosponsored a resolution with Senators FEINGOLD and HELMS to urge the President to downgrade this event from a state visit to working visit.

The Chinese have said they do not welcome American advice on what they view as a ''purely internal affair.'' Welcome or not, President Clinton must insist that China's leaders take specific actions on human rights.

Indeed, I believe strongly that the administration has a moral duty to press a range of issues with the Chinese Government that it may not welcome, but that are of enormous important to the Chinese people, and the United States.

Specifically, I call on President Clinton to demand:

The immediate and unconditional release of Wei Jingsheng, Wang Dan, and other prisoners of conscience held in jails in China and Tibet.

Improvement in the conditions under which political, religious, and labor dissidents are detained in China and Tibet. This includes providing prisoners with adequate medical care and

allowing international humanitarian agencies access to detention facilities.

Significant progress in improving the overall human rights conditions in China and Tibet. The Chinese Government must take concrete steps to increase freedom of speech, freedom of religion, and freedom of association, in order to comply with the Universal Declaration of Human Rights, which it signed in 1948.

Some say that we cannot influence what goes on in China, that the country is too proud, too large, and that changes take too long. I disagree. For years we have pressured the Chinese on human rights, and to let up now is tantamount to defeat for the cause of human justice. Dissidents who have been freed and come to the United States have thanked advocates for keeping them alive, by keeping the pressure on, and focusing attention on their plight.

As Americans, it is our duty and in our interest to make the extra effort required to promote freedom and democracy in China, and to bring it into compliance with international standards on human rights.

Mr. President, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2107, which the clerk will now report.

The legislative clerk read as follows:

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 this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 22, 1997.)

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The time under the conference report is controlled.

Who yields time?

Mr. GORTON. I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am pleased to bring before the Senate the conference report on H.R. 2107, the fiscal year 1998 Interior and Related Agencies Appropriations Act. The conference report provides $13.8 billion for programs under the jurisdiction of the Interior subcommittee, and incorporates a number of changes to House and Senate funding levels and legislative provisions in an effort to reconcile the differences between the two bodies, and to reconcile the differences between the Congress and the administration. I firmly believe the resulting conference agreement is worthy of my colleagues' support.

While at this time I will not go into great detail about the conference report, I want to stress the fact that the conferees on this bill have gone to extraordinary lengths to try to accommodate the concerns of the administration. I ask unanimous consent that a more detailed discussion of the modifications that have been made in response to administration concerns appear at the end of my statement.

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

(See exhibit 1.)

Mr. GORTON. There are, however, a handful of issues in the conference agreement that I know are of great interest to all Senators. I will spend a little time discussing two of these issues: Land acquisition and the National Endowment for the Arts.

The budget agreement provided the Appropriations Committees with the option to appropriate $700 million for ''priority land acquisitions and land exchanges,'' with the appropriation being in addition to the subcommittee's 602(b) allocation. This reserve fund was requested by the administration in budget talks, in large part because of the administration's desire to finance two major land purchases that it negotiated shortly before the Presidential election: The Headwaters Forest in California and the New World Mine in Montana.

The administration originally had proposed to conduct these acquisitions administratively, exchanging oil and gas properties and revenue streams in ways that stretched existing exchange authorities to the limit, if not beyond. I and many others strongly objected to the proposed acquisitions at the time, in part because it was clear that the administration was trying to evade the requirements of the Budget Act and bypass Congress altogether on two major expenditures. In that sense, I am glad that the budget agreement provided an opportunity for these acquisitions to come before Congress, albeit not under ideal conditions.

The House Appropriations Committee chose not to provide the $700 million. Chairman REGULA not only doubted the value of the Headwaters and New World Mine acquisitions to the U.S. taxpayer, but also felt strongly that if $700 million were available in the context of the budget agreement, that money would be better spent reducing the multi-billion-dollar maintenance backlog that exists in our parks, refuges, and public lands. I cannot honestly say that I disagree with him on either point.

I did, however, include the $700 million in the Senate bill, largely because I feel a personal commitment to the budget agreement and the broader benefits that it provides for the American taxpayer. $315 million of the funds provided in the Senate bill were for the Headwaters Forest and New World Mine acquisitions. But because of the complexity of the acquisitions, the many questions that had been raised about them, and their sheer magnitude, I agreed with Senator MURKOWSKI that the funds should be provided subject to enactment of subsequent authorizing legislation. Some have intimated that this was an attempt to kill the two deals, but I can assure you that on my part it was not. I also have no doubt that Senator MURKOWSKI was doing anything other than his job, part of which is to authorize land purchases of this nature. The notion that Congress should simply accept the administration's word as to the worth of these expensive and highly complex projects is not only an abandonment of congressional prerogatives, but of our duty.

Mr. President, the conference on the Interior bill was closed 3 weeks ago but for the very difficult question of land acquisition. The administration has continually insisted that the money for Headwaters and New World Mine must be included in any Interior bill that the President would sign, and that such money could not be subject to an authorizing requirement. Senator MURKOWSKI has continued to insist on an appropriate role for the authorizing committee. Congressman YOUNG, Congressman HILL, Congressman RIGGS, and Senator BURNS desired to make certain that the communities impacted by the two acquisitions were adequately compensated. Congressman REGULA has insisted that a portion of the $700 million be made available to reduce maintenance backlogs on our public lands, rather than require all the money to be used to increase the public land base, and I should not fail to mention that Congressman OBEY, among others, was greatly displeased that the budget resolution dictated to the penny the amount that the Appropriations Committee could provide for priority land acquisitions.

The negotiations among all of these parties over the past several weeks have been exceedingly difficult. The compromise included in the conference report provides $699 million for priority land acquisitions and land exchanges, and critical maintenance needs. Of this amount, up to $250 million is for Headwaters Forest and up to $65 million is for the New World Mine. Authorizations for both projects are included in the conference report, but the acquisitions cannot be made until 180 days after enactment, providing the authorizing committees time to review the acquisitions and possibly recommend changes to the authorizing language. The authorizing language itself is the product of lengthy discussions between House and Senate authorizing committees, the Appropriations Committees and the administration. I should note

that Senator MURKOWSKI was a reluctant participant in these discussions, and feels strongly that the authorizing legislation should have gone through the normal committee process. I will also say that the administration is not in complete agreement with the provisions of the authorization.

The major sticking point in these discussions over the last week has been the question of whether or not a formal appraisal would be required for the Headwaters and New World Mine acquisitions. The administration has insisted that appraisals are not necessary, and that Congress should be satisfied with an opinion of value—a term with no formal meaning. On the other hand, Senator MURKOWSKI, Congressman REGULA, and I all agree that a formal appraisal is the only way to safeguard the American taxpayer. While the conferees have reluctantly agreed not to cap the purchase price at the appraised value, the conference report does require an appraisal for each acquisition.

In spite of the great strides that have been taken to address the concerns of the administration elsewhere in the bill, I have no doubt that if this bill is vetoed by the President, it will primarily be because of the appraisal requirement for these two acquisitions. I also have little doubt that if the bill is vetoed, the $700 million stands a better chance of being removed from a future bill than does the appraisal requirement. I cannot entirely account for the administration's strong resistance to the notion of a formal appraisal. If either appraisal places the value of these properties below the price to which the administration agreed, the administration will have ample opportunity to dispute the appraisal. Congress does, from time to time, approve acquisition above the appraised value. If either appraisal values one of these properties above the price to which the administration has agreed, such appraisals will only support the administration's case that these acquisitions represent good buys for the taxpayer. In short, I think Congress has been extraordinarily fair in its dealings with the administration with regard to Headwaters and New World Mine.

Turning to the National Endowment for the Arts, my colleagues will recall that the House bill included zero funding for the NEA. The Senate bill included just over $100 million, a small increase over the current year level. The Senate also considered a number of NEA amendments during floor consideration, ranging from complete termination of the Endowment to greatly increasing the percentage of NEA funds that are provided as block grants to the States. Though the debate on these amendments made clear that there is significant concern about NEA's current structure and practices, the votes on the amendments also made clear that the Senate does not share what were apparently the views of the House.

The conference report $98 million for NEA—a remarkable outcome given the House position. In exchange for providing nearly all the funding included in the Senate bill, the House requested that the conference report include a number of reforms to the NEA's structure and procedures. As a result, the conference report increases the percentage of block grants to States, makes arts education a priority, and alters the structure and membership of the National Council for the Arts to reflect congressional interest in the NEA's conduct and direction.

With regard to the conference agreement on the NEA, it is safe to say that the House leadership is not pleased with the result. I think it is also safe to say that if this bill is vetoed and returned to conference, it is almost certain that the House will demand additional reductions in funding for the NEA. This is not a threat from an opponent of the Endowment. To the contrary, I have been a strong supporter of the NEA, even though I have been critical of some of the decisions made by the agency over the years. My comments are rather a simple recognition of current sentiment in Congress.

In a similar vein, I cannot say what would happen to the $700 million for land acquisition should this bill be vetoed. This comes not from someone who strictly opposes providing the $700 million, but rather from someone who included the money in this bill in the first place. I am simply stating the fact that this conference agreement is very delicately balanced, and that a decision by the administration to come back for one more bite at the apple—despite the great lengths we have gone to accommodate its concerns—will not be without peril.

On a less ominous note, I do want to take a brief moment to mention a few other items. First, I want to note the work that Senator JEFFORDS and Senator TORRICELLI have done in the interests of the preservation of Civil War battlefields—a subject near and dear to my heart. The Senators offered an amendment to this bill expressing the sense of the Senate that Civil War battlefield preservation should be a high priority for Congress. I know they would like to have done more, particularly with regard to earmarking a portion of the $700 million, but I do want them to know that I will continue to work with them in the allocation of the $700 million should this conference report be enacted. I also want to note some of the Civil War projects that are funded elsewhere in this bill, such as the $1.7 million provided for rehabilitation at Vicksburg National Military Park, the $2 million provided for stabilization work at Shiloh National Military Park, the $1 million provided for an interpretive center at Corinth battlefield, and the $3.5 million provided for land acquisition at Fredricksburg/Spotsylvania National Military Park. I am also very pleased that the conference report provides a more than $1 million operating increase for Gettysburg National Military Park, a subject on which Senator SANTORUM has worked very diligently.

I also want to clarify that the funding provided to the Fish and Wildlife Service for habitat conservation planning for the Preble's Meadow jumping mouse applies to four counties in Colorado. These mice range over four counties in Colorado and two counties in Wyoming. However, the mice occur on private lands in Colorado and on Federal land in Wyoming. The habitat conservation plan only applies to the private lands in Colorado.

Finally, I want to make special note that this bill includes funding for the National Park Service to study alternatives for the commemoration and interpretation of events associated with the integration of the Charleston School District in Arkansas and Central High School in Little Rock. While other Senators are familiar with the events surrounding the integration of Central High School in 1957, they may not be aware that the Charleston public schools were actually the first to integrate in Arkansas—by some accounts the first in the South—shortly after the Brown versus Board of Education decision in 1954. My colleagues may also not be aware that Senator BUMPERS is a former member of the Charleston School Board, and that he was counsel to the school board during the period in which the decision was made to integrate the Charleston schools. Perhaps the relatively smooth integration of the Charleston schools, as compared to the bitter struggle that took place at Central High School, is a most telling testament to Senator BUMPERS' wisdom and power of persuasion—qualities that we will sorely miss after his departure from the Senate.

With that I will once again express my thanks to Senator BYRD for all his help and guidance over the course of the year, and express my sincere hope that the President will sign this bill. I cannot stress too greatly the length to which we have gone to address the administration's concerns, nor can I overstate the delicacy of the balance that has been achieved in this conference report. Nothing good can come of the President vetoing this bill.

[EXHIBIT 1]

EFFORTS TO ACCOMMODATE ADMINISTRATION CONCERNS

FOREST SERVICE

Forest land management planning

The Senate bill included a provision prohibiting the expenditure of funds for revisions of individual forest plans until new forest planning regulations have been issued. Those regulations have been under review for eight years through two administrations, and have been withdrawn at the last minute prior to each of the last two presidential elections. Such delay is intolerable. The Appropriations Committee is greatly concerned that millions of dollars are being spent for forest plan revisions that will be invalid or obsolete upon issuance of the new regulations. The Committee is also concerned that the Forest Service may be revising plans

pursuant to a set of regulations that have been drafted, but not aired in the public rulemaking process.

The conference language has been significantly revised to accommodate Administration concerns, while making clear that the current forest planning process is broken and needs prompt revision. The conference language allows funds to be expended for forest plan revisions under current regulations where a Notice of Intent to Revise was published in the Federal Register prior to October 1, 1997, or where a court order directs that a revision must occur. The statement of managers further clarifies that the new regulations need only be released in an interim form to comply fully with this provision.

Office of the Western Director

The House bill eliminated all funding for operations of the western director and special assistant to the Office of the Secretary of Agriculture. The Senate bill prohibited funding for this purpose absent approval through the reprogramming process. Despite House and Senate concerns about the use of funds for this purpose, the conference agreement allows Interior bill funds to be used for the western director up to the level provided in the Interior bill for fiscal year 1997.

Log exports

This important legislation bans the export of raw logs from national forest lands and from Washington State lands. It further alters rules governing substitution of private logs in the export market for federal timber. This legislation has bipartisan support and is the result of lengthy discussion among affected industries and parties in the affected states. This language encourages domestic processing of timber, creates more American jobs, and entirely bans the export of raw logs from State of Washington timber lands.

Forest roads

The Administration has objected to the fact that the conference agreement does not provide for the termination of the ''purchaser credit'' program for the construction of timber roads. The issue was hotly debated in both the House and Senate, but neither body voted to terminate the program. As such, the conference agreement is appropriate.

While I firmly believe that the real issue in this debate is the continued effort by fringe environmentalists to eliminate the harvest of timber from National Forests, I believe it would be wise for Congress and the Administration to resolve this issue somewhere other than on the floors of the Senate and House. I encourage the Administration to negotiate with the timber industry, environmentalists, and timber workers to develop reforms that will build confidence in the purchaser credit program, and provide assurances to taxpayers that the program is an efficient alternative to Forest Service road construction, and is not an industry subsidy.

Western red cedar

The conference report contains language that protects the economic stability of timber processors in the Pacific Northwest by requiring the Forest Service to make Alaskan Western Red Cedar available to processors in the contiguous United States before it can be exported. Although the bill language does not fully satisfy the Administration, it does have strong bipartisan support in the Pacific Northwest where timber producers have been severely harmed by reduced availability of public timber, and fully complies with Alaska's Tongass National Forest Land Management Plan.

Interior Columbia Basin ecosystem management project

The conference agreement includes language on the Columbia Basin ecosystem planning project in response to Congressional concerns about the time, cost, and lack of results associated with this and previous ecosystem planning efforts. The language instructs the Forest Service and the Bureau of Land Management to include in the Environmental Impact Statement (EIS) information on economic and social impacts at the sub-basin level. The conferees are aware that this may result in additional time and cost, but are willing to make this investment so that the people most affected by these decisions will have a better understanding of the impacts when the final EIS is implemented.

The conference agreement also requires a report to Congress on potential implementation costs and potential impacts on resource and commodity production in the Interior Columbia Basin. To date this project has cost taxpayers $90 million. The Administration has estimated that implementation of the plan could cost an additional $135 million per year. It is certainly legitimate for Congress to seek more information about such costs and impacts prior to finalization of the plan. The language gives the Administration flexibility to perform its analysis in an efficient manner.

President's northwest forest plan

The Administration has complained about language included in the Statement of Managers requiring that 757 million board feet be offered for sale under the Pacific Northwest Forest Plan, of which ten percent must meet the Administration's definition of ''other wood.'' This language uses the Administration's own figures, and is simply included to provide some level of accountability to ensure that the Forest Service lives up to its commitments.

NATURAL RESOURCES

Lake Clark national park and preserve

The Senate bill included a provision extending the statute of limitations of certain Alaska Native Village Corporations and the area Regional Corporation to bring suit against the Department of the Interior with regard to certain land claims under the Alaska Native Claims Settlement Act. This provision was acceptable to the Administration. A second provision added in conference would have required future litigation on this issue to be considered in trial de novo, and would have required that certain elements of such litigation be construed to the benefit of the Native Corporations. Sen. Stevens strongly believed this amendment to be appropriate from the standpoint of fairness to the Native Corporations, but the Administration also felt strongly that the additional provisions were contrary to the agreements that the Department of the Interior had reached with the Native Corporations regarding land selections.

The conference report includes the Senate provision extending the statute of limitations, as well as language allowing additional evidence to be introduced in any litigation that may ensue. The language included in the conference report has been agreed to by the Administration.

Rulemaking on hardrock mining

The Administration objected to the Senate Appropriations Committee's provisions in section 339 which would have prohibited Department of the Interior's use of funds for a rulemaking to update rules on surface management of hardrock mines until the Secretary of the Interior established a Federal-State advisory committee that would have prepared a consensus report for Congress on the relationship of State and Federal surface management policies. In response, section 339 has been amended to permit the Interior Department to develop a rulemaking on hardrock mining upon the certification by the Secretary of the Committees of jurisdiction in the House and Senate that the Department has consulted with the governor of each state that contains public lands open to location under the General Mining Laws. The publication of proposed regulations shall not occur before November 15, 1998 and regulations shall not be finalized prior to 90 days after publication of the proposed regulations.

Grizzly bears

The conference agreement does include a limitation on funds for the reintroduction of grizzly bears in the Selway-Bitteroot area of Idaho and Montana. This provision was adopted by unanimous voice vote during Senate committee markup and was not contested on the Senate floor. At the request of the Administration, however, the language has been changed to make clear that the Environmental Impact Statement on reintroduction can proceed to a Record of Decision. Since the Administration has stated that actual reintroduction is unlikely to take place in fiscal year 1998, it is unclear what substantive objection remains.

Alaska subsistence

The Administration strongly objected to a provision in the House bill that would have extended a moratorium on the assumption of Federal control over fisheries management in Alaska pursuant to the Alaska National Interest Lands Conservation Act. The conference agreement incorporates a compromise between Members of the Alaska delegation, the Administration, the State of Alaska and other elected officials in Alaska that will facilitate resolution of the subsistence issue. This provision is directly relevant to the appropriations process, as the cost to the Federal government of assuming management responsibilities would be substantial.

World heritage and man in the biosphere programs

The House voted to prohibit the use of funds for the World Heritage and Man in the Biosphere programs, a provision to which the Administration has strongly objected. The conference agreement does not prohibit the use of funds for the World Heritage program, which has grounding in prior statute and treaty, but does prohibit the use of funds to nominate sites under the Man in the Biosphere program until that program is specifically authorized by Congress. Authorizing legislation addressing these issues is under active consideration by Congress, and it is reasonable for the Appropriations Committee to prohibit the use of funds for the Man in the Biosphere program until U.S. participation in the program is authorized.

Pennsylvania avenue redesign

The conference agreement prohibits the Administration from expending Interior bill funds for redesign of Pennsylvania Avenue between 15th and 17th Streets, N.W., without the approval of the Appropriations Committees through the reprogramming process. The Administration objected to the original version of this provision on the grounds that it might have prevented the implementation of security measures to protect the White House. While such was not the intent or effect of the amendment as originally proposed, the amendment has been modified at the request of the White House.

The Treasury Department has received over $51 million in direct appropriations since 1996 specifically for security around the White House. The provision in the Interior bill is directed at funds that would be spent by the Park Service, primarily for beautification of the area. The Administration has chosen an option for the redesign that would cost over $50 million. The details of this plan

were only recently released, and have received very little scrutiny. The Appropriations Committee simply wants the opportunity to discuss with the Administration its proposal before a significant amount of Park Service funds is committed to a particular plan of action.

ARTS PROGRAMS

Smithsonian Institution

The Administration objection to the fact that the House bill provided no funds for construction of the National Museum of the American Indian Mall Museum. The conference agreement provides $29 million for the first half of construction costs as proposed in the Senate-passed bill and in the Administration's budget request.

Woodrow Wilson International Center for Scholars

The conferees agreed to fund the Woodrow Wilson International Center for Scholars (WWIC) at the budget request level of $5.8 million, as proposed in the Senate bill. Due to concern about administration of the Center's programs, the House recommended a $1 million appropriation for FY 1998—an amount that would have terminated the Center's operations.

National Endowment for the Arts

The House bill included no funding for the National Endowment for the Arts. The Senate bill included $100 million, a decrease below the request but a slight increase over FY 1997. There was considerable debate about the NEA during conference, but the final result was a compromise that substantially protects the Endowment's current funding level. Certain reforms to the NEA's structure and grant-making processes were adopted, but provisions to expand radically the black grant program or impose an administrative budget cap—two items of particular concern to the Administration—were not among the reforms adopted. The conferees also rejected an effort to reduce the appropriation by $10 million below the Senate level.

PROGRAMS FOR NATIVE AMERICANS

Tribal priority allocations

The conference agreement provides funding for BIA Tribal Priority Allocations (TPA) at the Administration's requested level, the level included in the Budget Agreement. Within that amount, the conference agreement requires that all federally-recognized tribes be provided at least the minimum level of TPA recommended by the BIA, a goal supported by the BIA and Interior Department but missing from the President's request.

The TPA language included in section 118 of the conference report represents a serious attempt to respond to the Administration's concerns about the original Senate language, while still addressing the fact that discretionary appropriations are limited, and that the TPA pro rata allocation is inequitable and unresponsive to the disparate needs of the tribes. Currently, 309 of 526 Federally-recognized tribes do not receive the minimum recommended level of TPA. The Administration has not requested measures to rectify the inequitable distribution of TPA among the tribes. The Senate proposed a new distribution method based on a number of factors to measure the relative means of tribes. Despite universal agreement that the current distribution method of TPA is archaic and has resulted in great financial disparity among the tribes, the Administration opposed the Senate's proposal.

The Conference report provides full funding for TPA at the requested level to be distributed as follows: All pro rata TPA programs will be funded at the fiscal year 1997 level adjusted for all fixed costs and internal funding transfers; all formula-funded TPA programs will be funded at the requested level; all Federally-recognized tribes will receive at least at the minimum level of $160,000 in TPA funds as recommended by the BIA; and any remaining funds will be distributed based on recommendations of a task force, which shall include tribal leaders, to be established by the Secretary of the Interior.

Taxation of tribal revenues

Contrary to Administration complaints that the Congress would add such a provision to the bill, the conference report contains no provision that would prohibit the Secretary of the Interior from taking land into trust for any tribe that had not entered into a binding agreement with State and local governments regarding the tribe's collection and payment of State and local sales and excise taxes on retail purchases made on the land by non-tribal members.

Sovereign immunity

The Senate bill originally contained a provision that would waive the sovereign immunity of Indian tribes accepting certain Federal funds. The Administration strongly objected to this provision, which was removed during Senate floor consideration in response to commitments from the Chairman of the Senate Indian Affairs Committee to conduct hearings on the issue and to mark up a bill from the Committee during the next session of Congress.

Indian gaming

The Conference Report contains the Senate-passed provisions at section 129 concerning approval of Tribal-State compacts for Indian gaming. The Administration opposed this language in a September 30, 1997 letter to Congress. The Administration is reminded, however, that the amendment was modified by its sponsors in response to concerns that the original version would have resulted in Federal law preempting State law. The Conferees are concerned that the States affected by Indian gaming within their borders are kept out of the decision-making process with regard to Indian gaming. Section 129 prohibits the Secretary of the Interior from unilaterally approving any initial Tribal-State compacts for class III gaming entered into on or after the date of enactment of the Interior Appropriations Act. Section 129 does not affect Secretarial review or approval of a renewal or revision of, or amendment to, existing tribal-State compacts.

The Conferees modified section 131 as passed by the Senate, which the Administration opposed. As passed by the Senate, section 131 would have prevented the National Indian Gaming Commission (NIGC) from taking action to change its current regulations to define certain types of new electronic gambling. As modified, the provision prohibits the NIGC from issuing draft or final rules, but clarifies that the Commission may gather information during fiscal year 1998 relating to the Advanced Notice of Proposed Rulemaking on such regulations it recently published. Given the time required to proceed with information-gathering relative to the Advanced Notice, the year prohibition will not be an undue interference with the Commission in exercising its regulatory and oversight duties on tribal gaming activities.

The National Governors Association supports both section 129 and section 131.

DEPARTMENT OF ENERGY

Energy conservation

The conference agreement provides $612 million for Energy Conservation programs, an amount which is roughly a split between the comparable levels provided by the House and Senate. While the amount provided by the conference agreement is below the budget request, it is $42 million above the FY 1997 level—a substantial increase.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I yield myself such time as I may consume.

Mr. President, I am pleased to join Senator GORTON today in bringing the conference report on the fiscal year 1998 Interior appropriations bill before the Senate. The Senate completed its action on this bill in September. The formal conference was completed on September 30, and discussion and negotiation regarding a limited number of outstanding items was finally completed just a few days ago. The conference report was filed on October 22, and was approved by the House last Friday by a vote of 233–171. Inasmuch as we are now several weeks into the fiscal year, I hope that the Senate will be able to complete its consideration of this appropriations measure expeditiously, so that the bill can be presented to the President and the agencies can begin implementation of the programs funded for fiscal year 1998 once this bill is enacted.

The agreements before the Senate today total $13.8 billion in budget authority, and $13.7 billion in outlays, as scored by the Congressional Budget Office. This conference agreement substantially fulfills the commitments for Interior bill programs included in the bipartisan budget agreement of which I had no part and which personally I don't recognize, and incorporated into the budget resolution earlier this year.

Mr. President, as with nearly every conference, reaching agreement on this conference report required difficult choices and a search for balance between competing priorities of the House, the Senate, and the administration. This bill provides important resources to address important needs for our public lands and natural resources, as well as for Indian programs, energy research and development, and our core cultural programs. The major legislative provisions of concern have been modified to address some of the concerns of the administration.

Mr. President, Senator GORTON has done an excellent job of summarizing the many factors at work in reaching the agreements contained in the conference report now before the Senate. The negotiations over the special $700 million land acquisition account were protracted, with each side giving some in order to reach a final agreement. We do not yet know whether the President will approve or veto this legislation. As Senator GORTON has suggested, many changes were made to this bill to reflect the concerns of the administration, while protecting Congress' role—while protecting Congress' role in determining the expenditure of funds and proper oversight responsibilities. Just as no Member of Congress got everything he or she might have wanted

from this appropriations measure, neither did the administration. But the overall product is a good one, and I hope it will be enacted. I do not believe that closure on further issues of concern will be easier if the bill is vetoed.

Among the highlights of this conference report are these:

Funding for the National Park Service remains a priority. The recommendation includes an operational increase of $79 million over the fiscal year 1997 level. Other significant park increases are provided for construction and land acquisition.

A significant initiative to focus attention on the operational requirements and habitat restoration and maintenance backlogs of our national wildlife refuges is supported, with increased funding of $40.8 million above fiscal year 1997.

As to our Nation's energy research and development programs, the investment in those programs is continued. Fossil energy research and development is funded at $362.4 million, which is $2.3 million below the fiscal year 1997 enacted level. Increases above the budget request are provided to sustain technology development programs intended to produce environmental benefits while improving energy efficiency.

On another matter, the conference agreement fully funds the President's request for tribal priority allocations at $757.4 million, an increase of $76.5 million over fiscal year 1997 levels.

As to the National Endowment for the Arts, the conference agreement includes $98 million to continue the National Endowment for the Arts. A package of reforms is included in the bill to address concerns over the use of Federal funds in support of the arts. These reforms include an increase on the amount of funds allocated directly to the States; a cap on the amount of funds that can be awarded to each State from the competitive grants pool; changes in the structure and composition of the National Council on the Arts; prohibitions regarding grants to individuals; and an emphasis on arts education.

With reference to land acquisition, this bill provides a special land acquisition account as recommended in the budget resolution. The account is funded at a level of $699 million, which includes $315 million for the Headwaters Forest, CA, and New World Mine, MT; $22 million in special payments for affected local areas in California and Montana; and the balance is available for priority land acquisitions, exchanges, and maintenance to be identified by the Department of the Interior and the Forest Service, and for which the committees on appropriations will have final approval. The conference agreement includes legislative language establishing initial parameters for the completion of the two large exchanges.

Mr. President, it is my privilege and great pleasure to serve as the ranking member at the side of our very able chairman, the senior Senator from Washington, Mr. GORTON. We have worked closely, as we always have, on the product that we present to the Senate today. In his stewardship of this bill as chairman of the committee, Senator GORTON has been very fair, he has been bipartisan in his handling of the many programs and issues which were negotiated in the conference. I commend this conference report to the Senate and urge Senators to support its approval.

Mr. President, I yield the floor and suggest the absence of a quorum. I ask unanimous consent that the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. BYRD. Mr. President, for how long does the distinguished Senator wish to speak? I have no objection. I just think we should know how long he expects to speak.

Mr. FEINGOLD. Mr. President, I ask for 20 minutes to speak.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President. I thank the Senator from West Virginia.

HUMAN RIGHTS SITUATION IN CHINA

Mr. FEINGOLD. Mr. President, I also rise today, as did the Senator from Minnesota, to discuss the visit of the President of the People's Republic of China, Mr. Jiang Zemin, who arrives in Washington tonight for a state visit.

That Mr. Jiang and President Clinton will meet is not in itself extraordinary. The promotion of dialog between the United States and China can be a constructive use of our own diplomatic energies. Indeed, President Clinton has already met Mr. Jiang several times at various international fora.

What strikes me is the kind of visit that is about to take place. It is a state visit that involves champagne toasts and 21-gun salutes—all the trappings of honor and prestige. While I do not oppose high-level contact, I feel strongly that the pomp and ceremony of a state visit is inappropriate at a time when the human rights situation in China and in Tibet remains such a serious obstacle to good relations.

Simply put, it is my view that an official state visit is premature, absent a stronger commitment from China to improve human rights. I fear that this state visit will actually boost the legitimacy of a regime that brutalizes its own people and jails anyone who dares to complain.

In other words, Mr. President, while dialog is important, you don't need champagne toasts and red carpets to have a dialog.

Is the memory of the Tiananmen Square massacre so distant that we are willing to clink glasses with China's leaders as though nothing happened in Tiananmen Square? For me, the answer is no. When Jiang is given a 21-gun salute tomorrow, the South Lawn will sound much like the streets of Beijing did on the night of June 4, 1989.

By agreeing to this state visit without receiving any kind of concession in the area of human rights, the administration may be squandering perhaps its strongest source of leverage with Beijing. Nevertheless, if the administration insists on hosting Jiang Zemin right now, the least that can be done is to accord discussion of human rights the same priority as the myriad other issues that confront our bilateral relations with China. Unfortunately, I don't think that is going to be the case.

As we all know, there are many areas of disagreement between the United States and China, aside from human rights. The United States' trade deficit with China will likely reach $50 billion this year. China has a long and well-known record of assisting the nuclear programs of Iran and Pakistan and, as always, the sensitive issue of Taiwan remains a trouble spot.

Arguably, there are some positive signs. China has agreed to make significant cuts in tariffs as a part of its bid to join the World Trade Organization, and Beijing has promised to tighten controls on nuclear exports. It is widely reported that an agreement to restart United States-China cooperation on nuclear power will be the centerpiece of the summit.

Mr. President, on human rights there are few, if any, positive signs. Despite China's announcement on Saturday that it will sign the United Nations' Covenant on Economic, Social and Cultural Rights, I see no evidence of real human rights improvement on the ground. The fact that human rights conditions in China are growing worse, not better, indicates that human rights needs to be given top priority.

Three years after the President's decision to delink most-favored-nation status from human rights, a decision that I have always said was a mistake, we have seen the reimprisonment of dissidents and increased repression in Tibet. The State Department human rights report makes this very clear. According to the report covering the calendar year 1996:

> The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest,

and the absence or inadequacy of laws protecting basic freedoms . . . Abuses included torture, and mistreatment of prisoners, forced confessions, and arbitrary and lengthy incommunicado detention. Prison conditions remained harsh. The Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy and workers rights.

Just one year ago, we were witness to yet another example of these policies when Wang Dan, one of the leaders of the 1989 pro-democracy demonstrations in Tiananmen Square, was sentenced to 11 years in prison. Also last December, a Beijing court sentenced activist Li Hai for collecting infomation on those jailed after the 1989 Tiananmen massacre.

The situation is just as bad in Tibet.

Last year, China arrested Ngawang Choepel, a Tibetan musicologist and Fulbright scholar, and sentenced him to 18 years in prison on trumped-up spy charges. China has also intensified its campaign to smear the Dalai Lama, the spiritual leader of the Tibetan people and a Nobel laureate. Tibetans are not even free to display a photo of the Dalai Lama, much less show reverence for him. There have been numerous reports of Tibetan monks and nuns suffering torture at the hands of Chinese authorities. The State Department human rights report cites three recent cases of Tibetan monks who died while in jail.

Mr. President, despite signing two formal agreements with the United States on prison labor, Chinese prison-labor products continue to appear on our shores. Tong Yi, who worked as an assistant to Chinese dissident Wei Jingsheng, knows the prison labor system first hand. Released just last year after serving a 2½-year sentence of re-education through labor—a sentence she received, by the way, without the benefit of any kind of trial—Ms. Tong says she was forced to work endless hours making products for export.

In the rush to reach agreements with China on WTO and proliferation, the United States cannot shove human rights aside. While the United States can and does talk tough on issues such as trade and intellectual property protection, we must do the same when the conversation turns to Tiananmen and Tibet.

In the run-up to the summit, Mr. Jiang has given several interviews during which he made some disturbing comments on human rights.

When Time magazine asked Jiang Zemin about the plight of political dissidents Wang Dan and Wei Jingsheng, Jiang responded that Wang and Wei are criminals, not dissidents. Indeed, it is a crime in China to publicly and peacefully criticize the Government as Mr. Wang and Mr. Wei have done.

Mr. Jiang is willing to dismiss questions about human rights because he likely thinks U.S. concerns extend to only a few high-profile dissidents. But, in fact, Wei Jingsheng and Wang Dan are merely symbols of the hundreds, if not thousands, of people in the People's Republic of China who are thrown into prison cells for demanding democracy, organizing prayer meetings, or for simply displaying loyalty to the Dalai Lama. These people might not be as famous and Mr. Wang and Mr. Wei, but they show the same type of courage, and they are every bit as important.

Mr. President, there are three key messages on human rights that Jiang Zemin must hear loud and clear while he is in Washington.

First, Jiang Zemin must realize that people who care about conditions in China seek more than the release of a token dissident or two. China likes to play a game where people like Wei Jingsheng are used as bargaining chips in the PRC's effort to curry favor with the international community at key moments. We saw this in 1993, when China tried to win a bid to host the year 2000 Olympic Games. Just a week before the International Olympic Committee was to vote on the matter, China released Wei Jingsheng. As we all know, Beijing lost the bid and, a few months later, Wei Jingsheng was back in prison, on charges of subversion.

We saw this again in 1995 when China suddenly decided to release Chinese-American human rights activist Harry Wu shortly before the First Lady was to arrive to address the U.N. women's conference.

But, the United States should not get caught in this cynical game.

For there to be true friendship between the United States and China, China must implement across-the-board and institutional changes such as strengthening the rule of law and allowing citizens to question government policy without fear. Jiang Zemin and other Chinese leaders must realize that United States-China relations will never reach their full potential so long as hundreds, if not thousands, of dissidents languish behind bars; so long as Tibetan Buddhists are subject to arrest and torture; and so long as citizens are not free to select their rulers.

Second, the United States must make clear to Jiang Zemin that the United States will not allow China to redefine the concept of ''human rights'' in a way that makes the term meaningless.

China's leaders have stated numerous times that the Peoples Republic of China is committed to upholding the 1948 Universal Declaration of Human Rights. This document affirms the right of every human being to enjoy freedom of expression, freedom of religion, and freedom of peaceful assembly. There is no special exception for China or any other country, nor should there be.

Furthermore, article 35 of China's own Constitution states that ''Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration.''

China's late paramount leader Deng Xiaoping was found of saying ''seek truth from facts.'' Well, the fact is that China denies its citizens the very rights that the Government has vowed to protect.

I would like to ask Mr. Jiang if his government ever intends to grant its citizens the rights that, according to his country's own Constitution, Chinese citizens should already enjoy. Or will China's article 35 remain a meaningless provision, subject to endless caveats about the need for state security, social stability, and the rights of the collective? Will China continue to say it upholds the Universal Declaration of Human Rights, even though it systematically violates so many of the declaration's principles?

If the United States can demand that China fulfill its obligations under the international arms control regime, then the United States should be able to demand just as strongly that Beijing keep its obligations under international human rights agreements.

Third, Jiang Zemin should know that those of us—in the United States and around the world—who demand improvements in human rights are not trying to impose American or Western values on China, nor are we demanding that China be perfect according to some kind of American ideal. That would not be appropriate.

China does often point to many flaws in American society: The high crime rate and the lingering problems of poverty and drugs. China's official media often refers to the United States political system as a ''money bags democracy.'' Indeed, proponents of campaign finance reform, like myself, find some validity in that Chinese assessment.

But what Chinese leaders do not seem to understand is that being open about your problems is a sign of strength, not weakness. China lacks even the ability to acknowledge its severe human rights problem. Those of us that wish to promote human rights improvements want to encourage China to establish the tools—a free press, open debate, and respect for political and religious minorities—that will ultimately make China a stronger society and nation.

Mr. President, protecting human rights, respecting free speech, and tolerating dissent will bestow more legitimacy on China than any summit or White House photo-op could ever do.

This is what Jiang Zemin needs to hear.

Mr. President, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MURKOWSKI. Mr. President, may I inquire whether or not there is a time allocation under the standing orders of the Senate?

The PRESIDING OFFICER. The Senator has been allocated 15 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, as chairman of the committee with jurisdiction over many of the agencies funded by this appropriations bill, the Energy and Natural Resources Committee, I rise to express several concerns about the Interior appropriations conference report that is before us today.

Included in the conference report are numerous provisions that are important to my State of Alaska; none more critical than language extending a moratorium preventing a Federal takeover of the management of Alaska's fisheries until December 1, 1998.

Mr. President, last year, the Alaska congressional delegation was successful in temporarily preventing the Federal Government from taking over the management of our fisheries. That moratorium is about to expire.

If this conference report is not adopted, the Federal takeover is inevitable, forcing the citizens of my State of Alaska to live with fisheries management not seen since territorial days. This is what statehood was all about, Mr. President, giving the people of Alaska the authority to manage our fish and game. We have just about come full circle.

I cannot in good conscience turn the clock back on all of the advances that we have made in 38 years since statehood. It is for that reason primarily that I am inclined to vote for this conference report.

However, Mr. President, I want to express my objection to several areas, specifically in the process that has led to the inclusion of amendments to the Alaska National Interest Lands Conservation Act, ANILCA, as a part of the extension of the moratorium, as a consideration for the moratorium,

Mr. President, several months ago the Secretary of the Interior, Mr. Bruce Babbitt, informed the Alaska delegation that he would recommend a Presidential veto of another moratorium extending the prohibition of the Department of the Interior to take over the management of fish and game.

The Secretary has now withdrawn the veto threat, but only under the condition that a provision which effectively amends ANILCA title VIII be included in this conference report. The provision also requires that the Alaska Legislature act and the people of Alaska approve the changes in a referendum before the amendments to ANILCA are effective. These amendments were worked out by Alaska's Governor, the Secretary of the Interior, and the chairman of the Appropriations Committee. I was not a party to these negotiations, and I believe that there were other options that should have been explored.

Nevertheless, Mr. President, rather than a congressional moratorium, my hope specifically would have been for the Secretary of the Interior and the Governor to have worked together so that the Secretary could have applied to the court for an extension of time to avoid a Federal takeover, based specifically on progress that was being made. And, indeed, Mr. President, there was a good deal of progress.

A task force was established by the Governor. That task force met several times and made its final recommendations. The Alaska Federation of Natives held a number of meetings and came up with its seven-point proposals. The State house resources committee held statewide hearings. And the State senate held hearings in September. So there was a good deal of evidence that progress was being made.

Perhaps this would have led to a special session and a resolve by the legislature, along with the input from the AFN, to give all Alaskans an opportunity to vote on the issue next year.

Unfortunately, there was no input by the legislature, the elected representatives of the people. My fear is now that some in our State, some Alaskans, will have the unreasonable expectation that future moratoriums can simply be obtained by the delegation—we have done it before—and the State legislature would therefore have an excuse not to finally resolve the issue.

The legislature will have a chance to receive input and provide recommendations on the proposed amendments to title VIII of ANILCA.

I tell the people of Alaska that it will be highly unlikely that we are going to see another moratorium legislated by Congress. The extension of the moratorium will provide the State legislature with an additional 14 months to work toward a resolve on the subsistence issue. As I indicated, the legislature will have the chance to receive input and provide recommendations to the proposed amendments of title XIII of ANILCA.

Mr. President, as chairman of the Energy and Natural Resources Committee, my intention, after the State legislature acts, is to conduct hearings here in Washington to cover the context of the language in the Interior appropriations bill and to receive input from the legislature and the State of Alaska, native groups, sportsmen's groups, and other interested parties on any further amendments to ANILCA title VIII that might be appropriate.

Mr. President, avoiding a Federal takeover of fish and game management is simply critical in my State. When Alaska became a State, Alaskans were united in our desire to take over the management of our fish and game. Many Alaskans still have vivid memories of the disaster of Federal control. Alaska salmon runs plummeted to 25 million fish with Federal bureaucrats in control in Washington, DC. Under State management, our runs are increasing and have approached 200 million in the last few years.

Alaskans must act now by participating in a process and agreeing to a solution to prevent a Federal takeover of our fisheries and gaining back control of our game management. The State, not the elusive Federal bureaucrats with no accountability to Alaskans, should manage our fish and game. They are responsible to the people of Alaska. And they are certainly accountable in Alaska as to managing the fish and game.

A subsistence solution I think must follow four basic principles that must be laid down as objectives.

First must be the protection of our resource. It must return and keep management of fish and game to the State of Alaska.

It must provide all the subsistence needs of rural Alaskans, and it must be fair to all Alaskans.

This issue must be resolved while both Congressman DON YOUNG and I retain our respective chairmanships of the committees of jurisdiction on this issue. Some have suggested we simply repeal the Federal subsistence law. But the Clinton administration, of course, would oppose this and would undoubtedly veto the bill. Even if we did, the Secretary of the Interior, Secretary Babbitt, would still have the authority to enforce a Native-only subsistence priority based on his trust responsibilities to Alaska Natives established by Indian law.

As I indicated earlier, we have made more progress in the past year on resolving the subsistence issue than any time in the past. We have involved the Governor, the Natives, and the legislature in moving forward on this issue. These constructive actions are why I support the moratorium contained in the conference report but object to the process or lack thereof by which the ANILCA amendments were included without the input of the representatives of Alaska; namely, the State legislature.

In the meantime, Mr. President, let me commend and support the ongoing process in the State to come to a general consensus and put a solution on the ballot in November 1998 so that Alaskans have the ability to vote on a final solution. This is an Alaskan issue, Mr. President. It mandates an Alaskan solution. As chairman of the Senate Energy Committee, I stand ready to work on amendments to Federal subsistence in concert with Alaska.

KETCHIKAN HEALTH CARE

Another item of note, Mr. President. I want to express my disappointment that the conference report does not contain a provision that prevents the Indian Health Service, IHS, from entering into two contracts for Native health care clinics in the community of Ketchikan, AK. This was a provision that passed the Senate and would have prevented the Indian Health Service from entering into those two contracts. Mr. President, this is simply a waste of taxpayers' money.

Unfortunately, the Indian Health Service declined to exercise their administrative discretion. Although I personally made contacts with the administrator, they refused to exercise their administrative discretion to contract with only a single facility. Had

IHS done so, it would have avoided paying $500,000 a year in additional and unnecessary administrative costs that will be borne by the America taxpayer at the expense of health care, in my opinion, for Alaska Natives. As we increase our administrative funds that leaves less for care.

Instead, Mr. President, the Indian Health Service ducked the cost issue, hiding behind the policy of the Indian Self-Determination Act. They are choosing to satisfy two Native entities rather than looking at ways to deliver the most efficient and the best health care for the money. It seems incredible that at a time when we have been slowing spending and other Federal health programs, Indian Health Service would choose to waste money on administrative overhead instead of making the tough health care decisions as to who is best qualified.

The final conference report allows for the possibility of two Native health clinics to be operated within a couple of miles of each other in Ketchikan, AK. I still fail to see the logic of the decision by IHS to authorize both clinics in a small community, and I intend to pursue this matter again with IHS.

STRATEGIC PETROLEUM RESERVE

Further, Mr. President, another area I want to address, is my dismay at the recent practice of using the strategic petroleum reserve, or SPR, as a piggy bank. The trend continues in this year's Interior appropriations bill.

Last year we sold oil in the SPR that cost $33 a barrel for $18 to $20 a barrel. As a result, we lost the taxpayers almost half a billion dollars. But it doesn't look like we have learned our lesson.

The fiscal year 1998 Interior appropriations bill sells another 207.5 million dollars worth of SPR oil, a sale that will cost the taxpayers an additional $170 million.

Buying high and selling low never makes sense. I wonder if we are like the man in the old joke who is buying high and selling low, claiming ''he would make it up on volume.'' This is a complete waste of taxpayers' money, and it must be stopped.

PRIORITY LAND ACQUISITIONS AND EXCHANGES

Finally, Mr. President, as chairman of the Energy and Natural Resources Committee, I have taken an active interest in how the additional $700 million from the Land and Water Conservation Fund is appropriated for priority lands acquisitions and exchanges. I have strongly advocated appropriating moneys from the fund in a manner consistent with the terms and the spirit of the Land and Water Conservation Act.

I want to express my disappointment with how this money was ultimately appropriated. However, I do want to commend my good friend, Senator GORTON, and his extraordinary staff for a job well done and to thank him for the efforts that he took to accommodate my concerns with these provisions.

Title V of H.R. 2107, as it emerged from conference, differs dramatically from the bill which was passed by both the Senate Appropriations Committee and the full Senate last month.

First, the $100 million that the Senate appropriated for the stateside Land and Water Conservation Fund matching grant program has been eliminated. This is unfortunate. This program provides vitally needed matching funds for State and local parks and recreation projects. Unfortunately, for the fourth year in a row, no moneys are provided for this program, which is universally supported by mayors, Governors, environmental groups, and many others who care about park and recreation issues.

Second, title V appropriates Land and Water Conservation moneys to the Federal land management agencies for uses not otherwise authorized by the Land and Water Conservation Act: namely, critical maintenance activities and mitigation payments associated with the Headwaters Forest and New World Mine acquisitions. While I do not disagree that the money needs to be appropriated for these purposes, I believe this sets a very dangerous precedent for use of the Land and Water Conservation moneys.

Finally, and most significantly, I object to the decision to authorize the Headwaters Forest of New World Mine acquisitions on the appropriations bill. It doesn't belong there. It belongs in the authorizing committee. This decision is clearly within the purview of the Energy and Natural Resources Committee and not the Appropriations Committee. If appropriators are allowed to circumvent the authorizers as blatantly as they have tried, then what role are authorizers, all authorizing committees, to play in future Congresses?

Nonetheless, I again commend Senator GORTON and Senator STEVENS, along with the majority leader, for ensuring that the members in my committee are provided a meaningful opportunity to review the authorizations contained within the bill. I intend to hold them to their commitment to provide the supplemental appropriations bill as a vehicle for any amendments to this authorization reported by the committee.

I also appreciate the fact that the authorization requires the administration to perform appraisals on these acquisitions and provides time for Congress to review the appraisals before the funds appropriated for the acquisitions are released. The American taxpayers are entitled to know whether or not the Headwaters Forest and the New World Mine purchases are the great deals that the Clinton administration claims.

Mr. President, this is a flawed conference report. But I cannot turn my back on the people of Alaska and vote against it because there are many provisions that benefit the people of my State. Most importantly, this conference report prevents a Federal takeover of fish and game management and I will therefore vote for the conference report.

ALASKA-SPECIFIC APPROPRIATIONS

Mr. President, although the extension of the moratorium contained in this conference agreement is critical to every Alaskan, there are several other provisions that should not go unnoticed.

NPR–A: The conference agreement contains language amending the lease terms in the National Petroleum Reserve which allows leases to be offered for an initial period of not less than 10 years. In addition, this provision allows for an extension of the lease for as long as the oil and gas is produced in paying quantities.

Additionally, the change will allow lease holders to unitize, providing for more efficient development of the NPR–A area if, in fact lease sales are offered next years.

PILT: The funding level for the payment in lieu of tax [PILT] program has been raised from $113.5 to $120 million. This is especially important for Alaska communities especially since Congress last year provided that communities within unorganized boroughs are eligible for PILT payments.

RS2477: The conference report also makes clear that previous appropriations language preventing final rules or regulations from taking effect regarding the validity or recognition of RS2477 claims is, in fact permanent law.

Glacier Bay: The conference report also ensures safer access to Glacier Bay National Park for those people who use the ferry from Juneau, including the handicapped and elderly.

Stampede Mine: Mr. President, I must commend the appropriators for also including a provision that allows, after 10 years, that the University of Alaska will finally get just compensation for mining properties that the Park Service destroyed.

Spruce bark beetle: Also included in this conference agreement is an appropriation of $500,000 to the U.S. Forest Service to work with the stakeholders in Alaska to develop an action plan to manage the spruce bark beetle infestation in south-central Alaska, and to rehabilitate the infested areas.

Appendix C: The conferees have also provided a 1-year extension for five small villages in the Lake Clark area of Alaska to file a lawsuit regarding lands these villages were promised more than 20 years ago under ANSCA.

Kantishna: Language is also included in the conference report that provides both claim owners in the park and the National Park Service with an expedited mechanism to resolve these claims. Consenting owners will be allowed to obtain compensation 90 days after enactment of this act. However, taking matters will be left to the parties or the court system to resolve.

Red cedar: I am also pleased that in working with Senator PATTY MURRAY, we were able to foster greater utilization of Alaska red cedar and achieve

greater efficiency in Tongass timbers sales in general.

Forest Service: This conference report also provides direction to the U.S. Forest Service that it not waste any money on expensive forest planning revisions until new regulations concerning forest planning are issued.

TITLE V—PRIORITY LAND ACQUISITIONS AND EXCHANGES

As chairman of the Energy and Natural Resources Committee, I rise today to speak about title V of H.R. 2107. Throughout the appropriations process, I have taken an active interest in the additional $700 appropriation from the Land and Water Conservation Fund [LWCF] for priority land acquisitions and exchanges. While I am disappointed with how this money was ultimately appropriated, I want to commend Senator GORTON and his staff for a job well done and thank him for the efforts he took to accommodate my concerns with these provisions.

Since last spring, I have strongly advocated appropriating moneys from the LWCF in a manner consistent with the terms, and spirit, of the LWCF Act. The LWCF provides funds for two purposes: the purchase of Federal land by the land management agencies—the Federal-side LWCF Program—and creates a unique partnership among Federal, State, and local governments for the acquisition of public outdoor recreation areas and facilities—the stateside LWCF matching grant program.

Title V of H.R. 2107, as passed by both the Senate Appropriations Committee and the full Senate, appropriated LWCF moneys for both of these programs. In that bill, $100 million was appropriated to the stateside LWCF matching grant program, with the remainder appropriated for Federal land acquisitions and land exchanges, including $250 million for the purchase of the Headwaters Forest in northern California and $65 million for the purchase of the New World Mine property outside of Yellowstone National Park. Both of these acquisitions, which were requested by the Clinton administration, were made contingent on the enactment of separate authorizing legislation. They are not land acquisitions otherwise authorized by the LWCF Act and raise substantial land policy questions which reach well beyond the property being acquired.

Unfortunately, in conference, the Senate's efforts to reinvigorate the LWCF were undermined. While the total commitment from the LWCF included in this bill is by the far the largest in nearly two decades, no money is provided for the stateside LWCF matching grant program. At the same time, the LWCF moneys appropriated to the Federal land management agencies are authorized for uses inconsistent with the LWCF Act.

Moreover, the conferees chose to authorize the acquisition of the Headwaters Forest and New World Mine property in this appropriations bill. As anyone involved with the conference can attest, I objected to this decision and was, at best, an unwilling participant in the process to authorize these acquisitions on H.R. 2107. I am left to wonder what role the authorizing committees, and the Senate for that matter, are to play in the writing of the laws which authorize the spending of the taxpayers money and the management of the public's lands. The conferees did include requirements which will provide the authorizing committees with an opportunity to conduct meaningful review of the acquisitions and provide protections to the American taxpayers.

STATESIDE LWCF MATCHING GRANT PROGRAM

The stateside LWCF matching grant program is one of two purposes for which LWCF moneys can be appropriated. The LWCF Act recognizes that a significant portion of the annual LWCF appropriation will be spent on the stateside matching grant program and, before the 1976 amendments to the LWCF Act, mandated that 60 percent of the annual LWCF appropriation go to the stateside LWCF matching grant program. The LWCF Act now implies such an appropriation by specifying that ''not less than 40 percent of [the annual LWCF] appropriations shall be available for Federal purposes.'' 16 U.S.C. 460*l*–7.

Stateside LWCF matching grants have played a vital role in providing recreational and educational opportunities to millions of Americans. Stateside LWCF matching grants have helped finance well over 37,500 park and recreation projects in all 50 States, including campgrounds, trails, and open space. While trips to our national parks create experiences and memories which last a lifetime, day-in and day-out, people recreate close to home. In fiscal year 1995, the last year for which the stateside LWCF matching grant program was funded, there were nearly 3,800 applications for stateside grants. Unfortunately, there was only enough money to fund 500 projects. In the intervening 3 years, the local and State demand for those resources only has increased.

That is why stateside LWCF matching grants are so important. Stateside LWCF matching grants help address the highest priority needs of Americans for outdoor recreation. At the same time, because of the matching requirement for stateside LWCF grants, they provide vital seed-money which local communities use to forge partnerships with private entities.

Unlike the Clinton administration, and its House counterparts, the Senate Interior Appropriations Subcommittee, and the Senate, recognized the value of the stateside LWCF matching grant program and appropriated $100 million to the program over the next 4 years. The Senate Interior Appropriations Subcommittee noted, in its report, that ''resource protection is not solely the responsibility nor the domain of the Federal Government, and that States can in may cases extract greater value from moneys'' appropriated from the LWCF.

While this $100 million appropriation would only have met a fraction of the demand for stateside LWCF matching grants, it would have helped to restore the historic balance between the State and Federal sides of the LWCF. With the action of the Clinton administration and the Congress to shut down the stateside LWCF matching grant program in fiscal year 1996, the LWCF has become a Federal-only land acquisition program. The balance created by the LWCF Act—between the State and local communities and the Federal Government; between urban and rural communities; between the Western and Eastern States—for the acquisition of outdoor recreation resources has been lost. As I have expressed before, I believe the loss of this balance is a tragic mistake and only serves to increase the already significant pressure on the Federal Government to meet the recreation demands of the American public. Unfortunately, H.R. 2107 compounds this imbalance.

As chairman of the Energy and Natural Resources Committee, I plan to continue in the 2d session of the 105th Congress, my efforts to reinvigorate the stateside LWCF matching grant program. I intend to work with the members of the Interior Appropriations Subcommittee to fund the stateside LWCF matching grant program in fiscal year 1999. I also will search to find a permanent source of funding for the stateside LWCF matching grant program so that this annual appropriations battle can be avoided. The stateside LWCF matching grant program is too important to the America people for Congress to do anything less.

FEDERAL USE OF THE LWCF

The LWCF Act also authorizes LWCF moneys to be used by the Federal land management agencies to acquire property, otherwise authorized by Congress. Congress envisioned that a substantial part of the LWCF moneys allocated for Federal land acquisition should go toward the purchase of privately owned inholdings within the authorized boundaries of national parks, forests, and refuges.

Moreover, because the LWCF Act was enacted to establish a funding mechanism for the acquisition and development of outdoor recreation resources, LWCF moneys generally must be spent to purchase such lands. The Bureau of Land Management only can use LWCF moneys to purchase lands which are primarily of value for outdoor recreation purposes. 43 U.S.C. 1748(d). Similarly, in the absence of a specific authorization, the National Park Service only can use LWCF moneys to acquire inholdings within national parks for outdoor recreation purposes. 16 U.S.C. 460*l*–9(a)(1). Limitations also exist with respect to Forest Service and Fish and Wildlife Service use of LWCF moneys.

However, even with these limitations, the demand for LWCF moneys is significant. The four Federal land management agencies have identified more

than 45 million acres of privately owned lands lying within the boundaries of Federal land management units, including national parks, national forests, and national wildlife refuges.

These inholdings increase the operating and management costs of the land management units. Much of this acreage is small isolated parcels which complicate overall resource planning. These inholdings increase the time and cost of management as Federal land management agencies must maintain the boundaries, monitor illegal uses, enforce use restrictions, process requests for special uses, address trespass issues, in addition to many other management responsibilities. At the same time, many of these inholders have been waiting decades to receive promised compensation from the Federal Government for their property.

The National Park Service alone, in its fiscal year 1998 budget request, estimates that the cost to acquire all the private land identified for acquisition within the authorized boundaries of the units of the National Park System, excluding the Alaska parks, is $1.5 billion. Obviously, the costs to purchase these private lands will only increase,

Nonetheless, despite this significant demand for Federal land acquisition dollars and the costs associated with inholdings, the conferees have chosen to allow LWCF moneys to be spent on uses not otherwise authorized by the LWCF Act—critical maintenance by the four Federal land management agencies. The LWCF Act does not authorize any agency—Federal, State, local to use LWCF moneys for operations and maintenance activities. The conferees also authorized $22 million in mitigation payments to Humboldt County, CA, and the State of Montana—again, a use not otherwise authorized by the LWCF Act.

I am troubled by these decisions which set a dangerous precedent by expanding the purposes for which LWCF moneys can be spent. LWCF moneys not spent on the Headwaters Forest and New World Mine acquisitions should be limited to the purchase of private land now owned by willing sellers within the authorized boundaries of existing land management units, consistent with the terms of the LWCF Act.

HEADWATERS FOREST/NEW WORLD MINE AUTHORIZATIONS

The conferees also decided to authorize the Headwaters Forest and the New World Mine acquisitions in H.R. 2107. While the Clinton administration has conceded that these acquisitions need specific authorizations, I strongly believe that such authorizations should not be included in an appropriations bill. Rather, such authorizations should be the subject of separate legislation which has gone through the regular authorization process.

I want to reiterate that my unwillingness to embrace authorizing these two acquisitions on H.R. 2107 comes not from any personal opposition to these purchases. I have repeatedly stated over the past 6 months that I have not formed an opinion on whether or not these properties warrant inclusion in the Federal estate because I, and the members of my committee, do not know enough about the acquisitions to even form an opinion on their merits. Bills authorizing these acquisitions have never been introduced in the Senate and my requests for information from the administration over the past year have been largely ignored. On several occasions I have come to the Senate floor to voice my concerns about these acquisitions, but even these efforts have failed to get the attention of the administration. It is this very lack of information and cooperation, and the resulting unanswered questions about the acquisitions, which I believe counseled against authorizing these purchases absent a thorough, and open, review by the authorizing committees.

Nonetheless, the appropriators chose to proceed differently. And, while I disagreed with this decision, I again would like to thank Senator GORTON for his efforts to ensure that the authorizations contained in H.R. 2107 protect the role of the authorizing committee and the interests of the American taxpayer.

The conferees provided this protection by prohibiting expenditure of the appropriated funds for 180 days. During this time, if no separate authorizing legislation is reported, the acquisitions will proceed according to the authorizations contained in H.R. 2107. The Appropriations Committee has committed to allow any authorizing language reported by my committee or the House Resources Committee to be attached to the fiscal year 1998 supplemental appropriations bill.

During the 180 day review period, the Secretary of Agriculture and the Secretary of the Interior are to provide Congress with fair market value appraisals for both properties. This requirement is critical to protect the American taxpayers. The most significant unanswered questions about both properties concern their fair market value. Because the purchase prices for both the Headwaters Forest and the New World Mine property were the result of negotiation and dependent, in part, on other terms, the actual fair market value of the properties is unknown. The appraisals must comply with the Department of Justice ''Uniform Appraisal Standards for Federal Land Acquisitions,'' along with other applicable laws and regulations. The Comptroller General of the General Accounting Office also must evaluate both appraisals. In that review, the Comptroller General should examine the methodology and data used in the appraisals.

With respect to the New World Mine, an appraisal is already required pursuant to the August 1996 agreement. A 1995 National Park Service report estimates the fair market value of the property is less than $50 million but the Federal Government has agreed to a $65 million purchase price.

As to the Headwaters Forest, there is enormous discrepancy as to the property's value. The owner contends the property now has a value of close to $1 billion. A 1993 Forest Service appraisal values the property at $500 million. However, a 1996 analysis of the property conducted for the Department of Justice concludes that the property has a value between $20 million, applying current environmental restrictions, and $250 million, without any environmental restrictions. The Federal Government and the State of California have agreed to purchase the Headwaters Forest for $380 million.

To further exacerbate this situation, the Federal tax consequences of the Headwaters Forest acquisition have not been considered. The sale of the Headwaters Forest is conditioned upon the current landowner receiving a ruling from the Internal Revenue Service that it can take as a business loss the difference between the appraised value of the property and the Federal purchase price. The Headwaters Forest acquisition will cost the American taxpayers hundreds of millions of dollars in lost tax revenues, in addition to the $250 million cash purchase price.

In the absence of the appraisal requirements, Congress would have found itself in the uncomfortable position of appropriating sums for Federal land purchases without any idea whether or not the purchases were good deals for the American taxpayers. This is what the Clinton administration sought. The Clinton administration wanted Congress to ratify the purchase prices for the New World Mine property and Headwaters Forest in order to avoid complying with the Uniform Relocation Assistance and Real Property Acquisition Act—the act which requires a fair market value appraisal of any private property to be acquired by the Federal Government. By requiring the completion of appraisals before the expenditure of the appropriated funds, Congress can determine for itself, and the American taxpayer, the fair market value of these properties.

The authorizations contained in H.R. 2107 also require Secretary of the Interior, with respect to the Headwaters Forest acquisition, and the Secretary of Agriculture, with respect to the New World Mine acquisition, to submit reports to Congress 120 days after enactment of H.R. 2107. These reports must detail the status of the conditions imposed in H.R. 2107 on the acquisitions. The reports also will provide information which Congress can use in reviewing the acquisitions.

One of these conditions, imposed on the Headwaters Forest acquisition, is the issuance of a incidental take permit under the Endangered Species Act based on an acceptable habitat conservation plan [HCP]. There currently are a number of questions about the status of the Headwaters Forest HCP.

The Agreement to purchase the Headwaters Forest requires that the Federal Government and the property seller agree to an HCP for timber harvesting activities which will occur on the remaining 200,000 acres owned by the company. In fact, because of difficulties in negotiating an acceptable HCP for this property, the timber company sued the Federal Government. Because of the significance of the HCP, within 60 days of enactment of H.R. 2107, the Secretary of the Interior and the Secretary of Commerce must report to the authorizing committees on scientific and legal standards and criteria for species used to develop the HCP. All of these issues will be examined during the 180-day review period.

There are questions, with respect to the New World Mine acquisition, about the amount of land or interests in land the Federal Government will be acquiring. The mining company, which agreed to sell, owns, or has under lease, interests in nearly 6,000 acres outside of Yellowstone National Park. However, the mining company only has fee title to 1,700 acres. The remainder is unpatented mining claims. The ownership situation is further complicated by the fact that most of the interests in the 6,000 acres are owned by a third party not a signatory to the agreement with the Federal Government. In conversations, the mining company has stated that this third party has agreed to forego her rights to develop the mineral reserves of the property for some undisclosed price but that she will retain her surface rights. There has been no written verification of this arrangement and it remains unclear exactly what interests and interests in land the Federal Government will acquire for the $65 million purchase price. Again, this information needs to be provided to Congress so that it can be examined during the 180-day review period.

My committee also will evaluate the long-term management plans for the properties. Who will manage the properties? For what purposes? At what costs? With respect to the Headwaters Forest acquisition, how will management responsibilities be divided between the Federal Government and the State of California? With respect to the New World Mine property, how will other mineral containing private property outside Yellowstone National Park be treated? Should the Federal Government be acquiring those properties in order to prevent other mineral development in this area? While an effort has been made to address, at least partially, some of these questions in the context of an authorization on H.R. 2107, a number of them remain unanswered and need to be analyzed in greater depth.

Again, I would have preferred examining the acquisition of the Headwaters Forest and the New World Mine property through the usual authorization process; thereby, respecting the roles of the appropriation and authorizing committees. Nonetheless, the Energy and Natural Resources Committee will undertake, in good faith, a thorough review of the purchases and, if necessary, report out changes to the authorizations contained in H.R. 2107 at the beginning of next year for inclusion in the fiscal year 1998 supplemental appropriations bill. My goal is to ensure that, despite the uncommon circumstances which have led us to this point, Congress and the American people can have confidence in the decisions to acquire Headwaters Forest and New World Mine properties.

DENALI MINING ACQUISITIONS

Today, the Senate will agree to passage of the conference report for H.R. 2107, the Interior appropriations bill for fiscal year 1997. Contained within this bill is a provision dealing with mining claims in Denali National Park. As chairman of the authorizing committee for Department of Interior activities, I regret that the Department has delayed resolution of this issue until this year. I would prefer to see stand-alone legislation to enact this provision in order to allow those affected by repeated Park Service delays to be able to testify on the record about them.

Those Denali inholders who wished to sell their inholdings to the Park Service have waited for just compensation for some time in some cases. Many inholders have been forced to abandon their claims in order to avoid paying the annual maintenance fee. Others have lost their claims due to payment of this fee only days late. This is not the way to treat Alaskans and it is my personal belief that a taking occurred long ago. As such, the date of taking has not been fixed by this provision.

As required by section 202(3)(b) of the Alaska National Interest Lands Conservation Act, a study of the mineral values of this area was completed in 1983. This study, known as the DOWL report, clearly identifies the high mineral values of the claims in question. With the passage of this legislation, it is my hope that the courts will use this congressionally authorized report as a guide to determining the proper valuations.

It is my intent to continue to oversee the Park Service's activities in regards to this provision to ensure that a resolution to this problem is finally reached. I hope that a nearly 15-year-old problem will finally be resolved.

Mr. President, for the record I wish to clarify an important point regarding the appropriations bill for the Department of the Interior. That point concerns the Minerals Management Service's rulemaking proceedings on the valuation of crude oil from Federal oil and gas leases, proceedings which have been underway since January of this year. Those proceedings began with a proposed rule to replace the longstanding practice of valuing crude oil royalties at the lease where the oil is produced with a new system—a system under which valuation for oil from any Federal lease anywhere in the country would begin with prices bid for future contracts on the New York Mercantile Exchange, or NYMEX.

Concerned about the fairness of the proposal and the fiscal impacts of an ill-considered rule, the managers of the appropriations bill have charged the MMS to continue to meet with representatives of affected states and of Federal leesees. Those meetings should be conducted in a manner to permit a full, careful airing of MMS's proposal and the several alternatives that have been recommended by States and producers. More importantly, those meetings should be conducted in a manner designed to move the stakeholders in this issue toward consensus.

MMS has begun the process of continued consultation by holding a series of workshops in October. I am aware that Secretary Babbitt has received sharp criticism from some who portray these meetings between MMS, States, and producers as backroom sessions, even though notice of those meetings was published in the Federal Register inviting the public to attend. Those critics, however, have already predetermined that MMS's NYMEX-price proposal is the only correct way to value royalty and that MMS must adopt it immediately.

The workshops MMS has begun are in fact the beginning of the detailed consultation the managers have directed the agency to undertake. From statements made by representatives of the MMS and of producers, I gather that there is disagreement over whether the current regulations need amending to address recent concerns, and significant disagreement over how to amend them if amendment is needed. According to statements made by MMS representatives, its rulemaking proceedings arose because of the agency's concern that the current regulations allowed large, integrated oil companies to value royalties by using their own posted prices, the prices they publicly state they will pay to purchase oil from third parties.

The workshops MMS has begun are the first real effort directly to address and fix the problems MMS and State representatives have identified from their audits. I was disappointed to learn, however, of MMS's announcement that the workshops would be limited to 30 days. While the managers expect the agency to continue to work with dispatch, the haste of the workshops evidently has resulted from political pressure MMS is receiving from certain quarters. A few workshops in 30 days cannot adequately explore how to restore confidence in all quarters that the royalty valuation program is fairly collecting the full value of production at the lease.

For my part, I intend to ensure that the agency carries out the charge the managers have given it. If necessary, I will hold oversight hearings next year to assure that the agency explains why the current regulations are not working, that it explains how whatever alternative it then is pursuing assures

that the public is receiving royalties based on the fair market value of the oil at the lease, and that it reports on its efforts to resolve the issues by consensus.

Mr. BUMPERS. Mr. President, I have authority from Senator BYRD to yield myself time on this.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I will engage the distinguished manager of the bill in a short colloquy, but let me start off by saying that there are parts of this bill that are confusing because any bill of this magnitude obviously has some things that are hard to understand without knowing precisely what was intended. These are fairly arcane questions, usually not very entertaining to anybody except those of us who deal with issues affecting the Forest Service and the Department of the Interior.

Question No. 1. As I understand it, the U.S. Government will pay $250 million for the Headwaters Forest as provided in the bill; correct?

Mr. GORTON. Correct.

Mr. BUMPERS. There is a provision in the bill that says before the President can spend that money, the $315 million, which includes both the New World Mine and the Headwaters Forest, before the President can spend that money to acquire those two properties, the authorizing committees of the House and the Senate have 180 days from the date of enactment of this bill in which to take action. If they take no action, presumably the President would be authorized to go ahead and make the purchase?

Mr. GORTON. The Senator is correct.

Mr. BUMPERS. The second question: Do the authorizing committees have the authority under this bill to determine additional conditions under which the money can be spent?

Mr. GORTON. Only by reporting a bill and having that bill passed and signed by the President.

Mr. BUMPERS. Now, if the President were to veto the bill, because it contained some fairly stringent conditions that he found odious and the Congress did not override it, would the President still have authority to go ahead and make the purchase?

Mr. GORTON. He would.

Mr. BUMPERS. Another question: We appropriate $700 million in this bill from the Land and Water Conservation Fund; is that correct?

Mr. GORTON. $699 million.

Mr. BUMPERS. That is close enough.

So, the $699 million we are appropriating, under current law, the appropriate agencies, the Forest Service or the Department of the Interior, would have the right to spend other funds unrelated to Headwaters Forest and the New World Mine to make the normal kinds of purchases that they have always made; is that correct?

Mr. GORTON. Subject to approval of the Appropriations Committees of both Houses.

Mr. BUMPERS. The committees?

Mr. GORTON. Yes.

Mr. BUMPERS. Right.

Now, there is a provision in here that says Headwaters Forest must be appraised, through a normal appraisal, the appraisal submitted to the GAO within 30 days, et cetera.

My question is, if the appraisal came out that the Headwaters Forest was worth more than $250 million, would the President have the authority to spend more money out of the Land and Water Conservation Fund to pay the appraised price?

Mr. GORTON. I do not believe so. I believe that the President, the administration, believes it has a binding contract under which it would not have to pay more even though the appraisal came out higher, more than the $250 million.

Mr. BUMPERS. So we are only authorizing under this bill, and subject to the 180 days within which the committees have to act, we are only authorizing the expenditure of $250 million for Headwaters Forest?

Mr. GORTON. Correct.

Mr. BUMPERS. If the appraisal came out more than that and Mr. Hurwitz decided he wanted the appraised value, we could not pay him the appraised value; is that correct?

Mr. GORTON. The administration could not without coming back to the Congress.

Mr. BUMPERS. On another subject, Mr. President. With regard to the payment to the State of Montana, there is a provision in this bill—and I will not read the whole provision—but it says essentially that not later than January 1, the year 2001, but not prior to 180 days from enactment—the Secretary and the Governor of Montana will negotiate with the understanding that the Federal Government owes them $10 million in mineral resources for the loss of the New World Mine; is that essentially correct?

Mr. GORTON. Owes them a minimum of $10 million.

Mr. BUMPERS. A minimum?

Mr. GORTON. They could negotiate a higher figure than that.

Mr. BUMPERS. That brings me to the point. If the Secretary and the Governor of Montana cannot agree prior to this date on something similar to $10 million, then the Governor of Montana is within his right to demand the so-called Otter Creek tracts, which are tracts of land with a considerable amount of coal underneath them; is that correct?

Mr. GORTON. The Senator is correct.

Mr. BUMPERS. Now, I wonder if the Senator has seen some figures provided by the Greater Yellowstone Coalition as to what the Otter Creek tracts are worth. Let me preface that statement by saying I think the people who are following this bill are under the assumption that we are going to pay Montana $10 million to offset any economic loss they sustained as a result of our purchase of the New World Mine. There are going to be some jobs lost, and so on, that they would have otherwise gotten. Now, if the Governor of Montana is smart—and I assume he is—he is not going to negotiate very seriously on this for $10 million because he knows if there is no agreement, he gets the Otter Creek tracts. The Otter Creek tracts are estimated to have a value of $4.26 billion.

Now, if the U.S. Government were to lease those lands to somebody under the Mineral Leasing Act, we would charge them a 12.5-percent royalty. Half of the royalty from that coal would go to the State of Montana and the other half would go to the Federal Treasury. If the Governor of Montana is very shrewd, and he can bottle up negotiations and not take the $10 million, which most people assume he is going to be getting, and the State of Montana will wind up with the Otter Creek tracts and own all the coal outright * * * not just get the 12.5-percent royalty. Does the Senator from Washington know what the Federal share of the royalty from this coal would be?

Mr. GORTON. No.

Mr. BUMPERS. It is $266 million. Does that disturb the Senator? Assuming my figures are correct, would that disturb the Senator from Washington?

Mr. GORTON. Well, one has to assume—if you take an assumption that the gross revenues are going to be *x* dollars and that a royalty agreement would be 12.5 percent of *x* dollars, then you simply have an arithmetic calculation. There are wide differences of opinion as to the value of those tracts. For example, the demand from the State of Montana, through its junior Senator and its Congressman, were for twice this amount of money. It seems to me that there were losses to the State of Montana and that this was an appropriate transfer. I think I would have had a very different view, personally at least, toward the transfer had this transfer been from the people—that is to say, the United States of America—to some private entity. As it is, it is a transfer not to the Governor of the State of Montana, as we tend to personalize this, but to the State. It remains a limited public asset, but a public asset nevertheless. Now, this was a matter which consumed a considerable amount of time.

Mr. BUMPERS. I know it was.

Mr. GORTON. In negotiations over this, it was set up, very bluntly—and I can put this on the record because it is obviously the case—so that if the President feels that is somehow or another totally unwise and doesn't mind making the government of the State of Montana unhappy, this provision is subject to a line-item veto. It was set up in that fashion. The President doesn't have to veto the whole bill or the whole $700 million in the land and water conservation fund. So if he feels it is disproportionate in some respect, we never have to go through these negotiations at all.

Mr. BUMPERS. Senator, if I may, here are the figures furnished me on

the point I am trying to make. This is a real bonanza for the State of Montana—and I have nothing against them and their two Senators; they are two of the dearest friends I have in this body. So it always causes me grief when somebody is getting something, just as I am under this bill, to say these things. Here is the figure given to me. The Otter Creek tracts contain 533 million tons of coal. The current price of such coal is $8 a ton. It would come to $4.26 billion, and if you take 12.5 percent of that, you come out with about $266 million in royalties that the State could get. Mr. President, that is a lot more than the $10 million that I think most Senators in this body think we are giving the State of Montana.

So I wanted to raise that point because, as you know, the administration is pretty concerned about this bill. I don't know that the President would veto it. If he were to veto that particular provision under the line-item authority that he now has and the Supreme Court later determined that the line-item veto is unconstitutional, then this is still a viable provision and his line-item veto of it would not stand.

Mr. GORTON. Of course, the same thing is true with respect to all the other line-item vetoes, which I think would certainly be representative of millions of dollars. The President is exercising that power that was given to him by the Congress, and we will find out later whether or not they were valid. That would do no more or less than to set this out as a separate item. There is, however, a difference between the sale price of a mineral once it has been taken out and processed and worked on and the value of that same mineral while sitting in the ground. Those two are by no means equivalent.

Mr. BUMPERS. Senator, you and I have talked about this in private. I think it is well to get this on the record also. You may have alluded to this in your opening remarks. But another item that I think the administration is terribly concerned about is the provision in the bill that says ''no funds can be spent to revise forest plans until new final interim or final rules for forest land management planning are published in the Federal Register.'' You know, of course, under the national forest management plan, they are required to update the plans on the forests periodically. It is my understanding that some 42 plans would be blocked until the Forest Service publishes new final interim or final rules for forest land management planning. I can tell you that is costing the administration considerable pain. Would the Senator like to elaborate on that?

Mr. GORTON. I will comment on that. Obviously, the regulations in these forest plans have a tremendous impact not just on the Federal Government and management of the Forest Service, but very obviously on the communities and the areas in which these forests are located. The regulations and the rules that we are talking about have been under review for 8 years; that means through two administrations. Evidently, they must be rather controversial because they seem to have been about ready to promulgate and just before the elections, both in 1992 and 1996, they were withdrawn. Now we have gone just about a year after the last election. And we have been deeply concerned that so many millions of dollars have been spent on plan revisions that may just be thrown into the wastebasket when these regulations do come out.

So the design of this provision in the bill is to see to it that an administration, after 8 years and these two delays, comes up with final or at least interim regulations—something that it ought to be able to do within a relatively short period of time. Even so, in spite of that—and that was really what we asked them to do here in the Senate—because the administration had reservations on it, we have two exceptions to it. One is, in any forest in which a notice of intent to revise was published in the Federal Register before October 1 of this year—that is to say, where they were ready to do so; and second, where a court order has directed that a revision must occur. So in those two instances—and they are pretty big exceptions—this mandate doesn't apply at all. In the other case, all we are saying is, at least give us interim rules and regulations so that the forest plan revisions will be consistent with them when they come out.

Mr. BUMPERS. One final question and a remark. I see the Senator from New Mexico on the floor. He and I have talked about this privately. There is a grazing provision in this bill that is of some concern to me. There is a court order in New Mexico regarding grazing rights, and there is a provision in here that says that none of the funds may be used by the Forest Service to carry out a court order. As I told him, I am not going to get into that, but I think that has a little bit of danger. Just for the record, I will let the Senator say what he said to me privately about that provision.

Mr. GORTON. I yield to the Senator from New Mexico for that purpose.

Mr. DOMENICI. I say to the Senator that I did not come to the floor to interfere with your work or even to answer this question, but since I am here——

Mr. BUMPERS. If you choose to answer, by all means, do.

Mr. DOMENICI. Actually, Senator, I think I have explained it to Senator GORTON when I asked him to do this. Essentially, it does nothing more than say, for the remainder of this year, which is almost gone, the court order that could have forced some of the small ranchers to take their cattle off ranch land and set them aside while they do a new evaluation, we said that cannot happen in that manner until after this year is past, which is like a month or two. That is all it does.

Mr. BUMPERS. I think March 1 was the date.

Mr. DOMENICI. If that's the date, that's the date.

Mr. BUMPERS. Let me say this to the distinguished Senator from Washington, whose friendship I treasure. First of all, he has worked tirelessly to craft this bill, and there have been many conflicting forces pulling him in one direction or another. I know it has not been easy. He has always been very accommodating to me and I want to thank him profusely for that. More importantly, I want to tell him I was moved a moment ago by the very nice things he said about the role I played in the integration of my little school in Charleston, AR, at that time, with a population of 1,200. It was the very first school in the Old Confederacy to integrate after the Supreme Court decision in Brown versus Board of Education. He very generously put a $50,000 appropriation in here to do a feasibility study about establishing a national historic site in that community to commemorate this historic event. I express my deep and profound gratitude to him for that. He also agreed to include $150,000 for a similar designation for Central High School, which was the scene of one of the most, if not the most, dangerous situations in the United States since the Civil War.

Mr. GORTON. I thank the Senator.

Mr. President, the Senator from Pennsylvania is on the floor. I will yield 7 minutes to him.

Mr. SANTORUM. Mr. President, I thank the chairman for his kind comments earlier, as well as for his tremendous support of the issue which I rise to talk about in the bill. He has been very cooperative, to the nth degree, in making sure this funding is in the bill. What I am talking about is actually an increase in the amount of funding for a national park that I think is one of the most significant and important national parks we have in this country, the Gettysburg National Battlefield, a battle which represents the high-water mark of the confederacy. It is in my State of Pennsylvania. I have had the privilege of being there on many occasions and, for the most part, they have been very sad occasions. They are times when I have to go up and look at the state of disrepair of the battlefield, the absolute horrendous conditions in which some of the most significant Civil War artifacts are kept. They are kept in basements that are damp. There is rot on most of the artifacts, uniforms, soldiers' diaries, archeological artifacts, and historical photographs. They are rotting away because we have absolutely no place to put them. We also have many farmhouses that were there used during the battle, which are crumbling and falling apart because we don't have any money to fix them.

Mr. President, there was an article in the Washington Post today on Gettysburg, and there was one in USA Today also on Gettysburg. One referred to the

''next battle of Gettysburg,'' which is the attempt by the Park Service—I think a very important attempt—to relocate the visitors' center, which sits on Cemetery Ridge right in the middle of the Union line. New facilities are desperately needed given the condition of the artifacts I mentioned, to restore the battlefield to its intended condition, which should be its condition at the time of the battle, and to move the visitor center to another location in or near the park. The proposal referred to in the news articles is to move the visitors' center to a location in the park where there was no fighting that occurred and where no one died.

The primary reason for the Park Service seeking a public-private partnership to build the new facilities is, No. 1, the current facilities are located in a place where they should not be and to provide better preservation and restoration of the artifacts and monuments. I visited the battlefield a month ago and reviewed some of the cannon carriages. There are some 400 cannons of which 380 are in absolute horrible condition. In fact, they are breaking apart, cracking, and the paint is chipping off. You have little kids running around on the battlefield climbing on top of the cannons with paint peeling away. If that happened in a city, or in a house, all the inspectors in the world would say that you have to do something to repair these cannon carriages.

But we don't have the money, at least not until today. As much as the funding today will help, Gettysburg also needs the new visitor center, and they need the private-public partnership because there just isn't enough money in the budget to build a new facility. We can't get the capital funds.

This new proposal, however, is meeting with some controversy from preservationists who feel we should leave things alone. If we leave things alone, though, Gettysburg won't be here very much longer—at least the historical documents and artifacts and monuments. I was at the Pennsylvania monument recently, one of the largest at the park. It is a grand thing. It is a dome-shaped monument. You can walk through it and under it—but not when it rains because it leaks, the water drips right down on you. You walk around and you see monuments that you can't even make out who it is a monument to anymore because they are just worn.

That is no condition for this hallowed ground to be in. I, again, thank the Senator from Washington because I came to him with this plea after being, frankly, shocked and emotionally moved, after having been to that battleground on several occasions, and pleaded with him to do something about this state of the battlefield. He said, ''Tell me what you need and we will make sure that we fight for it.'' And through the process he was there every step of the way and did fight valiantly, and we have succeeded in getting an additional million dollars.

But I will be very honest with you. That is a start. We also need to move forward with this new visitor center. I know it may be controversial. I know people are saying we have to wait and see. I am willing to listen to the preservationists and to those who have concerns about the new location being proposed by the Park Service. But we cannot delay long. We need to move forward to construct, No. 1, a suitable place for us to keep these artifacts. If we do not move forward and build a new facility that has the kinds of conditions, whether it is humidity, temperature, sunlight, and other things, to adequately display the park's treasures, they will be lost. One such treasure is the cyclorama painting that was painted back in 1880's. Today, the canvas is rippled. It is being destroyed, damaged by time, by humidity, by the misconstruction of the building when it was first put in. We need to act now to preserve and restore it.

Today is a first step. I commend the committee and the Senator from Washington. We have made a first step today. We need to be vigilant on this. We need to come back and work further for more aid for this park and others to make sure that we can keep these hallowed grounds in a condition that we can be proud of and that we can preserve for posterity.

So I rise to make my colleagues aware of the reasons for which this appropriation was targeted, and I encourage the President to be supportive of this additional appropriation. I also encourage him to do all he can to make sure on the Executive side that we move forward with the Park Service in some way quickly to get this new visitor center constructed, so we can begin to turn this park around to preserve our terrific assets, as well as to present a much better historical educational opportunity for people who come to visit the park.

I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I yield myself 3 minutes.

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

Mr. BRYAN. I thank the Chair.

There are a number of riders attached to this conference report which should be cause for concern by my colleagues. I am most troubled by the conferees' treatment of the Forest Service purchaser road credit program.

During this body's consideration of the Interior appropriations bill, I offered an amendment to eliminate this environmentally destructive subsidy. It failed by a single vote. A similar amendment in the House also failed by a single vote.

The purchaser road credit program allows the Forest Service to subsidize the road construction costs of timber companies by granting credits to them equal to the estimated cost of the roads they need to access their timber. Timber purchasers can then use the credit to pay for the timber being harvested. Last year these ''purchaser credits'' were valued at nearly $50 million.

In the House-passed version of the Interior appropriations bill, a limit of $25 million was placed on the value of purchaser credits that may be offered by the Forest Service in fiscal year 1998. The conference report before us today eliminates this cap entirely. The Senate report accompanying the bill ''directs the Forest Service to continue the timber purchaser credit program without change'' and makes it clear that ''the committee has not specified the ceiling for the amount of purchaser credits that can be offered'' to timber companies. The result of this language is an open-ended subsidy for the timber industry.

Mr. President, in spite of the conferees' decision to expand this subsidy, I intend to send a letter to the administration urging them to use their discretionary authority to abolish this wasteful and environmentally unsound program, and I urge my colleagues to join me in this effort.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. GORTON. I yield 4 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am grateful to the Senator from Washington for the manner in which he has handled this bill as the chairman of the subcommittee for Interior appropriations.

I presented to the conference at a very late moment an amendment, which is amendment No. 128, that modifies the regular amendment that was in the original House bill dealing with the problems associated with management of Alaska fish and game.

I want to tell the Senate, in July at our request the Secretary of the Interior came to Alaska and met at Senator MURKOWSKI's house with me and Congressman YOUNG, with the Governor, the attorney general, and members of what we know as the Governor's task force on subsistence. We agreed then to try to work together to assure that Alaska, along with all other States, would continue to manage fish and game on Federal lands within its borders.

It is a very difficult problem for us, but very clearly Secretary Babbitt has carried through with the commitments he made at that time, and we have worked toward finding a resolution to these problems.

This task force did come up with a report. It is a very interesting task force. It is made up of the Governor and Lieutenant Governor, Governor Knowles and Lieutenant Governor Ulmer, also the speaker of the house, Gail Phillips; the president of the senate, Mike Miller; a former Republican Governor, Jay Hammond; and the

former Republican attorney general, Charley Cole. Byron Mallot, Director of the Alaska Permanent Fund, who has held leadership roles in Alaska Native organizations, was also on that task force.

This task force worked hard over the summer and came up with some recommendations. We hoped those recommendations would be presented to a joint session of the Alaska Legislature this year. That was not possible. When it was really evident it could not be done, I asked the conference to adopt this amendment. It is covered on pages 94 and 95 of the conference report, and I will not comment at large about it.

But I do want the Senate to know and the RECORD to show that we have done our best to meet this. Senator MURKOWSKI has just said he is going to hold some hearings, and Congressman YOUNG may hold some hearings. I do hope they will hold them. I hope they will hold them in Alaska. There are a lot of Alaskans who want to be heard on the matter of what should be done. The Congress may be asked to adopt further amendments next year.

I yield the floor.

APPENDIX C STATUTE OF LIMITATIONS EXTENSION

Mr GORTON. Will the distinguished chairman of the Appropriations Committee yield for a question?

Mr. STEVENS. Yes, I will.

Mr. GORTON. The conference report contains an amendment dealing with land selection rights of five Alaska Native village corporations involved in the so-called appendix C conveyance issue. Would the chairman provide some background on this issue and explain Congress' intentions on how this provision should be interpreted by the courts.

Mr. STEVENS. The lands at issue were selected by five Alaska Native village corporations pursuant to the 1971 Alaska Native Claims Settlement Act. The lands were selected in 1974, pursuant to an agreement among the villages, a full 6 years before the creation of Lake Clark National Park. For years, the Department followed a course of processing village land selections outlined in both appendix A and appendix C of the agreement. This prior course is well documented including formal conveyance decisions and reservation of easements.

In the 1990's, the Department changed its course effectively denying the village corporations the land to which they are entitled. This provision is designed to allow the Native corporations to challenge the Department's refusal to convey them their land in a court of law. While the Alaska congressional delegation believes the Native people are entitled to the land, the Department of the Interior disagrees. We have agreed to allow an objective third party decide, based on the facts of the case and an interpretation of the 1974 agreement, whether the Native people are entitled to the lands in appendix C.

Because the Interior Department has taken so long to process the villagers land claims, the statute of limitations for challenging the Department has almost expired. To allow a suit to be filed, the conference report extends the statute of limitation through October 1, 1998, under which the five village corporations and Cook Inlet Region, Inc., the regional corporation, may bring litigation challenging the Department's refusal to convey the appendix C lands to the village corporations.

The amendment clarifies that if litigation is brought by the village corporations or Cook Inlet Region, Inc, it shall be filed in the U.S. district court. The court trial permitted in this amendment will result in a fresh hearing on the merits of the case.

The court record will not be limited to the current, incomplete administrative record, but shall consider new evidence introduced that is relevant to the interpretation of the agreements and conveyances in dispute. The language allowing introduction of new evidence was proposed by the Office of Management and Budget. This will provide for a neutral hearing on the total circumstances of the dispute.

A fresh look at the case prompted the Anchorage Daily News, the daily newspaper in Alaska's largest city with a strong record of environmental advocacy to endorse conveyance of the appendix C lands to the villages. I ask unanimous consent that the editorial be printed in the RECORD.

[From the Anchorage Daily News, Oct. 24, 1997]

FIRST PRINCIPLES INTERIOR, DO RIGHT IN LAND DISPUTE

A long-standing land dispute between the U.S. Department of the Interior and Cook Inlet-area Native village corporations should be settled in the corporations' favor, either through a deal brokered by Sen. Ted Stevens or, better yet, through direct action by Secretary of the Interior Bruce Babbitt.

Until Secretary Babbitt steps in, Interior lawyers and high-level bureaucrats will keep fighting with five village corporations and Cook Inlet Region Inc., the Native regional powerhouse that has intervened for its member village corporations. The dispute centers on roughly 29,000 acres of land on the west side of Cook Inlet. The Natives say they're entitled to the acreage, but the department wants to add the disputed parcels to Lake Clark National Park and Preserve.

On this matter, the Clinton administration unfortunately appears to be more intent on locking up another corner of the state than respecting the will of Congress as expressed by the Alaska Native Claims Settlement Act.

The 1971 act created Native-owned corporations—both regional and village—to manage settlement money and land. Plain and simple: It is wrong that, over 20 years later, a handful of village corporations in Southcentral Alaska are still awaiting title to selected acreage.

Both sides look to a 1976 agreement to bolster their respective arguments. The agreement was supposed to sort out competing government and Native interests through land trades. It summarized how trades would take place and in what order lands would be selected and conveyed. Aside from minor amendments, the document hasn't changed—but the feds and Natives have reached different conclusions about what it says.

Sen. Stevens has unsuccessfully tried several times in recent years to end the dispute in the corporations' favor. His latest attempt suffered a setback Thursday when it was cut out of a Department of the Interior budget bill. While it is commendable that Alaska's senior senator has gone to bat for a just cause, it is unfortunate that his latest effort was special-interest legislation attached to the coattails of a bigger bill.

The preferable alternative: Secretary Babbitt can and should direct his staff to convey the disputed acreage to the five Cook Inlet-area village corporations via Cook Inlet Region Inc. While he and park proponents may not like the results—after all, the land can be used for commercial purposes—the anticipation of what may happen later should not stop him from doing the right thing now.

If, after nearly three decades, a just portion of an aboriginal land settlement is circumvented by clever bureaucrats, then the integrity of Congress will have been compromised so that a national park can be expanded.

The right and only call for Secretary Babbitt to make is to lay this old chapter of the Alaska Native Claims Settlement Act to rest and turn over title of the disputed land to its rightful owners.

Mr. GORTON. It is my view that the amendment the conferees agreed to requires a full trial to be held if a lawsuit is filed and allows the parties to introduce all relevant evidence. Do you agreement with that interpretation?

Mr. STEVENS. Yes. It is the intent of the amendment that a trial on the merits be conducted in the U.S. District Court if the villages decide to file suit. Such a trial would be held in lieu of an administrative hearing conducted by the Department of the Interior and in lieu of a court appeal of any administrative decision that was limited to the current, incomplete administrative record.

The court must hear all relevant evidence related to the circumstances surrounding the land selections and conveyances and should not be limited to hearing only the views of the Interior Department or reviewing the limited administrative record that currently exists. Nor, in my opinion, should it defer to any prior decision that was not based on a hearing and a full review of the facts.

In order to ensure justice for the parties, it is necessary that the court have all relevant evidence available to it. Since this dispute has a complex fact pattern that stretches over 20 years, the case should not be resolved on a motion for summary judgment.

The lands sought by the village corporations were originally selected in 1974. The selections were accomplished with the assistance of officials at the Bureau of Land Management. The village corporations have never varied in their selection priorities, and the selection priorities must be honored by the Federal Government. Those of us who are familiar with the history of this dispute understand that the purpose of the Deficiency Agreement was to give effect to the land selections made by the village corporations.

The lands should be conveyed to the villages in the priority order in which they were selected, the same requirement that applies to all land conveyances made to Native corporations under the Alaska Native Land Claims Settlement Act. It is important to read all provisions of the agreements in question in the context in which they were negotiated and in light of the legislative purpose the agreements served to fulfill village land selection rights.

I regret that litigation may be necessary in this case. I am disturbed that the Department of the Interior decided to change its interpretation of the conveyance requirement and is using a very limited interpretation of the Deficiency Agreement to clear title to the appendix C lands. The Department is attempting to acquire more land for Lake Clark National Park. However, it is important to note that the boundaries of Lake Clark National Park were not expanded to potentially include appendix C lands until 6 years after the original land selections were made by the village corporations in 1974. As a result, the appendix C lands are not park lands by virtue of the prior valid Native land selections.

Since enactment of ANCSA, there has been a substantial amount of litigation regarding interpretation of the statute, but no case has been heard that is directly on point with respect to appendix C. Further no opinion—including Court of Claims cases—has been issued interpreting the Deficiency Agreement based on a full hearing of all the relevant evidence. It is one purpose of this amendment to ensure that the district court's resolution of the present matter will not be bound by any decision or opinion not based on a full review of the legal and factual record. The court must take a new look at the dispute after reviewing a full and complete record.

Mr. GORTON. The Interior Department has not responded to the authorizing committees' requests in either the House or the Senate for resolution of this matter. As chairman of the Senate Energy Committee, can Senator MURKOWSKI elaborate?

Mr. MURKOWSKI. During the past Congress, both the House Resources Committee and the Senate Energy and Natural Resources Committee held hearings on this dispute. We heard from members of the villages seeking their lands as well as from the Department of the Interior. At the end of the Senate hearing in September 1996, I asked if the Department of the Interior was willing to work with the villages to come to a resolution. While its initial indication was yes, more than 6 months later, no action had been taken.

On January 2 of this year, Chairman YOUNG and I wrote to Secretary Babbitt requesting again that appropriate department policy level officials meet with the affected villages and the regional corporation as soon as possible to negotiate a resolution acceptable to the administration and the Alaska Native corporations. Again, there was no serious effort to seek a resolution.

Having no indication that the Department was willing to even try to negotiate a settlement of this dispute, Chairman YOUNG and I wrote to Chairman STEVENS on April 25 asking him to include language in the Interior appropriations bill to ensure conveyance of the disputed land to the villages.

CHANGES TO THE APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 205 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, allows the chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect new budget authority and outlays provided for priority Federal land acquisitions and exchanges.

I ask unanimous consent that revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to sec. 302 of the Congressional Budget Act, in the following amounts, be printed in the RECORD.

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

	Budget authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	255,550,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,362,000,000	832,262,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	−700,000,000	−257,000,000
Violent crime reduction fund		
Mandatory		
Total allocation	−700,000,000	−257,000,000
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	254,850,000,000	282,986,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	806,662,000,000	832,126,000,000

Mr. DOMENICI. Mr. President, I rise to explain the need for a reallocation in funding authority for the Appropriations Committee that is being filed today.

I regret that this reallocation is necessary because it was avoidable.

Section 205 of the fiscal year 1998 budget resolution provided for the allocation of $700 million in budget authority for Federal land acquisitions and to finalize priority land exchanges upon the reporting of a bill that included such funding.

The Senate-reported Interior appropriations bill included this funding in title V. As chairman of the Budget Committee, I allocated these funds to the Appropriations Committee, which in turn provided them to the Interior Subcommittee.

If the conferees had adopted the Senate language, I would not be here withdrawing this funding allocation. However, the conferees modified the Senate language to provide only $699 million for land acquisitions, and to expand the use of these funds for the following purposes:

Critical maintenance activities are added as an allowable activity under this title V funding;

Ten million dollars is provided for a payment to Humboldt County, CA, as part of the Headwaters land acquisition; and

Twelve million dollars is provided for repair and maintenance of the Beartooth Highway as part of the Crown Butte/New World Mine land acquisition.

The Senate Budget Committee provided clarifying language to the conferees on the Interior appropriations bill during their meeting on September 30. This language simply restated that monies provided in title V, when combined with monies provided by other titles of the bill for Federal land acquisition, shall provide at least $700 million for Federal land acquisitions and to finalize priority land exchanges.

This language, which I urged be included throughout the past 2 weeks while final language was drafted, would have ensured that the section 205 allocation remained in place for this bill.

The chairmen decided to include, however, language which attempts to trigger the additional $700 million by amending the budget resolution. This language causes a violation under section 306 of the Budget Act because it affects matters within the jurisdiction of the Budget Committee.

Since this language will not become effective until the bill is signed into law, and the conferees did not clarify that $700 million is included in the bill for land acquisition and priority land exchanges, I have no choice but to withdraw the additional allocation of funding provided in section 205 of the budget resolution.

I worked diligently as a member of the conference to complete this important bill, working with my good friend, the senior Senator from Washington, who chairs this subcommittee.

The inclusion of a simple proviso would have avoided this problem. I regret that the chairmen of the conference chose not to do so, and that this withdrawal of funding is now necessary.

Mr. President, I ask unanimous consent that a summary of the provisions included in the final version of the Interior appropriations bill be printed in the RECORD, along with a letter I sent to the chairman of the full Appropriations Committee about these issues at his request.

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

CHANGES TO THE FISCAL YEAR 1998 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL SINCE FORMAL CONFERENCE

$700 MILLION LAND ACQUISITION AND MAINTENANCE FUND

The conference agreement for the fiscal year 1998 Interior and Related Agencies Appropriations Act provides an additional $699 million for priority land acquisitions and exchanges, and for reducing the maintenance backlogs of the Federal land management agencies. This special appropriation was first

referenced by the balanced budget agreement this Spring between the Congress and the Administration, which provided an additional $700 million for priority land acquisitions and exchanges. The Senate version of the Interior Appropriations bill included the special appropriation for land acquisition; the House version did not.

A portion of these funds will be used to acquire two specific pieces of land—the Headwaters Forest in California and the Crown Butte/New World Mine property near Yellowstone National Park. Both of these acquisitions are high priorities of the Administration. Congress, in appropriating funds for these two acquisitions, has stipulated conditions that ensure the wise use of Federal taxpayer dollars, the development of State and local partnerships, and the appropriate use of proper procedures—including valuations, public appraisals and adherence to the National Environmental Policy Act.

These two Administration projects will require up to $315 million in Federal funds—up to $250 million for the Headwaters Forest and up to $65 million for Crown Butte/New World Mine. The State of California will provide $130 million for the Headwaters Forest acquisition. The Headwaters acquisition will be accompanied by a single payment of $10,000,000 for Humboldt County, California, to help offset lost tax revenues and cover anticipated increases in public health and safety costs incurred by the County. The Crown Butte/New World Mine acquisition will be accompanied by an additional Federal expenditure of $12,000,000 to improve and maintain the Beartooth Highway. The conference agreement also directs that a Federal/State study be undertaken to identify and encourage mineral resource development in the State of Montana. Bill language also directs a $10 million transfer of Federal mineral rights to the State of Montana.

Both the Headwaters Forest and the Crown Butte/New World Mine acquisitions are delayed for 180 days, during which time the conditions that govern these acquisitions will be reviewed by the Congressional authorizing committees and may be modified through additional legislation. To the extent that the appraisal process causes a delay, the 180 day period will be extended by an equivalent number of days.

The remainder of the $699 million will be used for other priority land acquisitions and for critical repair and restoration needs of the four land management agencies: National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and U.S. Forest Service. The Secretaries of Agriculture and the Interior will submit requests to the House and Senate Committees on Appropriations for approval for the use of the traditional land acquisition and maintenance funds. The Secretaries are encouraged to emphasize projects that reduce their critical maintenance backlogs and to select land acquisitions which complete a unit, consolidate lands for more efficient management, or address critical resource needs.

PENNSYLVANIA AVENUE MODIFICATIONS

Amendment #158 has been modified, as requested by the Administration, regarding the limitation of expenditures of funds in this bill to implement changes to Pennsylvania Avenue in front of the White House.

NATIONAL PARK SERVICE HOUSING

The report language has been slightly modified to require the Secretary of the Interior to appoint a review committee, a majority of whose members are not employees of the National Park Service, to review the construction practices of the National Park Service and to submit no later than April 15, 1998, a report of their findings and recommendations to the House and Senate Committees on Appropriations.

LAKE CLARK NATIONAL PARK AND PRESERVE, ALASKA

Amendment #68 has been modified, as requested by the Administration.

Summary	*In Millions*
Headwaters	up to $250
Crown Butte	up to 65
Humboldt Co.	10
Beartooth Hwy	12
Other land/maintenance	362
[Dept. of the Interior: $272 million]	
[U.S. Forest Service: $90 million]	
Total	$699 million

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, October 23, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR TED: I regret that I have to bring to your attention two Budget Act violations that will lie against the conference report on the Interior and Related Agencies Appropriations bill.

The conference report fails to meet the terms of section 205 of the FY 1998 budget resolution (H. Con. Res. 84) regarding priority land acquisition funding. Therefore, I must withdraw the additional $700 million for priority land acquisition and exchanges to the Appropriations Committee for consideration of the conference report on the Interior bill. Assuming the Appropriations Committee reduces the section 302(b) allocation for the Interior bill by this amount, the conference report on the Interior bill would violate section 302(f) of the Budget Act.

The Interior bill also would amend the FY 1998 budget resolution to relax the requirements of section 205. Because this provision affects matter in the Budget Committee's jurisdiction, it would cause another violation under section 306 of the Budget Act. If a point of order is raised under either one of these sections, it takes 60 votes in the Senate to waive either of these points of order.

At the Administration's insistence, the Balanced Budget Agreement included $700 million in spending for priority land acquisition and exchanges. I worked for a more flexible mechanism to allocate funding for priority land acquisition, but the White House insisted on very restrictive language. As a result, section 205 of the FY 1998 budget resolution provides that the $700 million will only be made available to the Appropriations Committee if the Interior Appropriations bill provided $700 million for priority land acquisition and exchanges.

The Senate-passed Interior bill met the budget resolution's requirements by providing $700 million for land acquisition activities. During the conference on the Interior bill, the Senate language was modified and I provided some additional language to the conferees that would have ensured $700 million was spent on land acquisition, thereby meeting the budget resolution's requirements. Instead, the tentative conference agreement included language amending the budget resolution. My staff has been in touch with both Senator Gorton's staff and your staff to indicate that the tentative conference agreement on the Interior bill would violate the Budget Act. Even so, the conferees chose to ignore my suggestion.

The Interior conference report provides $699 million for land acquisition. Of this funding, it provides that the money can be used for purposes other than land acquisition, including maintenance activities, PILT payments, and highway improvements. While the Interior conference report attempts to trigger the additional $700 million by amending the budget resolution, I cannot take this language into account until the Interior bill becomes law.

If we took language amending the budget resolution into account for determining budgetary levels, the budget resolution and our efforts to enforce a balanced budget plan would become meaningless. Instead of making the hard choices to live within the budget resolution's levels, committees could simply rely on the precedent that would be established in the Interior bill and amend the budget resolution to assert they had complied with budgetary limits. Finally, the budget resolution is a congressional document that does not require the President's signature and I think it is inappropriate to amend the budget resolution through a law.

I recognize the extraordinary effort you and Senator Gorton have put into writing an Interior bill that can pass both Houses and be signed by the President. I also realize that the issue is not the total level of spending, but how this additional $700 million will be spent. My concern is with the precedent to amend a budget resolution that will be established by the Interior Appropriations bill, which is avoidable, and that is why I attempted to resolve this issue during the Interior conference to avoid any Budget Act violations.

I regret that I have to withdraw the additional allocation to the Appropriations Committee for land acquisition funding, but I have no choice.

Sincerely,

PETE V. DOMENICI,
Chairman.

Mr. DOMENICI. Mr. President, I also object to the inclusion of directed scorekeeping language in this bill. If the Senator took language amending the budget resolution into account for determining budgetary levels, the budget resolution levels and our efforts to enforce a balanced budget plan would become meaningless.

Instead of making the choices necessary to live within the budget resolution levels, committees could simply rely on a precedent to assert, or ''deem,'' that they had complied with the budgetary limits, even though they hadn't.

Such action would undermine the budget discipline of the Senate.

Since the directed scorekeeping language will not become effective until the bill is signed into law, and the conferees did not clarify that $700 million is included in the bill for land acquisition and priority land exchanges, I have no choice but to withdraw the additional allocation of funding provided in section 205 of the budget resolution for land acquisition and exchanges.

MICCOSUKEE SETTLEMENT AMENDMENT

Mr. MACK. I rise today to thank my colleague, Senator GORTON, for including language in the fiscal year 1998 Interior appropriations bill concerning a settlement between the Miccosukee Tribe of Indians of Florida and the State of Florida. The Mack-Graham amendment is a clear, noncontroversial piece of legislation that finalizes the settlement between the Miccosukee Tribe of Indians of Florida and the State of Florida with regards to land takings claims.

Mr. GRAHAM. I, too, thank Senator GORTON for his support to include this provision in the final bill. Do I correctly understand that title VII of the

Interior appropriations bill will ratify the settlement agreement signed by the State of Florida and the Miccosukee Tribe in 1996?

Mr. GORTON. The Senator is correct. I understand the Mack-Graham amendment is in accordance with congressional findings that the settlement agreement requires the consent of Congress in connection with land transfers. I concur with my colleagues from Florida that the Miccosukee Settlement Act of 1997 expresses the desire of Congress to resolve the dispute between the State of Florida and the Miccosukee Tribe.

BUREAU OF LAND MANAGEMENT'S WILD HORSE AND BURRO MANAGEMENT PROGRAM

Mr. CRAIG. Mr. President, I wish to engage in a colloquy with the chairman and ranking member of the Interior Appropriations Subcommittee regarding funding for the Wild Horse and Burro Management Program within the Bureau of Land Management.

Mr. GORTON. Certainly.

Mr. CRAIG. I understand that the conferees to the Interior bill agreed to provide $15,866,000 for the wild horse and burro program for fiscal year 1998. That amounts to the same funding level for the program as was provided for fiscal year 1997.

Mr. GORTON. That is correct.

Mr. CRAIG. I want to congratulate my colleagues, Senator GORTON and Senator BYRD, for balancing the competing interests that are presented by the programs of the Interior bill, all of which have very vocal constituencies. I would like to clarify that, if the Bureau of Land Management believes that the funding provided in this bill is insufficient to carry out the objectives of wild horse and burro management, procedures for reprogramming must be followed by the Agency. Is it the managers' intention that funding not be reallocated absent the involvement of the House and Senate Appropriations Committees?

Mr. GORTON. The Senator is correct. If the BLM believes that it needs more money at any time during fiscal year 1998 for the wild horse and burro program, or any other BLM program, there are reprogramming guidelines which must be followed.

Mr. BYRD. My colleague, Senator GORTON, is correct.

Mr. LEAHY. Mr. President, I would like to engage the chairman in a colloquy. As the chairman knows, the Senate provided $100 million from the Land and Water Conservation Fund for the stateside matching grant program. I want to thank the chairman for recognizing the interests of over 30 Senators to revitalize this program. When the Land and Water Conservation Fund was created, the State matching program was launched to assist States in the acquisition of parks and recreation facilities. This is as it should be. The Land and Water Conservation Fund was created on the premise that revenues generated by the depletion of our Nation's energy resource should be reinvested in the conservation of our resources through land acquisition for Federal, State and local priorities. The matching grants have helped finance over 37,500 park and recreation projects throughout the United States. These are projects each one of us can identify in our home States that are now used as ballparks, hiking trails, river access, and greenspace. Although the conference report does not set aside funds for the State matching program, the Interior Department may use part of the $700 million appropriation for this purpose. Is that correct?

Mr. GORTON. Yes, that is correct. The conference report states that the $700 million appropriation may be used for priority land acquisitions, land exchanges, and other activities consistent with the Land and Water conservation Fund Act of 1965. The original provisions of that act make it clear—that available resources can and should be redistributed to the American people through State and local decisionmaking.

Mr. LEAHY. Am I correct then that under existing authority, the Secretary of the Interior may use these funds for the State matching program with the approval of the House and Senate Appropriations Committee? As the chairman is aware, the National Conference of Mayors, the Western Governors Association, and the National Association of Governors urged Congress to appropriate funds for this program. You have already stated your commitment to the budget agreement that allocated the $700 million for land acquisition. Do you agree that revitalization of the State matching program could be a component of the Interior Department project list sent to the Appropriations Committees for use of this Land and Water Conservation Fund appropriation?

Mr. GORTON. The Senate bill made it clear that the State matching program should be a priority for use of these funds. Although the conference report does not set aside funds for this program, numerous Senators expressed their concern about the future of the State program. The need for this program is evident in requests from every State for Federal assistance to invest in State and local recreation resources.

Mr. LEAHY. I thank the chairman for clarifying this point. I also want to commend the chairman for his work on the entire Interior Appropriations bill for fiscal year 1998.

Mr. STEVENS. I also rise to explain section 120 of the Interior appropriations bill, which provides a right of action for owners of mining claims in the area in Denali National Park and Preserve known as the Kantishna Mining District. This provision is designed to bring an end to nearly 20 years of uncertainty surrounding the future of these claims, and it will ensure that the owners of the claims receive just compensation in return for their interests.

The plan envisioned by this provision addresses the unique needs of both sides of the debate over the future of mining at Denali National Park and Preserve. The American people, through the National Park Service, will receive the title to lands within the Denali National Park and Preserve and near its crown jewel—Mount McKinley. With this provision, we are assured that those lands will be held for the benefit of all Americans. In return, the owners of mining claims who participate in the program will be fairly compensated for the loss of their interest that has been uncompensated since mining was effectively terminated in the mining district many years ago.

At this time I wish to clarify my understanding of the provision. We have provided a way for the Secretary of the Interior to take title to mining claims inside Denali National Park, following procedures outlined in the Declaration of Taking Act. We have also identified the mechanism by which the owners of the mining claims who choose to participate and transfer title to their claims are to be compensated for the loss of their claims. The Congress has not, however, fixed the dates as of which the claims at issue were taken, as that is a factual question best left to the parties to determine or, if necessary, for resolution by the jury in proceedings under section 120. Moreover, it is our intention that any action that is brought either by the Secretary or affected claim owners be conducted in accordance with the substantive and procedural law of the Declaration of Taking Act, except where inconsistent with claim owners' rights under section 120, and the Federal Rules of Civil Procedure, including the claimaint's right to have a trial by jury.

Mr. GORTON. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield myself so much of the 10 minutes I use as I had allocated to me in the unanimous-consent agreement to make an explanation of why I intend to vote against the Interior appropriations bill.

Mr. President, the House voted on July 10 to cut off funding for the National Endowment for the Arts for fiscal year 1998. It was expected that if we would come to Washington to reduce the size of Government, we would at least stop funding the kind of offensive art that has been the subject of so many disputes that have attended the existence of the National Endowment for the Arts.

Senator HELMS and I offered an amendment to eliminate funding for the NEA, but it did not pass in the Senate. The Senate voted on September 17

to increase the NEA's current $99.5 million budget to $100 million. Then on September 30, the conferees to the Interior appropriations bill provided $98 million for the NEA for fiscal year 1998.

So the House voted zero; the Senate voted an increase to $100 million; and we have compromised on $98 million. That simply does not reflect the kind of discipline the American people expect at a time when we are taxed at the highest level in history. Americans spend more money in taxes now than ever before in the history of this country on a percentage basis. Congress should not be in the business of subsidizing speech, of saying to one artist, ''Your art is good,'' and to another artist, by implication, since it did not qualify for the Federal funding, ''Your art is bad.''

I do not believe Congress should be telling people what to like and what not to like. The genius of a democracy is not the values of the central Government imposed on the people. The genius of a democracy is the values of the people imposed on the central Government.

Congress has no constitutional authority to create or fund the NEA, and in my judgment it is wrong for us to continue to fund it. Although funding for the NEA is small in comparison to the overall budget, elimination of this agency sends the message that Congress is taking seriously its obligation to restrict the Federal Government's actions to the limited role envisioned by the Framers of the Constitution. Nowhere does the Constitution grant any authority that could reasonably be construed to include promotion of the arts.

This is a time when we have a high demand on our citizens for taxes, and for us to take money to promote the notion of art that someone in Washington thinks is great and to try to impose that on the people through the so-called ''governmental seal of approval'' is an inappropriate expenditure of public resources.

I am particularly disappointed because we have a situation where the Congress of the United States could have compromised at least far more substantially to protect the people and did not. The House at zero, the Senate at $100 million, the compromise at $98 million. That is simply an inappropriate way for us to conclude, and for that reason I intend to vote against the National Endowment for the Arts as part of this bill, and I will vote against this bill.

I yield the floor.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BAUCUS. Mr. President, I rise today in support of the Interior appropriations conference report. I do so with great respect for its managers, Senators BYRD and GORTON and in recognition of the difficult job which they have faced in bringing this bill together. They have done a fine job juggling this contentious bill and I applaud them for their efforts.

Mr. President, I'd like to talk a minute about worthwhile Federal investments contained in this bill. First, let me talk about the National Endowment for the Arts. This agency makes a real difference in Montana. It allows groups like Shakespeare in the Parks to go to over 50 Montana towns, including Birney, a town of only 17.

Every year, the cast and supporters of Shakespeare in the Parks clear a spot on Poker Jim Butte and put on a show. Citizens come from the nearby reservation, area ranches, and over the border from Wyoming to see classic Shakespeare works. It's a real community gathering and balloons the size of Birney for the day. And make no mistake, it probably wouldn't happen without NEA funding. This bill funds this valuable program.

I have been a longtime advocate of preserving the quality of life we in Montana and in America enjoy. This Interior bill also goes a long way toward preserving some of the last, best places for our children. First, it dedicates $1.5 million to help finish the Gallatin II land exchange near Bozeman, MT. Next, it earmarks $1 million for purchasing easements and land in the Blackfoot Valley.

This area isn't far from where I grew up. I've hunted, fished, and hiked in those hills and I can tell you of its beauty. We can be proud that because of this investment, our children will have the same access to this region that I did as a boy.

Mr. President, our rivers are under attack by a malady known as whirling disease. This parasitic condition causes the deterioration of fish muscles, eventually causing the fish to die. It has been found in many Blue Ribbon Montana rivers and is slowly spreading across the West. Our critical fisheries are at risk and Western States are faced with the potential loss of millions of dollars in tourism and fish agricultural revenues. Scientists at Montana State University's Fish Technology Center are hard at work today identifying the causes of this disease and potential cures.

It is cutting edge science and it is making a difference. This bill recognizes that and funds this research at an appropriate level.

The Interior Appropriations bill also contains $699 million in increased funding for the land and water conservation fund. This will help our Nation to acquire environmentally critical lands including a number of parcels that have been rated as a high priority in Montana. Specifically, the bill provides $65 million in land and water conservation funding to acquire the New World Mine property next to Yellowstone National Park.

If built, this mine would have harmed Yellowstone National Park. It would have polluted waters flowing into the park and would have harmed the park's wildlife herds. Montanans overwhelmingly opposed construction of this mine.

Last year, when the Clinton administration, local citizens, and the mining company reached an agreement that would keep the mine from being built, the entire region breathed a sigh of relief.

And now it is time to finish that agreement.

The New World agreement provides that the Federal Government will purchase the property from the mining company, thus protecting Yellowstone for our children. But its benefits don't stop there. The agreement also requires the mining company to spend $22.5 million to clean up historic mining pollution in the area. This not only improves the environment, it also creates jobs for Montana. That is truly a win-win solution.

As this bill moved through Congress, I worked hard to ensure that the money would be included to complete the New World agreement. And I am glad that has been done.

As part of the New World negotiations, we were able to further protect the local economy in Montana by appropriating $12 million to repair the area's main highway leading into Yellowstone National Park. Charles Kuralt called the Beartooth Highway the most beautiful road in America. With the money contained in this bill, we will be able to maintain that highway, enhance the local economy, and ensure that the American people continue to have access to the treasures of Yellowstone National Park.

The agreement reached between me, the administration, and House and Senate negotiators is truly in the best interests of Montana and of the Nation. It protects Yellowstone, cleans up the environment, creates jobs, and helps provide public access to our Nation's first national park.

However, the final version of the Interior appropriations bill also contains a provision that we did not agree to. It requires the transfer of $10 million or more worth of coal to the State of Montana. This provision was outside of the scope of the agreement that we negotiated with the White House and the other Members of Congress.

I support the development of coal in eastern Montana. But I also understand that the White House objects to the inclusion of this coal transfer. I expect that the White House will attempt to remove this coal either through a full veto of the bill or through a line-item veto of the coal transfer.

Coal was not included in our negotiated agreement on New World because the White House objected to its inclusion and because of fears that it could jeopardize the New World agreement. Now that Congress has included coal in the final bill, I hope that this issue does not stand in the way of our ability to complete the New World

agreement. It would be a crime to get this close to completing the agreement only to have it fall apart—jeopardizing Yellowstone, MT jobs and the Beartooth Highway as well.

So, Mr. President, we are nearing the conclusion of a long process. I hope that all parties will continue to work with me to complete the New World agreement as expeditiously as possible. And I urge my colleagues to join me in supporting this measure that will achieve the successful protection of this national treasure.

Mr. MCCAIN. Mr. President, as we approach the end of this session, the Congress will be asked to consider the remaining 6 appropriations bills in relatively short order. Clearly, it is important to pass these annual spending bills in a timely fashion to preclude the inconvenience and expense of delaying unnecessarily essential government programs. However, in our haste to adjourn, it would be a disservice to the American taxpayer to ignore the wasteful spending contained in these bills.

The Interior appropriations bill for fiscal year 1998 is filled with numerous earmarks and set-asides for low-priority, unnecessary, and wasteful spending projects.

For example, this bill contains three directed land transfers which, to the best of my knowledge, have not been screened through the normal process at the General Services Administration. Two of these provisions—dealing with the Bowden Fish Hatchery in West Virginia and certain BLM lands in Nevada—specifically state that Federal property will be given away without compensation. Certainly, one can legitimately question whether these are good deals for the American taxpayer, or just for those residing in the affected States.

Another provision of the bill, section 136, directs the Army to build a bridge across the Bull River in Alaska. This bridge is to provide access to the Golden Zone Mine for students at the School of Mineral Engineering at the University of Alaska Fairbanks. In addition, the Army is directed to donate, free, two 6x6 vehicles for the use of the university. The provision does not specify how much the Army is supposed to pay for these large, all-terrain vehicles, nor does it provide a cost estimate for the bridge. This single provision could cost the Army tens of millions of dollars.

The bill sets aside $800,000 for the World Forestry Center for continuing scientific research on land exchanges in the Umpqua River Basin region in Oregon.

I am disappointed that the conferees decided to earmark almost half of the $699 million provided for priority land acquisitions and exchanges in title V of this bill. The Senate bill contained earmarks to which certain Members of this body objected very strenuously, and these earmarks are included in the conference agreement, together with two new earmarks.

I am concerned that the conferees also chose to delete the Senate provision which outlined specific criteria for determining the highest priority acquisitions and exchanges that would be accomplished with these additional dollars. I plan to pursue the establishment of objective, consistent criteria so that the limited funds available for ensuring the preservation of our natural resources are spent wisely.

Finally, the conferees have included the usual requirement that all contracts awarded using funds provided in this bill should be expended in full compliance with all of the protectionist Buy America provisions that Congress has enacted over the years. These laws and regulations are anti-free trade and cost American taxpayers millions of dollars every year due to lack of free and fair competition of these contracts.

Now, let me turn to the report language.

Once again, the conferees have made clear that they endorse the language contained in either the House or Senate report, unless they mention it in the conference report. This ensures that every earmark and set-aside that is not specifically addressed by the conferees remains in place.

Let's look at some of the earmarks in the conference report itself.

—$100,000 earmarked from land management funding for the Alaska Gold Rush Centennial.

—$700,000 earmarked from wildland fire management funding for a type I hot-shot crew in Alaska, and $1.925 million for redevelopment of the obsolete fire center in Billings, MT.

—$400,000 of Fish and Wildlife Service funding for Alabama sturgeons.

—$400,000 for the Preble's Meadow jumping mouse.

—$300,000 for research on whirling disease.

—$450,000 in various accounts earmarked for the Lewis and Clark Trail, including technical assistance and office funding.

—$2 million for an Alaska mineral and geological data base, and another $2 million for the Alaska minerals at risk project.

—$500,000 for a project at Purdue University in Indiana to improve fine hardwood trees.

I note with interest that, in order to fit all of the earmarks into this bill, the conferees had to agree to account totals that exceed the levels in either the Senate or House bills. In seven different accounts, the conferees agreed to funding which exceeded the amounts in either bill. Altogether, the conferees added $188 million more than the House had provided for these accounts, and $90.6 million more than the Senate had provided. Technically, these accounts are outside of the scope of the conference, a practice which I understand is not unheard of, but which is all the most disturbing when it is done merely to accommodate earmarks for these low-priority projects.

I ask unanimous consent that the list of objectionable provisions be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN CONFERENCE AGREEMENT ON H.R. 2107, FISCAL YEAR 1998 INTERIOR APPROPRIATIONS ACT

Bill Language

Earmarks of construction funds, as follows: $500,000 for the Rutherford B. Hayes Home; $600,000 for Sotterly Plantation House; $500,000 for Darwin Martin House in Buffalo, New York and $500,000 for Penn Center, South Carolina.

Earmark of $1 million for the Vietnam Veterans Museum in Chicago, to be derived from the Historic Preservation Fund.

Earmark of $3 million for the Hispanic Cultural Center in New Mexico (subject to authorization).

Prohibition on funding relocation of the Brooks River Lodge in Katmai National Park and Preserve from its current location.

Sec. 115—Directed conveyance of the Bowden National Fish Hatchery in Randolph County, without reimbursement, to the State of West Virginia for its fish culture program.

Sec. 135—Adds new section directing National Park Service to provide land in D.C. to the Corrections Corporation of America in exchange for land in Prince Georges County, Maryland.

Sec. 133—Directs conveyance of BLM lands to Lander County, Nevada, without compensation.

Sec. 136—Directs Army to provide, without compensation, two 6x6 vehicles, ''in excellent operating condition'', to the University of Alaska Fairbanks and to construct a bridge across the Bull River to the Golden Zone Mine Site to allow access by the School of Mineral Engineering of the University of Alaska Fairbanks.

Earmark of $800,000 for the World Forestry Center for continuing scientific research on land exchange efforts in the Umpqua River Basin region.

Sec. 307—Buy America restrictions.

Sec. 313—Prohibition on expending funds to demolish the bridge between Ellis Island and Jersey City, New Jersey.

Sec. 343—Prohibits recreational residence special use permit fee increases in Sawtooth National Forest prior to January 1, 1999.

Title V—Earmarks $337 million of $699 million provided for land acquisitions and exchanges for four specific projects, and eliminates specific criteria for determining priority land acquisitions and exchanges as added by Senate.

Report Language

[NOTE: Statement of managers language endorses all Senate or House report language that is not specifically addressed in the conference report. Therefore, following list of objectionable items is not all-inclusive; other items in either the House or Senate reports are considered direction of the conferees.]

Department of the Interior—Bureau of Land Management

Management of Lands and Resources: $100,000 for the Alaska Gold Rush Centennial; $500,000 for DoD mapping project in Alaska; $200,000 for the Virgin River Basin Recovery plan; $500,000 for recreation resources management; $2.1 million for the National Petroleum Reserve in Alaska; $700,000 for the Alaska resources library; $2.3 million for the Alaska conveyance; $1 million for the ALMRS; $200,000 for the Lewis and Clark Trail; $100,000 for the Iditarod National Historic Trail; $100,000 for the De Anza, California, Mormon Pioneer, Nez Perce, Oregon and

Pony Express National Historic Trails and the Pacific Crest and Continental Divide; and National Scenic Trails.

Wildland Fire Management: $700,000 to fund a type I hot-shot crew in Alaska; and $1.925 million for redevelopment of the obsolete fire center in Billings, MT.

Land Acquisition: $11.2 million total. $800,000 less than House. $2.6 million more than Senate. All but $3.75 million earmarked. (Conference Report page 53.)

Fish and Wildlife Service

Resource Management: $549.8 million ($3.8 million more than House. $9.8 million more than Senate); $400,000 for the Alabama sturgeon; $400,000 for the Preble's Meadow Jumping Mouse; and $300,000 for a wolf reintroduction study in WA.

$1 million in habitat conservation: $50,000 for the Middle Rio Grande/Bosque program; $50,000 for Platte River studies; $100,000 for a Cedar City ecological services office; $750,000 for Washington salmon enhancement; $50,000 for the Vermont partners program; $1 million for Salton Sea recovery planning in California; $250,000 for migratory bird management; and $500,000 for hatchery operations and endangered species recovery.

$750,000 for fish and wildlife management: $100,000 for Yukon River monitoring; $300,000 for Atlantic Salmon conservation; $50,000 for the regional park processing center; $300,000 for whirling disease research; $200,000 for the Caddo Lake Institute scholars program; $1 million for the National Conservation Training Center of which $560,000 should be used for the Iron County habitat conservation plan.

Construction: $45 million total. $4.7 million more than House. $3 million more than Senate. All but $6.9 million earmarked. Conference Report page 56.

Land Acquisition: $62.6 million total. $9.6 more than House. $5.4 million more than Senate. All but $11.5 million earmarked. (Conference Report page 58.)

National Park Service

Operation of the Park System: An increase of $100,000 for the Northwest ecosystem office; An increase of $920,000 for the Gettysburg NMP; $2 million for special needs parks; $250,000 for structure stabilization at Dry Tortugas National Park; $50,000 for the Lewis and Clark Trail office; $200,000 for technical assistance to the Lewis and Clark Trail. $50,000 for the California and Pony Express trails; and $50,000 for the North Country Trail.

National Recreation and Preservation: $250,000 for the Lake Champlain program; $150,000 for the Connecticut River Conservation partnership; $100,000 for the Aleutian World War II National Historic Area. $325,000 for the Delaware and Lehigh Navigational 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.

Construction: $215 million total. $66.7 million more than the House; $41.6 million more than the Senate. All but $58.3 million earmarked. (Conference Report page 64.)

Land Acquisition: $143 million total. $14 million more than the House. $16.4 million more than the Senate. All but $5.5 million earmarked. (Conference Report page 67.)

United States Geological Survey

Surveys, Investigations, and Research: $3 million for the global seismographic network; $1 million for the volcano hazards study in Alaska and Hawaii; $2 million for the Alaska minerals at risk project; $500,000 for Great Lakes Research; and $2 million for an Alaska mineral and geological data base.

Department of Agriculture—Forest Service

Forest and Rangeland Research: $700,000 for the Rocky Mountain station forest health project; $450,000 for the Institute of Pacific Islands Forestry in Hawaii; $500,000 for the fine hardwoods tree improvement project at Purdue University in Indiana; $1.5 million additional funding for research at the Pacific Northwest station; and $300,000 for the Rocky Mountain Research Station.

State and Private Forestry: $500,000 for the Alaska Spruce Bark Beetle task force; $2 million for stewardship incentives; and $2 million for the Mountains to Sound Greenway project in Washington State.

International Forestry: $230,000 for the Institute of Pacific Islands Forestry.

National Forest System: $1 million for inventory and monitoring; $500,000 for anadromous fish habitat management; $2 million for grazing management; $100,000 for Alaska gold rush centennial exhibits; $100,000 for trail maintenance in the Pacific Northwest region; and $4 million for exotic and noxious plant management.

Reconstruction and Construction: $166 million total. $11.5 million more than the House. $10.4 million more than the Senate. All but $88 million earmarked. (Conference Report page 82.)

Land Acquisition: $53 million total. $8 million more than the House. $4 million more than the Senate. All but $11.3 million earmarked. (Conference Report page 84.)

Department of energy

Fossil Energy Research and Development: $650,000 for coal research to complete a hospital waste project at the veterans hospital in Lebanon, PA.

$48.6 million for natural gas research: $45 million for advanced turbine systems; $1 million for the gas to liquids programs; $650,000 for technology development; $2 million for fuel cell systems; $350,000 for oil technology; and $800,000 for cooperative research and development.

Energy Conservation: $1.5 million for the home energy rating system; $100,000 for advanced desiccant technology; $500,000 for Energy Star; $100,000 for highly reflective surfaces; $750,000 for codes and standards; $1 million for the weatherization assistance program; and $250,000 for State energy program grants.

Department of Health and Human Services

Indian Health Facilities: $100,000 for the Montezuma Health Clinic in Utah; $40,000 for sanitation facilities; and $588,000 for environmental health and support.

Institute of American Indian and Alaska Native culture and arts development

Construction: $4 million for the Dulles extension of the National Air and Space Museum; and $29 million just to begin construction of the National Museum of the American Indian Mall Museum.

Mr. MCCAIN. These are, I am sure, interesting projects, and important to the people who will be working on them. However, these earmarks—like the hundreds of other earmarks too numerous to mention today—were added to this conference agreement without benefit of the normal, merit-based review process that would ensure that these are the highest priority uses for the funding provided in this bill. Absent that process, it is difficult to believe that there are not other more pressing needs for Federal funds than these projects.

Mr. President, I want to stress that I have highlighted only those projects that I find objectionable in this $13.8 billion measure. Certainly, the funding provided in this bill is essential for the essential operations of the Department of the Interior and the other Federal agencies charged with preservation and management of our lands and natural resources. It also contains funding that is vitally important to our native American tribes, particularly for Indian education.

One provision that I am pleased to see included in this conference agreement is the $800 million environmental fund authorized in title IV of the bill. This provision establishes a National Parks and Environmental Improvement Fund financed from oil lease revenue awarded to the Federal Government by the U.S. Supreme Court this year. Interest from the fund, estimated to be $50 million annually, will be used to finance high-priority capital improvement projects for national parks, provide grants to States for park planning and acquisition, and fund marine environmental research. Providing for these unmet capital needs will ensure that our most coveted natural resources are preserved and protected for future generations.

I must say, however, that I am sorry that the conferees included in the language authorizing the Parks Improvement Fund a special setaside for the State of Louisiana for oil and gas drainage in the West Delta field. This provision was not included in the original Senate language, nor was any other special location-specific set-aside. I am disappointed that even this provision was marred by special-interest language.

Mr. President, I intend to support this bill because it provides new authorities and much-needed funding for many programs. However, I will urge the President to consider exercising his line-item veto to eliminate the low-priority, unnecessary, and wasteful spending that the Congress has added to this bill without benefit of a merit-based, prioritization review process.

Mrs. FEINSTEIN. Mr. President, I rise in support of the conference report on the fiscal year 1998 Interior appropriations bill.

This conference report contains both authorization and appropriations for the all-important Headwaters Forest acquisition in northern California.

Mr. President, California's ancient redwood forests are among our Nation's most valued treasures, which is why the battle to preserve them has reached a fever pitch in recent years.

The Headwaters Forest, nearly 3,000 acres located in Humboldt County, is one of the last remaining ancient redwood groves still in private hands. The land is owned by the Pacific Lumber Co., which is owned by the Maxxam Corp.

Over the past decade there have been over a dozen attempts to save this ancient redwood grove. All have failed.

Five attempts at Federal legislation failed.

Three attempts at State legislation failed.

Three statewide bond measures to raise funds to acquire the redwoods were rejected by California voters.

Two State legislative measures to reform California forestry regulations, one that would have restricted logging on private lands, and another that some said was not restrictive enough, both failed.

With the background, last year I was asked to see if I could facilitate an agreement between the property owner and the State and Federal Governments. After more than 100 hours of intense negotiations, an agreement was reached for the State of California and the Federal Government to jointly purchase the Headwaters Forest from Pacific Lumber Co.

Under the Headwaters agreement, the governments will purchase the 3,000-acre Headwaters Forest and the 425-acre Elkhead Springs Grove, plus nearly 4,000 additional acres of adjacent land to serve as a buffer. In all, approximately 7,500 acres would be acquired and protected.

The price under the Headwaters agreement is $380 million, of which the Federal Government will contribute $250 million and the State will contribute $130 million.

Without the Federal funding to complete this agreement, there is no agreement. And if there is no agreement, the Pacific Lumber Co. will proceed with its huge taking lawsuit against the Federal Government for the cost of any regulations that prevent the company from logging its old growth redwoods. In the end, the real losers will be the American taxpayers who will possibly pay even more if Pacific Lumber wins its taking lawsuit. That is why this conference report is so important. It provides the $250 million federal share for Headwaters.

Specifically, this Headwaters package includes: Appropriation of $250 million for the Federal purchase of the Headwaters Forest; appropriation of $10 million for a payment to Humboldt County, CA; and a prohibition on the expenditure of $250 million for 180 days from date of enactment.

This will allow a period of time for the authorizing committees to review the issues associated with the Headwaters transaction and recommend any changes in the authorization if necessary. The funding will be available at the end of the 180 days.

The conference report also provides an authorization to purchase the Headwaters Forest. While many believe the Department of the Interior has more than sufficient authority to acquire the property, I know that others disagree and have insisted on authorizing legislation. The authorization is contained in this conference report.

Specifically, this bill authorizes the Headwaters acquisition with the following conditions: The State of California provides $130 million for its share of the costs, the State of California approves a sustained yield plan for the Pacific Lumber Co. property, a habitat conservation plan is approved and an incidental take permit is issued to Pacific Lumber, an appraisal of the lands to be acquired is done and reviewed by the Comptroller General, Pacific Lumber Co. dismisses its lawsuit against the Federal Government, a report is made to Congress on applicable HCP standards, Humboldt County is eligible for payment in lieu of taxes [PILT] payments for Federal lands acquired, 50 percent of management costs in excess of $100,000 will come from non-Federal sources, development of a management plan, with consideration of management by a trust, and expiration of the authorization on March 1, 1999.

If asked, is this authorization exactly what I would have drafted, the answer is no. But it gets the job done. And that is what is important.

I firmly believe that the Headwaters agreement is our last best hope to preserve these magnificent ancient redwoods. I urge my colleagues to approve this conference report.

Mr. INOUYE. Mr. President, I rise to commend my colleagues for their work on the conference report on the Interior appropriations bill for fiscal year 1998.

There are a few provisions of this bill that do not relate to matters of appropriations which would be more properly addressed by the authorizing committees of the Senate, and thus, I feel compelled to register concern that measures that are clearly substantive in nature—such as a comprehensive settlement of the claims of the Miccosukee Tribe of Florida—do not belong in this or any other appropriations bill.

I raise this matter because in last year's Omnibus Appropriations Act, there was a provision that singled out one Indian tribal government for disparate treatment—namely, to strip that tribe of benefits and privileges that have been authorized for all other tribes in the country under the Indian Gaming Regulatory Act. I speak of the provision affecting the Narragansett Tribe of Rhode Island.

Last year's provision came before this body over the strenuous and adamant objections of the Narragansett Tribe, without the benefit of any hearings, in the absence of any record that would serve to justify this unusual action on the part of the Congress, and with no consultation with the affected tribe.

The Narraganset Indian Tribe advises us that this provision has forever changed the lives of the members of that tribe, and has wrought devastating effects on the potential for the development and growth of the tribal economy.

Mr. President, I look forward to the day when the Congress acts to rectify the effects of last year's appropriations bill as it relates to the Narragansett Tribe.

Mr. DODD. Mr. President, it is my intention to vote in favor of the Conference Report making appropriations for the Department of the Interior and related agencies, but I do so with some reservations. I commend the appropriations conferees for negotiating a multitude of very contentious issues, but I am particularly concerned with several anti-environmental provisions that remain in the report.

The Balanced Budget agreement provided $700 million above the President's request for the Land and Water Conservation Fund and I am very pleased that the appropriators were able to honor that agreement. Land and water conservation funds and the matching State grant program have been very important to Connecticut's ability to acquire land and enhance recreation areas and parks. Without this funding, local communities will continue without the assistance they so deserve to acquire open space and further develop recreational areas. Unfortunately, Senate language providing $100 million in grants to States for land acquisition was not included in the conference report.

A portion of the Land and Water Conservation Fund will be used to purchase the Headwaters region in California and the New World Mine in Montana, subject to authorizing conditions. Although I recognize that the State of Montana will feel some adverse economic repercussion from the New World Mine purchase, I am dismayed that a proposal of $10 million to the State of Montana could be counted against the Land and Water Conservation Fund.

When the Senate initially debated the Interior appropriations bill, I was pleased to join many of my colleagues in voting for an amendment to eliminate funding for timber road purchaser credits for timber sales, but the amendment failed by the narrowest of margins. There is growing support for the elimination of all taxpayer subsidies for Forest Service logging road construction, and the House included language restricting the amount of timber purchaser credits. Unfortunately, the conferees dropped the House provision.

Finally, the provision reducing the effectiveness of the law pertaining to the export of Federal timber benefits a few large timber companies in the West. It was never suitably discussed by the authorizing committee.

While these are a few of my concerns, there are many provisions in the bill which merit my support. The Silvio Conte refuge and the Stewart McKinney refuge in my State received much-needed funding for land acquisition. Congress authorized the expansion of the McKinney refuge in 1990, and in the ensuing years, Federal appropriations have enabled the refuge to acquire 413 of the 454 acres available. Because the budget for the National Park Service was sufficiently funded, Weir Farm, the only national park in Connecticut, should receive an increase in its operating budget to meet its rising visitor service demands.

Mr. President, as you know, I am a strong backer of the arts and I am pleased that the appropriators provided

$98 million for the National Endowment of the Arts. The NEA was a marked agency, identified by the other body for elimination. In fact, the other body voted to zero out all funding and tried to extinguish the NEA. But together with my colleagues in the Senate, another round of efforts to dismantle or eliminate the NEA was stopped. When the bill came out of conference with the House, the NEA had been saved. As evidenced by a series of strong bipartisan votes in the Senate in favor of the NEA, my colleagues and I were able to save this national agency and preserve a Federal role for the arts.

During the Senate debate over NEA funding, I cosponsored with the chairman of the Appropriations Committee, Senator STEVENS from Alaska, a Sense-of-the-Senate resolution asking the Congress to examine alternative sources of funding for the NEA. I believe it is time to give the NEA a secure future and preserve a national cultural endowment for generations to come. My hope is that the Congress will address this issue in the future.

And so it is for these reasons that I support the Interior appropriations conference report. I commend the conferees on a job well done.

Mr. NICKLES. I announce that the Senator from Pennsylvania [Mr. SPECTER] is necessarily absent due to a death in the family.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. SPECTER] would vote ''yea.''

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

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

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—84

Abraham	Enzi	Lieberman
Akaka	Feinstein	Lott
Allard	Ford	Lugar
Baucus	Frist	Mack
Bennett	Glenn	McCain
Biden	Gorton	McConnell
Bingaman	Graham	Mikulski
Bond	Grams	Moynihan
Breaux	Grassley	Murkowski
Brownback	Gregg	Murray
Bumpers	Hagel	Nickles
Burns	Harkin	Reed
Byrd	Hatch	Reid
Campbell	Hollings	Robb
Chafee	Hutchinson	Roberts
Cleland	Hutchison	Rockefeller
Coats	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Collins	Jeffords	Sessions
Conrad	Johnson	Shelby
Coverdell	Kempthorne	Smith (OR)
Craig	Kerrey	Snowe
D'Amato	Kerry	Stevens
Daschle	Kyl	Thomas
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Thurmond
Domenici	Leahy	Torricelli
Dorgan	Levin	Warner

NAYS—14

Ashcroft	Durbin	Gramm
Boxer	Faircloth	Helms
Bryan	Feingold	
Kohl	Roth	Wellstone
Moseley-Braun	Smith (NH)	Wyden

NOT VOTING—2

Kennedy	Specter

The conference report was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

RECESS UNTIL 2:15 P.M.

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

Thereupon, at 12:57 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HAGEL).

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business for the next 30 minutes with Senators permitted to speak for up to 5 minutes each.

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

ORDER OF PROCEDURE

Mr. LOTT. For the information of all Senators, we are now in the process of taking a look at D.C. appropriations bill papers on both sides of the aisle. We hope that within the next hour or so we will be able to go to the D.C. appropriations bill.

Also, it is our intent, as I have advised the Democratic leader, this afternoon to call up the DOD, Department of Defense, authorization conference report and begin the process on that bill.

So those two bills will consume the bulk of the time this afternoon. There is the possibility of recorded votes, and Senators should be aware of that.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MOSELEY-BRAUN. I further ask unanimous consent that I be allowed to speak as if in morning business.

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

CAMPAIGN FINANCE REFORM

Ms. MOSELEY-BRAUN. Mr. President, this morning the Senate was once again blocked from considering campaign finance reform legislation. As a result, the ISTEA reauthorization bill has been delayed.

What happened today was clear. Intense opposition to any consideration of campaign finance reform legislation has precluded consideration of one of the most important measures to come before the Senate this year, the ISTEA reauthorization bill. ISTEA has been derailed for the time being because the majority party has refused to agree to even schedule a debate on campaign finance reform. They have refused the will of a majority of the Senate to engage in a debate over an issue that goes to the very heart of our Government and our democratic process.

The 48 Senators who voted against cloture today did not vote to kill the ISTEA reauthorization bill, as some have claimed. We did not cast our votes against cloture because we objected to this critically important highway and transit bill. Rather, we cast our votes against the obstructionist techniques that have been used to block debate on campaign finance reform legislation. We refused to cast our votes to end debate because there has, as of yet, not been debate over campaign finance reform.

Several weeks ago, the Senate engaged in a mock debate over the issue. It was not a real debate. Not a single amendment was offered. Not a single vote was taken. It is the business of the Senate to consider amendments and vote on issues and debate concerns of the American people. None of that has happened. It was as undemocratic a debate as I have yet seen in the Senate, and I know that the American people expect more from us.

They are frustrated and disillusioned with the current election process. We need to get Americans back into the system and get them involved in decisions that affect their lives. We need campaign finance reform to restore the American people's faith in the electoral process. Too many people believe that the current system cuts them off from their Government.

A League of Women Voters study found that one of the top three reasons people do not vote at all is the belief that their vote will not make a difference. We saw the result of that cynicism in 1994 when just 38 percent of all registered voters headed to the polls. We saw it again in 1996 when only 49 percent of the voting age population turned out to vote, the lowest percentage of Americans to go to the polls in 72 years.

According to a Gallup poll conducted early this month, 59 percent of Americans believe that elections are generally for sale to the candidate who can raise the most money. When you consider how much money it costs to finance a modern campaign, you can understand the frustration. According to recent Federal Election Commission figures, congressional candidates spent a total of $765.3 million in the 1996 elections, which was up 5.5 percent from

the record-setting 1994 level of $725.2 million.

That figure does not include the huge amounts of so-called soft money spent by the political parties. In the first 6 months of the 1997–98 election cycle, $35.4 million in soft money contributions to political parties was raised, outpacing the same period in the 1995–96 cycle.

I would take a step further to remind my colleagues that there is even softer money than that with the independent expenditures and, of course, individual, wealthy people just write themselves a check and send themselves a thank you note, and that goes into the system. It is no wonder that Americans are clamoring for campaign finance reform. It is no wonder they believe their voices are overshadowed by special interests with the ability to fill campaign coffers. It is disheartening, Mr. President, that the majority has denied us the opportunity to debate this issue. It is more disheartening that they have denied us the chance to debate legislation to help keep the doors of democracy open for all Americans. They have refused to enter into a dialog with the American people about the contorted rules which govern campaigns, and about the urgent need to reform the system. They have refused a most reasonable request from a majority of Senators—an agreement that the Senate will take up consideration of campaign finance reform legislation, under normal procedures and normal rules, with amendments and votes and deliberations on the issues, sometime next year.

Mr. President, we did not cast our votes today against cloture because we are confident that the McCain-Feingold campaign finance reform legislation could be enacted into law, or because every one of us thinks it is the ''end-all, be-all'' of campaign finance reform legislation, but because we believe it is imperative that the Senate engage in a real debate over this issue. We believe the Senate has a responsibility to consider this issue. We believe that what has happened here over the last several weeks as parliamentary blockage after parliamentary blockade has been erected in front of efforts to debate campaign finance reform has been an abrogation of the democratic process.

It is the business of the Senate to debate measures, offer up amendments, and vote on issues, and the Senate has done none of the above with respect to campaign finance reform.

It appears that, for the moment, the majority has succeeded in blocking debate over campaign finance reform legislation. I have no doubt, however, that this issue will ultimately come up, if for no other reason than the American people are fed up and frustrated with the current system.

It also appears that, for the moment, the majority has derailed consideration of the ISTEA reauthorization bill. Let there be no illusions, however, that ISTEA is dead. It is not dead. This legislation is too important to simply wither. It will be taken up for consideration and we will enact legislation to provide our States and communities with at least the $180 billion in highway and transit funds that this legislation promises.

I must admit that I have mixed feelings about delaying consideration of ISTEA. For my State of Illinois, and indeed, for the Nation's transportation system, delay may give us an opportunity to rework some of the provisions of the current ISTEA reauthorization bill that inadequately treat those regions of the country that are essential to the movement of our Nation's commerce.

For the most part, I believe the authors of this ISTEA reauthorization bill have done an excellent job crafting a bill that strengthens many environmental provisions, allows States greater flexibility to support Amtrak, increases funding for a variety of safety initiatives, increases funding for intelligent transportation systems, and preserves the Department of Transportation's important DBE program. It is a bill that preserves many of the most important aspects of the original ISTEA, and that strengthens many other important provisions, and I commend them for their hard work and diligent efforts in this regard.

This ISTEA reauthorization bill, however, fails to allocate funds in a manner that adequately meets the needs of our Nation's intermodal transportation system. It does not recognize and provide sufficient funds to areas of the Nation that are responsible for the majority of our Nation's commercial traffic. It does not adequately address the relationship between transportation and our economy.

In 1991, when Congress enacted ISTEA, we stated:

> It is the policy of the United States to develop and National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner. . . . The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

That is what the authors of the original legislation stated as a goal. If the next ISTEA does not follow this important declaration, if it does not provide adequate funding to maintain and improve the corridors and areas that are responsible for our Nation's commerce, the effects of our negligence will ripple throughout every sector of our economy.

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

Illinois' roads, therefore, must bear the weight of the largest share of the Nation's commercial activity. The ISTEA reauthorization bill does not recognize the burden this responsibility places on our roads. According to a recent study from the Surface Transportation Policy Project, Illinois has the second worst urban roads in the country. The newspapers all report headlines like: ''Illinois Roads in Shambles''; ''Highways on road to ruin''; ''Illinois' roads among the worst in the Nation''; ''Roads in dismal shape.''

These headlines are not surprising when you consider that Chicago is the Nation's largest intermodal hub. It is literally the transportation nexus of the Nation. It is only appropriate, therefore, that the national Intermodal Surface Transportation Efficiency Act recognize this fact and adequately provide for the enormous needs that go along with our status as the transportation hub of the Nation.

Mr. President, I am confident that when the Senate does take up the ISTEA reauthorization bill, we will be able to work together on a solution that provides funds to areas with the greatest needs. I am also confident that the Senate will ultimately take up, consider, and enact serious campaign finance reform legislation. These issues are simply too important for there to be any other outcome.

I yield the floor.

THE IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. DASCHLE. Mr. President, I am joining a large bipartisan group of Senators in cosponsoring S. 1311, the Iran Missile Proliferation Sanctions Act of 1997.

This bill addresses one of the most pressing national security problems we face—Iran's efforts to acquire technology that will enable it to build weapons of mass destruction. Certain Russian entities have engaged in some level of cooperation with Iran, and, while the Russian Government does not appear to be aware of these activities, the effect is the same—putting very dangerous technology in the hands of a regime that intends to destabilize.

Mr. President, all Americans share the goal of stopping these technology transfers, but there are clear differences on how to achieve it. The administration has launched an aggressive diplomatic onslaught, pressing the Russian Government to do all it can to halt these activities. Vice President Gore and Secretary of State Albright are fully engaged in this effort. In addition, the President has appointed top diplomat and former Ambassador

Frank Wisner as his personal envoy to the Russians on this issue. Ambassador Wisner has made several trips to Russia seeking a crackdown on exports of sensitive technology and has scheduled another visit in several weeks.

I am hopeful this legislation will help the administration in its efforts to impress upon the Russians just how seriously the U.S. Congress takes this issue. Diplomacy clearly plays a critical role in these situations, but so does the tough approach laid out in this bill. The sanctions it provides will send a clear message to Russian entities involved in these technology exchanges that they will face heavy costs if they choose to proceed with business as usual.

The Senate version of the bill is not without its problems, however. Specifically, the bill does not include a provision allowing the President to waive the bill's sanctions if he finds it necessary to do so on national security grounds. The House version of the legislation does include a waiver, and I am hopeful that any final bill will include one. The President needs this discretion in dealing with this extremely difficult situation.

Mr. President, I look forward to continuing to work with the administration and Members on both sides of the aisle to address this critical threat. It is imperative that we all work together in an effort to prevent Iran from acquiring such dangerous and destabilizing technology.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, October 27, 1997, the Federal debt stood at $5,427,907,147,573.22 (Five trillion, four hundred twenty-seven billion, nine hundred seven million, one hundred forty-seven thousand, five hundred seventy-three dollars and twenty-two cents).

Five years ago, October 27, 1992, the Federal debt stood at $4,064,077,000,000 (Four trillion, sixty-four billion, seventy-seven million).

Ten years ago, October 27, 1987, the Federal debt stood at $2,385,921,000,000 (Two trillion, three hundred eighty-five billion, nine hundred twenty-one million).

Fifteen years ago, October 27, 1982, the Federal debt stood at $1,141,248,000,000 (One trillion, one hundred forty-one billion, two hundred forty-eight million).

Twenty-five years ago, October 27, 1972, the Federal debt stood at $439,190,000,000 (Four hundred thirty-nine billion, one hundred ninety million) which reflects a debt increase of nearly $5 trillion—$4,988,717,147,573.22 (Four trillion, nine hundred eighty-eight billion, seven hundred seventeen million, one hundred forty-seven thousand, five hundred seventy-three dollars and twenty-two cents) during the past 25 years.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Senate is in a period of morning business.

Mr. BYRD. At the conclusion of the period for morning business, what would be the business before the Senate?

The PRESIDING OFFICER. The regular order would be the laying down of S. 1173, the ISTEA-II bill.

Mr. BYRD. The ISTEA bill?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. The ISTEA bill. Mr. President, I have a feeling that the leader is probably not prepared to go back on that bill at the moment, so I will ask unanimous consent that I may proceed for such time as I may consume out of order.

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

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. BYRD. Mr. President, I take the floor at this time for several reasons, one being that the Senate would be on the ISTEA bill if the regular order were called for at this point. No other legislation is before the Senate. Consequently, I feel it is appropriate to be talking about the ISTEA bill.

Second, three of my colleagues, Senators GRAMM of Texas, BAUCUS, and WARNER, and I have introduced an amendment to the ISTEA bill and we have explained that amendment and discussed it upon more than one occasion. As we have explained, our amendment provides that 90 percent of the funding will be distributed on the same basis as in the ISTEA bill before us, and that 10 percent would be allotted for discretionary as is the case in the ISTEA bill before us. In the amendment, which I have coauthored with the other three Senators, I have provided that in the 10 percent discretionary portion, $2.2 billion would be allotted to the Appalachian regional highways—$2.2 billion of the $3.1 billion in discretionary funding. The overall amount of funds that would be provided by our amendment would be $31 billion.

The basis of our amendment is that inasmuch as the 4.3-cent gas tax has been ordered by the Senate to go into the trust fund as of October 1 this year, that money should be spent for transportation purposes.

The American people, being under that impression, and having every right to be under that impression because of the legislation that was passed recently stating that the 4.3-cent gas tax would go into the highway trust fund, that would be broken down as follows: 3.45 cents for highway funding and 0.85 percent would be for mass transit.

There is a considerable amount of confusion, some of which I think has been deliberately spread, some of which may be accidental. There is some misinformation that has been spread about the amendment that my three colleagues and I have sponsored. So I believe at this time, there should be some discussion so as to clarify our amendment, what it really will do, what it will not do, and also it is my opinion that we should understand what the Chafee-Domenici amendment will do and what it will not do.

My colleagues who are coauthoring my amendment and I have taken the floor on at least two occasions to describe our amendment. And most recently, during the time of the last discussion of my amendment, Mr. CHAFEE presented me with a copy of the Chafee-Domenici amendment.

However, I haven't heard any explanation of that amendment as yet. I think we ought to have an explanation before we act on the bill, one way or another, and certainly before sine die adjournment. I hope that we will get a 6-year highway bill, but with each passing day, the prospects of such are by that degree diminished.

But in any event, I would want Senators to have a better understanding of my amendment and certainly the amendment by Senators CHAFEE and DOMENICI before we go out or before we leave this subject entirely.

I have called for Mr. CHAFEE and Mr. DOMENICI. I wasn't able to contact Senator DOMENICI, but I was able to contact Senator CHAFEE. I wanted to let them know that I hoped we could use this time, when no other Senator is seeking recognition, to discuss this matter and particularly to have some explanation of the Chafee-Domenici amendment.

Mr. CHAFEE was in the Intelligence Committee at the time and was busy there, but he very kindly came to the floor and has indicated to me—he is here on the floor now and he can speak for himself—that on tomorrow, he will seek some time to discuss and explain the amendment that he and Mr. DOMENICI have offered.

At this time then, Mr. President, I want to say a few words about the Appalachian Regional Highway System, because that figures very importantly in the amendment which I have offered for printing, and I think that the Members of the Senate ought to have a better understanding of the background of that particular subject matter. I also want to direct some comments to today's edition of Congress Daily to an item therein which bears the headline: ''DOT Study, Domenici-Chafee Letter Hit Gramm-Byrd Plan.''

There are some inaccuracies in that article, and I hope to address some of my remarks to those inaccuracies. I also would be pleased if the other three cosponsors of our amendment could come to the floor and, likewise, make some remarks.

All three offices have been alerted, and it is my understanding that those Senators will come at such times as they can be free from other appointments. I apologize for, in a way, for

taking the floor at this time. I know that the other cosponsors are very busy, and I know also that Mr. CHAFEE and Mr. DOMENICI are busy, but I shall proceed.

First of all, let me address my comments briefly to the Appalachian Development Highway System.

Mr. President, when I was a member of the West Virginia House of Delegates 51 years ago, West Virginia had only 4 miles of divided four-lane highways—4 miles! Let me say that again. The entire State of West Virginia had only 4 miles of divided four-lane highways in 1947, the first year in which I served as a member of the West Virginia Legislature.

I can remember an article that appeared in the Saturday Evening Post by a Mr. Roul Tunley, on February 6, 1960. I was a Member of the U.S. Senate then. That was my second year in the U.S. Senate. In Mr. Tunley's article, he said this: ''Its''—meaning West Virginia's—''Its highway system is several decades behind that of its neighbors.'' I haven't forgotten that quotation. I have been carrying it around up here somewhere in my gray matter now for these 37 years.

I cannot forget it. It is etched into my memory. The Saturday Evening Post, a national publication, said, in an article by Roul Tunley, with reference to West Virginia's highway system: ''Its highway system is several decades behind that of its neighbors.''

Now, Mr. President, those words have, as I say, been etched into my memory. They have been burned into my memory, virtually seared into my memory.

I was a Member of the other body when the Interstate System was inaugurated. President Eisenhower was in his first term.

In any event, in 1956, which was during the 84th Congress, Congress passed legislation to provide for a gas tax to be placed into the highway trust fund. I was a Member of Congress at that time.

In 1965, 9 years later, Congress passed the Appalachian Regional Development Act. It provided for an Appalachian regional highway system. That was 1965. It was fiscal year 1966; in other words, calendar year 1965, when Congress appropriated its first moneys toward the Appalachian regional highway system—1965, fiscal year 1966. It has been a long time ago.

So, over 30 years ago, Congress enacted legislation saying to the people of Appalachia, the people of the 13 States in Appalachia, that an Appalachian highway system was going to be established and funded.

West Virginia is the only one of the 13 States that is wholly within Appalachia. But contrary to the understanding of a good many people, I suppose, West Virginia is not the only State in Appalachia. During these intervening 32 years, West Virginia's Appalachian system has become 74 percent complete. For the entire Appalachian region, however, the highway system is something like 78 or 79 percent complete.

Now, the Interstate System all over this country is 100 percent complete—virtually 100 percent. That is something like 43,000 miles, I believe.

But the Appalachian highway system remains, a good bit of it, yet to be completed. West Virginia, as I say, is 74 percent complete. The other States in the Appalachian region are about 78 or 79 percent complete. So West Virginia is behind the region as a whole.

A great many people have criticized me over the years for acting in my Appropriations Committee to get moneys for West Virginia's Appalachian corridors. But as chairman of the Senate Appropriations Committee, I provided not only money for West Virginia's Appalachian corridors but also funding for Appalachian corridors in all of the 13 States of Appalachia. Nothing was said about that by my critics. But that is neither here nor there at the moment. I just mention it in passing.

The point is that while the Interstate System has been completed all over this country, the Appalachian highway system is yet to be completed. The people in Appalachia have been promised for 31 years that that system would be completed. It isn't completed yet. So they have been living on a prayer and a promise, in considerable degree. About one-fourth of the system—one-fifth to one-fourth of the system—is not yet complete. And I think it is about time we fulfilled our promise that Congress made to the millions of people who live in Appalachia that their system at some point would be completed, too.

Now, Mr. President, I see on the floor my friend, Senator GRAMM. If he would like to speak for a moment——

Mr. GRAMM. No. Go ahead.

Mr. BYRD. He indicates that I should go ahead.

So, with the passage of the Appalachian Regional Development Act by Congress in 1965, the Appalachian Development Highway System got its start by providing smaller regional centers in the Appalachian region with four-lane expressway links to the Interstate Highway System. The new corridors were devised to open areas with development potential where commerce and communication had previously been inhibited by a lack of access.

On June 17, 1965—32 years ago, and then some—the first Appalachian corridor construction project in West Virginia was contracted for a section of corridor D, U.S. 50 in Doddridge County that is between Parkersburg, WV, and Clarksburg, WV.

The Appalachian corridor highway construction era really picked up steam in West Virginia following the November 1968 approval by the voters of a $350 million road bond, the proceeds of which were used to provide the State's matching share for corridor construction.

During these years, for the most part, funding has been directed toward all four uncompleted corridors, D, G, H and L. When the Intermodal Surface Transportation and Efficiency Act, ISTEA of 1991, came along, I asked that language be included authorizing the completion of the Appalachian system. And that was done.

The Appalachian Development Highway System in West Virginia comprises a total of 428.9 miles of roadway, completed or under construction, in design or in corridor location study phase.

In the case of the Appalachian system, I think it would be informative to point out that Appalachia's rugged terrain has made roads very expensive to build. Early roads usually followed the topography, that is, they followed streams, valleys and troughs between mountains, and the resulting highways were characterized by very low travel speeds, long distances due to winding road patterns, often very unsafe road conditions, roads built to poor design standards, unsafe, short-sight distances, and extremely high construction costs which further discouraged commercial and industrial development.

Now, I should say that miles constructed, alone, do not really measure the impact of a development highway system. Its success is measured in how it allows the region to be opened up for development and how it allows for the improvement of its inhabitants' condition.

A 1987 survey taken by the Appalachian Regional Commission showed that between 1980 and 1986, 560,000 jobs were created in the Appalachian counties with a major highway, compared with 134,000 jobs created in those counties without a major highway. It is clear the highways are the lifeline and the lifeblood of the Appalachian region. The idea of a regional interconnected network of highways is as vital today as it was in 1965. It has the same purpose as the Appalachian corridor system which was created 32 years ago.

The National Highway System was designed to provide an interconnected system of principal arterial routes which would serve major population centers—water crossings, ports, airports, other intermodal facilities and travel destinations—while meeting national defense requirements and serving interstate and interregional travel.

A factor which is often overlooked in connection with Appalachian regional highways is the factor of safety. It is important that States in Appalachia have modern, safe roads. Current accident rates on the highways in the area of corridor H —if I may take one example, in West Virginia—are above the Statewide average. The accident rates along in that area are above the Statewide average. The State of West Virginia itself has accident rates which are above the national average. Because much of the State's road system was built in the 1930s, the existing roads reflect a happenstance response to topography rather than strategic planning.

Shortly, I will yield to Senator GRAMM, but while I am on this aspect, namely, the Appalachian highways in the ISTEA amendment which Senator GRAMM, Senator WARNER, Senator BAUCUS, and I have introduced, the Appalachian regional highways, along with various trade corridors and bridge repairs constitute 10 percent of the total—the total being $31 billion; 10 percent being $3.1 billion—the 10 percent being precisely the same breakdown as in the ISTEA bill that is before the Senate. In that bill, 90 percent goes to formula funding and 10 percent to discretionary to be determined by the Secretaries of Interior and Transportation.

So, I simply wanted to say for the record that Congress and the Federal Government promised to the people in the 13 States of Appalachia 32 years ago a highway system that would be modern, that would be safe, and that would contribute to the commerce and communication, economy and upbuilding of that region and the well-being of its people, and that promise has not been fulfilled yet. I think it is about time we consider fulfilling the promise that Congress made to the people of Appalachia. That is what I am attempting to do in this amendment, to go a long way in halfway fulfilling the promise.

The promise—$2.2 billion, and $300 million in the bill itself—is $2.5 billion, and it is estimated that the total cost of completing the Appalachian regional system in the 13 States of Appalachia is something like $6 billion to $7 billion, the Federal share, and the Federal share is 80 percent.

So in this particular ISTEA bill, which would be for the next 6 years, of course, we would only take advantage of 5 years because the first year of the 6 years is already underway. It started on October 1 of this year and the gas tax just began going into the trust fund as of October 1 of this year. Consequently, we would not see that money until next year, so it would be 5 years out of the 6-year life of this ISTEA bill that we would provide something like $2.5 billion for the Appalachian Regional Commission highways in 13 States—not just in West Virginia, 13 States. Hopefully, the next ISTEA bill, 6 years down the road, would make further provision and perhaps at some point in the not-too-distant future the people of Appalachia could look up and see their modern, safe, highway system completed, and the rest of the country, including the Congress, could look the people of Appalachia in the eye and say, ''We kept our promise.''

That is what I am fighting for here today. That is why I hope to reach the ears and the hearts of my colleagues so that they have a better understanding of why this money is being provided in our amendment.

Mr. President, there may be an attitude around, and at times I have sensed an attitude, to the effect that the people of Appalachia have no right to expect appropriations for an Appalachian Regional Commission system, and that moneys spent in one region of the country for highways is to the disadvantage of the voters, the taxpayers, the people of other regions of the country. There seems to be such an attitude in editorials and columns and so forth over the years; that what the people in Appalachia are getting by way of highway funding is pork and that they were actually getting more than their share. A lot could be said about that.

But this attitude that appropriations projects in one section of the country benefit only that section, they don't benefit the whole country, and, therefore, should not be made, and that it is unfair to focus funds on a particular area, a particular State or a particular region of a country, that that is an unwise, unfair and unjustified expenditure of the taxpayers' money, I want to address that.

I want a Senator who is far better known than I am to address the matter for me, and I will call on none other, therefore, than Daniel Webster. I refer to his reply to Hayne. He took 2 days to reply to Senator Hayne, namely on the 26th and 27th of January, 1830. Hayne had spoken on Thursday and Friday of the previous week. Webster had taken 12 or 13 pages of notes, and over the weekend, he thought about his speech, and then on the following Tuesday and Wednesday, the 26th and 27th, he made his speech.

He addressed Senator Hayne, as well as Senator Hayne's statements and charges, namely that the people of the whole country should not have to pay for internal improvements that occur in a particular State.

So Webster took the floor on that occasion and spoke as follows. I have gone back and read Webster's speech, and I will quote from it precisely. This is Daniel Webster:

> I look upon a road over the Alleghanies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit.

Let me say that again:

> I look upon a road over the Alleghanies—

He is talking about my country when he talks about a road over the Alleghenies, the Allegheny Mountains. That is a part of Appalachia. Appalachia extends farther, a larger area than the Alleghenies. But Webster said:

> I look upon a road over the Alleghanies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit. The gentleman—

Meaning Mr. Hayne—

> thinks otherwise, and this is the key to his construction of the powers of the government. He may well ask what interest has South Carolina in a canal in Ohio. On his system, it is true, she has no interest. On that system, Ohio and Carolina are different governments, and different countries; connected here, it is true, by some slight and ill-defined bond of union, but in all main respects separate and diverse. On that system—

Mr. Hayne's system—

> On that system, Carolina has no more interest in a canal in Ohio than in Mexico. The gentleman, therefore, only follows out his own principles; he does no more than arrive at the natural conclusions of his own doctrines; he only announces the true results of that creed which he has adopted himself, and would persuade others to adopt, when he thus declares that South Carolina has no interest in a public work in Ohio.

May I interpolate. The same thing has been said about the Appalachian Highway System, or at least implied. Why should people build highways across those rugged mountains, those stream valleys that have been there for millions of centuries? Why should the taxpayers of America pay for highways to cut through those Allegheny Mountains? Why should we have to do that?

Webster says, as he said to Hayne, ''the gentleman thinks otherwise.''

And he said:

> Sir, we narrow-minded people of New England—

Webster is referring to himself and others from that area—

> Sir, we narrow-minded people of New England do not reason thus. Our notion of things is entirely different. We look upon the states, not as separated, but as united. We love to dwell on that union, and on the mutual happiness which it has so much promoted, and the common renown which it has so greatly contributed to acquire. In our contemplation, Carolina and Ohio are parts of the same country; states, united under the same general government, having interests, common, associated, intermingled.

''Having interests, common, associated, intermingled.''

> In whatever is within the proper sphere of the constitutional power of this government, we look upon the states as one.

That's Webster. ''. . . we look upon the States as one.'' Now listen to what he says to those who would criticize the expenditure of public moneys for internal improvements. By the way, that was one of the main planks in Henry Clay's ''American System,'' which advocated a national tariff, internal improvements, and a national bank. Clay was instrumental in getting funds for the old Cumberland Road, the old national road. The next time that the distinguished Presiding Officer drives from Washington over to Wheeling, WV, he will travel on the old national road, the old Cumberland Road.

It was begun in the year 1811, and that was the gate to the Midwest and the West. By 1838, Congress had appropriated a total of $3 million—think of it, $3 million—toward the construction of that old national road, the old Cumberland Road. Begun in 1811, by 1838, Congress had appropriated the enormous sum of $3 million of the national taxpayers' money for construction on the old Cumberland Road. And Henry Clay had a great deal to do with the appropriations of those funds for that old Cumberland Road.

Well, now continuing with Webster.

I am sure that Henry Clay, if he were in the Senate, would make my case for the Appalachian regional highway system.

Clay on one side—oh, I would like to have him here; that great Senator from Kentucky would make my case—and Webster would also make my case, those two great Senators, because they saw the beauty and the wisdom and the justice and the fairness in committing the national resources to the development of a section of the country, not just one State. But even Webster would go so far as to say, if it were just in one State he would not stand up here and ask why he should support it.

But let him speak for himself here.

We do not impose geographical limits to our patriotic feeling or regard; we do not follow rivers and mountains, and lines of latitude, to find boundaries, beyond which public improvements do not benefit us. We who come here, as agents and representatives of these narrow-minded and selfish men of New England, consider ourselves as bound to regard with an equal eye the good of the whole, in whatever is within our powers of legislation. Sir, [he addressed the Chair, ''Sir''] if a railroad or canal, beginning in South Carolina and ending in South Carolina, appeared to me to be of national importance and national magnitude, believing, as I do that the power of government extends to the encouragement of works to that description, if I were to stand up here and ask, What interest has Massachusetts in a railroad in South Carolina? I should not be willing to face my constituents.

Oh, I wish he were here to defend our case. We have been promised for 32 years that this system would be completed. It is not completed yet. And when we seek justice in relation to the completion of that system, we bear the slings and arrows of fortune and the criticism of those who would say, ''Well, why? You're getting less money than those people in Appalachia. Those people in those 13 States of Appalachia are getting a little more than you are.'' What kind of statesmanship is that? That is a shortsighted statesmanship in the eyes of Daniel Webster.

I should not be willing to face my constituents. These same narrow-minded men would tell me, that they have sent me to act for the whole country, and that one who possessed too little comprehension, either of intellect or feeling, one who has not large enough, both in mind and in heart, to embrace the whole, was not fit to be intrusted with the interest of any part.

Webster—talking about internal improvements.

Sir, I do not desire to enlarge the powers of the government by unjustifiable construction, nor to exercise any not within a fair interpretation. But when it is believed that a power does exist, then it is, in my judgment, to be exercised for the general benefit of the whole. So far as respects the exercise of such a power, the States are one.

One; e pluribus unum!

It was the very object of the Constitution to create unity of interests to the extent of the powers of the general government. In war and peace we are one; in commerce, one; because the authority of the general government reaches to war and peace, and to the regulation of commerce. I have never seen any more difficulty in erecting lighthouses on the lakes, than on the ocean; in improving the harbors of inland seas, than if they were within the ebb and flow of the tide; or in removing obstructions in the vast streams of the West, more than in any work to facilitate commerce on the Atlantic coast. If there be any power for one, there is power also for the other; and they are all and equally for the common good of the country.

Now, Mr. President, I would like to yield, without losing my right to the floor, to my colleague, Senator GRAMM of Texas, for such comments as he may wish to make on this subject matter, and I ask unanimous consent to do so.

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

Mr. GRAMM. Let me first thank our dear colleague, Senator BYRD. I think he is giving us a lesson on the history of funding for highways that is long overdue and is not generally understood. I want to thank him for giving me an opportunity to sort of butt in the middle of his speech and really focus on something that I think is important and that really is part of what the Senator is saying, but I think sort of sets it in perspective. I think maybe by explaining the big picture first and then having the Senator explain the portion of it related to Appalachia, I think people will have a clearer view of where we are.

Let me begin with Appalachia, then go to the debate about funding. I then want to talk about an amendment that continues to be referred to in these ''Dear Colleague'' letters that are being mailed. Senator BYRD, I was shocked. The letter today shows that our amendment is producing 43 States who are losers, and you can imagine my consternation when I discovered that my own State was one of the biggest losers. So perhaps we are not doing as good a job as we thought if we could believe these numbers, but let me assure you, do not believe these numbers.

Now, let me first talk about the highway bill and how it works. How the highway bill works, as it was reported out of committee to the Senate, 90 cents out of every $1 that is provided in the highway bill goes to the States in a formula. The amendment that Senator BYRD and I have written does not change that formula whatever. We took the committee's judgment—we are not trying to become the highway subcommittee through our amendment—we took their formula and allocated the money by exactly the same formula, only we allocated $31 billion more in budget authority, $21 billion more in outlay than they allocated. I will explain where that came from in just a moment.

Under their bill, 10 percent goes to the overhead of the Department of Transportation and it funds the Appalachian Regional Highway System, it funds the emerging international trade corridors, it funds all of the research projects that are part of the highway system, and it funds the functioning of the Federal highway department and the administrative expenses.

The amendment that I have offered with Senator BYRD does not change the allocation of funds as far as 10 percent going to the Department and 90 percent going to the States. So when we add an additional $31 billion in budget authority and $21 billion in outlays, not wanting our amendment to substitute for the wisdom of the committee, we took exactly the same allocation, 90–10, for this new money that they had for the old money.

Now, if you listen to the critics of our amendment, they have zeroed in on Senator BYRD and on the Appalachian region, and it's as if this is a whole new area of funding. Well, this is where I think the confusion comes from, and I think I can straighten it out pretty easily.

First of all, President Clinton, when he submitted the highway bill, proposed $2.3 billion for these 13 States to be funded by the Secretary out of the 10 percent of the money set aside for the Secretary's use. He proposed $2.3 billion, even though his bill authorized over $31 billion less than our amendment will provide. So remember this number. The President proposed $2.3 billion for the 13 States of Appalachia to complete their system, which is over 75 percent already complete, while providing $31 billion less money than we are providing. Only our amendment provides only $2.2 billion.

So if it is the purpose of the Senator from West Virginia to somehow exploit his colleagues, I would have to say that he is doing a very poor job of it, because the reality is that our amendment provides an additional $2.2 billion for Appalachia, which is less money than the President requested. He requested $2.3 billion when he was spending $31 billion overall less than we are spending. The reality is that our amendment contains less money for Appalachia than the President requested.

Second, the House, when they wrote a 3-year bill in committee, provided $1.05 billion for Appalachia; but that's only for 3 years. In fact, if you run it out to 6 years, they would have provided approximately $2.5 billion for these 13 States and for this funding of highways within those 13 States, which was in the President's budget and which has been in every highway bill that we have funded in the recent past.

So the reality is that, while people don't want to debate the real issue here, which is spending the highway trust fund, we have added less money to Appalachia, using the formula of the committee, than the President requested when he was spending $31 billion less. We have requested less money for these 13 States than the House provided in its bill.

So I hope this puts that issue to bed. When the President requested more, when the House provided more, when this has been an ongoing line item in the highway bill for many years, and when it was a line item in the original bill, and when we took the committee's

overall allocation of funds, the point I am making is that the allocation of funds here is basically in line with what the President requested and what the House has done. The Senator has explained to us that the highway project in these 13 States is 75 percent complete. Surely, no one believes they should be left uncompleted. But the Senator is roughly asking for the same amount of money that was provided by the President, that was provided by the House, even though the President was providing $31 billion less overall.

Now, having, I hope, put that to bed, to anybody who wants to debate the issue I would have to say—and I want to be sure that I am always kind to our colleagues—that it is frustrating to me to try to debate an issue when we are having so much trouble getting people to focus in on that issue.

I want to give you an example. There was a ''Dear Colleague'' letter sent today with this headline: ''Final Analysis Complete; 43 States Lose Under Byrd-Gramm.'' As I said, unfortunately, my State is one of the biggest losers in the country, losing $28 million. Now, what are we losing relative to? Well, what we are losing relative to is the so-called Domenici-Chafee amendment, which I have here, and what they are saying is that if you provided $21 billion more in outlays, and if you don't fund the overhead of the Department of Transportation, then you would have additional funds to provide to States. But guess what? They don't provide an additional penny. They put out all these tables about what Domenici-Chafee would provide. But when you take their amendment and turn to the section entitled ''additional funding,'' and you turn to page 2, they have the amounts. The amounts referred to in paragraph 1 are as follows: ''(a) for fiscal year 1999, zero; for fiscal year 2000, zero; for fiscal year 2001, zero; for fiscal year 2002, zero; for fiscal year 2003, zero.''

So their amendment provides no additional budget authority for highways whatsoever. In fact, their amendment is convoluted. They go on and say: ''In general, there shall be available from the highway trust fund such sums as are provided in paragraph 2.'' But paragraph 2, as I just read you, says zero for 1999, zero for 2000, zero for 2001, zero for 2002, and zero for 2003. So they will provide such sums as in paragraph 2, but there aren't any sums in paragraph 2.

If you read the fine print in their letter—you see, there is fine print here that says—and, of course, Senator BYRD would have picked it up because he picks up fine print. I am not sure how many of our colleagues did. Here is what it says, in short: ''If the Appropriations Committee funds highway programs at $29 billion or greater. . .''—it also should say: ''and if we authorize such moneys to be spent in the future.'' But it does not say that. Then if you should allocate it the way they would, not as Senator CHAFEE allocated it in his own committee, with the 90–10 split, you would have a different allocation.

But the point I want people to understand is that all these charts are being sent out about how money would be spent. When you read their amendment, they are not spending any money. They are not providing one additional penny for highway construction; yet, they keep putting out tables showing what would be provided if someone at a later time and a later place decided to provide it.

What Senator CHAFEE and Senator DOMENICI are really saying is: Don't authorize highway spending in the highway bill. Don't let the trust fund, which is collected as a tax on gasoline, be authorized to be spent on highways. Wait and let a budget be written in the future, and then if at that time it is decided to spend the money for the purpose that the tax was collected, then we will spend the money.

Senator BYRD and I disagree. We wrote a highway bill 6 years ago. Have we ever changed the authorization in 6 years under that highway bill? The answer is no. We have had to live with it every single day. We are now trying to write a highway bill for the next 6 years, and Senator CHAFEE and Senator DOMENICI say don't write a highway bill for the next 6 years. Leave funding at the level that was set out in the bill that would let the highway trust fund rise to $90 billion by the end of the highway bill, and then in the future, if we decide that we ought to quit misleading the American people in telling them that these taxes that are paid at the pump go to build highways, then in the future in some budget resolution we could provide that the money would be spent.

But so that no one misunderstands, not one penny of additional highway funds are provided in the so-called Chafee-Domenici amendment. There is only one amendment that takes the highway trust fund that people pay into when they go and fill up their car and fill up their truck and they shell out their hard-earned money on gasoline taxes, and we say to them, well, now, look, it's for your own good. We are spending it on highways, so this is not a tax. It is a user fee.

Senator CHAFEE and Senator DOMENICI say, well, look, we don't want to do that. We want to build it up in the trust fund so that it can be spent on other things. In fact, as Senator CHAFEE said in a speech in the Senate Chamber on October 9, he ''cannot support the proposition of spending the 4.3-cent gasoline tax.''

That is a perfectly legitimate position. He cannot support it. But Senator BYRD and I can support it, and we do support it. What our amendment does is it starts telling the American people the truth. And that truth is they are paying this gasoline tax. We claim it is going into the trust fund to build roads, and yet we have before us a highway bill that doesn't spend a penny of that 4.3-cent-a-gallon tax on gasoline so that it can go to other uses.

Senator BYRD and I say we collect the money on gasoline, on the tax at the pump, and we put it into the trust fund. We have been telling people that was for roads, and our amendment simply does what we say we are going to do. That is, we are going to spend it on roads.

So if you believe that the highway trust fund ought to be spent on other things, you should vote against our amendment. You ought to support people who are opposing it. But if you believe that the highway trust fund, which is funded with a gasoline tax, ought to be used to build roads, which is what we claim we are doing, if you think it is fundamentally wrong, some might say dishonest, to build up a surplus of $90 billion in a highway account so the money can be spent for other things, then there is only one amendment that is going to fix it. That amendment is the amendment that I am offering with Senator BYRD.

So in regard to our amendment, there have been a handful of criticisms, and I want to respond to one of them and try to do it briefly so I can get out of the way and let Senator BYRD go back to giving us a history lesson on highway construction and about the fairness of the underlying permanent law related to highway construction.

Let me outline what these criticisms are. First of all, I want to remind my colleagues that 83 Members of the Senate voted on a resolution I offered as part of the budget resolution that called on us to put the 4.3-cent-a-gallon tax on gasoline, which had been going to general revenues, in the highway trust fund and spend it for highways. Mr. President, 83 Members of the Senate voted for that resolution. Then, in the tax bill that was passed this year, we took the 4.3-cent-a-gallon tax on gasoline and put it where every other permanent tax on gasoline since we have had a trust fund has gone. We put it into the highway trust fund to spend it on highways.

Then when the highway bill came out of committee, while we had put 4.3 cents per gallon into the trust fund, about $7.2 billion a year when you count mass transit and highways, not one penny of it had been spent on highways. Not one penny of it. Under the original bill, the surplus would have built up to $90 billion, which means in our unified budget all that money would have been spent on something else.

Now, Senator BYRD and I have tried to have a debate on the substance of the issue, and the substance of the issue is we believe that the trust fund made up of taxes on gasoline ought to go for the purpose that we tell the American people it is going for, and that is to build roads. We have offered an amendment to do that. Our amendment is as straightforward as it can be. It allocates the money on the same formula the committee allocates the money going to the States. It has the same amount of money being allocated

by the Secretary. And it is straightforward in terms of what it funds.

Now, the two criticisms that have been leveled are, No. 1, that somehow this is unfair because of funding for highways under a program which has existed since—when was the Appalachian highway program adopted?

Mr. BYRD. 1965.

Mr. GRAMM. 1965?

Mr. BYRD. Yes.

Mr. GRAMM. That somehow because it provides funds for a program that became law in 1965, it is unfair. Well, as I have mentioned before, our amendment does provide $2.2 billion for that purpose. It also provides money to seven donor States that, because of a quirk in the formula, ended up actually getting less under the committee bill, and with the support of the chairman of the subcommittee and the ranking member we also fix that.

And finally, rather than just claiming we were doing something for international trade corridors, we actually provided money for it. The old bill claimed it spent $125 million per year for international trade corridors, but Senator BYRD saw in the fine print that it did not really provide any money. It just claimed to provide money. Unfortunately, that is something that is done.

Our bill does not claim to provide money it does not provide. It is interesting that this criticism would be made. But the point is in the first attack on the 13 States of Appalachia, our amendment provides $2.2 billion of funding. The President requested $2.3 billion. The House passed a level of $2.5 billion. I find it very hard to justify it is a criticism that we are providing roughly the money that was requested by the President when his bill contained $31 billion less and roughly the same amount of money provided by the House.

The final criticism is that the opponents of the bill keep putting out tables about what their amendment is estimated to do in fiscal year 2000.

First of all, their amendment does not do anything in the year 2000, nor does it do anything in any other year during the highway bill because, as I noted earlier, on page 2 of their bill where, under the title of additional funding, they say their additional funding is zero for the year 2000, for 1999, 2001, 2002 and 2003. And why they picked the year 2000 I don't know. The point is there is only one amendment that provides more money for highway construction in the year 2000. There is only one amendment that provides more for 1999, 2001, 2002, and 2003, and that is the Byrd-Gramm amendment.

Now I just have to say that I get frustrated with everybody looking at these tables and Senator BYRD and I having to spend our time explaining to them where these numbers came from. These numbers are basically made up, that's where they came from. There is nothing in their amendment that provides any additional money. What these numbers are based on is that, if we decided in the year 2000 to provide more money, that you could make up a table and show how we might divide it. I suggested to Senator BYRD that maybe we might want to make up a table that said if you took the whole $1.6 trillion that the Government spends and we decided to spend it on highways, we might show how much in highway funding our Presiding Officer's State would get.

But would it make any difference? The point is, it would make absolutely no difference, because we are not proposing to take all the money spent by the Federal Government and spend it just on highways. But it would be as legitimate as the table where you are making up figures about what you may do in the future. Listen, when you are talking about the future and you are not committing to it in the present, you can make up any tables you want to make up.

But the point is, we are not making up numbers. We have written an amendment that will require that we have a full authorization of the 4.3-cent-per-gallon tax on gasoline, so that when people go in and fill up their tanks and they look up there and they see this gasoline tax they are paying, they will know that the 4.3-cent-per-gallon tax has been put into the trust fund and that we are going to spend it on roads and that when they are paying that tax, they are allocating that money to build roads, and that is what we told them we were going to do.

So, I don't know if we will have any more of these tables. This is the second set of tables we have had. I don't quite know where the numbers come from and why there are these differences from the last table. But I can assure you that if I were going to do something, the last thing I would do would be to cheat my State. I am not in the habit of doing that, and I think if people look at this, they would find that we are not in the habit of doing that as individual Members. So I think it just doesn't make sense on the surface.

So, I thank Senator BYRD, and I hope my colleagues now will focus on the fact that our funding for Appalachia is roughly what the House did and what the President requested with less money; that we are providing $31 billion more of budget authority by spending the gasoline tax on roads—something we promised to do and have not done—we are spending $31 billion more on roads in terms of authorizing the expenditures so we can compete each year for that money.

There is no other amendment that provides a penny. So, if you want to take a promise that someday in the future we might get around to funding roads, if that is good enough, then you might not be for our amendment. But if you really believe we ought to spend highway trust funds on roads, there is only one amendment you are going to get a chance to vote for that will spend a penny more on highways, and that is the Byrd-Gramm amendment.

So, I thank my colleague. I am very proud to cosponsor this amendment with him. I think, if anybody will look at the merits, that this is a truth-in-government amendment and there is nothing fake about it. There is no hidden agenda in it. It is simply an amendment that takes the formula written by the committee for allocating funds for the States and allocating funds between the discretionary fund of the Secretary and the allocation of funds to the States. Those are formulas that we didn't write; we simply took them from the committee.

Our amendment is very straightforward. I think if people will look at it, what it is trying to do, and will debate it on its merits, it will come down to an honorable choice between two legitimate positions. One position says let's continue to take money out of the highway trust fund and spend it on other things. That is one position. The other position is let's spend the highway trust fund on highways. That is the position Senator BYRD and I take. I believe it is the position that the majority of Members take, and I would like to get the vote and the debate focused around the choice. I think we want to do that, in all fairness to our opponents, because we think we will win. If it's on something else, we don't know what will happen. But I think, if it's this clear choice, the people are going to be with us.

I thank Senator BYRD for yielding. I appreciate it very much.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I appreciate the opportunity to have yielded to the distinguished Senator, and I just as deeply appreciate his statement. I hope the Senators will read it. It is needed, I think, to disabuse Senators from what they are being told by Congress Daily and by letters and tables that are being distributed. I don't accuse anyone of acting in bad faith. I am in no position to do that. But certainly misstatements should be corrected, and I hope will be, beyond what Mr. GRAMM has already said.

Mr. President, Senator CHAFEE earlier said—he told me that we would, on tomorrow, get the floor and speak with reference to the Chafee-Domenici amendment. I have been insisting to them that their amendment be explained. The amendment which I offered on behalf of myself and my three distinguished colleagues was explained, and we were criticized because we had mentioned, on the 9th, I believe, of October, before the recess, that we were going to offer such an amendment, but we didn't actually have it ready by then so a considerable amount of discussion went forth as to why we didn't have it, to the effect that Senators couldn't comment on what they couldn't see.

But on that same day I believe Senator DOMENICI indicated that he was going to offer an amendment, and, of course, we didn't get to see that until

one day this week. So we haven't heard an explanation of it yet. I want an explanation of it. Just as we attempted to do our best explaining to our colleagues and to the American public what our amendment does, I think the American people ought to have an explanation right here on this floor as to what the Chafee-Domenici amendment does. That will give us a chance, perhaps, to refute some of the misinformation that is being bandied about.

As I say, I don't ascribe to anyone any intentions to go with misinformation, but I think the public and our colleagues have a right to expect us to clear up some of the confusion. So, for now I'll not say any more along that line because, as I say, Mr. CHAFEE has indicated we'll talk some tomorrow, and he indicated that he would yield to me for some comments at that time. I hope that Mr. BAUCUS and Mr. WARNER will also have a chance to comment at that time, particularly with reference to the statement by Congress Daily of today.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, I further ask unanimous consent to speak for up to 45 minutes.

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

PRIVILEGE OF THE FLOOR

Mr. DEWINE. I further, Mr. President, ask unanimous consent that Wendy Selig of the staff of Representative PORTER GOSS be granted privilege of the floor during my remarks.

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

Mr. DEWINE. I thank the Chair.

THE RICKY RAY HEMOPHILIA RELIEF FUND ACT

Mr. DEWINE. Mr. President, I rise today to discuss a bill I have introduced. That bill is called the Ricky Ray Hemophilia Relief Fund Act. I introduced this legislation in the last Congress and again this year. I introduced it along with my distinguished colleague from Florida, Senator BOB GRAHAM. A House companion measure has been introduced by our friend, Congressman PORTER GOSS.

Mr. President, the purpose of this bill is to deal with the terrible tragedy within the hemophilia community that was brought about by the HIV contamination of the blood supply and blood products during the 1980's. A number of Americans suffered terrible harm because they relied on the Federal Government to protect the blood supply.

Mr. President, those of us who are backing this legislation believe that the Federal Government has a moral duty to help these Americans.

Let me first talk about the role of the Government in this tragedy.

The Ricky Ray Hemophilia Relief Fund Act of 1997 recognizes that the Federal Government has a responsibility for protecting the safety of the blood supply in this country and a responsibility for regulating blood products.

Mr. President, during the 1980's, our Government failed to meet this obligation to the hemophilia community of this country. The Federal Government failed in its obligation. People affected by hemophilia—children, adults, and the family members who cared for them—had a right to expect the Nation's blood supply system to work. That system relies upon many organizations, both public and private. It relies on many organizations to collect and process, distribute, monitor, and regulate the blood supply and blood products.

Unquestionably, the Federal Government bears the greatest and the ultimate responsibility for blood safety through its surveillance, research, and regulation functions. That is why, Mr. President, in 1973 the Assistant Secretary for Health announced the national—national—blood policy which then became, according to a report by the Office of Technology Assessment, ''The focal point around which blood banking policy has evolved over the last decade.''

Mr. President, this is the U.S. Government's national blood policy—the U.S. Government's national blood policy—a policy the U.S. Government undertook, a policy on which the American people should have been able to rely. The very fact that we have a national policy indicates a level of responsibility, a level of importance and involvement that we really don't see in most other areas of consumer protection. This policy is what gives the Federal Government a unique responsibility for the blood supply in this country.

Mr. President, these functions—surveillance, regulation, and research on blood—are carried out through the Public Health Service. The Centers for Disease Control hold responsibility for surveillance of potential threats to blood safety. The National Institutes of Health are responsible for biomedical research on emerging threats and improved technologies for prevention. Mr. President, these two agencies work in conjunction with the Food and Drug Administration, the FDA, which through its regulatory authority and powers of inspection, product recall, guidelines, and fines, holds primary responsibility for the safety of the blood supply and blood products under the Food, Drug and Cosmetic Act. Together, Mr. President, these agencies form the backbone of our Nation's blood safety system.

Mr. President, the awful truth is that this system failed. It failed to protect people with hemophilia or their families from deadly disease. That is why we have introduced this bill. Members of the Senate don't have to just take my word for it nor just the word of the families in the hemophilia community. Rather, in 1993, Mr. President, the Secretary of Health and Human Services opened an investigation, an investigation into the events leading to the transmission of HIV to individuals with hemophilia.

One of the key questions that was asked and that they were asked to address at the time was this: Did the Government provide an adequate and timely response to the warning signs of the 1980's, the warning signs of HIV as it related to the blood supply in this country?

The Secretary contracted with the Institute of Medicine, IOM, a private nonprofit organization that provides health policy advice under a congressional charter granted to the National Academy of Sciences. Mr. President, after 18 months of investigation, the IOM published its report in 1995. This report was entitled ''HIV and the Blood Supply: An Analysis of Crisis Decisionmaking.'' Mr. President, the report found inadequacies in the Government's effort. It found ''a failure of leadership'' that led to the HIV infection of more than one-half of the Nation's hemophilia population. This IOM report and its panel of experts from across the country found that the transmission of the HIV virus and AIDS revealed a weakness in the Federal Government's system for ensuring the safety of the Nation's blood supply.

The Institute of Medicine was specifically not charged with laying blame, but in its final report it was highly critical of the Government agencies responsible for protecting the safety of the blood system in this country. It identified several areas where the Federal Government specifically failed to curtail the impact of HIV. Mr. President, the IOM found that the Government ''consistently adopted the least aggressive options for slowing the spread of HIV within the hemophilia community.'' Let me repeat: This report, this official report, found that the Government ''consistently adopted the least aggressive options for slowing the spread of HIV within the hemophilia community.''

Time after time when decisions were made in the face of the unfolding HIV crisis, tragically, the wrong decisions were made about the blood supply. When faced with decisions about deferring donors or recalling products or testing for other known diseases, we know now that the Government officials made the wrong decisions.

Let me talk about these decisions and about what happened. First, the Federal Government failed to take adequate steps to screen blood donors. Knowing that AIDS was transmitted through blood, the Government did not

do all it could, did not do all it could have done to screen blood donors.

In January 1983 experts at the Centers for Disease Control met with representatives from the other Government agencies to consider available data on the spread of HIV and to develop at that time strategies for prevention. Those experts in the Centers for Disease Control concluded that AIDS was transmitted by sexual contact and through blood, and they made recommendations for enhanced screening of blood donors, including the use of a surrogate hepatitis test to screen for potentially HIV-infected blood.

In other words, Mr. President, in January 1983 the Government knew that AIDS was transmitted through blood. Now, by that time 12 persons with hemophilia had already been diagnosed with HIV and some 10 deaths had already occurred.

Let's go back now to that specific meeting in January 1983 that I just referenced. At that meeting, experts from the Centers for Disease Control estimated that intensified screening of blood donors would eliminate over 75 percent of AIDS-infected donors from the blood pool, and they estimated that requiring a surrogate blood screening test would detect 90 percent of donors with AIDS. Tragically, however, Mr. President, both of these recommendations were rejected by the other Government officials at this meeting. These two very specific recommendations were rejected again later that year in December 1983, rejected by the Food and Drug Administration's Blood Products Advisory Committee. These recommendations were never implemented.

Let me talk about the second fact. Second, Mr. President, the Federal Government failed to recall potentially contaminated blood and blood products. In two separate instances, the FDA missed opportunities to get potentially dangerous products off the shelf. In the first instance, knowing that a blood product might have been made with AIDS-tainted blood, the Government failed to automatically recall that product. In January 1983, the FDA decided not to automatically recall hemophilia clotting-factor products linked to donors suspected of having AIDS supposedly because of concerns about the impact on the availability of clotting factor and its cost.

In July 1983, FDA failed to act. By the following year, 1984, 83 cases of persons with hemophilia were diagnosed with HIV, and 81 deaths had, by that point in time, occurred.

In the second instance, Mr. President, knowing that there was now a way to make the blood products safe, the Government failed to take the potentially unsafe products off the market until, incredibly, 4 years had passed.

Mr. President, by 1985, heat-treated product was available—heat-treated product, meaning that the virus was inactivated.

Back in the late 1970's, the process of heat treatment of clotting factor had been developed in Europe, providing hope that the HIV virus could be inactivated. Now, while FDA moved quickly through 1983 and 1984 to license new manufacturing processes for the heat treatment of clotting factor, by 1985, heat-treated factor had been as effective in inactivating HIV. However, Mr. President, tragically, the FDA did not act to recall the untreated products. It waited until 1989, some 4 years later.

Meanwhile, those dangerous products were left on the shelf to cycle through the system, and all that time a method of making those products safe was readily available.

Let me turn to the third essential fact. Third, Mr. President, the Federal Government failed to act quickly to trace and to notify potential recipients of AIDS-contaminated blood and blood products. Knowing that transmission of HIV-infected blood products led to HIV infection, knowing some of the blood was contaminated, and knowing people were using it, the Government failed to immediately notify the people who were at risk. Recipients became infectious immediately, but appeared healthy, of course, for approximately 4 or 5 years, during which time their spouses or sexual partners were at risk of acquiring HIV. If nothing else, Mr. President, once the signals were clear, the Government should have done more to alert people to these risks not just to their own health, but to the health of their loved ones, their spouses, and their children.

It was in 1988 that President Reagan issued a Presidential directive to formulate Federal policy for tracing the recipients of possibly infected blood products.

However, tragically, the FDA did not issue recommendations for patient notification until 1991—some 3 years later. Now, by that time, 2,040 persons with hemophilia had been diagnosed with HIV, and more than 1,500 members of the hemophilia community in this country had died of HIV. For the hemophilia community, Government action came too late—much too late.

Mr. President, these are the reasons why I believe that this country and this Congress has a moral obligation to help these families. Our Ricky Ray bill would authorize the establishment of a trust fund to provide $125,000 in compassionate payment to eligible individuals or families of persons with hemophilia and AIDS. The trust fund would be administered by the Secretary of Health and Human Services and would sunset 5 years after it is funded.

Mr. President, approximately 7,200 people with hemophilia—nearly half of all persons with hemophilia in the United States—were infected with HIV through the use of blood clotting products.

These products came from as many as 20,000 donors, sometimes even more. These concentrates expose individuals with inherited bleeding disorders to a high risk of infection by blood-borne viruses, such as hepatitis.

Because of the hemophilia community's reliance on blood products, the Centers for Disease Control monitors the hemophilia community to aid in the detection of emerging viruses or pathogens that could affect all Americans. Problems in the blood supply tend to show up in the hemophilia community first—so they serve really as a kind of ''distant early warning system'' for our blood supply. It is a crude but accurate comparison to say that this community is the proverbial ''canary in the mine shaft.'' They serve in that function for the rest of us.

During the 1980's, when the Nation's blood supply and blood-derived products became contaminated with the AIDS virus, HIV was detected in three men with hemophilia, providing early evidence that this disease could be transmitted through blood—thus affecting a far broader cross-section of our population. We now know that this was to mean the devastation of the hemophilia community.

Mr. President, more than 80 percent of people with severe hemophilia and half of all persons with hemophilia were infected with HIV during the 1980's through the use of HIV-contaminated blood products. In some cases, due to a lack of education and outreach, their wives, husbands, children, and partners became infected as well.

The impact of HIV on the Nation's hemophilia population has been truly devastating. The HIV contamination of the blood supply has caused significant emotional and financial losses to these families.

Our bill would make a gesture of compassion to these American families. It would also acknowledge that the Government played a role in this crisis and, therefore, has incurred some obligation.

Eligible individuals, or their families, would be required to document the use of blood products between July 1982 when the first cases of persons with hemophilia contracted AIDS were reported to the Centers for Disease Control and December 1987, when the last manufacturer recall of blood products occurred.

This bill, which has been referred to the Labor and Human Resources Committee, already has the bipartisan support of 35 Members of this body.

In coming to the Senate floor this evening, it is my hope that I will be able to answer some of the questions that have been raised about this bill, and to ask those of our colleagues who have not yet cosponsored this bill to consider doing so after hearing the facts that I will be laying out in a moment.

Let me talk for a minute about how I came to introduce this bill. In doing that, let me tell you a little bit about the bill's name sake—Ricky Ray. Ricky Ray and his brothers were born with hemophilia. This is a rare genetic condition, impairing the ability of

blood to clot effectively. This disorder affects, today, about 20,000 Americans.

People with hemophilia historically had a short lifespan and typically faced numerous hospital stays and complications.

Hemophilia was also frequently associated with crippling. Persons with hemophilia would suffer internal bleeding, leading eventually to the destruction of their joints and muscle tissues, because no effective treatment existed.

But this changed in the 1970's, with the development of clotting factor concentrates, which are derived from blood. It was also changed by the introduction of comprehensive care that allowed many individuals with hemophilia to begin to manage their bleeding episodes at home.

Clotting factor eliminated the need for frequent and costly hospitalization and ensured that even persons with severe hemophilia would be able to attend school, obtain full-time employment, and enjoy greatly increased life expectancy. Clotting factor changed the lives of persons with hemophilia, especially for children like the Rays, who, unlike their grandfathers and uncle, could now see a future involving a long and healthy life.

When clotting factor was introduced, it was treated as a miracle drug. People were encouraged to use it not just in case of a life-threatening bleed but also as a part of their daily lives—a preventive measure. It is just a slight exaggeration to say that people were encouraged to treat early and to treat often.

The great promise of this new treatment, however, proved short lived when, tragically, it was found to be an effective means to transmit the virus known as HIV. Ricky Ray was diagnosed as HIV positive in 1986. He was only 9 years of age. He had contracted HIV through the use of this remarkable new treatment, this clotting factor. His two brothers contracted HIV as well and so did 72 other members of the hemophilia community across this country.

Ricky Ray and his brothers were kicked out of school. They were kicked out of school because of their HIV status, and then, when their parents won a decision in court to readmit them, arsonists set their house on fire. Instead of giving in to anger, Ricky Ray became a spokesperson promoting understanding about HIV. And he did this until his death in 1992 at the age of 15.

I personally became involved with the hemophilia community when I met a father from Ohio whose son Christopher had severe hemophilia. John Williams was the primary caregiver for his son. John accompanied Christopher to his doctor's appointments and learned how to infuse his child with the medicine that would control his bleeding disorder. John also shared anguish and pain with his 8-year-old little boy when he then later was diagnosed with AIDS.

John was determined, as all parents would be, to help Christopher survive. John accompanied Christopher to the National Institutes of Health campus every few weeks for the latest in treatment options and breakthrough technologies.

Throughout this experience, the constant thought in the father's mind was that he had infused his own son with the medicine that would eventually kill him. He often thought that he had been negligent in some way. Had he perhaps missed a crucial piece of information that could have saved Christopher? Had he missed an important news story or warning? Was there anything he could have done to save his son?

For 5 years, the father, John, shared in his young son's battle. Then in October 1994, Christopher died of complications from AIDS. He had just entered the 10th grade and was contemplating college plans, a dream that, of course, was never fulfilled.

This legislation is really about people. It is about people and their strength in facing tragedy, the devastation of an entire community of people that today has come to be represented by a courageous boy from Florida by the name of Ricky Ray.

The concerns that I raise today have been raised repeatedly by the hemophilia community in this country. Unfortunately, the legal system has not been an effective means to address these concerns nor to provide the assistance to infected individuals, and there are several reasons why.

The first has to do with what's called blood shield laws. Whenever the Federal Government writes product liability laws of any kind, we in the Congress insert a standard exemption for blood and blood products. We, therefore, defer to the States to regulate in this area, and in doing so we affirm the State blood shield laws that are prevalent throughout this country.

Forty-seven different State jurisdictions have exempted blood and blood products from strict liability or implied warranty claims on the basis that blood and blood products are services, not products. Now, this classification is more than just a question of semantics. It means that plaintiffs must prove negligence rather than simply use of the blood was the proximate cause of the injury they suffered, which is the standard for other products.

In 1976, blood banks began receiving exemptions from liability even under a negligence standard with the passage of blood shield laws. In 1977, the courts began extending this exemption from liability to blood product manufacturers on similar grounds. They did all of this because the States believed the need for an available blood supply, for surgery and other medical procedures, outweighed the relatively minor risk of hepatitis. The rationale was that blood product manufacturers should be exempt from product liability, since blood products are unavoidably unsafe, because the risk of hepatitis simply could not be eliminated.

There is a much higher standard of proof for consumers of blood and blood products. The ability of individuals in this community, the hemophilia community, therefore, to seek resolution in the court system has been severely curtailed by these State blood shield laws.

If that were not enough, there are other legal problems confronting these hemophilia victims and their families. Just a couple of examples. First, collecting evidence for suits against manufacturers is extraordinarily difficult. Most individuals that became infected with HIV had a severe form of hemophilia that meant they were infusing thousands of units of clotting factor on a monthly and sometimes weekly basis. These individuals were understandably unable to determine exactly from which manufactured lot the product that infected them came.

Second, hemophilia families also face the problem of statute of limitations. All States have them, and they prohibit individuals from prevailing in litigation if the suit was not filed within a few years of the alleged tort. To the hemophilia community, many individuals were diagnosed after the prescribed period in the statute of limitations and were unable to take any action.

Just as significantly, they are also battling a disease with a long and often symptom-free incubation period. This makes statutes of limitation even less defensible and imposes a much greater burden on this community.

All this does not mean that the hemophilia community, these people who have suffered so, has not tried. They have. Hundreds of suits have been filed against the manufacturers of clotting factor. In some States the hemophilia community has even been successful in rolling back the statute of limitations.

Recently, many members of the hemophilia community gave up their right to continue to pursue the manufacturers through the courts, and they did this by agreeing to a class action settlement.

This settlement brings recognition to the HIV infection of the hemophilia community and provides some relief to the community for their suffering. But this is not to say that the community was holding out until recently for something better. Victims were unable to meet the especially high liability standards established by the blood shield laws. It appears that increasing momentum for the Ricky Ray bills in the House and Senate pushed the negotiations into a final phase.

Senators may ask about the private settlement proposal as offered by four manufacturers of clotting factor concentrates in 1996, an offer that was made in April 1996. This settlement, which has been approved by the U.S. District Court of Northern Illinois, will provide each person infected with HIV through the use of clotting factor $100,000. The settlement proposal was

drafted so the payment would be contingent upon obtaining certain protections for recipients receiving means-tested benefits such as Medicaid.

So for this reason, when we reintroduced the Ricky Ray bill this year, I included a second title in the bill to protect the eligibility for individuals receiving Medicaid and SSI upon receipt of the settlement claim.

The Balanced Budget Act of 1997 included a provision related to the private settlement protecting the eligibility of individuals receiving Medicaid benefits. Unfortunately, no similar protection for SSI eligibility was included.

I support the settlement between the hemophilia community and the manufacturers of clotting factor and see it as the first step in addressing the ongoing responsibility that the companies have to the community they serve. I do not believe that the victims—in looking for compensation—should be limited to seeking from private companies. This should not be an exclusive remedy. It should not be seen as an exclusive remedy, very bluntly, because the Government shares the blame. And private settlements are inadequate.

As to the specific figure at which we have arrived—$125,000—I think this is an eminently reasonable compensation, when you consider that the average cost of care for patients with severe hemophilia—per year—is $100,000.

Let's look at how some other governments have dealt with this problem.

COMPENSATION IN OTHER COUNTRIES

Many other developed countries have established compensation programs to assist individuals with blood-clotting disorders who were infected with HIV by contaminated blood products.

In some countries, such as Australia, France, Germany, Japan, Spain, and the United Kingdom, assistance has come from combined public and private sources. Specifically, in Japan, the government—and the same pharmaceutical companies we are dealing with here in the United States—agreed to provide, together, payments of $430,000 to victims of hemophilia-related AIDS. The government shouldered 44 percent of the burden, and the pharmaceutical companies paid the rest.

In other countries, such as Canada, Denmark, Hong Kong, Italy, Portugal, and Switzerland, assistance has been provided directly from the government.

PRECEDENTS

Some of my colleagues have raised concerns that passage of the Ricky Ray relief legislation may set a legal precedent. What kind of precedent is there? In fact, the U.S. Congress has a history of recognizing the country's responsibilities to aggrieved individuals and has provided relief for these victims.

It is my intention, in the next few minutes, to lay out the precedents in some detail. But I would like to point out, first and foremost, that blood is unique. The Federal Government and, by its permission, State governments, regulate the blood supply in a unique way.

Because the Government has a unique responsibility in the case of blood, passage of the Ricky Ray Relief Act will not set a precedent. It would, rather, represent another extraordinary circumstance in which Congress has determined that injured parties should receive compensation for injuries sustained as a result of Government action or inaction.

Individuals in the hemophilia community are prevented from recovery from the Federal Government under the Federal Tort Claims Act [FTCA], which is designed to be the exclusive means of compensation for injuries sustained as a result of the negligence of the Federal Government. Because the Federal Tort Claims Act includes an explicit exemption from claims that arise directly as a result of the ''exercise or performance or the failure to exercise or perform a discretionary function,'' victims are barred from recovery for the inaction of the FDA in its regulation of blood products. They are barred under this act.

But Congress has acted to compensate individuals when it determines that remedy under the Federal Torts Claims Act and other statutes is inadequate. Congressional passage of the Ricky Ray Act would represent another instance of Congress recognizing the appropriateness of compensating victims unable to recover under the Federal Tort Claims Act.

Let me discuss two relevant precedents. One of the first major claims made after the passage of the Federal Tort Claims Act was the claim made on behalf of the victims of the explosion of two cargo ships containing ammonium nitrate fertilizer in the harbor of Texas City, TX, in 1947. In this case, the Supreme court held, in *Dalehite* v. *United States*, 346 U.S. 15 (1953), that the Federal Government was not liable because the plaintiffs could not prove negligence. Additionally, a claim of absolute or strict liability was rejected because the Court found that the Federal Tort Claims Act did not allow recovery on that basis. Despite—and, in part, because of—the Supreme Court's explicit rejection of the claim under the Federal Tort Claims Act, 2 years later, the Congress passed legislation providing settlement of claims resulting from the explosion. This legislation established the precedent that Congress may pass legislation authorizing compensation without finding the Government at fault.

Let me turn to another example that closely reflects the hemophilia situation in the mid-1980's in this country. Congress combined relief for two different populations of victims in one statute—the Radiation Exposure Compensation Act. One group was made up of uranium miners who were seeking compensation for the adverse health effects they had experienced while working in private mines—private mines. The second group, known as ''downwinders,'' was made up of individuals who lived downwind of atomic test sites and were exposed to radiation. Neither group was able to recover from the Federal Government in court. Both failed.

The courts had previously ruled against the uranium miners in *Begay* v. *United States*, 591 F.Supp. 991 (1984), and against the downwinders in *Allen* v. *United States*, 816 F2d 1417 (1987). The courts found that the Government could not be held liable for injuries because its policies were protected by the discretionary function exception in the Federal Tort Claims Act.

In Begay, the plaintiffs had asserted that various government agencies were actionably negligent in leaving the responsibility for uranium mine safety—outside Federal enclaves like Indian reservations—to the States. They also asserted that these agencies were negligent in failing to enforce rigid radiation safety levels in the Indian reservation mines—and that all the Federal agencies involved were themselves negligent in failing to establish and enforce rigid radiation safety standards in the underground uranium mines in the 1940's, 1950's, and early 1960's.

The court in Begay suggested that the miners seek redress from the U.S. Congress. This is what the Court said:

> This tragedy of the nuclear age . . . cries for redress. Such relief should be addressed by the Congress as it was in the Texas City explosion following the decision of the Supreme Court in Dalehite.

In the Allen case, the downwinder plaintiffs had singled out the alleged failure of the Government to fully monitor offsite fallout exposure, and to fully provide the necessary public information on radioactive fallout. As in the Begay case, the court found no obligation to compensate on the basis of failing to monitor or warn. A concurring opinion in Allen noted that the court's hands were tied:

> While we have great sympathy for the individual cancer victims who have borne alone the costs of the Atomic Energy Commission's choices, their plight is a matter for Congress. Only Congress has the constitutional power to decide whether all costs of government activity will be borne by all the beneficiaries or will continue to be unfairly apportioned, as in this case.

In 1990, Congress did in fact provide relief to these two groups through the Radiation Exposure Compensation Act, Public Law 101–426. The circumstances that led to the passage of the Radiation Exposure Compensation Act are, I believe, very instructive.

In that case, the States failed to require that the private mine operators follow Federal health and safety standards. As a result, people got sick. They could not recover from the private mine operators—nor could they recover from the Federal Government. Those individuals were compensated later through congressional legislation, through action by the House and the Senate.

The facts are clear. In that case, little or nothing was done by the States to force the private mine operators to

improve ventilation in their mines. Although the Public Health Service demonstrated that adequate mine ventilation would be relatively inexpensive—and the Atomic Energy Commission had developed effective radiation level controls, which were available for all State and Federal agencies—the mine operators successfully resisted efforts to substantially reduce radiation levels by improved ventilation techniques. Through legislation, compensation was ultimately made to individual miners who worked for private mine operators that were not subject to Federal radiation safety requirements.

These precedents bring us directly to the Federal Government's responsibility for the blood supply in this country and bring us directly to this bill.

The evidence in the IOM study that I referenced previously on blood safety clearly demonstrates that, in a number of instances, FDA failed to mandate certain Federal patient safety requirements for private processors of blood products, failed to act on recommendations from the Centers for Disease Control concerning screening blood donors, failed to mandate recall of hemophilia clotting factor, and failed to implement a 1988 Presidential directive to trace recipients of possibly infected blood, failed to do that for 3 long years. Passage of the Ricky Ray Hemophilia Relief Act does not set a new precedent, but—on the contrary—is fully consistent with the earlier precedents set by Congress to provide compensation for injury when remedy could be found by no other means.

HOW TO PAY FOR RICKY RAY

As this bill is written, the Ricky Ray Act provides $125,000 for each eligible individual, and so, with an estimated 7,200 affected individuals, the total cost of the bill is estimated at $900 million.

In order to identify individuals and determine their eligibility, payments authorized by the legislation will likely occur over several years. This would result in at least two smaller annual appropriations requests.

SUPPORT FOR THIS LEGISLATION

As I stated earlier, the Ricky Ray Hemophilia Relief Fund Act has the support of 35 of our Senate colleagues and the support of 257 Members of the House of Representatives.

The legislation is also endorsed by the American Red Cross, the American Association of Blood Banks, America's Blood Centers and AIDS advocacy organizations such as the National Association of Persons with AIDS and the AIDS Policy Center.

In her letter to the National Hemophilia Foundation, American Red Cross President Elizabeth Dole stated:

> The American Red Cross supports a comprehensive approach to addressing the needs of those infected with HIV or other transmissible agents through the use of blood components or blood products. For individuals with hemophilia who were infected with HIV before 1985, the American Red Cross believes that finalization of the manufacturers' settlement offer, coupled with the government-funded compensation program outlined in the Ricky Ray legislation, will provide an effective means of immediate help.

A host of other developed countries have established compensation programs to assist individuals with blood-clotting disorders who were infected with HIV by contaminated blood products.

I believe it is now time for the United States—and for this Congress—to take action as well. I encourage my colleagues to cosponsor this legislation, to join the 35 other Members of this body who have already signed on as cosponsors. The Senate Labor Committee is scheduled to have a hearing on this bill on Thursday of this week. Chairman HYDE will be bringing the House bill before the full House Judiciary Committee tomorrow. I would invite my colleagues to examine the hearing record, and learn more about the need for this bill. I believe the case has been made and the case is clear: The Federal Government has a moral duty to help those Americans who counted on the Federal Government to protect the blood supply. No, Mr. President, this bill cannot reverse the tragedies, but it can serve to demonstrate that the Federal Government can be held accountable for its actions.

Mr. President, we often hear that bad things happen to good people. That is something that governments and Congresses will never be able to cure. But in this case, when bad things happened to good people, the U.S. Government played a part in the problem. The U.S. Government should now play a part in the solution—and do something to help these American families.

I thank the Chair.

WYCHE FOWLER'S CONFIRMATION AS UNITED STATES AMBASSADOR TO SAUDI ARABIA

Mr. HOLLINGS. Mr. President, I rise today to congratulate my good friend and former colleague Wyche Fowler on his confirmation as United States Ambassador to Saudi Arabia. This is a great and well-deserved honor for the former Senator from Georgia. Even more important, it is a blessing for America.

Because his was a recess appointment, Wyche Fowler already has served with great distinction and success for over 1 year in Saudi Arabia. President Clinton appointed him to this post just days before the June 25, 1996, terrorist bombing of the United States military residence in Dahran. Although he took the ambassadorship at one of the most tenuous moments in United States-Saudi diplomatic relations, Wyche embraced the challenge and helped cement the United States relationship with Saudi Arabia, one of our most important allies.

Wyche was sworn in as Ambassador on August 16, 1996. His appointment came at an important moment in the relationship between the United States and Saudi Arabia. Despite the difficulties that have surrounded the bombing investigation, he has served his country well and protected American interests in the region with tenacity and skill.

Of course, Mr. President, this is no surprise to those of us who have followed Wyche Fowler's career of public service or worked closely with him during his 16 years in Congress. Elected to the Senate in 1986, Wyche served on the Appropriations, Budget, Energy, and Agriculture Committees. As assistant floor leader, he helped fashion a bipartisan consensus on major public policy issues. Many of us remember Wyche Fowler as an unusually reflective Member of this body, who talked often of conserving our natural resources and energy sources. I can remember listening with humor and fascination as he used electric toothbrushes to point out the danger of decadent applications of technology.

Before becoming the first Atlantan elected to the Senate, Wyche Fowler represented Atlanta's First District in the House of Representatives. First elected in 1977, he served on the Ways and Means and Foreign Relations Committees, as well as the Select Committee on Intelligence and the Congressional Arts Caucus.

Wyche's legislative record is long and distinguished: he tried to stop oil drilling in the Arctic National Wildlife Refuge and protect national wetlands; recodified and strengthened the national historic preservation law; established joint public/private ventures in alternative energy; and ensured interest-free relief for farmers in the Farm Credit System overhaul.

The consensus-building skills Wyche learned in Congress have stood him in good stead in Riyadh. Just as valuable, Mr. President, is his affable personality. All his colleagues in the House and Senate remember Wyche Fowler as a genial and charismatic fellow, not to mention a great singer of hymns and a superb storyteller. In fact, Wyche used to entertain us with the same country songs he performed as a teenager on an Atlanta talent show. Though the Saudis may not appreciate country ballads, I am sure that they will find Wyche Fowler every bit as hard-working, engaging, and honest as the people of Georgia and his colleagues have.

And, Mr. President, Wyche is genuinely fascinated by Saudi Arabia's people and culture. He has begun to learn Arabic, and already has indulged his enthusiasm for Arabian history and archaeology by trekking on camel through the deserts of Saudi Arabia's Empty Quarter.

America is fortunate to have Wyche Fowler as its Ambassador to Saudi Arabia. His diplomatic skills will see us successfully through a delicate and vital period in our relations with that nation. In this instance, Mr. President, Georgia's loss was the Nation's gain.

RETIREMENT OF GENERAL SHALIKASHVILI

Mr. WARNER. Mr. President, on September 30, our Nation witnessed a changing of the guard with the retirement of the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili.

General Shali, as he is affectionately known, served this country with honor and distinction for 39 years, rising from the rank of private to the top military post in our Nation, a record that will inspire the next generation.

For the past 4 years, as Chairman of the Joint Chiefs, he has been the principal military adviser to the President of the United States and the Secretary of Defense during a period when we witnessed a proliferation of new and unknown threats throughout the world.

Those in the Senate who have had the privilege of working closely with him during these years of new challenge will always remember and admire his honesty, his sound judgment, and—most importantly—his concern for the men and women of our Armed Forces and their families.

During the traditional farewell ceremony at Fort Myer, General Shali was honored with the award of the Medal of Freedom and the earned recognition of President Clinton and Secretary of Defense Cohen. I ask unanimous consent that the speeches of Secretary Cohen and President Clinton from General Shali's farewell ceremony be printed in the RECORD.

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

REMARKS OF WILLIAM COHEN, U.S. SECRETARY OF DEFENSE AT FAREWELL CEREMONY FOR CHAIRMAN OF JOINT CHIEFS OF STAFF, SEPTEMBER 30, 1997

Secretary COHEN: Mr. President, Mrs. Clinton, Vice President Gore and Mrs. Gore, Secretary Albright, General McCaffrey, members of Congress, the service secretaries and service chiefs and combatant commanders and spouses, foreign dignitaries and honored guests. Let me pay particular note of former secretary of defense, Bill Perry and Lee, and also former deputy secretary John White and Betty.

Welcome, all of you, and thank you for joining Janet and me in paying tribute to two very special people, John Shalikashvili and his wife, Joan.

Justice Oliver Wendell Holmes said, alas, gentlemen, that is life. We cannot live our dreams. We're lucky enough if we can give a sample of our best, and if in our hearts we can feel it's been nobly done.

Well today, we express our gratitude to a man who has given more than a sample of his best, he's also lived his dreams. His dreams have taken him from the streets of Warsaw that he knew as a child to the corridors of Washington he has walked as chairman, and none of us know how much of our lives are determined by chance or choice or by the guiding hand of providence.

And John Shalikashvili, we only know that he has stood at the crossroads of key moments of history. He was there, a boy of three, when Hitler's tanks rolled into Poland from the west. He was there, a boy of eight, when Stalin's columns rolled in from the east. He was there with his family, fleeing to Germany when he first met the American forces that he would one day come to command.

He was there on the free side of Berlin, the Berlin Wall, when George Marshall built a bridge of help and hope across the Atlantic. Well, John and his family crossed the bridge to a place called Peoria, in the heart of America, and John took America to heart.

To learn the language, he turned to a legend, John Wayne. Imagine this teenage boy in terms of what he saw in those early movies. Perhaps a calling in ''The Sands Of Iwo Jima,'' perhaps the courage of ''The Rider Of Destiny,'' perhaps the character of ''The Quiet Man,'' whose words speak volumes.

Well, this boy grew into a man who would create his own legend. A man of great heart, and yes, true grit. When the times called for bravery and boldness in Vietnam, Major Shali was there leading his comrades against the Viet Cong, winning the bronze star for valor.

When the times called for a firm hand with a human touch to help the Kurds of Iraq, General Shali was there providing comfort and compassion to the sick and to the suffering. When the times called for a new supreme allied commander in Europe with a touch and toughness of a warrior diplomat, General Shali was there reshaping the alliance to meet the demands of a new era.

And then the times called for a new chairman of the joint chiefs of staff, a chairman who could marshal our forces and harness them wisely in a brave new world of great expectation and uneasy peace. And President Clinton wisely chose General Shali, the right man for our time, but also a man with the timeless qualities of military leadership set forth by the first chairman, Omar Bradley.

The qualities of firmness, not harshness; understanding, not weakness; humanness, not intolerance; generosity, not selfishness; pride, not egotism.

Bradley's litany of leadership can be seen shining in Shali's eyes, etched in his brow and painted in the ribbons that brighten his chest and tell his epic story.

Dwight Eisenhower once warned General Bradley that being chairman was the hardest job in Washington.

Mr. President, I'm not sure whether Eisenhower issued that warning before or after he became president. But surely, it has remained one of the hardest jobs in Washington. And for Chairman Shali in his time it was the job of building a military force that was both smaller and better that would remain the best trained, the best led, the best equipped force in the world. It was a job of responding to threats while shaping the world for the better; bringing more democracy to more nations, more stability to more regions, and thus, more security to our nation.

And the service of John Shalikashvili in the cause of freedom has come full circle. The boy who fled his home of Poland for freedom is helping to welcome Poland back home into the family of free nations. Something that has made the job a little less difficult has been the helping hand, the wise counsel and yes, the deep friendship of the vice chairman of the joint chiefs, General Joe Ralston.

The president, General Shali and I rely upon Joe Ralston on a daily basis. And our nation is safer and more secure because of his devotion to duty.

And another person serving at Shali's side is a hero, as we have indicated, in her own right, Joan Shalikashvili.

If being chairman of the joint chiefs is the hardest job in Washington, then being married to him has to be the second hardest. And Joan—through 31 years of love and dedication you two have been there for our troops and their families. No ship has been too far, no base too remote, no soldier too junior than devoting your life to the quality of their lives.

And so, for the miles that you've traveled and the lives you've touched, we are all profoundly grateful.

On the wall in my office hangs a portrait of Joshua Chamberlain who fought in the Civil War with legendary gallantry and generosity of heart. Chamberlain once spoke of developing the kind of character which allows ordinary people to become extraordinary or heroic. He said, we know not of the future and cannot plan for it much. But we can hold our spirits and our bodies so pure and so high, we may cherish such thoughts and such ideals and dream such dreams of lofty purpose that we can determine and know what manner of men we will be whenever and wherever the hour strikes that calls us to noble action.

General Shali, long after the sound of those cannons and the celebration of this day have faded, you can take comfort in knowing that as a result of who you are and what you've given and what all of us have received, that whenever and wherever the hour strikes that calls us to noble action, the men and women of America's military, following your example, will always be there. And they too will give a sample of their best. And like you, they will know in their hearts it's been nobly done.

Thank you.

(Applause)

REMARKS OF PRESIDENT CLINTON AT FAREWELL CEREMONY FOR CHAIRMAN OF JOINT CHIEFS OF STAFF, SEPTEMBER 30, 1997

President CLINTON. Mr. Vice President, Secretary Cohen, Secretary Albright, Secretary Gober, National Security Adviser Berger, Director Tenet, General McCaffrey, to the service secretaries, the joint chiefs, the unified commanders in chief, the members of Congress, the members of our armed forces, to all the friends of General Shalikashvili who are here today, including former Secretary Perry, former chairmen and members of the joint chiefs, former officials of the Department of Defense, we all come together in grateful tribute to John and Joan Shalikashvili.

This is, frankly, a bittersweet day for me. I am full of pride but also some regret. For the last four years I have counted on Shali for his wisdom, his counsel, his leadership. He has become an exceptional adviser and a good friend, someone I knew I could always depend upon when the lives of our troops or the interests of America were on the line, and I will miss him very much.

General Shali is a great American with a great American story. A childhood seared by war, he has given his life to the cause of peace.

From an immigrant learning English, he has become the shining symbol of what America is all about. He's never forgotten what his country gave him nor has ever stopped giving back to it. His service to our nation spanning 39 years rises from the ranks of Army private to the highest military officer in the land.

Of course, the road even for him has not always been smooth. I am told that after a grueling first day at Officer Candidate School, Private John Shali sneaked out of his barracks looking for a place to resign. Our nation can be very grateful that probably for the only time in his entire career, he failed in his mission.

I am convinced that when future students look back upon this time, they will rank John Shalikashvili as among the greatest chairmen of the joint chiefs of staff America ever had.

Greatness is something that cannot be bestowed like a medal, a ribbon, a star. It cannot be taught or bought. It comes in the end only from within. General Shali has said that the three indispensable traits of a great leader are confidence, care and character. He ought to know. He embodies them.

His confidence shines in a sterling record of innovation and achievement—managing the downsizing of our forces while upgrading their capability and readiness; upholding the most rigorous standards for the use of those forces in the world where threats to our survival have faded, but threats to our interests and values have not; dramatically improving joint doctrine and training and taking joint planning far into the future for the very first time; and of course, helping bring Europe together at last in liberty, democracy and peace.

One of the proudest moments of my presidency was standing with Shali in Warsaw as we celebrated NATO's enlargement and welcomed the people of his original homeland back home to the family of freedom.

And if the baseline measure of a chairman's competence is successful military operations, Shali has filled a resume that would turn others all a drab with envy.

In the last four years, our troops have been tested in more than 40 operations. From Bosnia to Haiti, the Taiwan straits, Iraq, Rawanda, Liberia and more, our armed forces have performed superbly with Shali at the helm.

Our troops trust him because they know him, how much he cares for them. They have seen that caring in his constant contact with our service men and women; in the way he warms their hearts with his pride in them; and the humility, the honesty, the graciousness, the respect he always shows to others; in the wonderful way he listens—even to bearers of bad news.

Our troops know that he never expects their gratitude or applause, but he does want to sharpen their capabilities, improve their welfare and lift their morale, and in his most important duty, to make sure that whenever they go into danger, the planning is superb, the risks are minimized, and every reasonable measure is taken to ensure their success and safe return.

For Shali, caring transcends our obligations even to one another. He believes in America's unique ability to help others around the world, sheltering freedom, defending democracy, relieving fear and despair.

He knows that what sets our troops apart is not just their courage, strength and skill, but also the ideal they serve, the hope they inspire, the spirit they represent.

As some may recall, during the crisis in Haiti, Shali visited with refugees in the camps observing and listening with quiet understanding, the quiet understanding of one who had also been in that position. And he ordered improvements to make those camps as comfortable as possible, to alleviate boredom and brighten hopes and bring toys to the children at Christmas.

That story also reveals something about his character, a clear sense of what is right and wrong, a man who's conscience is always his guide.

I'll miss a lot of things about Shali, but perhaps most of all, I'll miss the integrity he always displayed in being my closest military adviser.

In every conversation we have ever had, he never minced words, he never postured or pulled punches, he never shied away from tough issues or tough calls. And most important, he never shied away from doing what he believed was the right thing.

On more than one occasion, many more than one occasion, he looked at me. I could see the pain in his eyes that he couldn't tell me what I wanted to hear and what he wished he could say. But with a clear and firm voice and a direct piercing gaze, he always told me exactly what he thought the truth was.

No president could ever ask for more.

Shali has had the support of a proud and dedicated family.

His son, Brandt; his brother, himself a distinguished green beret veteran; his sister; and of course, there are his dogs. I understand that they are the only living creatures who have never obeyed his orders.

And most importantly, there is Joan. Joan, you have been a terrific support for our men and women in uniform.

They know you are always looking out for them and their families, from around the corner to around the world. You were the chairman's personal inspector general. When it came to how families are cared for, no one had more commitment, a better eye or a bigger heart, and we thank you.

General, very soon now, you and Joan will be settling into your new home in Washington State. You can tuck your uniform into a drawer. You can carry an umbrella. You can even grow a beard.

Maybe you'll actually even open that hardware store you'd been talking about. I don't know if you know the first thing about power tools or mixing paint, but the brand you have to offer is the top of the line.

Our nation is safer. Our armed forces are stronger, and our world is a better place because of your service. Thank you for all you have done.

God bless you, and Godspeed.

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 4:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1227. An act to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3270. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, two rules received on October 16, 1997; to the Committee on the Judiciary.

EC–3271. A communication from the Director of the Executive Office for United States Trustees, Department of Justice, transmitting, pursuant to law, a rule entitled ''Procedures for Suspension and Removal of Panel Trustees and Standing Trustees'' received on October 16, 1997; to the Committee on the Judiciary.

EC–3272. A communication from the Assistant Attorney General (Office of Legislative Affairs), transmitting, a draft of proposed legislation entitled ''The National Crime Prevention and Privacy Compact''; to the Committee on the Judiciary.

EC–3273. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report of the administration of the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–3274. A communication from the Chairman of the National Bankruptcy Review Commission, transmitting, pursuant to law, a report and recommendations; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 940. A bill to provide for a study of the establishment of Midway Atoll as a national memorial to the Battle of Midway, and for other purposes (Rept. No. 105–114).

H.R. 765. A bill to ensure maintenance of a herd of wild horses in Cape Lookout National Seashore (Rept. No. 105–115).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998'' (Rept. No. 105–116).

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. TORRICELLI (for himself, Mr. GRAHAM, Mr. MACK, Mr. SARBANES, and Mr. LAUTENBERG):

S. 1321. A bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1322. A bill to establish doctoral fellowships designed to increase the pool of scientists and engineers trained specifically to address the global energy and environmental challenges to the 21st century; to the Committee on Labor and Human Resources.

By Mr. HARKIN:

S. 1323. A bill to regulate concentrated animal feeding operations for the protection of the environment and public health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LOTT:

S. 1324. A bill to deauthorize a portion of the project for navigation, Biloxi Harbor,

Mississippi; to the Committee on Environment and Public Works.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. BURNS, and Mr. HOLLINGS):

S. 1325. A bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 1326. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. HAGEL, Mr. THOMAS, Mr. KERRY, and Mr. AKAKA):

S. 1327. A bill to grant normal trade relations status to the People's Republic of China on a permanent basis upon the accession of the People's Republic of China to the World Trade Organization; to the Committee on Finance.

By Mr. INOUYE:

S. 1328. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself, Mr. GRAHAM, Mr. MACK, Mr. SARBANES, and Mr. LAUTENBERG):

S. 1321. A bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL ESTUARY CONSERVATION ACT OF 1997

Mr. TORRICELLI. Mr. President, today, Senators GRAHAM, MACK, SARBANES, LAUTENBERG, and I are introducing the National Estuary Conservation Act. I rise to draw this country's attention to our nationally significant estuaries that are threatened by pollution, development, or overuse. With 45 percent of the Nation's population residing in estuarine areas, there is a compelling need for us to promote comprehensive planning and management efforts to restore and protect them.

Estuaries are significant habitat for fish, birds, and other wildlife because they provide safe spawning grounds and nurseries. Seventy-five percent of the U.S. commercial fish catch depends on estuaries during some stage of their life. Commercial and recreational fisheries contribute $111 billion to the Nation's economy and support 1.5 million jobs. Estuaries are also important to our Nation's tourist economy for boating and outdoor recreation. Coastal tourism in just four States—New Jersey, Florida, Texas, and California—totals $75 billion.

Due to their popularity, the overall capacity of our Nation's estuaries to function as healthy productive ecosystems is declining. This is a result of the cumulative effects of increasing development and fast-growing year-round populations which increase dramatically in the summer. Land development, and associated activities that come with people's desire to live and play near these beautiful resources, cause runoff and stormwater discharges that contribute to siltation, increased nutrients, and other contamination. Bacterial contamination closes many popular beaches and shellfish harvesting areas in estuaries. Also, several estuaries are afflicted by problems that still require significant research. Examples include the outbreaks of the toxic microbe, Pfiesteria piscicida, in rivers draining to estuaries in Maryland and Virginia.

Congress recognized the importance of preserving and enhancing coastal environments with the establishment of the National Estuary Program in the Clean Water Act Amendments of 1987. The program's purpose is to facilitate State and local governments preparation of comprehensive conservation and management plans for threatened estuaries of national significance. In support of this effort, section 320 of the Clean Water Act authorized the EPA to make grants to States to develop environmental management plans. To date, 28 estuaries across the country have been designated into the program. However, the law fails to provide assistance once plans are complete and ready for implementation. Already, 17 of the 28 plans are finished.

As the majority of plans are now in the implementation stage, it is incumbent upon us to maintain the partnership the Federal Government initiated 10 years ago to insure that our nationally significant estuaries are protected. The legislation we are introducing will take the next step by giving EPA authority to make grants for plan implementation and authorize annual appropriations in the amount of $50 million. To insure the program is a true partnership and leverage scarce resources, there is a direct match requirement for grant recipients so funds will be available to upgrade sewage treatment plants, fix combined sewer overflows, control urban stormwater discharges, and reduce polluted runoff into estuarine areas.

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. 1321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL ESTUARY PROGRAM.

(a) GRANTS.—Section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting activities necessary for the development and implementation of a comprehensive conservation and management plan under this section.

''(3) FEDERAL SHARE.—The Federal share of a grant to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year—

''(A) shall not exceed—

''(i) 75 percent of the annual aggregate costs of the development of a comprehensive conservation and management plan; and

''(ii) 50 percent of the annual aggregate costs of the implementation of the plan; and

''(B) shall be made on condition that the non-Federal share of the costs are provided from non-Federal sources.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended by striking ''$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991'' and insert ''$50,000,000 for each of fiscal years 1999 through 2004''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1998.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1322. A bill to establish doctoral fellowships designed to increase the pool of scientists and engineers trained specifically to address the global energy and environmental challenges of the 21st century; to the Committee on Labor and Human Resources.

THE SENATOR PAUL E. TSONGAS FELLOWSHIP ACT

Mr. KENNEDY. Mr. President, it is a privilege to introduce the Paul E. Tsongas Fellowship Act. This bill commemorates an outstanding leader and former colleague in the Senate who was an impressive and dedicated advocate of technology and environmental protection. Congressman JOE KENNEDY is the sponsor of a companion bill in the House of Representatives.

As a Senator, Paul Tsongas worked skillfully to guarantee that technology and environmental concerns are at the forefront of our country's priorities. He was an extraordinary leader who understood the importance of addressing the serious energy and environmental challenges we face at home and around the world. Today, we honor his commitment to these important priorities by proposing a national fellowship program to support graduate students in science and engineering.

As a nation, we need to do more to encourage the best students to pursue graduate studies in these basic fields, which are so essential to a strong future for the Nation. As much as 50 percent of economic growth is attributed to technological innovation. The Paul E. Tsongas Fellowship will support the modern pioneers who will keep the Nation at the cutting edge of the technology revolution.

The fellowship is modeled on the successful Office of Naval Research Graduate Fellowship Program, which over the past 15 years has provided fellowships to 592 graduate students in 11 disciplines, and has made significant contributions to research. The Tsongas fellowships in science and engineering can

make a comparable contribution in these fields. They will enhance our efforts to improve educational opportunity for students, and strengthen our country's economy by investing wisely in the future.

The Tsongas fellowships will be a living memorial to one of the outstanding Senators of our time, and I hope that Congress will act quickly on this important legislation.

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. 1322

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 ''Paul E. Tsongas Fellowship Act''.

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to encourage individuals of exceptional achievement and promise, especially members of traditionally underrepresented groups, to pursue careers in fields that confront the global energy and environmental challenges of the 21st century.

SEC. 3. DOCTORAL FELLOWSHIPS AUTHORIZED.

(a) PROGRAM AUTHORIZED.—The Secretary of Energy is authorized to award doctoral fellowships, to be known as Paul E. Tsongas Doctoral Fellowships, in accordance with the provisions of this Act for study and research in fields of science or engineering that relate to energy or the environment such as physics, mathematics, chemistry, biology, computer science, materials science, environmental science, behavioral science, and social sciences at institutions proposed by applicants for such fellowships.

(b) PERIOD OF AWARD.—A fellowship under this section shall be awarded for a period of three succeeding academic years, beginning with the commencement of a program of doctoral study.

(c) FELLOWSHIP PORTABILITY.—Each Fellow shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(d) NUMBER OF FELLOWSHIPS.—As many fellowships as may be fully funded according to this Act shall be awarded each year.

(e) DESIGNATION OF FELLOWS.—Each individual awarded a fellowship under this Act shall be known as a ''Paul E. Tsongas Fellow'' (hereinafter in this Act referred to as a ''Fellow'').

SEC. 4. ELIGIBILITY AND SELECTION OF FELLOWS.

(a) ELIGIBILITY—Only United States citizens are eligible to receive awards under this Act.

(b) FELLOWSHIP BOARD.—

(1) APPOINTMENT.—The Secretary, in consultation with the Director of the National Science Foundation, shall appoint a Paul E. Tsongas Fellowship Board (hereinafter in this part referred to as the ''Board'') consisting of 5 representatives of the academic science and engineering communities who are especially qualified to serve on the Board. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in graduate education in relevant fields.

(2) DUTIES.—The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) establish general criteria for awarding fellowships;

(C) award fellowships; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(4) TERM.—The term of office of each member of the Board shall be 3 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel-time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) UNDERREPRESENTED GROUPS.—In designing selection criteria and awarding fellowships, the Board shall—

(1) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups that have been traditionally underrepresented in the professional and academic fields referred to in section 2, but nothing contained in this or any other provision of this Act shall be interpreted to require the Secretary to grant any preference or disparate treatment to the members of any underrepresented group; and

(2) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of women and minority groups.

SEC. 5. PAYMENTS, STIPENDS, TUITION, AND EDUCATION AWARDS.

(a) AMOUNT OF AWARD.—

(1) STIPENDS.—The Secretary shall pay to each individual awarded a fellowship under this Act a stipend in the amount of $15,000, $16,500, and $18,000 during the first, second, and third years of study, respectively.

(2) TUITION.—The Secretary shall pay to the appropriate institution an amount adequate to cover the tuition, fees, and health insurance of each individual awarded a fellowship under this Act.

(3) ADMINISTRATIVE AND TRAVEL ALLOWANCE.—The Secretary shall pay to each host institution an annual $5,000 allowance for the purpose of covering—

(A) administrative expenses;

(B) travel expenses associated with Fellow participation in academic seminars or conferences approved by the host institution; and

(C) round-trip travel expenses associated with Fellow participation in the internship required by section 6 of this Act.

SEC. 6. REQUIREMENT.

Each Fellow shall participate in a 3-month internship related to the dissertation topic of the Fellow at a national laboratory or equivalent industrial laboratory as approved by the host institution.

SEC. 7. FELLOWSHIP CONDITIONS.

(a) ACADEMIC PROGRESS REQUIRED.—No student shall receive support pursuant to an award under this Act—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress toward a degree.

(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this Act. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, or other research center, stating that such individual is fulfilling the requirements of this section.

(c) FAILURE TO EARN DEGREE.—A recipient of a fellowship under this Act found by the Secretary to have failed in or abandoned the course of study for which assistance was provided under this Act may be required, at the discretion of the Secretary, to repay a pro rata amount of such fellowship assistance received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for this Act $5,000,000 for fiscal year 1998 and such sums as may be necessary for the succeeding fiscal years.

SEC. 9. APPLICATION OF GENERAL EDUCATIONAL PROVISIONS ACT.

Section 421 of the General Educational Provisions Act, pertaining to the availability of funds, shall apply to this Act.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) The term ''Secretary'' means the Secretary of Energy.

(2) The term ''host institution'' means an institution where a Paul E. Tsongas Fellow is enrolled for the purpose of pursuing doctoral studies for which support is provided under this Act.

By Mr. HARKIN:

S. 1323. A bill to regulate concentrated animal feeding operations for the protection of the environment and public health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE ANIMAL AGRICULTURE REFORM ACT

Mr. HARKIN. Madam President, today I am introducing the Animal Agriculture Reform Act, a bill that for the first time sets tough environmental standards governing how large livestock and poultry operations handle their animal waste. Animal waste pollution is a national problem that demands a national solution.

Nationwide, 200 times more animal manure is produced than human waste—five tons for every person in the

United States—making large livestock operations the waste equivalent of a town or city. For example, 1,600 dairies in the Central Valley of California produce more waste than a city of 21 million people. And right here outside of Washington, DC, the annual production of 600 million chickens on the Delmarva Peninsula leaves as much nitrogen as a city of almost 500,000 people.

The shrinking number of farms producing an ever greater share of animals means that too much manure is produced in some areas of the country to be put on land without causing water pollution. Nitrogen and phosphorous in animal manure are valuable crop nutrients—but in excessive levels in water they are serious pollutants.

High levels of nitrogen and phosphorous cause the excessive algae growth of algae, whose bacterial decomposition uses up oxygen in the water and kills fish. Animal waste also carries parasites, bacteria and viruses—and can pollute drinking water with nitrates, potentially fatal to infants.

While towns must have sewage treatment plants, excess waste from large-scale animal feeding operations is simply stored indefinitely or over-applied on land. That means water pollution from over-application, and the ongoing risk of pollution and even massive spills from stored waste.

In 1995 in North Carolina 35 million gallons of animal waste were spilled, killing 10 million fish. And last year more than 40 animal waste spills were recorded in Iowa, Minnesota and Missouri, up from 20 in 1992.

In 1997, the toxic microbe Pfiesteria, whose increased presence is linked to excessive nutrients in the water, killed approximately 30,000 fish in the Chesapeake Bay and approximately 450,000 fish in North Carolina. Major attacks by harmful microbes in U.S. coastal and estuarial waters between 1972 and 1995 have doubled—and excessive nutrients are the suspected catalyst.

In the Gulf of Mexico, farm runoff including animal waste is linked to the formation of a so-called ''dead zone'' of hypoxia (low oxygen)—up to 7,000 square miles of water that cannot support most aquatic life.

The Environmental Protection Agency's regulations in this area have not been revised since they were written in the 1970s, and they do not go nearly far enough to address current animal waste problems.

Animal waste management practices must include limiting the application of both phosphorous and nitrogen to amounts that can be used by crops. In addition, environmentally sound standards are needed for the handling, storage, treatment and disposal of excess animal waste.

Under my bill, large animal feeding operations must submit an individual animal waste management plan to USDA designed to minimize the risk of surface and ground water pollution. My bill would require that USDA work with farmers in developing plans to address potential problems before they happen. USDA will do this by establishing guidelines and providing technical assistance and information to develop farm-specific plans to be approved on an individual basis.

I am using the term animal waste, but it is important that we recognize that manure is a valuable resource for farmers who need nutrients for their crops. Promoting wise use of manure for crop nutrients is the guiding principle of my bill. For a plan to be approved, an operator must agree to apply animal waste to land only in amounts meeting crop nutrient requirements. Furthermore, liquid waste that cannot be safely used for nutrients or another environmentally sound use must be treated in accordance with waste water treatment standards.

My bill also applies sound technical standards to the construction of all new earthen manure lagoons to prevent leaks and spillage of animal waste. Existing earthen manure lagoons are given a reasonable phase-in period to meet appropriate standards.

In addition, my bill puts the burden of complying with these requirements on the animal owners. The bill would prevent animal owners from using contracts or similar arrangements to avoid responsibility for animal waste management.

The bill covers operations with an approximate one-time animal capacity above 1,330 hogs; 57,000 chickens; 270 dairy cattle; or 530 slaughter cattle. Each animal owner with at least that many animals must submit a waste management plan to USDA for approval, whether or not the animals are kept in one place. Animal feeding operations under those sizes will qualify under USDA's Environmental Quality Incentives Program for additional technical and cost-share assistance to implement animal waste management plans.

I want to be clear that my bill does not interfere with the role of EPA and the States in monitoring pollution, or is it a substitute for EPA strengthening its current regulations. I see it as an essential part of a cooperative approach to the problem by both EPA and USDA—and I look forward to EPA's proposals in this area. I also look forward to reviewing the recommendations of the National Environmental Dialogue on Pork Production, which is working on these issues in great detail.

We must take strong action now to halt the pollution of our water from animal waste and other farm runoff. Other issues that are outside the scope of this bill also need to be addressed, including management of municipal and industrial wastewater and more careful application of commercial fertilizers. My proposal is one part of a national solution to our water quality concerns.

By Mr. LOTT:

S. 1324. A bill to deauthorize a portion of the project for navigation, Biloxi Harbor, MS; to the Committee on Environment and Public Works.

DEAUTHORIZATION LEGISLATION

Mr. LOTT. 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. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BILOXI HARBOR, MISSISSIPPI.

The portion of the project for navigation, Biloxi Harbor, Mississippi, authorized by the River and Harbor Act of 1960 (74 Stat. 481), for the Bernard Bayou Channel beginning near the Air Force Oil Terminal at approximately navigation mile 2.6 and extending downstream to the North-South ½ of Section 30, Township 7 South, Range 10 West, Harrison County, Mississippi, just west of Kremer Boat Yards, is not authorized after the date of enactment of this Act.

By Mr. FRIST (for himself, Mr. ROCKFELLER, Mr. BURNS, and Mr. HOLLINGS):

S. 1325. A bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

Mr. FRIST. Mr. President, I rise today to offer a bill to authorize appropriations for the Technology Administration [TA] of the Department of Commerce for fiscal year 1998 and 1999. This bill funds activities in the National Institutes of Standards and Technology [NIST].

I am keenly aware of my responsibilities to the American people for ensuring that the people's money is spent wisely. I have a responsibility to exercise prudent fiscal management over programs that cost taxpayers millions of dollars each year. Each program must be examined, and wasteful, ineffective programs must be changed or eliminated. I also have a responsibility to make appropriate long term investments that will help Americans create the technology and wealth of tomorrow. I view both of these duties as part of the principle of ''wise stewardship'. The TA legislation represents a challenging application of wise stewardship. This bill covers some of the most productive and necessary areas of governments, as well as a few of the most controversial.

There is no question that the work done by NIST's Standards Laboratory is essential to U.S. commerce. These laboratories house of the best scientific minds in the world. A perfect example is the award of the 1997 Nobel Prize for Science to Dr. William Phillips in the area of low temperature physics. His accomplishment, as well as the achievements of the world class scientific cadre at NIST are reminders of

the necessity for investment in the Standards Laboratory, the people most of all, but the buildings and infrastructure as well. This legislation provides for continued investment into this research and those services

The reauthorization bill contains a provision to add accountability and controls to the new Experimental Program to Stimulate Competitive Technology [EPSCoT] program. Modeled after National Science Foundation's successful and effective EPSoR program, the goal of EPSCoT is to increase the technological competitiveness of these States that have historically received less Federal research and development funds than the majority of the States. While I believe that the aims of this program are good, we cannot afford to put this or any other Federal grant program on automatic pilot. Our legislation contains a graduations criteria, that moves a State out of the program when that State has become competitive. The bill contains a provision that mandates periodic evaluation of this program. Using this data we can tell if and when the program ceases to be effective. If that happens we have the information needed to see if the program can be fixed, or should be terminated.

This legislation contains provisions for two programs that have been particularly contentious: the Advanced Technology Program [ATP], and the manufacturing Extension Program [MEP]. Both are technology enhancement programs designed with the intent of increasing the ability of U.S. firms to compete in the global marketplace.

Under existing law each MEP center is funded for a maximum of 6 years. This legislation removes the hard and fast sunset provision and replaces it with a 2-year renewal cycle. Each center must win renewal, and with it eligibility for Federal funds by receiving a satisfactory grade from this new biennial review. If the center is not fulfilling its expectation for assistance of manufacturing technology, then it will fail its review and will not be able to receive Federal funding.

The Advanced Technology Program has been improved under this legislation. Large companies will no longer be able to participate as single applicants. They must partner with one or more small businesses in order to be eligible to apply for an ATP grant. This provision maximizes the benefit of this program by encouraging the transfer of technology and expertise from large businesses to the most dynamic section of our economy—small business. The legislation also takes steps to ensure that ATP does not displace private venture capital. finally, the bill takes an important step to continued evaluation and possible evolution of the program. It instructs the Department of Commerce to commission the National Academy of Sciences to study the effectiveness of the Advanced Technology Program. In addition the study will investigate alternative methods for the Federal Government to help keep U.S. businesses competitive.

Finally, the TA NIST reauthorization bill creates a new educational resource for the country. There has never been a time in our country's history when science and technology has been more important. It is playing an increasingly critical role in our economy, and most of all to our economic future. It is all too clear that our children are not well enough prepared to take their places as part of the world's scientific leaders. As the recent NAEP and TIMSS science results show, there is a gap between our children's science abilities and those from other countries. In this bill, we have created the Teacher Science and Technology Enhancement Institute Program to help bridge that gap. The program is structured to afford primary and secondary educators the chance to become reacquainted with science. Armed with fresh experiences, the teachers will be better equipped to excite our children about technology and scientific inquiry. This is an investment that we cannot afford to pass up.

I believe that this legislation embodies the concept of wise stewardship. The bill reflects input that we have received from my colleagues in the Senate, the House and the administration. More importantly, we have heard from constituents from my own State of Tennessee, as well as businesses, professional groups and academia from around the country. I am sure that the result will not please everyone. I believe, however, that it represents a necessary step in the constant evolution of these Federal programs. I take my congressional oversight obligations extremely seriously. Creating responsible, fair, timely authorizing legislation is a key part of that obligation. I believe that this legislation meets these requirements. I hope you will join me in honoring our obligation to the American people by supporting this legislation.

Mr. ROCKEFELLER. Mr. President, I rise today to join my colleagues Senator FRIST, Senator HOLLINGS, Senator BURNS in introducing legislation to reauthorize the programs of the Technology Administration for fiscal years 1998 and 1999. This bill reauthorizes the Office of Science and Technology Policy as well as the NIST labs and facilities about the President's budget request. It also funds the Advanced Technology Program at $198 million and the Manufacturing Extension Program at $111 million.

It is noteworthy that after several hearings on ATP, and after assessing Secretary of Commerce Daley's detailed review of the program, we are now putting forward a bill that continues to authorize this important form of investment in America's economic competitiveness. As I, along with many others in this Chamber, have stated before, this program supports American industry's own efforts to develop new, cutting-edge technologies which create the new industries and jobs of the 21st century.

Let me remind my colleagues that ATP does not, and I repeat, does not fund the development of commercial products. Instead, this program provides matching funds to both individual companies and joint ventures for pre-product research on high-risk technologies which have the potential to place U.S. industry as the leader in new industrial areas. This high-risk, high-reward strategy has already led to the creation of new U.S. industries based on information transfer, biotechnology, and new materials synthesis.

In spite of the merits of this program ATP has been criticized by some Members for the past 4 years of the program's 6 years of existence. This year Secretary Daley undertook a 60-day review to assess the ATP's performance and evaluate these criticisms. The Department of Commerce solicited comments from more than 3,500 interested parties and took into account comments provided by both critics and supporters of the program. fact, Senators LIEBERMAN, DOMENICI, FRIST and I joined together and provided one of the 80-plus comments the Department received. I would like to take a moment and commend Secretary Daley for the job he did in undertaking this review. As we all know, there is not a department or program that can't be improved. And as a long time and avid supporter of ATP I believe, that after 6 years of operation, experience would suggest that there should be some areas that can be improved. This review has done just that. The recommendations that Secretary Daley has put forth further strengthens a strong and productive program. I agree with his suggestion to place more emphasis on small and medium-size single applicants, joint-ventures, and consortia. This bill adopts that recommendation by amending the National Institute of Standards and Technology Act to define a large business as one with gross annual revenues in excess of $2.5 billion and prohibits such businesses from participating in ATP programs as single applicants.

In addition, I was pleased to see the added emphasis by the Secretary on the need for an EPSCoT program, based on the EPSCoR model, which would enhance technology development in the 18 States that have traditionally been under-represented in Federal R&D funding. EPSCoT would provide the opportunity for States which have been able to build infrastructure capable of supporting high-tech research to use this infrastructure to its maximum advantage. Studies have shown that strengthening the competitive performance of research laboratories, usually universities, in an underdeveloped area, which is the purpose of EPSCoR, is often not sufficient to establish new, high-tech companies. EPSCoT seeks to assist in technology

transfer to the local economy by encouraging links between universities, local businesses, and local and State governments. Unlike ATP, which focuses on the national economic interest in research and development, EPSCoT focuses on allowing under-represented States the opportunity to participate in the technological revolution that is sweeping the global economy. In order to help the success of the program, Governors, business leaders and researchers were consulted about the importance of technology transfer for economic development. This bill provides statutory language to implement the Secretary's proposal of creating the EPSCoT program.

Secretary Daley's review could not have been done at a better time. After 6 years of existence, a thorough and complete review of the process has shown that is it competently managed, produces positive results and has been working to achieve it's stated objectives. The proposals set forth in this review strengthen a very strong program that is one of the cornerstones to the Nation's long-term economic prosperity. The bill we are introducing today provides the necessary changes to existing law to implement many of the recommendations. I encourage my colleagues to support this bill.

By Mr. DASCHLE:

S. 1326. A bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

THE MEDICAID NURSING INCENTIVE ACT

Mr. DASCHLE. Mr. President, today I am reintroducing the Medicaid Nursing Incentive Act, a bill to provide direct Medicaid reimbursement for nurse practitioners and clinical nurse specialists.

This legislation eliminates a groundless and counterproductive anomaly in Medicaid payment policy. Under current law, State Medicaid programs can exclude certified nurse practitioners and clinical nurse specialists from Medicaid reimbursement, even though these practitioners are fully trained to provide many of the same services as those provided by primary care physicians. This loophole is both discriminatory and shortsighted; it severs a critical access link for Medicaid beneficiaries.

The ultimate goal of this proposal is to enhance the availability of cost-effective primary care to our Nation's most needy citizens.

Studies have documented the fact that millions of Americans each year go without the health care services they need, because physicians simply are not available to care for them. This problem plagues rural and urban areas alike, in parts of the country as diverse as south central Los Angeles and Lemmon, SD.

Medicaid beneficiaries are particularly vulnerable, since in recent years an increasing number of health professionals have chosen not to care for them or have been unwilling to locate in the inner-city and rural communities where many of the beneficiaries live. Fortunately, there is an exception to this trend: nurse practitioners and clinical nurse specialists frequently accept patients whom others will not treat and serve in areas where others refuse to work.

Studies have shown that nurse practitioners and clinical nurse specialists provide care that both patients and cost cutters can praise. Their advanced clinical training enables them to assume responsibility for up to 80 percent of the primary care services usually performed by physicians, many times at a lower cost and with a high level of patient satisfaction.

Congress has already recognized the expanding contributions of nurse practitioners and clinical nurse specialists. For more than a decade, CHAMPUS has provided direct payment to nurse practitioners. In 1990, Congress mandated direct payment for nurse practitioner services under the Federal employee health benefits plan. The Medicare Program, which already covers nurse practitioners and clinical nurse specialist services in rural areas, was modified under this year's Balance Budget Act to provide coverage for these services in all geographic areas. The bill I am introducing today establishes the same payment policy under Medicaid.

Mr. President, the ramifications of this issue extend beyond the Medicaid Program and its beneficiaries: there is a broader lesson here that applies to our search to make cost-effective, high-quality health care services available and accessible to all Americans.

One of the cornerstones of this kind of care is the expansion of primary and preventative care, delivered to individuals in convenient, familiar places where they live, work, and go to school. More than 2 million of our Nation's nurses currently provide care in these sites—in home health agencies, nursing homes, ambulatory care clinics, and schools.

In places like South Dakota, nurses are often the only health care professionals available in the small towns and rural counties across the State.

These nurses and other nonphysician health professionals play an important role in the delivery of care. And, this role will increase as we move from a system that focuses on the costly treatment of illness to one that emphasizes primary and preventive care and health promotion.

But, first, we must reevaluate outdated attitudes and break down barriers that prevent nurses from using the full range of their training and skills in caring for patients. In 1994, the Pew Health Professions Commission concluded that nurse practitioners are not being fully utilized to deliver primary care services. The commission recommended eliminating fiscal discrimination by paying nurse practitioners directly for the services they provide. This step will help nurse practitioners and clinical nurse specialists expand access to the primary care that so many communities currently lack.

Mr. President, I hope my colleagues will support the measure I am introducing today, recognizing the critical role that nurse practitioners and other nonphysician health professionals play in our health care delivery system, and the increasingly significant contribution they can make in the future. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Section 1905(a)(21) of the Social Security Act (42 U.S.C. 1396d(a)(21)) is amended to read as follows:

''(21) services furnished by a certified nurse practitioner (as defined by the Secretary) or clinical nurse specialist (as defined in subsection (v)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;''.

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(v) The term 'clinical nurse specialist' means an individual who—

''(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

''(2) holds a master's degree in a defined area of clinical nursing from an accredited educational institution.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1998.

By Mr. ROTH (for himself, Mr. HAGEL, Mr. THOMAS, Mr. KERRY, and Mr. AKAKA):

S. 1327. A bill to grant normal trade relations status to the People's Republic of China on a permanent basis upon the accession of the People's Republic of China to the World Trade Organization; to the Committee on Finance.

THE CHINA TRADE RELATIONS ACT OF 1997

Mr. ROTH. Mr. President, I rise today for myself and Senators HAGEL, THOMAS, JOHN KERRY, and AKAKA to introduce legislation that will grant normal trade relations to the People's Republic of China on a permanent basis when China accedes to the World Trade Organization.

Today, President Jiang arrives in Washington for the first bilateral summit in 8 years. Exchange at the highest levels is critical to the maintenance of

any of our important bilateral relationships. It is even more crucial in our relationship with the world's largest country, fastest growing economy, and most important rising power.

Mr. President, this body has spent a great deal of energy debating United States policy toward China, cresting each year with the struggle over renewal of normal trade relations. I have always supported such renewal, and viewed the annual debate as a singularly unproductive means of moving the United States toward a coherent China policy. I say that because, besides regular high-level exchange, normal trade relations with China are essential to any coherent China policy, one that keeps our economy strong and engages Beijing in constructive reform.

Currently, the United States is negotiating with China over the package of measures Beijing must implement to comply with the strict market-based rules of the World Trade Organization. Until the United States is satisfied with commitments from China on such issues as lower tariff levels and enhanced market access, and assured that Beijing can and will carry out those commitments, China will not gain entry to the WTO.

The concessions China must make to gain United States approval are significant and will dramatically affect large segments of China's economy. The single most important economic benefit Beijing will derive from membership in the World Trade Organization is permanent normal trade relations—also known as most-favored-nation trading status—with every other WTO member. As a practical matter, however, every member economy of the World Trade Organization, except the United States, has already conferred on China permanent normal trade relations. Moreover, the United States has provided normal trade relations to China 1 year at a time for more than 15 years. However, until China is specifically removed from the limitations of title IV of the Trade Act of 1974, Beijing cannot receive permanent normal trade relations from the United States, whatever China's status in the WTO.

The resulting ambiguity over China's trade status with the United States hinders Beijing's willingness to make the significant concessions necessary to complete a commercially viable WTO accession package. A clear signal from the United States that China will, in fact, gain permanent normal trade relations upon its accession to the World Trade Organization will provide Beijing an incentive to make those concessions.

Mr. President, it is crucial that we understand that China's membership in the WTO under commercially viable terms is wholly in the interest of the United States. That is because China will be forced to open its markets significantly to American trade and investment. And more fully open markets represent the best approach to reducing our current trade deficit with China. China's membership in the World Trade Organization will also make Beijing fully subject to the market-oriented disciplines of the WTO. Finally, our bilateral trade disputes with China will be subject to multilateral resolution mechanisms, in addition to the means we already have available under United States trade law.

China is the world's 10th largest trading country. It is the largest economy not in the World Trade Organization. Regardless of its WTO status, China will have a major influence on the future development of the world trading system. I believe the time has come for Congress to recognize the importance of integrating China into the global economy.

Our bilateral economic relationship is the most important means we have of integrating China fully into the world economy and the international political order. The United States is one of the top five sources of foreign investment in China. That investment is not limited to the special economic zones, but now takes place throughout China and across every major industry. Our businesses are linked in investment and in trading relationships that provide a vehicle for common effort and common understanding at the most practical and personal levels.

China also represents a growing economic and political influence in a region of critical importance to the United States. The Asia-Pacific region now represents over 40 percent of world trade and 53 percent of world gross national product. Trans-Pacific trade is more than twice as large as trans-Atlantic trade. The Asia-Pacific region economies, including the United States and China, are becoming increasingly interdependent. The region now represents the largest market for United States exports—over $130 billion by some estimates. The predicate to our ability to encourage China to play a constructive role in the region is our willingness to redefine our bilateral economic relationship through the WTO accession process and the normalization of our trade relations under United States law.

A China more fully immersed in global capitalism is more likely to behave in ways compatible with American interests and international norms. We have seen this reality throughout Asia as countries have made major reforms in opening their economies and joined us at the table of democratic freedom. Moreover, without permanent normal trade relations, not only will we have less influence over the role China chooses to play on the global stage, we will also be left on the sidelines of China's economic growth.

We cannot passively accept abuses of human rights, religious persecution, or the many other problems we have with China that must be addressed and corrected. But neither must we neglect the many issues and problems where our interests converge, including the stability in the Asia Pacific that undergirds the region's economic growth, peaceful resolution of the urgent troubles on the Korean Peninsula, and addressing the transnational concerns posed by environmental degradation, narcotics trafficking, and crime.

A relationship premised on cooperation in areas of shared interest also provides us a better opportunity to discourage Beijing from transferring missiles and other arms to Iran, Iraq, Burma, and other rogue regimes, persuade China to reduce tensions in the Taiwan Straits, and encourage Beijing to maintain freedoms in Hong Kong and foster greater human rights in China.

Mr. President, Congress and the American people must understand what is at stake in the bilateral relationship and how best to move China in a direction that is in our best interest and the best interest of the American and Chinese people. The summit taking place this week and this legislation, I believe, can provide the United States and China the impetus to move toward a far more mutually productive relationship.

Mr. HAGEL. Mr. President, today I am pleased to join with the distinguished chairman of the Finance Committee, Senator ROTH, as an original cosponsor to his legislation to strengthen the President's hand in opening up China's market to American exports. I commend Chairman ROTH for his leadership on trade issues. This bill would extend permanent most-favored-nation trading status to China upon that country's accession to membership of the World Trade Organization under commercially viable terms.

Mr. President, I believe that the annual debate over so-called most-favored-nation trading status for China has become counterproductive. It is time for the United States and China to transcend this flawed process. It is time for trade relations between our two countries to be based on the normal commercial standards that one would expect between two of the world's great trading powers.

This legislation would greatly strengthen the President's hand in achieving trade negotiations with China. It would do this by giving the President the authority to grant China permanent MFN status upon that country's accession to the WTO under normal commercial arrangements. As long as the Congress merely promises to consider granting permanent MFN status after China has agreed to accept WTO obligations, the President's leverage in trade negotiations with China will be weakened.

I would like to emphasize that I do not support China's entry into the World Trade Organization under any special arrangement that would allow China to avoid full compliance with WTO standards. However, China's accession to the WTO under normal commercial arrangements would be good

for the United States and good for the world trading system. It would require China to adhere to international trading standards. And should China fail to live up to its WTO obligations, we would then have access to the WTO's multilateral dispute resolution mechanisms. As long as China remains outside of the WTO, our only recourse for resolving our trade disputes with China is through the threat of often less effective bilateral actions, such as threats of section 301 trade sanctions.

But once China becomes a member of the WTO under a viable commercial protocol, the rules of the WTO require other WTO nations to grant permanent MFN to China. If we do not, we lose much of the benefit of getting China to accept WTO rules. This is because the United States would be denied access to the WTO's dispute resolution process for forcing China to live up to its agreements. That is why this bill is so important.

There are a great number of common misunderstanding over the annual debate on so-called most-favored-nation trading status for China. First of all, the archaic term ''most favored nation'' is itself misleading. MFN status is not, as many believe, some special trade benefit. It is not even the most favored trading status that we maintain with other countries. The United States grants much more favorable trade status to many other countries, including Canada, Israel, Mexico, the countries of the Caribbean, and a host of other nations—more than 130 in all—that benefit from special trade programs. All MFN status means is that we are willing to maintain some semblance of regular trade relations with that country. This is demonstrated by the fact that only six countries in the world do not have MFN status.

What is more, under current trade laws, there is no middle ground between full MFN trading status with average tariffs of 4 percent, and the disastrous 1930's-era Smoot-Hawley tariffs that average over 50 percent. Let there be no doubt about the consequences of repealing MFN trading status for China: it would mean a virtual end to United States-China trade relations.

United States trade with China is important. Throughout the ages, commerce has been a driving force of modernity and the spread of western ideas. Withdrawing from China will not bring the kind of change we are all seeking in that still autocratic system. Isolating China economically would have a disastrous and counterproductive result.

Nevertheless, there are serious trade issues between the United States and China that need to be resolved. This bill will make their resolution more likely. Nebraska is a major exporting state, with total exports last year of $2.45 billion of which $1.5 billion was food or agricultural products. Nebraska's meat exports to the world, primarily beef, grew 89 percent in the first half of this decade. United States beef exports to China, however, are severely constrained by China's 80 percent tariffs. These levels must come down in the context of the WTO negotiations. China also maintains a wide range of trade restrictions that are illegal under WTO rules. These illegal trade barriers include unscientific health laws that entirely prohibit certain types of U.S. wheat exports.

Mr. President, aggressive United States efforts to negotiate China's entry into the WTO under normal commercial arrangements is clearly in our national interest. The United States continues to run a large, persistent trade deficit with China. Last year, our deficit reached $39 billion, and it is expected to be higher this year. But the way to reduce that deficit is not by closing off our borders and cutting off export markets, but to work aggressively to open those markets, particularly the China market.

Export jobs pay 13–16 percent more than average American jobs. Exports are the future of our Nation, and we need to have China's market opened to American goods, services, and agricultural commodities.

By Mr. INOUYE:

S. 1328. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1997

Mr. INOUYE. Mr. President, today I introduce the Communications Satellite Competition and Privatization Act of 1997. This bill amends the Communications Satellite Act of 1962 in order to promote full competition in the global satellite communication services market by fully privatizing satellite communications. It is my intention that the introduction of this bill in the Senate will spur debate on this important issue. It is my goal to work with all of my colleagues and all other interested parties to address the issues presented in this bill.

In 1962, the United States and other countries around the world recognized the increasingly important role the new and emerging satellite technology could play in facilitating worldwide communications. In enacting the Communications Satellite Act of 1962, Congress sought to improve the global communications network by implementing a global, commercial communications satellite system, expeditiously. INTELSAT, Inmarsat, and Comsat emerged as the network that would connect Americans to countries throughout the world.

INTELSATE, Inmarsat, and Comsat have undoubtedly fulfilled their missions and have provided us with valuable services. Through their communications network, they have connected us whether we are on land or on water, by voice, video, and data transmissions, and across continents. They have also played a pivotal role in pioneering the delivery of satellite communications.

However, in the 35 years since the act has been adopted, the marketplace has changed and the time is now ripe for us to revisit the act and put in place a policy that will take the industry and the American consumers into the future. Today, many U.S. and foreign satellite systems participate in the global satellite marketplace. There are also an increasing number of satellite systems seeking authority to participate in the marketplace. As additional satellite systems enter the marketplace, competition must continue to flourish and consumers must obtain needed services at reasonable prices. The treaty-based status and intergovernmental structure of INTELSAT, Inmarsat, and Comsat must not hinder the ability of these carriers to effectively compete in the future and must not distort competition in the marketplace.

Today, many individuals in the government and in industry, nationally and worldwide are working on the privatization of INTELSAT and Inmarsat. There is a recognition that the status quo will not benefit the marketplace nor will it benefit INTELSAT and Inmarsat, or Comsat. My introduction of this bill is intended to establish a framework in which the Senate can begin a larger discussion of the issues and ultimately craft legislation that promotes the delivery of state-of-the-art satellite communications and brings innovations and cost reductions to the public. I encourage my colleagues to join with me in supporting a policy that will continue to allow our satellite industry to grow and flourish and for consumers to receive the benefits of such advancements.

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. 1328

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 ''Communications Satellite Competition and Privatization Act of 1997''.

TITLE I—USE OF FEDERAL COMMUNICATIONS COMMISSION LICENSING REQUIREMENTS TO SECURE COMPETITION AND PRIVATIZATION

SEC. 101. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and INMARSAT.

SEC. 102. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

(a) ADDITION OF NEW TITLE.—The Communications Satellite Act of 1962 (47 U.S.C. 101) is amended by adding at the end the following new title:

"TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

''SUBTITLE A—ACTIONS TO ENSURE PROCOMPETITIVE PRIVATIZATION

SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

''(a) LICENSING FOR SEPARATED ENTITLES.—

''(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned or operated by the separated entity to provide services to, from, or within the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

''(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

''(1) COMPETITION TEST.—The Commission shall substantially limit, deny, or revoke the authority for any entity subject to United States jurisdiction to use space segment owned or operated by INTELSAT or INMARSAT or any successor entities to provide non-core services to, from, or within the United States, unless the Commission determines—

''(A) after January 1, 2002, in the case of INTELSAT and its successor entities, that INTELSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States; or

''(B) after January 1, 2001, in the case of INMARSAT and its successor entities, that INMARSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission use the licensing criteria in sections 621, 622, and 624, and shall not make such a determination unless the Commission determines that such privatization is consistent with such criteria.

''(c) PREVENTION OF EXPANSION.—Pending privatization in accordance with the licensing criteria in subtitle B, the Commission shall not—

''(1) issue an authorization, license, or permit to, or renew the license or permit of, any provider of services using INTELSAT or INMARSAT space segment, or authorize the use of such space segment, for additional services (including additional applications of existing services) or additional areas of business; or

''(2) otherwise assist the expansion of INTELSAT or INMARSAT services, including through authorizing COMSAT's investment in new INTELSAT or INMARSAT satellites or registering for orbital slots intended for INTELSAT or INMARSAT provision of additional services (including additional applications of existing services) or additional areas of business.

"SEC. 602. INTELSAT OR INMARSAT ORBITAL SLOTS.

''Unless, in a proceeding under section 601(b), the Commission determines that INTELSAT or INMARSAT have been privatized in a manner that will not harm competition, then—

''(1) the President shall oppose, and the Commission shall not assist, any registration for new orbital slots for INTELSAT or INMARSAT orbital slots—

''(A) with respect to INTELSAT, after January 1, 2002, and

''(B) with respect to INMARSAT, after January 1, 2001, and

''(2) the President and Commission shall, consistent with the deadlines in paragraph (1), take all other necessary measures to preclude procurement, registration, development, or use of new satellites which would provide non-core services.

''SUBTITLE B—FEDERAL COMMUNICATIONS COMMISSION LICENSING CRITERIA: PRIVATIZATION CRITERIA

"SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

''The President and the Commission shall secure a pro-competitive privatization of INTELSAT and INMARSAT that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

''(A) INTELSAT as soon as practicable, but no later than January 1, 2002, and

''(B) INMARSAT as soon as practicable, but no later than January 1, 2001.

''(2) INDEPENDENCE.—The successor entities and separated entities of INTELSAT and INMARSAT resulting from the privatization obtained pursuant to paragraph (1) shall—

''(A) be entities that are national corporations; and

''(B) have ownership and management that is independent of—

''(i) any signatories or former signatories that control access to national telecommunications markets; and

''(ii) any intergovernmental organization remaining after the privatization.

''(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and INMARSAT shall not be extended to any successor entity or separated entity of INTELSAT or INMARSAT. Such preferential treatment includes—

''(A) privileged or immune treatment by national governments;

''(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and INMARSAT and their signatories though the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the INMARSAT Convention; and

''(C) preferential access to orbital slots.

''(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to full privatization, INTELSAT and INMARSAT shall be precluded from expanding into additional services (including additional applications of existing services) or additional areas of business.

''(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or INMARSAT shall be a national corporation established through the execution of an initial public offering as follows:

''(A) Any successor entities and separated entities shall be incorporated as private corporations subject to the laws of the nation in which incorporated.

''(B) An initial public offering of securities of any successor entity or separated entity shall be conducted no later than—

''(i) January 1, 2001, for the successor entities of INTELSAT; and

''(ii) January 1, 2000, for the successor entities of INMARSAT.

''(C) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

''(D) A majority of the board of directors of any successor entity or separated entity shall not be subject to selection or appointment by, or otherwise serve as representatives of—

''(i) any signatory or former signatory that controls access to national telecommunications markets; or

''(ii) any intergovernmental organization remaining after the privatization.

''(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or INMARSAT shall be conducted on an arm's length basis.

''(6) REGULATORY TREATMENT.—Any successor entity or separated entity shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

''(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be incorporated and headquartered in a nation or nations that—

''(A) have effective laws and regulations that secure competition in telecommunications services;

''(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

''(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

''(8) RETURN OF UNUSED ORBITAL SLOTS.—INTELSAT, INMARSAT, and any successor entities and separated entities shall not be permitted to warehouse orbital slots that do not have satellites that are providing commercial services, and any orbital slots of INTELSAT or INMARSAT which are not in use or brought into use providing commercial services as of May 12, 1997, or thereafter, shall be returned to the International Telecommunication Union for reallocation.

''(9) APPRAISAL OF ASSETS.—Before any transfer of assets by INTELSAT or INMARSAT to any successor entity or separated entity, such assets shall be independently audited for purposes of appraisal, at both book and fair market value.

"SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) NUMBER OF COMPETITORS.—The number of competitors in the market served by INTELSAT, including the number of competitors created out of INTELSAT, shall be sufficient to create a fully competitive market.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, INTELSAT shall not expand by receiving additional orbital slots, placing new satellites in existing slots, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of May 12, 1997, and the United States shall oppose such expansion—

''(A) in INTELSAT, including at the Assembly of Parties,

''(B) in the International Telecommunication Union,

''(C) through United States instructions to COMSAT,

''(D) in the Commission, through declining to facilitate the registration of additional orbital slots or the provision of additional services (including additional applications of existing services) or additional areas of business; and

''(E) in other appropriate fora.

''(3) TECHNICAL COORDINATION AMONG SIGNATORIES.—Technical coordination shall not be used to impair competition or competitors, and coordination under Article XIV(d) of the INTELSAT Agreement shall be eliminated.

''SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

''In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted.

''(2) PRIVILEGES AND IMMUNITIES.—The privileges and immunities of INTELSAT and its signatories shall be waived with respect to any transactions with any separated entity, and any limitations on private cause of action that would otherwise generally be permitted against any separated entity shall be eliminated.

''(3) INTERLOCKIG DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

''(4) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned on the date of enactment of this Act to INTELSAT shall not be transferred between INTELSAT and any separated entity.

''(5) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 15 years after the completion of INTELSAT privatization under this title.

''SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to INMARSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) MULTIPLE SIGNATORIES AND DIRECT ACCESS.—Multiple signatories and direct access to INMARSAT shall be permitted.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, INMARSAT should not expanded by receiving additional orbital slots, placing new satellites in existing slots, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of May 12, 1997, and the United States shall oppose such expansion—

''(A) in INMARSAT, including at the Council and Assembly of Parties,

''(B) in the International Telecommunication Union,

''(C) through United States instructions to COMSAT,

''(D) in the Commission, through declining to facilitate the registration of additional orbital slots or providing new services or uses for existing slots, and

''(E) in other appropriate fora.

''(3) NUMBER OF COMPETITORS.—The number of competitors in the markets served by INMARSAT, including the number of competitors created out of INMARSAT, shall be sufficient to create a fully competitive market.

''(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between INMARSAT or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of INMARSAT privatization under this title.

''(5) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of INMARSAT or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

''(6) SPECTRUM ASSIGNMENTS.—The portions of the electromagnetic spectrum assigned on the date of enactment of this Act to INMARSAT—

''(A) shall, after January 1, 2006, or the date on which the life of the current generation of INMARSAT satellites ends, whichever is later, be made available for assignment to all systems (including the privatized INMARSAT) on a non-discriminatory basis; and

''(B) shall not be transferred between INMARSAT and ICO.

''SUBTITLE C—DEREGULATION AND OTHER STATUTORY CHANGES

''SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS NONDOMINANT CARRIER.

''The Commission shall take such actions as may be necessary—

''(1) to permit providers or users of telecommunications services to obtain direct access to INTELSAT telecommunications services as soon as practicable, but no later than January 1, 2001;

''(2) to permit providers or users of telecommunications services to obtain direct access to INMARSAT telecommunications services as soon as practicable, but no later than January 1, 2000; and

''(3) to treat COMSAT as a nondominant carrier for the purposes of the Commission's regulations on the effective date of the actions taken pursuant to paragraphs (1) and (2), respectively.

''SEC. 642. SIGNATORY ROLE.

''(a) MULTIPLE SIGNATORIES PERMITTED.—

''(1) INTELSAT.—As soon as practicable, but no later than January 1, 2001, multiple signatories shall be permitted to represent the United States in INTELSAT.

''(2) INMARSAT.—As soon as practicable, but not later than January 1, 2000, multiple signatories shall be permitted to represent the United States in INMARSAT.

''(b) ELIMINATION OF COMSAT PRIVILEGES AND IMMUNITIES.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or INMARSAT.

''(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

''SEC. 643. ELIMINATION OF PROCUREMENT PREFERENCES.

''Nothing in this Act or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, INMARSAT, or any successor entity or separated entity.

''SEC. 644. USE OF ITU TECHNICAL COORDINATION.

''The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

''SEC. 645. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

''Effective on the dates specified, the following provisions of this Act shall cease to be effective:

''(1) Date of enactment of this title: Sections 101 and 102; paragraphs (1), (5) and (6) of section 201(a); section 301; section 303; section 304; section 502; and paragraphs (2) and (4) of section 504(a).

''(2) On the effective date of the Commission's order that establishes direct access to INTELSAT space segment: Paragraphs (1), (3) through (5), and (8) through (10) of section 201(c).

''(3) On the effective date of the Commission's order that establishes direct access to INMARSAT space segment: Subsections (a) through (d) of section 503.

''(4) On the effective date of the Commission order determining under section 601(b)(2) that INMARSAT privatization is consistent with criteria in sections 621 and 624: Section 504(b).

''(5) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Paragraphs (2) and (4) of section 201(a); section 201(c)(2); subsection (a) of section 403; and section 404.

''SEC. 646. REPORTS TO THE CONGRESS.

''(a) ANNUAL REPORTS.—The President and the Commission shall report to the Congress within 90 calendar days of the enactment of this Act, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this Act. Such reports shall be made available immediately to the public.

''(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

''(1) Progress with respect to each objective since the most recent preceding report.

''(2) Views of the Parties with respect to privatization.

''(3) Views of industry and consumers on privatization.

''SEC. 647. CONSULTATION WITH CONGRESS.

''The President's designees and the Commission shall consult with the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate prior to each meeting of the INTELSAT or INMARSAT Assembly of Parties, the INTELSAT Board of Governors, the INMARSAT Council, or appropriate working group meetings.

''SEC. 648. SATELLITE AUCTIONS.

''Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital slots or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital slots or spectrum used for the provision of such services.

''SUBTITLE D—NEGOTIATIONS TO PURSUE PRIVATIZATION

''SEC. 661. METHODS TO PURSUE PRIVATIZATIONS.

''The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

''SUBTITLE E—DEFINITIONS

''SEC. 681. DEFINITIONS.

''(a) IN GENERAL.—As used in this title:

''(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

''(2) INMARSAT.—The term 'INMARSAT' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

''(3) SIGNATORIES.—The term 'signatories'—

''(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the telecommunications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force or to which such Agreement has been provisionally applied;

''(B) in the case of INMARSAT, or INMARSAT successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

''(4) PARTY.—The term 'Party'—

''(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force or been provisionally applied; and

''(B) in the case of INMARSAT, means a nation for which the INMARSAT convention has entered into force.

''(5) COMMISSION.—The term 'Commission' means the Federal Communications Commission.

''(6) INTERNATIONAL TELECOMMUNICATION UNION.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

''(7) DIRECT ACCESS.—The term 'direct access' means arrangements for purchase of space segment capacity from, or investment in (or both), INTELSAT or INMARSAT by means other than through a signatory.

''(8) SUCCESSOR ENTITY.—The term 'successor entity'—

''(A) means any privatized entity created from the privatization of INTELSAT or INMARSAT or from the assets of INTELSAT or INMARSAT, but

''(B) does not include any entity that is a separated entity.

''(9) SEPARATED ENTITY.—The term 'separated entity' means a privatived entity to whom a portion of the assets owned by INTELSAT or INMARSAT are transferred prior to full privatization of INTELSAT or INMARSAT, including in particular the entity whose structure was under discussion by INTELSAT as of May 12, 1997, but excluding ICO.

(10) ORBITAL SLOT.—The term 'orbital slot' means the location for placement of a satellite on the geostationary orbital are as defined in the International Telecommunication Union Radio Regulations.

''(11) SPACE SEGMENT.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, INMARSAT, or a separated entity or successor entity.

''(12) NON-CORE.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to INMARSAT provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

''(13) ADDITIONAL SERVICES.—The term 'additional services' means Internet services, high-speed data, non-maritime or non-aeronautical mobile services, Direct to Home (DTH) or Direct Broadcast Satellite (DBS) video services, or Ka-band services.

''(14) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization.

''(15) INTELSAT AGREEMENT.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT), including all its annexes (TIAS 7532, 23 UST 3813).

''(16) HEADQUARTERS AGREEMENT.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS8542, 28 UST 2248).

''(17) OPERATING AGREEMENT.—The term 'Operating Agreement' means—

''(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement, and

''(B) in the case of INMARSAT, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

''(18) INMARSAT CONVENTION.—The term 'INMARSAT Convention' means the Convention on the International Maritime Satellite Organization (INMARSAT) (TIAS 9605, 31 UST 1).

''(19) NATIONAL CORPORATION.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

''(20) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.)

''(21) ICO.—The term 'ICO' means the company known, as of the date of enactment of this Act, as ICO Global Communications, Inc.

''(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this Act that are defined in section 3 of the Communications Act of 1934 have the meanings provided in such section.'.

ADDITIONAL COSPONSORS

S. 153

At the request of Mr. MOYNIHAN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 153, a bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

S. 644

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor 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. 651

At the request of Mr. GRAMS, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 651, a bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business.

S. 912

At the request of Mr. BOND, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Alabama [Mr. SESSIONS] were added as a cosponsors of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor 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. 995

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Nevada [Mr. REID], were added as cosponsors of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1045

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1045, a bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes.

S. 1133

At the request of Mr. COVERDELL, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

S. 1204

At the request of Mr. COVERDELL, the names of the Senator from Alaska [Mr. MURKOSWKI], the Senator from Alabama [Mr. SESSIONS], and the Senator from Louisiana [Mr. BREAUX] 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 sufficiently final to ripen certain Federal claims arising under the Constitution.

S. 1219

At the request of Mr. FAIRCLOTH, the names of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1219, a bill to require the establishment of a research and grant program for the eradication or control of Pfiesteria pisicicida and other aquatic toxins.

S. 1228

At the request of Mr. CHAFEE, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Utah [Mr. BENNETT], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. FRIST], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. JOHNSON], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Colorado [Mr. ALLARD], the Senator from Delaware [Mr. ROTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. KERREY], the Senator from Minnesota [Mr. GRAMS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Maine [Ms. SNOWE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1228, a bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

S. 1233

At the request of Mr. BROWNBACK, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1233, a bill to terminate the taxes imposed by the Internal Revenue Code of 1986 other than Social Security and railroad retirement related taxes.

S. 1252

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1256

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1256, 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 in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the United States district courts and the Court of Federal Claims; to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes.

S. 1308

At the request of Mr. BREAUX, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of 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.

S. 1311

At the request of Mr. LIEBERMAN, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. GRAHAM], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

At the request of Mr. LOTT, the names of the Senator from Oregon [Mr. SMITH], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Tennessee [Mr. FRIST], the Senator from Virginia [Mr. WARNER], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. SESSIONS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1311, supra.

SENATE JOINT RESOLUTION 37

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 37, a joint resolution to provide for the extension of a temporary prohibition of strikes or lockout and to provide for binding arbitration with respect to the labor input between Amtrak and certain of its employees.

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. DEWINE, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Concurrent Resolution 54, a concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the postal uniform allowance program.

AMENDMENT NO. 1424

At the request of Mr. CAMPBELL the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of amendment No. 1424 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GORTON. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet during the session of the Senate on Thursday, October 30, 1997, at 9:15 a.m. in SR–328A to mark up the nominations of Ms. Sally Thompson to be chief financial officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 28, 1997, at 2:30 p.m. on aviation competition legislation.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GORTON. Mr. President. I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, October 28, 9 a.m., Hearing Room (SD–406) on the President's nomination of Lt. Gen. Kenneth R. Wykle (Ret. Army) to be Administrator of the Federal Highway Administration.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, at 10 a.m. and 2 p.m. to hold hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: ''Judicial Nominations.''

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Protecting Our Medical Information Rights, Responsibilities, and Risks during the session of the Senate on Tuesday, October 28, 1997, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 38, 1997 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON FINANCIAL SERVICES AND TECHNOLOGY

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Services and Technology of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, to conduct a hearing on Electronic Authentication and Digital Signature 10:30 a.m.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, October 28, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony on 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 sections 169A and 169B of the Clean Air Act.

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

ADDITIONAL STATEMENTS

PASSAGE OF H.R. 672

• Mr. HATCH. Mr. President, I rise today to laud the Senate passage of H.R. 672. This legislation, which was introduced by Congressman COBLE in the House of Representatives, is the counterpart to legislation I introduced in the Senate on March 20 of this year—the Copyright Clarification Act of 1997 (S. 506). The Copyright Clarification Act was reported unanimously by the Senate Judiciary Committee on April 17.

The purpose of these bills is to make technical but needed changes to our Nation's copyright laws in order to ensure the effective administration of our copyright system and the U.S. Copyright Office. The need for these changes was first brought to my attention by the Register of Copyrights, Marybeth Peters, and I want to thank her for her outstanding work.

Among the most important amendments made by H.R. 672 is a clarification of the Copyright Office's authority to increase its fees for the first time since 1990 in order to help cover its costs and to reduce the impact of its services on the Federal budget and the American taxpayer. This clarification is needed because of ambiguities in the Copyright Fees and Technical Amendments Act of 1989, which authorized the Copyright Office to increase fees in 1995, and every fifth year thereafter. Because the Copyright Office did not raise its fees in 1995, as anticipated, there has been some uncertainty as to whether the Copyright Office may increase its fees again before 2000 and whether the baseline for calculating the increase in the consumer price index is the date of the last actual fee settlement, 1990, or the date of the last authorized fee settlement, 1995. H.R. 672 clarifies that the Copyright Office may increase its fees in any calendar year, provided it has not done so within the last 5 years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office.

Although H.R. 672 does not require the Copyright Office to increase its fees to cover all its costs, I believe it is important in that it provides the Copyright Office the statutory tools to become self-sustaining—a concept that I promoted in the last Congress. Currently the Copyright Office does not recover the full cost of its services through fees, but instead receives some $10 million in annual appropriations.

Several studies have supported full-cost recovery for the Copyright Office. For example, A 1996 Booz-Allen and Hamilton management review of the Library of Congress recommended that the Copyright Office pursue full-cost recovery, noting that the Copyright Office has been subject to full-cost recovery in the past and that the potential revenues to be derived from pursuing a fee-based service was significant. A 1996 internal Copyright Office management report prepared by the Library of Congress also recommended full-cost recovery for copyright services. The Congressional Budget Office has also suggested full-cost recovery for the Copyright Office as a means of achieving deficit reduction. These recommendations were endorsed by the General Accounting Office in its recent report, Intellectual Property, Fees Are Not Always Commensurate with the Costs of Service.

It is my understanding that the Copyright Office has embraced the goal of achieving full-cost recovery for its copyright services. H.R. 672 will provide the authority to achieve that goal, and by passing this legislation this year, the Copyright Office will be able to move expeditiously to adjust their fees for the coming year.

I also want to note the importance of the amendment which the Senate has adopted to H.R. 672 to overturn the Ninth Circuit's decision in *La Cienega Music Co.* v. *ZZ Top*, 53 F.3d 950 (9th Cir. 1995), cert denied, 116 S. Ct. 331 (1995). My colleagues will recall that Senator LEAHY and I introduced this legislation in March of this year as a provision of S. 505, the Copyright Term Extension Act of 1997.

In general, *La Cienega* held that distributing a sound recording to the public—by sale, for example—is a publication of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of *La Cienega*, however, is that virtually all music before 1978 that was first distributed to the public on recordings has no copyright protection—at least in the Ninth Circuit.

By contrast, the Second Circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.*, 546 F.2d 461 (2d Cir. 1975), aff'd per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that publish distribution of recordings was not a publication of the music contained on them. As I have noted, *Rosette* comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in *La Cienega*, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the *La Cienega* decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years.

In addition to these two important provisions, H.R. 672 will: First, correct drafting errors in the Satellite Home Viewer Act of 1994, which resulted from the failure to take into account the recent changes made by the Copyright Tribunal Reform Act of 1993, and which mistakingly reversed the rates set by a 1992 Copyright Arbitration Royalty Panel for satellite carriers; second, clarify ambiguities in the Copyright Restoration Act dealing with the restoration of copyright protection for certain works under the 1994 Uruguay Round Agreements Act; third, ensure that rates established in 1996 under the Digital Performance Rights in Sound Recordings Act will not lapse in the event that the Copyright Arbitration Royalty Panel does not conclude rate-setting proceedings prior to December

1, 2000; fourth, restore definitions of jukebox and jukebox operator, which were mistakingly omitted when the old jukebox compulsory license was replaced with the current negotiated jukebox license; fifth, revise the currently unworkable requirement of a 10-day advanced notice of intent to copyright the fixation of live performances, such as sporting events; sixth, clarify administrative issues regarding the operation of the Copyright Arbitration Royalty Panels; seventh, provide needed flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology [DART] royalties; and, eighth, make miscellaneous spelling, grammatical, capitalization, and other corrections to the Copyright Act.

Mr. President, this is important legislation, and I am pleased the Senate has acted to approve it prior to adjourning this fall. I wish to thank my colleagues and to encourage the House to accept the Senate amendment and to forward H.R. 672 to the President for his signature without delay.●

AWARDING THE CONGRESSIONAL GOLD MEDAL TO THE ''LITTLE ROCK NINE''

● Mr. ABRAHAM. Mr. President, I rise today in support of S. 1283, legislation to award the Congressional Gold Medal, the highest honor Congress can bestow upon civilians for acts of public service and patriotism, to those civil rights leaders history will remember as the ''Little Rock Nine.''

As all of my colleagues are aware, on September 25, 1957, nine young students, in the face of unspeakable hostility and hatred, voluntarily integrated Central High School in Little Rock, AK. In doing so, they confronted not only an angry mob assembled in fierce opposition, but also an entrenched culture of bigotry and racism.

In today's day and age, lofty terms like valor, heroism, and bravery are used so frequently and in such a casual context the proper impact of their meaning has unfortunately been devalued. However, it is sometimes within the most ordinary acts, such as a child's steps through a schoolhouse door, in which the most extraordinary instances of courage can be found.

Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas are all civil rights pioneers. In addition, however, to serving as national symbols as racial progress, each deserve individual recognition for the dignity and grace they displayed on that September morning 40 years ago.

Mr. President, awarding the Congressional Gold Medal to the ''Little Rock Nine'' would provide this long overdue honor to these exceptional people. As a U.S. Senator, it is my pleasure to cosponsor this legislation. As an American, it is my privilege to have the opportunity to say thank you to nine men and women who, in pursuit of their own education, taught the rest of the nation an invaluable lesson about racial equality.●

ORDER OF BUSINESS

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

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

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF WILLIAM E. KENNARD

Mr. DEWINE. Mr. President, on behalf of the leader, as in executive session, I ask unanimous consent that at the hour of 11 a.m., on Wednesday, October 29, the Senate proceed to executive session to consider calendar No. 312, the nomination of William E. Kennard to be a member of the FCC. I further ask unanimous consent that there be 20 minutes of debate, equally divided, between the chairman and the ranking member, with an additional 5 minutes under the control of Senator BURNS and 5 minutes under the control of Senator HELMS. I finally ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination, and following that vote the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, again on behalf of our leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 263, No. 265, No. 266, No. 267, No. 268, No. 311, No. 313, No. 315, No. 316, and No. 331. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

John C. Angell, of Maryland, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

Ernest J. Moniz, of Massachusetts, to be Under Secretary of Energy.

Michael Telson, of the District of Columbia, to be Chief Financial Officer, Department of Energy.

Dan Reicher, of Maryland, to be an Assistant Secretary of Energy (Energy, Efficiency, and Renewable Energy).

Robert Wayne Gee, of Texas, to be an Assistant Secretary of Energy (Policy, Planning, and Program Evaluation).

FEDERAL COMMUNICATIONS COMMISSION

Harold W. Furchtgott-Roth, of the District of Columbia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1995.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1997.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1998.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1998. (Reappointment)

DEPARTMENT OF THE INTERIOR

M. John Berry, of Maryland, to be an Assistant Secretary of the Interior.

LEGISLATIVE SESSION

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

ORDERS FOR WEDNESDAY, OCTOBER 29, 1997

Mr. DEWINE. Mr. President, again on behalf of the leader, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m., on Wednesday, October 29. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate immediately begin consideration of Calendar No. 312, the nomination of William E. Kennard to be a member of the Federal Communications Commission under the order.

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

PROGRAM

Mr. DEWINE. Again on behalf of the leader, tomorrow morning at 11 a.m., under the previous order, the Senate will proceed to executive session to consider the nomination of William Kennard to be a member of the Federal Communications Commission. Under the order, there will be 30 minutes of debate on the nomination with a rollcall vote occurring at the expiration or yielding back of that time. Therefore, Members can anticipate a vote at approximately 11:30 a.m.

At 12 noon, it will be the leader's intention for the Senate to turn to consideration of H.R. 1119, the national

Defense authorization conference report. The Senate may also begin consideration of Senator COVERDELL's legislation dealing with education IRA's. Subsequently, Members can anticipate further rollcall votes throughout Wednesday's session of the Senate.

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

ORDER FOR ADJOURNMENT

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator BROWNBACK.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

THE FIRST KANSAS COLORED INFANTRY

Mr. BROWNBACK. Mr. President, I take the Senate floor today to mark the anniversary of a noble and courageous effort made on behalf of our Nation by some of the brave residents, of our then very young State of Kansas.

Mr. President, 135 years ago today in the year 1862, the first Kansas colored infantry were the first union black troops of the Civil War to engage in combat—October 28th and 29th at Island Mound, or Toothman's Mound, near the town of Butler in Bates County, MO, near my hometown.

The intrepid first Kansas colored infantry's contribution at Toothman's Mound helped prompt President Abraham Lincoln to issue the Emancipation Proclamation barely 2 months later and inspired hundreds of thousands of other black soldiers to take up arms in the cause of Union and free soil—undoubtedly influencing the outcome of that war and perhaps proving decisive in preserving government of the people, by the people, and for the people in the world as we know it.

Let me emphasize, the survival of our experiment in self-government was at stake, and these individuals paid the price to ensure that our Constitution would not perish from the Earth.

One of the easy mistakes when reading history is to assume that the outcome of great struggles was inevitable. This is not so. History is contingent, dependent on the choices and actions of real people. Things might have been very different if a few brave people hadn't acted as they did.

Without the sacrifice of our Founders we might never have known independence, certainly not in the form we now enjoy—and without the sacrifices of subsequent generations, most especially of people like those who served in the first Kansas colored infantry, our forebearers most precious gift—liberty under law—would be lost.

Mr. President the example of service, dedication, and courage set by the first Kansas colored infantry at the very moment of our Nation's greatest need should be always with us as we carry on our work here in the crucible of liberty.

Mr. President, those soldiers had reason to doubt America's promise of liberty and justice for all. But when freedom called they answered, and we are forever in their debt.

In these often selfish and cynical times, we should pause and thankfully remember the first Kansas colored infantry. The blows they struck for freedom and Union, place us forever in their debt.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF WILLIAM E. KENNARD

Mr. BROWNBACK. Mr. President, as in executive session, I ask unanimous consent that the previous consent agreement with respect to the Kennard nomination be modified to include 10 minutes for debate for Senator TORRICELLI and 30 minutes equally divided between the two managers.

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

ADJOURNMENT UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 11 a.m. tomorrow.

Thereupon, the Senate, at 7:19 p.m., adjourned until Wednesday, October 29, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 28, 1997:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

KATHERINE L. ARCHULETA, OF COLORADO, TO BE A MEMBER OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR THE REMAINDER OF THE TERM EXPIRING MAY 19, 2000, VICE LADONNA HARRIS, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

JOSEPH ROBERT BRAME, III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 1999, VICE JOHN C. TRUESDALE.

ENVIRONMENTAL PROTECTION AGENCY

SALLYANNE HARPER, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY, VICE JOHATHAN Z. CANNON, RESIGNED.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

HANK BROWN, OF COLORADO, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING APRIL 6, 2000, VICE WALTER R. ROBERTS, TERM EXPIRED.

PENNE PERCY KORTH, OF TEXAS, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2000, VICE WILLIAM HYBL, TERM EXPIRED.

MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2004, VICE ANTONIO C. AMADOR, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 28, 1997:

DEPARTMENT OF ENERGY

JOHN C. ANGELL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

ERNEST J. MONIZ, OF MASSACHUSETTS, TO BE UNDER SECRETARY OF ENERGY.

MICHAEL TELSON, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF ENERGY.

DAN REICHER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENERGY, EFFICIENCY, AND RENEWABLE ENERGY).

ROBERT WAYNE GEE, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF ENERGY (POLICY, PLANNING, AND PROGRAM EVALUATION).

FEDERAL COMMUNICATIONS COMMISSION

HAROLD W. FURCHTGOTT-ROTH, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1995.

MICHAEL K. POWELL, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1997.

GLORIA TRISTANI, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1998.

GLORIA TRISTANI, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1998.

DEPARTMENT OF THE INTERIOR

M. JOHN BERRY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.