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Senate

The Senate met at 10:30 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, thank You for this time of prayer in which we can wake up to reality, see things as they really are, and be totally honest with You. Grant us a healthy blend of realism and vision. We tire of the fake and the false. We become fatigued fighting pretense that polishes problems and evades Your judgment. The spin runs thin; the damage control delays exposure of truth. Distinctions between the real and the illusion become blurred.

Lord, it is in this kind of world that You have called us to serve and give leadership. Bless the Senators as they seek and then speak Your truth. May the quality of the life of this Senate be distinguished by an integrity in which words are used to motivate and not manipulate, where debate is an arena for communication and not competition. You are Sovereign of this land, and we accept our accountability to You for how we relate to one another in the relationships we share as we work together. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CAMPBELL. Mr. President, on behalf of the leader, today the Senate will be in a period of morning business until the hour of 1 p.m. to accommodate a number of Senators who have requested time to speak. By consent, at 1 p.m. the Senate will begin consideration of S. 104, the Nuclear Policy Act. The leader hopes the Senate will be able to make substantial progress on this important legislation during today's session. Rollcall votes are therefore possible throughout the day, and the Senate may be in session into the evening if necessary. As always, all Senators will be notified as to when any votes are scheduled. He also reminds all Members that we are now beginning a lengthy period of legislative session prior to the next scheduled recess, and he also asks for the cooperation of all of our colleagues as we attempt to move forward and complete action on a number of important issues during this period.

Mr. President, I also ask for about 10 minutes for a statement on a bill I am introducing, if I may.

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

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 528 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

MEASURE PLACED ON CALENDAR

Mr. THOMAS. Mr. President, a little housekeeping. First, I understand that there is a bill due for its second reading.

The PRESIDING OFFICER. The Senator is correct. The clerk will report.

The legislative clerk read as follows:

A bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

Mr. THOMAS. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The measure will be placed on the calendar under rule XIV.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS and Mr. KEMPTHORNE pertaining to the introduction of S. 532 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY and Mr. GRAMS pertaining to the introduction of S. 529 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak for up to 20 minutes as in morning business.

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

TRIBUTE TO GEORGE DURENBERGER

Mr. GRAMS. Mr. President, on March 20, my dear friend and former colleague, Senator Dave Durenberger, lost his father, George Durenberger, at the age of 90.

But, because the Senate was just beginning its recess at that time, I did

not have the opportunity to pay respect to my friend and the much-celebrated life of his father. It is for this purpose that I rise today.

It has been said that, ''the worst sin against our fellow creatures is not to hate them, but to be indifferent to them; that is the essence of inhumanity.'' George Durenberger, the parent, the teacher, the coach, must have been acutely aware of this because there was not indifference in him. He saw worth in every person he met and rewarded them with a first chance, a second, and a third.

In short, George Durenberger never gave up on anyone. Beyond all his other contributions, George Durenberger will be most remembered for his abiding faith in people.

According to newspaper accounts, George Durenberger was one of the ''best known and most well-liked men in Central Minnesota.'' By the same accounts, ''Big George'' as he was often called, was ''a legend.''

Coming to St. John's Abbey and University in Collegeville, MN in 1924 as a student, George Durenberger obtained hero status as the star offensive center on the football team, the first three time All-Minnesota Intercollegiate Athletic Conference award winner, and also the captain of not only the football team but the basketball team as well.

Upon graduation in 1928, Durenberger became a professor and coach at St. John's and, over the course of 44 years, served as head coach of the football, basketball, and baseball teams—and sometimes all at once.

Durenberger served as athletic director for both St. John's University and St. John's preparatory school athletics for all but 2 of his 44 years at St. John's.

Many Minnesotans still recall that it was George Durenberger who started the round robin system of intercollegiate competition in the Minnesota Intercollegiate Athletic Conference. And, some still remember the national recognition he gained through his ace athletic program to condition the 87th Airborne Detachment for World War II.

Perhaps, these accomplishments figured into St. John's decision to name the college's athletic field complex, the ''George Durenberger Field.'' But, I believe that what contributed most to his Herculean stature can be best expressed in George Durenberger's own words:

> A coach should be judged not only on his ability to produce winning teams, but also on whether or not he has made a positive contribution to the moral, mental, social and emotional growth of his students.

George Durenberger was the epitome of a teacher. He knew and loved people. He saw the good in them—even when they could not see it in themselves.

''The young men who came to St. John's in the early forties from the small towns of Minnesota and North Dakota were very much in need of a role model,'' recalls former Minnesota Supreme Court Justice John Simonett. ''Then we met 'Big George'. And we looked up to him—both literally and figuratively.''

George Durenberger lifted spirits, recalled another St. John's alumnus, ''I always left George feeling better about myself.'' George Durenberger ''was the first person I met as a student at St. John's in 1924,'' remembered Fred Hughes, a St. Cloud attorney and former University of Minnesota Regent, ''and to this day, he remains the best.''

And, consider what the Hill newspaper's Al Eisele, who attended St. John's, had to say. Mr. Eisele said, ''George Durenberger was as much a part of the modern history of St. John's University as the Benedictine monks who founded it 150 years ago.''

Durenberger, ''a physically imposing man with a booming voice and outgoing personality,'' as described by Eisele, ''helped shape the lives of thousands of young men.'' As athletic director, Durenberger was such a forceful man, noted Eisele, that he even got the monks to exercise.

In closing, Eisele remarked that Durenberger and his wife Isabelle were ''surrogate parents to many * * * and an inspiration to all.''

George Durenberger never left St. John's until he died. He loved the institution and all the people and memories that came with it. However, this love was not connected to stubborn consistency but to confection. George Durenberger, said one friend, ''was driven by a vision of a 'better city','' something akin to the city referred to in the book of Hebrews.

Another book in Scriptures, Proverbs, states, ''Train up a child in the way he should go: and when he is old, he will not depart from it.'' According to George Durenberger's eldest son, my friend and former colleague, ''All my desire for public service and for making the world a better place than I found it, came from him.'' That was Dave Durenberger.

In this way, and in so many others, George Durenberger made a very profound and lasting contribution to the world. All he withheld from the world was indifference.

Mr. President, I offer George Durenberger's wife, Isabelle; his daughters, Constance and Mary; his sons, George Mark and Thomas; his nine grandchildren and two great grandchildren; and most especially I offer his eldest son, my dear friend, David Durenberger, my most heartfelt sympathy.

Thank you very much, Mr. President.

I yield back the remaining part of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MEDICARE REFORM

Mr. WYDEN. Mr. President, I have come to the floor each day this week to talk about what I think is the critical need for the Senate to develop a bipartisan plan to reform Medicare. Medicare is a lifeline for millions and millions of American families, and I think it is understood by every Member of this body that this is a program that faces financial crisis as we look to the next century.

Today, as part of the effort to build support for a bipartisan Medicare reform effort I will look specifically at the Medicare reimbursement formula. I think it is important to take this subject up because I believe today's Medicare reimbursement system in many instances overcharges taxpayers on costs and shortchanges older people who need and deserve good quality care.

Now, Mr. President, as we all know, there are essentially two major types of health care in America. There is traditional health care, what is known as fee-for-service. It means just what it sounds like. Providers get paid on the basis of the number of services that they render. This, unfortunately, can encourage waste. If, for example, an older person in traditional health care receives 10 medical tests and 4 would have been sufficient, under traditional health care the provider gets paid for 10. The other type of health care is what is known as managed care or health maintenance organizations. This is essentially a prepaid kind of arrangement. It creates incentives to hold down costs. But as we know, in some instances, tragically, it has also been used as a tool to hold back on needed health care that older people depend on.

The Federal Government, looking to the great demographic changes, the demographic earthquake that our country will face in the next century, has sought to try to change this system of reimbursement and, in particular, try to encourage the availability of good quality—I want to emphasize that, good quality—managed care or health maintenance organizations.

They set up a plan for reimbursing these organizations known as the average adjusted per capita cost, or AAPCC. Now, I am the first to admit that discussion of this topic is pretty much a sleep-inducing, eye-glazing issue, but certainly for folks in rural Wyoming, rural Oregon and across this country, the low-cost areas, it has great implications, but also it has great implications for the system as a whole.

I believe that the Federal Government has botched the job of handling this reimbursement system, and it is time to make some fundamental changes. Under this reimbursement system, Medicare pays health maintenance organizations 95 percent of the estimated cost of treating a patient under fee-for-service plans in a particular county. What this very often means

is that in an area where there has not been an effort to inject competition, where there has not been an effort to drive out waste, you have wasteful, inefficient fee-for-service health care being offered, and it is being used, essentially, as a path to guide reimbursement for the HMO's, the health maintenance organizations.

I brought a couple of charts to the floor today. The first is one that shows that many, many of our counties across this country that have tried to hold down costs are reimbursed for health maintenance organizations, or the competitive part of the Medicare system, in a way that is below the national average. Certainly, Mr. President, you and others like myself who represent rural areas see how critical this issue is because our providers have difficulty providing the defined benefits under Medicare, let alone some of the extras such as reduced drugs, eyeglasses and hearing aids that are available in many of the high-cost areas.

For example, as my next chart illustrates, in 1997, one of the very high-cost reimbursement areas was in Florida, in Dade City, FL, with $748 a month received there, whereas in Arthur, NE, they receive $221 per month. So the question, essentially, is to our colleagues, again, on a bipartisan basis, our colleagues from Nebraska, Senator KERREY and Senator HAGEL: Is it true that a typical 72-year-old Nebraskan is that much healthier than a typical New Yorker of the same age? Well, Medicare thinks so. That is how the Federal Government does business. The Federal Government conducts its affairs that way. I think it is wrong. It is that way not just for folks in Nebraska but many other parts of the country like ours that, again, we share on a bipartisan basis, and as a result our seniors get a much thinner Medicare benefit package than they would if they were in an area that was much more costly.

For example, in my home community of Portland, OR, we have the highest concentration of HMO's in the country, the highest level of penetration of HMO's in the United States, just about 60 percent, and we are reimbursed at a level significantly below the national average of $467. We get reimbursed at a $387-per-month level. What happens is a senior who lives in Dade City, FL, or in southern California or parts of New York State calls seniors I represent in Oregon and asks them how Medicare is going, and seniors in the high-cost areas say, ''It's going great because we can get prescription drugs, eye glasses and hearing aids all at essentially little or no cost,'' and seniors in Oregon get none of those things, and, in fact, many of their providers in rural parts of our State have difficulty providing basic services.

So the question then becomes, what are some of the fundamental ways in which to change this system which so often rewards waste, penalizes the frugal and, in effect, creates an incentive for various parts of the country to do business as usual, even though the General Accounting Office and other bodies are saying that business as usual will be bad news for both seniors and for taxpayers. Several practical suggestions are at hand, Mr. President, and suggestions that I believe ought to be adopted on a bipartisan basis. I think for the long term, it is time to separate out, to literally cut off the link between HMO's, the managed care, and fee-for-service, because I think what we are having today is a situation that literally creates incentives for wasteful health care.

Second, it seems to me there ought to be a new minimum payment floor that brings up all the counties that have been low cost, and especially those in rural areas, and certainly the President of the Senate, just as I see in rural Oregon, understands the importance of that.

Third, it seems to me that the Senate, on a bipartisan basis, ought to begin a gradual effort to move to a national reimbursement level, a blended kind of level, and do it gradually so that areas that have been more inefficient are not going to face all of the changes overnight, but are going to understand very clearly that with an effort to move to a blended or national reimbursement rate, Congress is not going to tolerate what we have today, which is a system that rewards waste.

Finally, Mr. President, it seems to me that the Federal Government should be trying to promote competition, serious competition, as the private sector does, in areas of high-cost managed care or significant penetration of health maintenance organizations. There is no question in my mind that some HMO's are overpaid. We do need to produce competition in those areas. I believe that that can be carefully targeted. That, in my view, is the guts of reimbursement reform, Mr. President.

I would like to conclude my remarks today by saying that going to the next level of Medicare reform after we take care of the reimbursement issue is a logical step because it flows from what needs to be done with the reimbursement formula. By getting good data and more logical data about the various counties, the Health Care Financing Administration will be in a position to make information available to older people and their families across this country about how to make better choices with respect to their health care. Today, what we have is a situation where many older people get no choices at all. We see that in many rural parts of our country because of the reimbursement formula. The reimbursement formula is so low that many plans won't come in, so seniors in those areas get few choices. In the high-cost areas, the Federal Government has put out a mishmash of information which makes it impossible to choose between the various services that are available to them, and that is absolutely key because in those high-cost areas we have exactly the places where it is most important to get competition.

Yesterday, I brought to the floor—I am going to blow it up in the days ahead so that it's possible for the Senate to see it in more detail—an example of what it is like for an older person in Los Angeles to try to navigate through the various health choices available to her. In fact, it takes one full wall, in a picture that the General Accounting Office took, just to put the various pieces of information that that senior would have to wade through. So I want to see us now have the Federal Government look to what the private sector is doing to empower seniors and their families to get understandable, clear information about Medicare so that they can make appropriate choices. This involves details on the way different Medicare choices and plans work, data on the experience of seniors with similar health and income backgrounds, the methods and the decision steps used by plans to pay participating practitioners and health care facilities and providers. And, Mr. President, certainly, Members of this body should understand that this is doable because this is largely the kind of information that is available to Members of the Senate and other Federal employees who participate in the Federal employee health plan.

So in ensuring that seniors can receive a full list of plans available to them, enrollment fairs are an approach that has been looked at in the past, and there may be other ways to do that, such as publishing appropriate performance data on plans. These kinds of steps are approaches that the Federal Government has pursued and have related to Senators and members of the Federal service. It seems to me that there is no reason to further delay making this kind of information available to those who depend on Medicare. Older people ought to be in a position to enroll and disenroll from a plan at any time.

Certainly, this kind of approach will encourage competition. Perhaps at some point there ought to be incentives to try to keep people in plans that are cost effective, and I think that the Federal Government can look to this kind of approach. But, certainly, significant rights of older people to enroll and disenroll in plans is critical.

So these kinds of rights, like appeal rights when you have been denied benefits, a good grievance procedure—in effect, a patients' bill of rights—is what is fundamental to making sure that older people are in a position to get the kind of information they need in order to make choices about their health care and, at the same time, inject competition into this system.

We have made many of these decisions already as it relates to Federal employees and Senators. We have made them as it relates to the private sector and, in fact, we have even made them in areas that have parallels to this program—for example, in the Medigap

Program. I and others were involved in this to try to make sure that seniors who purchased supplemental coverage would be in a position to make sure they could get full value and have a place to turn to for their questions. We can take a lesson from the Medigap Program, and the Federal Government ought to make available troubleshooters to answer questions from older people as we move to competition.

So, Mr. President, let me conclude by saying that I think every Member of this body understands that business as usual with respect to Medicare is unacceptable. I will tell you, if you don't like the program, if you really dislike Medicare, keep it the way it is, because the way it is is going to be a path that will cause, in my view, great calamity for families and seniors. If you believe Medicare is a program that has made an enormous difference in the lives of older people, I think that is the best argument for a bipartisan Medicare reform effort, a bipartisan Medicare reform effort that would ensure that seniors got guaranteed, secure benefits, not some check or some sort of voucher that just said, well, maybe this will be enough for your care and maybe it won't.

Seniors deserve guaranteed, secure benefits. Many of my colleagues on the other side of the aisle have been absolutely right in saying that much of Medicare across this country is an outdated tin lizzy kind of program, a program that the private sector consigned to the attic years ago. So let us try to bring the parties together around the proposition that there ought to be defined, secure, guaranteed benefits, around the proposition that it is time to bring the revolution in the private sector to Medicare, and do it in a way that protects patients' rights—no gag clauses or limitations on what older people can know about plans, grievance procedures, appeal rights. Those are the kinds of issues I think that both parties can agree on.

I intend to come to the floor day after day to bring the issues of Medicare reform to the attention of the Senate and to the attention of the public, because I believe this is going to be the issue that is going to dominate the debate about our priorities, particularly our domestic priorities, for the next 15 to 20 years.

I believe that every Member of this body in the next century is going to be asked: What did you do in 1997 to get Medicare on track?

I believe there are opportunities now, as we move to the budget, as we move to efforts to have a bipartisan balanced budget, to start the changes that will put Medicare on track for older people and taxpayers.

Senator WYDEN. Mr. President, to reiterate, the heart of the Medicare Program is the 38 million beneficiaries now dependent on this health care system as an essential social lifeline.

Any changes we make to Medicare must, first and foremost, consider the likely effects those reforms will have on these beneficiaries, many of whom are frail, infirm, and low-income.

As I've said every day on the floor of the Senate this week, I'm going to be talking today about the choices and access those beneficiaries ought to have, but who in too many parts of the country have no choices and poor access to health care.

I'm also going to be talking about the window of opportunity we have in this Congress to enact significant changes in the program to cure the half-trillion-dollar shortfall we can expect in this program by the end of the coming decade, and to bring new choices, new access and new efficiencies necessary to save Medicare for not just the next 5 years, but into 2010, 2020, and 2030.

As I said yesterday, Medicare is a 1965-model tin-Lizzy health care program showing little resemblance to the rest of American health care. Various out-dated, out-moded and bureaucratic features of Medicare practically encourage practitioners in the greater part of the Medicare system to drive up unnecessary care and resulting overbilling—actions which over-charge the Government on costs, but short-change beneficiaries on good health care.

Beginning in the last decade, the Government's partial solution to this was to institute coordinated care in Medicare. We encouraged health insurers to begin offering plans that managed service Medicare beneficiaries received, and we offered encouragement to beneficiaries to participate in the form of lower out-of-pocket costs and, we anticipated, a broader package of goods and services.

And we would determine how each plan, in each city, would be paid for each beneficiary in the plan according to an arcane formula called the average adjusted per capita cost—or the AAPCC.

Now, before your eyes glaze over, let me give you a very simplistic idea of how the local AAPCC payment rate is determined, and how this formulation really penalizes beneficiaries living in places where medical costs are relatively low.

The AAPCC is any given county is formulated on the cost of providing medicine, per beneficiary, in the most costly portion of Medicare—the traditional sector known as fee-for-service. This is the portion of the program where beneficiary can elect to see just about any doctor they want, whenever they want, and the individual care providers in those situations can be reimbursed for just about any services they deem necessary for that beneficiary.

No questions asked. No oversight.

This may sound like a pretty good deal for the beneficiaries. But it doesn't always mean they get the care they need or require. For example, there's nothing to stop an individual provider in fee-for-service for ordering up 10 or 12 tests for a beneficiary, when only 3 or 4 really are required.

This is one of the reasons why fee-for-service Medicare is growing at a much more rapid rate than the rest of the program—and it's one of the reasons we find ourselves in such a deep financial hole.

It is also clear that the rapid growth of fee-for-service Medicare seems endemic to certain large metropolitan regions of the county.

As my colleagues may be able to see, the areas in blue and white represent portions of the country where the AAPCC rate is below the national average.

The areas in red and orange represents areas where the payments are above the average.

And just for the record, the variation is huge. The 1997 high-reimbursement county is Richmond County, up in New York, at $767 per month, per beneficiary, while the lowest paid county was over here in Arthur County, Nebraska, at $221 per month.

Now, I'd ask my colleagues BOB KERREY and CHUCK HAGEL whether they think a typical 72-year-old Nebraskan is that much healthier than a typical New Yorker of the same age?

Medicare seems to think so, and I think they're wrong.

And unfortunately for folks in Nebraska and other low pay States—my home State of Oregon is certainly one of them—the difference is that they get a much thinner Medicare benefit package in coordinated care plans, if they have access to such plans at all because their monthly reimbursement rate is so abysmally low.

Let's talk about some examples of how this hurts beneficiaries in cost-efficient counties where the reimbursement rate is particularly screwy.

In Mankato, MN, where the average payment is $300 per month, beneficiaries in coordinated plans get their basic managed care coverage under Medicare rules—but nothing else. No discounts on prescription drug purchases, no additional preventative care, no hearing aid discounts, no coverage for eyeglasses.

In Portland, OR, my home town, the rate is a little better at $387 per month, but that's still well below the $467 national average. That means the best additional benefit received by these folks, who have the highest managed care penetration rate in the country at about 60 percent, is a 30 percent discount on prescriptions up to a $50 maximum.

Now, let's go up to the high end of this wacky AAPCC payment system. In Miami, FL, where the payment rate is all the way up to $748 per month, seniors in these programs get unlimited prescription drug reimbursements, a $700 credit for hearing aids, and dental coverage—all add-ons that are virtually unheard of in most of the rest of the country.

Mr. President, I wish I could say that this is the kind of cost-accounting that's going to add stability and integrity to the Medicare Program into the

next century. Unfortunately, all this payment formula accomplishes is: First, huge overpayments in some counties, with resulting extravagant profits to insurance companies, and second, payments to other counties which are obviously too low, and which result in either no coordinated care offerings to beneficiaries in those communities or bare-bones plans that for millions of beneficiaries to incur higher out-of-pocket costs purely as a matter of geographic accident.

I believe we can transform Medicare from an aging dinosaur insurance program into a comprehensive seniors health care system while maintaining our historic commitment to a basic package of benefits for every beneficiary, no matter their health or income status.

But that transformation necessarily will involve providing seniors with many more choices with regard to their health plan selection.

The current formula used for paying Medicare in rural counties and in other places where communities have worked hard to reduce general health care costs is precisely antagonistic to that purpose.

This system denies folks choice because it necessarily results in poor quality health plans, high out-of-pockets expenses, or no managed care choices—or a combination of all three—for vast numbers of beneficiaries.

And again, an accident of geography seems to be the deciding factor in the current state of affairs.

I believe Medicare reform has to include remedies for these problems.

This is not just a matter of increasing the benefit package for folks in low pay counties. More fundamentally, this is an issue of providing more choices, to encouraging the entry of more plans, into large areas of this country where the current AAPCC formula creates reimbursement rates which are so low—which are so nonsensical—as to completely discourage anything but fee-for-service Medicare in those communities.

I believe reimbursement reform include several important features:

A new minimum payment floor that brings all counties up to 80 percent of the national average, immediately.

A new annualized reimbursement increase formula that shifts adjustments away from localized fee-for-service medicine costs, and toward actual cost increases in coordinated care.

A systematic imposition of financial controls reimbursement growth in high-reimbursement counties in order to squeeze out what have to be monumental over-payments to plans in those communities, and huge losses to the Medicare Program.

Mr. President, reforming Medicare isn't just about reforming payment systems, however.

It's also about helping beneficiaries to become smarter shoppers in a new Medicare environment that we hope will offer many of them many more choices and options for care.

Therefore, it is critical that we change the program in way that will empower seniors to make the appropriate choices.

At the bottom, this means developing and executing a much better system of informing beneficiaries about their rights in managed care, and about the most important provisions of the health plans available to them. This information must be given to seniors as ''news they can use''—data that is in clear and accurate layman's language, and which conforms to standardized reporting practices so that consumers can compare one plan against another in a traditional kitchen-table-assessment.

Indeed, these tools if we had them would be useful, today, with 80,000 beneficiaries per month choosing to leave fee-for-service Medicare for Medicare managed care organizations.

According to Stanley Jones, chairman of the National Institute of Medicine's committee on choice and managed care:

> Many elderly are making these new choices without enough information to judge which option is best for them, what the plan they choose will actually cover, or how the plan will operate.

Jones said that many seniors misunderstand the basic structure of HMO payment and care practices. He criticized Medicare managers for providing information to beneficiaries about differences in available health plans that ''appears primitive'' compared with what's available from private purchasers.

Mr. President, last year I asked the General Accounting Office to look into this problem, and the GAO auditors came to similar conclusions:

> Though Medicare is the nation's largest purchaser of managed care services, it lags other large purchasers in helping beneficiaries choose among plans. The Health Care Financing Administration (HCFA) has responsibility for protecting beneficiaries' rights and obtaining and disseminating information from Medicare HMOs to beneficiaries. HCFA has not yet, however, provided information to beneficiaries on individual HMOs. It has announced several efforts to develop HMO health care quality indicators. HCFA has, however, the capability to provide Medicare beneficiaries useful, comparative information now, using the administrative data it already collects.

The kind of data HCFA collects, now, of use to beneficiaries includes performance indicators such as: First, annual disenrollment rates, second, cancellation rates, third, so-called rapid disenrollment rates—the percentage of enrollees who disenroll within 12 months of signing up, fourth, rate of return to fee-for-service Medicare from the plan, and fifth, disenrollments tied specifically to sales agent abuses involving, among other things, marketers who mislead enrollees about what a plan may cover.

I think we can go beyond these quality indicators. The Federal Employees Health Benefits Program [FEHBP], for example, includes a graded system of reports on the quality of key services in federal employee health plans. There is no reason why Medicare beneficiaries, who must make these decisions on their own without benefit of employers or corporate benefit managers, shouldn't have at least the kind of qualitative analysis available to members of Congress who are covered by FEHBP plans.

Mr. President, I am heartened by the announcement earlier this year by HCFA Administrator Bruce Vladeck that the program would begin offering beneficiaries some qualitative information on managed care plans through the Internet. I think that's great for seniors that use the Internet in their homes or have access to that technology somewhere else.

I think it's clear, however, that we need to step up efforts going beyond the limited information that eventually would be made available at a HCFA website.

Here's the bare minimum of information that seniors need in a revamped Medicare program which empowers them to make appropriate choices:

Details on the way different Medicare choices and plans work.

Data on the experience of seniors of similar health and income background in those plans.

The methods and the decision steps used by plans to pay participating practitioners and health care facilities and service providers.

And here are the steps we need to take to insure seniors receive that information and the other tools they need to prevail in an increasingly more complex and choice-intensive Medicare marketplace:

First, Medicare managers must ensure that every senior, in every county, receive a full list of plans available to him, with a detailed description of what each plan offers. These submissions must be written in a way that allows a consumer to make easy comparisons between plans.

HCFA should require annual ''enrollment fairs,'' giving seniors a chance to review all plan materials at least once a year in order to determine if alternative Medicare offerings might be more suitable to the individual enrollee.

Second, Medicare must collect, evaluate and publish appropriate performance data on every plan. Using independent quality review organizations like the National Council of Quality Assessment, Medicare must devise and publish qualitative analysis—consumer report cards—on each Medicare plan, further enabling seniors to make appropriate choices among offerings.

Third, consumers must be allowed to enroll and disenroll from plans at any time during their first 12 months in a plan. After the first year of enrollment, disenrollment with guaranteed enrollment in a new plan would be limited to a first opportunity after six months in the second year.

We would make it somewhat tougher to disenroll after the first year because we would expect plans to make investments of preventative health services for new enrollees in the initial few months of their enrollment.

Fourth, health plan enrollees need a patient bill of rights that by Federal statute protects certain baseline issues fundamental to their good health. At the top of this list would be a Federal statute absolutely protecting the free and unfettered communication between patient and doctor on that enrollee's health condition and any appropriate services and procedures necessary to treat the patient.

Fifth, give Medicare beneficiaries a certain and sure grievance and appeals process, and the information they need to use it. Medicare must streamline the current process, allowing beneficiaries to by-pass certain bureaucratic roadblocks in the present system—most especially those that force time-delaying procedural exercises when the outcomes already are known. On an initial enrollment, and at any time a beneficiary changes plans, an explanation of new or amended appeals procedures must be part of the enrollment exercise.

And as with Medigap insurance, HCFA should hire and train ombudsmen and trouble-shooters tell help beneficiaries both understand provisions in plans, generally, and appeals and grievance procedures specifically.

Sixth, every Medicare risk provider should offer at least one plan in his portfolio that includes a point-of-service provision, so that those seniors who would try plans if they could keep going to a particular practitioner would be allowed to do so.

Mr. President, I have spent quite a number of years talking with seniors about their health care. Before I was elected to the House of Representatives in 1980, I was cochairman of the Oregon Gray Panthers. I know that seniors are deeply suspicious of any changes to Medicare, in particular, and many of them view the current debate over the shape and direction of the program with a good deal of alarm.

But many more who I've talked to recognize the need for changes and, indeed, want to see this debate begin.

And on the basis of those conversations I am convinced that seniors will feel a lot better about anything we do if we give them more decision-making power to fashion the health care they receive through the program.

Fundamental to that is making sure they have the information and tools to make the right decision, at the front end, and to protect themselves in the case of disputed decisions while they are enrolled in plans. These changes would go a long way toward providing seniors with that kind of empowerment, and in the long run strengthening and improving Medicare as a critical government program.

Mr. President, I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. FAIRCLOTH], is recognized.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to be recognized for 10 minutes in morning business.

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

PITIFUL STATE OF OUR LEGAL SYSTEM

Mr. FAIRCLOTH. Mr. President, I take the floor today to discuss an issue that is serious and becoming more serious every year, and that is the pitiful state of our legal system. It is becoming harder and harder and harder to convict anybody of anything. You can catch them on tape, film them committing the crime, and then you will probably lose it; they will be found not guilty. No amount of evidence seems to be sufficient anymore. I think we have reached this sorry and pitiful state because we have basically let the system be controlled by lawyers. When you control the legal system by lawyers, you are simply asking a thermostat to set itself. Defense lawyers are twisting and bending common sense to let the guilty go free, and they are aided by judges—in many cases, hand-picked by the trial lawyers. The lawyers pick the judges.

At every turn, you have lawyers controlling a system that makes no common sense, except to serve one purpose, which is for their benefit.

The most recent example I can think of is the glaring stupidity involving the Oklahoma bombing case. First, it has taken 2 years to bring it to court when the man was caught the day after he did it. Now, many taxpayers are appalled by the very fact that they are paying for McVeigh's defense—they are paying for it. They think that is reprehensible. But they don't realize how much they are paying. If they did, they would rise up and revolt. It is not just the defense of McVeigh; it is gold-plated from one end to the other. He has 14—14—expensive lawyers defending him that the working people of this country are paying for—14 of them. His chief lawyer, Mr. Jones, says that it will cost $50 million to defend him. That is his estimate. Now, anybody that has ever had a lawyer knows they never come in with a low estimate. They are estimating $50 million to defend him. This is absolutely offensive to every taxpayer in this country, and it should be. But this is a typical example of a legal system that is out of control.

Now, to defend Mr. McVeigh because he blew up the building in Oklahoma City, his lawyers have traveled literally all over the world. They have been from Kansas, where he rented the truck, to Jericho. I don't know why he would have been there. They have been to the Philippines. These lawyers are traveling at taxpayers' expense. They have been all over Italy. They have covered every country in Europe and gone to the West Bank. Nobody knows what they are searching for—maybe for the real killer, or maybe just enjoying travel at taxpayers' expense. While they have the killer, they are always looking for another one. The taxpayers have paid for a TV and VCR for Mr. McVeigh so he can review the evidence.

Mr. President, to add insult to injury and outrage to outrage, they moved the trial. So now we, the working people of this country, are paying $50,000 a week—$50,000 a week—for the living expenses of his lawyers. When you start talking about the working people, $50,000 every week for the living expenses of his lawyers—they spent $0.5 million to remodel the courtroom in Denver for his trial. They couldn't try him at home. They had to move it to Denver and we spent $0.5 million getting the courtroom ready for him.

The victims of his crime have had to travel hundreds of miles from Oklahoma to Denver in hopes that they see that he gets justice. They are paying for the defense of the man that killed their children. They are also having to pay for their own room, board and lodging in Denver. Plus they are paying $50,000 for his lawyers' lodging and board in Denver. There is no end to it.

How many times do the victims of this crime, or any crime, have to be made victims again by the very judicial system that they are paying for? We will be paying for McVeigh's trial long from now in the form of interest on the debt and the money we borrow to give him $50 million for his lawyers.

It would be my thought that if McVeigh didn't have the money for his gold-plated defense, he should not have blown up the building in the first place.

Mr. President, I suggest that there are a number of things we could do, and we need to start fixing a system that is broke. And it is broken bad. We need to change the law that allows criminals to get the best defense that taxpayers can pay for. That is exactly what they are getting. I am going to propose legislation putting a cap on the Federal Defender Program.

I would like to cap what McVeigh is getting right now. But that will be appealed for years and years. As long as we pay the lawyers, they will keep appealing for Mr. McVeigh. So he will be out there far into the future with the people's money. The $50 million figure will run into $75 million before we get through hearing about him. We need a comprehensive overhaul of the legal system, and it needs to be done by nonlawyers. We need to overhaul the legal system and not let a single lawyer be involved in the overhaul. We need a national commission composed of nonlawyers to review the judicial system and provide some commonsense solutions to the problem, and it needs to be made up of homemakers, regular people, business people, truck drivers, and people who would bring some practicality to it and not lawyers who would continue to feather their own nest.

I think we need a victim's rights amendment to our Constitution. Over the last 40 years liberal judges have turned our Constitution into the ''Criminal Protection Act.'' The purpose of the last 40 years is to make sure that every criminal is coddled, pampered, and looked after in a very proper manner. It is time for it to stop, and the Constitution has to protect victims as well.

Mr. President, I know that many Senators share what I am talking about and are frustrated by what we see. I think we need to start on legal reform, and I think we do need to do it soon.

The first thing that will be said is, ''If you start it, the President will veto it.'' Well, let him veto it. I think the American people need to know where the President stands. So if he wants to veto it, let him do it. If the President says that the regular people of this country—or if he chooses sides with Ivy League lawyers that never got a murder case that they couldn't appeal, it is time to bring the practicality and the common sense of the American people into the legal system and take it out of the hands of the lawyers. The very idea of $50 million to defend McVeigh—$50 million, 14 lawyers. Anybody who would tell me that that isn't an absolutely out-of-control system simply has lost all common sense themselves.

It is time we put an end to it. I intend to introduce legislation that will do so.

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

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like to start by using my own 5 minutes and at the end of that time go into leader time. If the Presiding Officer will indicate to me when I have consumed the 5 minutes, I will be grateful for that.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. CONRAD. I thank the Chair.

THE DISASTER IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rise again today to report to my colleagues on the developing disaster in the State of North Dakota. As I reported to my colleagues yesterday, we were hit last weekend with the most powerful winter storm in over 50 years. We are a State that is accustomed to tough storms. But, frankly, we have never seen one quite like this. Mr. President, this storm came on top of the worst flooding threat in 150 years. So we have a double whammy of a powerful winter storm, dumping record amounts of snowfall, in addition to an underlying threat of massive flooding, because before this storm hit North Dakota, we were faced with a record snowfall in the State of North Dakota, over 100 inches of snow, before we got dumped on with another anywhere from 17 to 24 inches in the eastern part of our State.

As the paper of my hometown reported, ''A Doozy of a Record''—record snowfall they are talking about. It is maybe hard to see on the chart here. But what they are showing is a major shopping center. These are cars, or I guess more accurately they are the tops of cars. That is how deep the snow was in my hometown.

That is not the only place that has been hit. It is across the State of North Dakota. This is from the largest city in our State, Fargo, ND. The headline there is ''The Worst of Two Seasons.'' They are talking about the blizzard on top of the flood.

Mr. President, this is a truly staggering set of circumstances that the people of my State are having to cope with. Just this morning I was called by the head of the Corps of Engineers for our district, who informed me that although all of the predictions were dire, they have now become even worse.

As of this morning the National Weather Service is telling us that the forecasted crest, instead of being 37½ feet in the city of Fargo, our major town in North Dakota, it has now been raised to 39 to 39½. Already we are faced with the worst flood in 150 years. We were told this morning that this is the 500-year flood level. Of course, the dikes were built to accommodate the earlier projections at 37½ feet. So the dikes were built to 39½ feet. Now we are told the forecasted crest is 39 to 39½ feet.

Mr. President, this could be a calamitous situation. They are telling us that the crest will be reached late tomorrow or perhaps early Friday.

I have talked to the Corps of Engineers. They are working feverishly to add to the dikes that have already been constructed not only in Fargo but right up the Red River Valley—in Harwood and Grand Forks, ND—to try in a race against the clock to build these dikes high enough to protect the people and the property that is around this river.

Mr. President, this is the most heavily populated part of my State. The disaster that is unfolding is truly staggering in proportion.

Early Saturday 80,000 people were without power, with wind chills of 40 below zero. Can you imagine being an elderly person in a home being faced with the most powerful winter storm in 50 years without heat? That is what is happening in my State. Although great progress is being made because of a really heroic effort by people to respond, still today 20,000 people are without power and without heat, most of them since Saturday.

Today temperatures outside are hovering near zero in North Dakota, and even more threatening, temperatures inside these homes that are without heat ranging between 30 and 40 degrees. Not only is the human condition being put under great stress but also livestock has been put under grave stress in our State. Thousands of cattle are dead.

I was told yesterday of a ranching family that brought 10 of their calves into their home to try to give them protection, and allow them to live. All 10 of them died. The cattle were dying because the wind was so ferocious that it blew the snow up into their nostrils and they suffocated. They can't get to many cattle to feed them because of the snowdrifts that are everywhere.

Mr. President, I thought I would share with my colleagues just some of the individual stories that tell the depths of this tragedy.

A young man froze to death in his pickup when it became stranded only 1 mile from the small town of Lankin, ND.

One family that is stranded in its farmhouse due to overland flooding is burning its fence posts to keep warm. The water around their house was iced over, so neither emergency vehicles nor boats were able to rescue them. Another family was forced to snag logs that drifted by in flood waters to heat their home.

The Turtle Mountain band of Chippewas has snowdrifts of up to 15 feet. Can you imagine a snowdrift of 15 feet that is blocking transportation? In fact, emergency crews needed 4 hours to get to a man who had a heart attack.

A man from Wilton, ND, went on the radio in search of hip-length waders so that he could wade out to rescue 120 sheep that are caught up in the flood waters.

An elderly couple was trapped inside their home due to a 6-inch layer of ice that had formed over their doors and windows; trapped in their own home because ice had formed around the doors and windows and they could not get out. An emergency rescue team was sent in to rescue them.

The PRESIDING OFFICER. The Senator's 5 minutes are up.

Mr. CONRAD. I thank the Chair for informing me. If we could now go on with leader time, I would appreciate that.

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. CONRAD. Mr. President, a family in northeastern North Dakota—two parents and their 7-year-old—has been without power since Saturday with snowdrifts trapping them in their home. They had to sleep huddled in the hallway to keep warm.

Seventy-five people have been stuck in the basement of the Hebron city hall because their cars were pulled off of the major highway going by as that road became impassable. Those 75 people have been stuck there since Saturday.

Officials in Cass County, the most populous county of our State, are having difficulty responding to emergency calls because the water surrounding many homes is frozen. So they can't get there by wheel vehicles and they can't get there by boat. There is no

way to get to people in order to extricate them.

Mr. President, there has been a tremendous response, not only by volunteers in our State but also by the agencies attempting to cope with this disaster.

I want today to thank the President for responding so quickly in declaring our State a Presidentially declared disaster. This is our second Presidentially declared disaster of this year. We are only in the fourth month of this year. We already had a Presidentially declared disaster because of the record amounts of snowfall. Now on top of that we are anticipating a record flood.

These are truly difficult times for our State. Many homes are still without power. We need generators and fuel to heat homes, make certain that essential services are up and operating. My State needs special heavy equipment to clear snow and ice from roads to allow for emergency access.

This is a snowfall that is unlike any we have seen because it happened with a freezing rain and then snowfall, and so the snowpack that is there is like concrete. That is what the people who are out there trying to fight this mess are telling us. They have never seen a snowpack like this. We had rain on top of snow, it froze, and it is like concrete trying to break through these incredible snowdrifts.

I also want to recognize FEMA and the capable administrator there, James Lee Witt, who is coming to my State tomorrow. FEMA has responded marvelously to the needs in North Dakota. I also wish to thank the Corps of Engineers that is involved in a really heroic effort. Some of these people have been working around the clock with no sleep for days attempting to build these dikes higher as the flood crest forecasts keep increasing.

I just want to say on behalf of the people of my State how much we appreciate the extraordinary response of the Corps of Engineers and of the Federal Emergency Management Agency.

I would also like to thank the president of Manitoba Hydro, Bob Brennan. We were alerted by the Governor; they were having trouble getting people across our border. We got the Immigration and Naturalization Service to provide an immediate 2-week waiver on all of their requirements at the border. We talked to Manitoba Hydro and they committed to sending 100 people to our State to help rebuild the transmission facilities. Now, that is real neighborliness, and we appreciate very much that our neighbor to the north has responded in this most generous way of sending 100 people to help us rebuild the transmission facilities in our State.

I would also like to thank the Internal Revenue Service. This is something we rarely do. They have indicated that they would practice forbearance on our individual income tax payers in the State of North Dakota by allowing them to file by May 30 without late payment penalties. They will be asked to pay interest on the money during the period that they would have paid, but they are being given until May 30. If they file and if they pay by that date, they will not be hit by any late-payment penalties. I am told that they are applying this same standard to every State and every county that receives a Presidentially declared disaster in the face of what is happening in many parts of the country.

We struggle to find good news in all of this, hopeful news. But I can tell you there is good news and there is hopeful news, and that is the spirit of the people. In North Dakota, we say we have a yes, we can attitude, and that is exactly what we have seen in coping with these disasters. As one emergency official said to me, Senator, I have seen blizzards; I have seen floods; I have seen power outages, but I have never seen all three together at the same time.

That is what we are coping with in North Dakota. I must say that can-do spirit has served us well. Not only do North Dakotans show that spirit, but I must say these Federal agencies that have come to help are also showing that spirit, and we deeply appreciate it.

I thank the Chair and yield back the remainder of my time.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. I thank the Chair.

DISASTER RELIEF FOR MINNESOTA

Mr. WELLSTONE. Mr. President, the President has now declared a major disaster in my home State, Minnesota, and ordered Federal aid to supplement State and local recovery efforts in areas hard hit by severe flooding, severe winter storms, snow melt, high winds, rain and ice. And this all continues. The declaration will make funds available for grants, disaster housing and low-interest loans to cover uninsured damaged property and other aid to help residents, businesses and local governments cope with ongoing storm and flood damage.

I am pleased by the swift action taken by the emergency management division of the Department of Public Safety in Minnesota. Jim Franklin and his hard-working staff, very hard-working staff are to be commended for their efforts. I am very pleased with the action taken by the Federal Government as well.

I think James Lee Witt is one of the greatest employments ever made by any President. He has been so responsive to all of us in this country when citizens in our States are faced with these very difficult and painful crises. I do not think crisis is an exaggeration.

I am also really pleased with the way in which SBA, the Small Business Administration, has been so responsive.

Today, I will be requesting $50 million in additional energy assistance, the LIHEAP program, to help families who will soon be returning to their homes only to find their heating systems have been damaged. These are individuals with low income, many of them elderly, many of them families with children, who, because of the severe cold we have had all winter, have already had a very difficult time paying their heating bills. This aid is desperately needed. Many waterways in our State are already at record water levels. The Minnesota River is threatening to totally overrun many cities along its border. Record flood conditions are being predicted along the Red River, which is expected to crest within the next few days.

Along the Red River there are still ice and snowpacks which will be melting in the coming days and weeks, further threatening communities already under siege in northwestern Minnesota, and flood conditions continue to build along the Mississippi River as well, cresting any day now.

Some communities have already been hit and are under water and ice. In the town of Ada, nearly all the 1,000 residents have been forced to evacuate, including residents of a nursing home who had to be rescued by the National Guard. And, thank you, National Guard, for all of your fine work. Many of these people had little or no time to pack their belongings before fleeing. And when they return, little will likely be salvageable.

In Appleton, ice floe broke through the levee, and the river now has surged 21.5 feet in one-half hour, forcing a massive volunteer effort to halt the flow of surging water and further prevent housing damage. The Pomme de Terre River—let me repeat that—has surged 21.5 feet in just one-half hour.

The record flooding and cold temperatures have had a major impact on Minnesota. There have been widespread power outages throughout parts of the State, and with the flooding and the cold, emergency repair crews are unable to get to the affected areas. Many farmers are having trouble farming, and it is going to be a very, very difficult spring planting season.

I am very pleased, again, that FEMA Director James Lee Witt has done so much and will be coming to Minnesota to see firsthand the devastation. I believe he will be coming to South Dakota and North Dakota as well. As a Senator from Minnesota, I express my sympathy to Senators from the Dakotas. Of course, we will all work together.

I have been touched by the sense of community among many people in Minnesota. Many folks do not care who they are working next to as long as

they are working for their communities. People are working tirelessly, around the clock, to hold back the river. Neighbors are standing shoulder to shoulder, sandbagging. Volunteers are tirelessly serving sandwiches and hot coffee at fire stations.

When I was in Montevideo last week, it was just amazing. People who live on the high ground, they don't ever have to worry about the flood; they are out there, I mean really working to the point of exhaustion, sandbagging for others. High school students, I say to the pages, have volunteered their time, and they are doing a great job. That is the good news. The good news is the goodness of people in Minnesota. The good news is all the ways in which people are working together—I might add, to my colleagues, Democrats, Republicans, and others. The good news is the voluntarism of young people. The bad news is that in all too many communities, it really looks like a war zone.

The weeks and months ahead will include many more hours of hard work, cleanup, removal of sandbags, restoration of buildings, and ensuring that water supplies are not contaminated. People need not only the support of their neighbors, they need the support that only the Federal Government can provide.

It is interesting. Colleagues, Republicans and Democrats from other States, during the years I have been here in the Senate, have come to the floor and spoken about what citizens in their States have been confronted with. I think all of us are sympathetic and all of us try to provide the support.

I thank President Clinton for his very prompt response. I thank my colleagues in advance for the support I know they will give. I thank colleagues who have come up to me in the last couple of days and have asked me, how are people doing? What can we do to help? I am really proud—it is not a politician speaking—I am just really proud of people in Minnesota. I wish people did not have to go through this. I am emotional about it. I am really emotional about it. I just wish this was not happening, but it is, and it is so important that all of us at the Federal level try to provide assistance to people in communities not just in Minnesota but around the country when they are faced with these kinds of disasters. This really is a disaster.

I look forward to getting back home as soon as possible this weekend. I look forward to James Lee Witt and others coming to visit Minnesota, North and South Dakota, and other States that are going to need the help. People really need the help. People really need the help, and we have to make sure we provide it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE FTC CASE AGAINST JOE CAMEL

Mr. LAUTENBERG. Mr. President, yesterday I introduced the Tobacco Disclosure and Warning Act. This bill will require tobacco companies to disclose the ingredients, including the carcinogens, that exist in cigarettes. Cigarettes are the only consumable product in America today, the only one, whose ingredients are not disclosed. All kinds of food products list all of the ingredients very specifically. I think it is wrong. The public should know what is in the cigarettes. We work hard and invest a lot of resources to stop our kids from doing things like eating lead-based paint or drinking water with lead. We should not let them smoke it.

This bill would also require large, blunt and centrally placed health warnings on cigarette packs of the types used in other countries. I look at this one, which is done in Canada. Very clearly, on the black portion here, it says, ''Smoking can kill you.'' It is also printed in French to make sure that people understand the threat to their health when they take up smoking.

I want to particularly focus on the issue, now, of tobacco advertising and direct it towards the industry's use of Joe Camel. As you know, the Federal Trade Commission has jurisdiction over the fairness and truthfulness of advertising. Today, I am sending a letter to the Chairman of the FTC, Robert Pitofsky, encouraging the Commission to bring a case against R.J. Reynolds for unfair advertising because of its portrayal of Joe Camel in its advertising campaign. I am joined by Senators DURBIN, KENNEDY, HARKIN, WELLSTONE, WYDEN and MURRAY.

I ask unanimous consent the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 9, 1997.

Hon. ROBERT PITOFSKY,
Chairman Federal Trade Commission,
Washington, DC.

DEAR CHAIRMAN PITOFSKY: We are writing to you today to encourage you to reopen an unfair advertising case against the R.J. Reynolds Tobacco Company for marketing cigarettes to children. The company's Joe Camel campaign is an outrageous attempt to attract children to their product—a product that is illegal for children to purchase.

Numerous new facts have been uncovered about the tobacco industry's marketing efforts since the Commission's 1994 decision not to bring such a case against R.J. Reynolds. The most recent development was the Liggett Group's admission that the tobacco industry does in fact target children in its marketing efforts.

In addition, the Food and Drug Administration has collected R.J. Reynolds documents that evidence a company policy to appeal to ''presmokers'' and ''learners'' ages 14 to 18. A 1993 company study indicated that 86% of children age 10 to 17 recognized the image of Joe Camel, and 95% of those children knew that Joe Camel sold cigarettes. Since Joe Camel was introduced, Camel brand's youth market share has jumped from less than 3 percent to as high as 16 percent.

For these reasons, we believe it is time for the FTC to step in to protect our nation's children from a product that kills one-third of its users. While tobacco companies have a right to advertise their product to adults, the peddling of illegal drugs to children cannot be tolerated.

Sincerely,

FRANK R. LAUTENBERG,
RICHARD J. DURBIN,
PAUL WELLSTONE,
EDWARD M. KENNEDY,
RON WYDEN,
TOM HARKIN,
PATTY MURRAY.

Mr. LAUTENBERG. Mr. President, the letter simply asks the Chairman of the FTC to revisit this case, because we believe that R.J. Reynolds is intentionally advertising a product to children which is illegal to sell to them. In 1994, the FTC voted 3 to 2 against bringing such a case against R.J. Reynolds. At that time, the Commission cited a lack of evidence. But since then, dramatic new evidence, new material has become public. Last year, 67 Members of the House wrote a letter asking the FTC to reopen the investigation. The FTC staff has recommended that the Chairman do just that, and he will be making a decision over the coming weeks.

Mr. President, Joe Camel is a prime example of advertising that ought to be stopped. If Joe Camel were real and smoked as much as he does in his ads, he would be a dead camel. He would have bit the dust from emphysema, lung cancer, and heart disease.

The R.J. Reynolds company promotes the line of cigarettes with a cartoon character that is named ''Joe Camel.'' This character is seen in the advertisements promoting a ''cool'' and ''smooth'' image. He is often seen holding a cigarette out to the viewer of the ad. A picture I noticed most recently is he is in a beach chair someplace where the sand is nice and white and fresh, and he is sitting there.

Why would a tobacco company use a cartoon character to market its product? It does not seem like a cartoon is the best way to appeal to adult smokers. R.J. Reynolds claims it is marketing to adults with Joe Camel. It is hard to believe.

An article published in the Journal of the American Medical Association revealed that 6-year-olds—6-year-olds—were as familiar with Joe Camel as they were with Mickey Mouse. The Disney company has spent decades and a great deal of effort promoting Mickey Mouse, and if R.J. Reynolds is not marketing to kids, then it has pulled off perhaps the most successful accidental promotional job in mass media history.

I want to be clear, I do not think that children are being drawn to Joe Camel

by accident. The truth is that R.J. Reynolds is marketing its deadly product to children.

In preparation for its rule designed to decrease teenage smoking, the Food and Drug Administration collected documents that show that R.J. Reynolds targeted what it calls presmokers, identified as children as young as 14. A 1993 R.J. Reynolds document boasted that 86 percent of children age 10 to 17 recognize the image of Joe Camel and 95 percent of them knew Joe Camel sold cigarettes.

The most telling statistic is that since Joe Camel was introduced, Camel's share of the youth cigarette market has jumped from 3 percent to as high as 16 percent. Despite this criticism, R.J. Reynolds recently decided to engage in even more egregious behavior. It is now targeting kids based not only on age but race as well.

Mr. President, despite the rising rates of teenage smoking overall, African-American children have bucked the trend. How has the tobacco industry responded? It seems that R.J. Reynolds has decided that since its current marketing tactics are not working, it ought to target specific groups of children, particularly African-American children. Not only have they targeted those children, but it is promoting a line of camels even more deadly than its standard cigarettes.

Recently, R.J. Reynolds introduced a product called Camel Menthols. Menthols are a particularly dangerous type of cigarette. The menthol cools the smoke so that it can be ingested deeper into the lungs. Unfortunately, menthols are very popular in the African-American adult community. Critics are now charging that this line of Camel Menthols is designed specifically to appeal to African-American teens. In fact, it has been shown that R.J. Reynolds has revamped the Joe Camel image for Camel Menthols ads to make the character more appealing to African-American teenagers.

I consider R.J. Reynolds' corporate behavior inappropriate, and I hope that the FTC will take steps to end this advertising aimed at our kids, or any advertising aimed at our kids, because no parent, no guardian in good conscience could say to a child, ''Listen, here's some lead, here's some benzene, here's some arsenic, here's some chromium. If you feel like having a little bit of it, take it.'' Your conscience would never permit it, and the law would probably incarcerate you for endangering the health of a child. But here we have this advertising of a product that carries all of these elements in them.

I have asked in this bill that was introduced yesterday to make sure all 43 carcinogens that are used in tobacco products are clearly identified and that people are conscious of the fact that smoking may taste good, but once they try it, they live with it for as short a period as their life will be.

THE LIFE OF TIM HAGAN

Mr. BOND. Mr. President, today in my hometown of Mexico, MO, a very dear lifelong friend, Tim Hagan, will be buried. Lowell Lambert ''Tim'' Hagan, III, owner of Hagan Clothing Co., died Sunday after a long battle with cancer, and will be sadly missed by his family and all of us who were privileged to be counted among his friends.

Tim was a tremendous businessman and community leader. Born and raised in Mexico, MO, Tim developed a lifelong reputation as ''doer''. He successfully ran the family clothing business, and was involved in numerous community organizations, including the Rotary Club, the Mexico Chamber of Commerce, and the Mexico Country Club. Out of compassion for those less fortunate, he was the former president of the Audrain County Cerebral Palsy Society, and for 6 years was chairman of the Missouri National Multiple Sclerosis Hope Chest Campaign.

Because of his understanding of the daily challenges small business owners face, Tim was chosen to be part of the Missouri delegation for the White House Conference on Small Business in 1995. That conference was one of the most successful in history, in that some of the ideas generated by Tim and others to create small business jobs and opportunities have been acted on by Congress and many others are now being discussed.

Tim also felt that the education of our children and youth was particularly important to securing a good future, and was instrumental in bringing the Technical College to Mexico. That contribution will benefit the youth of Audrain County for years to come. His presence and spirit in the community will also continue to be felt for many years in that his own son, John, will continue to run the fourth generation family business.

Tim shared with his friends a love of his Irish ancestry, though his love was more frequently and forcefully expressed as a lifelong Democrat. Even in the last days of his illness, he and I engaged in many spirited, but good natured political debates.

Our culture is quick to glorify the here and now, the ''flash in the pan'' celebrities, the ''cause'' of the day. By that measure, Tim Hagan stood apart. While he was known in the community as a ''feisty Irishman'' with unfailing energy, he was also a builder. He spent his entire life making life better for his family, his employees, his church, and his community. His love for others knew no racial or social boundaries. We will miss him terribly.

I ask unanimous consent that an editorial by Joe A. May in yesterday's Mexico Ledger be printed in the RECORD.

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

[From the Mexico Ledger, Apr. 8, 1997]

MEMORIES OF A COURAGEOUS MAN

One measure of a man's life is how much he's missed once he is gone. The death of Tim Hagan Sunday has left a void in this community as immense as the spirit with which he moved through this world.

Tim excelled as a husband, father and businessman, but somehow that was expected. Those who had the pleasure of his acquaintance knew he was incapable of offering anything less than the best.

Through his work and volunteerism Tim touched many lives and those of us who knew him will always treasure our favorite memories.

Some may remember the third-generation clothier's innate touch of class.

Some will remember the Mexico native's dedication to civic projects that have improved our city.

Some will remember the gregarious Irishman and his unflagging enthusiasm for the sports teams of his alma mater, Notre Dame.

Some will remember the dedicated golfer and his exploits on the greens or his stories of the game that time and blarney could always improve.

As for me, I will remember Tim's friendship, his humor, his generosity, his gift for lightening the burdens of others.

But all of us can share the memory of Tim's determination. He had battled cancer since 1990. The faith, conviction and love for family he demonstrated during that fight should serve as an inspiration. Even on the most trying of days, his attitude remained positive, his smile present.

His courage to the end provided the best testimony to the man, his spirit and the life he spent among us.

He died as he lived—a feisty Irishman.

Goodbye, my friend. I will miss you.

RETIREMENT OF DR. JOHN B. BEGLEY

Mr. FORD. Mr. President, I come to the Senate floor today to pay tribute to a man who simply could not have worked any harder on behalf of the Kentucky college he has represented for the past 20 years.

A native of Harrodsburg, KY, Dr. John Begley returned to Kentucky in 1977 as head of Lindsey Wilson College in Columbia. It's hard to believe that the school John leaves today is the same one he came to 20 years ago.

Back then, Lindsey was just another struggling junior college. Today, it's the fastest growing liberal arts college in Kentucky. Back then, enrollment hovered around 222 students. Today, 1,372 students look to Lindsey for the tools to shape their futures. Back then, the school operated on a $600,000 a year budget and took in no more than $50,000 a year in donations. Today, Lindsey has a $14 million budget, pulls in $1.3 million annually in donations and raised $18 million in a 5-year capital campaign.

But perhaps most remarkable is that under John's leadership, the college has in no way sacrificed quality. Instead, they have strived for, and by all accounts achieved excellence.

In addition to 15 baccalaureate majors, the college instituted a masters in counseling and human development. Within just 2 years, the accrediting arm of the American Counseling Association ranked the masters program as one of the top 12 counseling programs in the Nation.

In an area of the State struggling for economic advancement, John made sure the college met the unique needs of Appalachian families. That meant making sure the college was readily accessible to area residents looking for the resources they needed to better their lives. With eight satellite branches, south central Kentuckians of all ages and from all walks of life can take advantage of the educational and job training opportunities at Lindsey.

In addition to academic excellence and steady financial growth, John always looked toward improving the quality of student life. One way he did that was through athletics. With 14 athletic teams and a men's soccer team that has won back to back NAIA national championships—the first Kentucky college to do so in 45 years—the college has struck an important balance between excellence in academics and student life.

Clearly, John's successes came with the help of hundreds of hard working colleagues, a community receptive to the college's needs, and a student body that took pride in their college's successes. But there can be no doubt that John's leadership pulled those forces together and created something really wonderful—something all Kentuckians can look on with pride.

Mr. President, I know I am not alone in wanting to thank John for leaving the college not only with a firm foundation from which to keep building, but a standard of excellence that will serve generations of students and faculty for years to come.

THE MINNESOTA FLOODS OF 1997

Mr. GRAMS. Mr. President, I just want to take a few minutes today to discuss the devastating floods that are paralyzing much of my home State of Minnesota. Most of the Nation knows we are experiencing some of the worst flooding in our history this week, and due to the severe snowfall of this past winter, damage is expected to surpass that of the disastrous 1993 floods.

Not only are Minnesotans fighting against the rising floodwaters, but they are doing it in the wake of a blizzard that brought snow, ice, and bitterly cold temperatures to our State this weekend, as well. It has truly been an ordeal—my heart goes out to those who are working desperately to save their homes and land, and my thanks go to the thousands of Minnesotans who have stepped forward this week to help their friends, families, and neighbors. It is reassuring to know that our communities share a collective heart, and can be counted upon to come together during tough times.

Now that President Clinton has approved our request that Minnesota be declared a disaster area, Federal money for flood victims is available in 21 Minnesota counties. That will enable cleanup efforts to get underway, and help families and individuals whose homes and property have been damaged or destroyed.

As of this past Monday, Minnesota Gov. Arne Carlson had activated more than 1,000 of the state's 11,000 National Guard troops to assist with sandbagging, emergency evacuation, and other flood-related duties. The Guard has been tireless in their desire to help and we thank them for that as well.

The disastrous floods have severely disrupted the lives of many, many Minnesotans, whose primary concern now is to ensure that their families and communities are safe, with adequate food and shelter. That being the case, I have requested that Commissioner Richardson of the Internal Revenue Service extend the tax filing deadline for those taxpayers living within the disaster area. Considering the many challenges Minnesotans will face in the next few weeks, cleaning up and rebuilding their lives and communities, extending the April 15 deadline is crucial. I hope Commissioner Richardson will act immediately to grant the extension.

Mr. President, we are used to harsh winters in Minnesota, but even we Minnesotans have never seen anything like this. Earlier this winter, heavy snows resulted in a Presidential disaster declaration for snow removal in 55 Minnesota counties. That rapidly melting snow has now caused extensive flooding on virtually every river and tributary in the State. This past weekend, the situation was compounded when Minnesota was hit by a combination ice storm and blizzard. Freezing rain and snow downed countless utility lines in northwestern Minnesota, leaving more than 50,000 residents without power. Some power has been restored, but it is estimated that other areas may be without power for another 7 days before repairs can be completed. The weekend storm, along with the severe snows of this past winter, will make flooding this spring some of the worst in our history.

For communities along the Minnesota and Mississippi Rivers east and south of Montevideo and south of Anoka, which includes the Twin Cities metro area, the worst flooding is on the way and record and near-record crests are expected there. The same is true along the north-flowing Red River along the Minnesota-North Dakota border. In Ada, in the State's northwestern corner, three-quarters of the town's 1,700 residents have been evacuated from their homes.

The flooding has been an exhausting nightmare for those who are in it, and agonizing for the rest of the Nation to watch. Yet, we have been inspired once again by the people of Minnesota, who have rallied together for their communities as they always do when tragedy strikes.

Young and old are working side by side to save their communities, filling and hauling sandbags, feeding those who have lost their homes and finding them shelter, and making sure the volunteers are well cared for. I read the comments of Marvin Patten of Granite Falls, who does not have flood insurance and whose living room is flooded under 18 inches of water. He said, ''At first I sat and cried, but after a few days you realize that we will manage.''

Shortly after the mayor of Granite Falls pleaded for sandbagging volunteers, he told a reporter that ''everybody in town showed up. Just like that. Amazing. I am stupefied.'' Now, as I read comments like those and speak with Minnesotans who live in the flooded areas, I cannot help but think it is during critical times such as these that we finally understand the importance of community, of neighbor helping neighbor. Those are the qualities that make us Minnesotans.

I want to take this opportunity to thank God for the mercy he has granted and the blessings he has bestowed upon our families and communities. It is within His strength that we find our own.

Mr. President, I heard the remarks of my colleague from Minnesota earlier this afternoon, and I appreciate his words and his efforts on behalf of the people of our State.

We stand together with our colleagues from North and South Dakota, who are facing devastation in their States equal to our own. When disaster strikes, we are not Republicans or Democrats. We are representatives of the people, and we will do whatever we must to protect our citizens when their lives, homes, and property are threatened.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 8, 1997, the Federal debt stood at $5,384,125,088,631.94. (Five trillion, three hundred eighty-four billion, one hundred twenty-five million, eighty-eight thousand, six hundred thirty-one dollars and ninety-four cents)

One year ago, April 8, 1996, the Federal debt stood at $5,134,564,000,000. (Five trillion, one hundred thirty-four billion, five hundred sixty-four million)

Five years ago, April 8, 1992, the Federal debt stood at $3,893,440,000,000. (Three trillion, eight hundred ninety-three billion, four hundred forty million)

Ten years ago, April 8, 1987, the Federal debt stood at $2,288,725,000,000. (Two trillion, two hundred eighty-eight billion, seven hundred twenty-five million)

Fifteen years ago, April 8, 1982, the Federal debt stood at $1,061,093,000,000 (One trillion, sixty-one billion, ninety-three million) which reflects a debt increase of more than $4 trillion ($4,323,032,088,631.94) (Four trillion, three hundred twenty-three billion, thirty-two million, eighty-eight thousand, six hundred thirty-one dollars and ninety-four cents) during the past 15 years.

COMMENDING THE UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL TEAM

Mr. THOMPSON. Mr. President, today I want to recognize the achievement and success of the University of Tennessee's Women's Basketball Team in winning the 1997 NCAA Division I Women's Basketball Championship.

Under the outstanding leadership of coach Pat Summitt, the Lady Volunteers have taken home the championship trophy 2 years in a row. These are the first back-to-back championships in 13 years, and we couldn't be any prouder back home in Tennessee.

Throughout the season, the Lady Volunteers had their share both of tough games and exciting wins. But they proved their talent and skill in the end with their victory in the NCAA tournament.

Women's basketball has become a tradition in Tennessee, and those of us who are fans have grown accustomed to great performances on the court. Over the years, the University of Tennessee's Women's Basketball program has attracted some of the most outstanding scholar-athletes in the nation, and in doing so it provides one of the most notable examples of sports excellence and academic superiority to be found anywhere.

Coach Pat Summitt and her tremendous staff deserve special credit. With this victory, Pat takes the fifth NCAA title of her career, placing her behind only the great coach John Wooden in the championship tally. Pat has achieved a real milestone in winning 5 trophies in just 11 seasons. She's been in charge of the team for 22 years now, starting when she was a graduate student, and only 1 year older than some of her players. Today, the program she worked to build and maintain has helped set the standard for many other successful athletic efforts in other universities, and women's college basketball is a national phenomenon.

In a word, Pat is a trailblazer. She has helped raise the profile of the exciting sport of women's college basketball, and she's created a lot of new fans.

This championship season at UT will be remembered for a lot of things, but most notably I believe we'll look back at the heart and the determination that led these women through to victory. The people of Tennessee, fans and UT alumni who live across the country and around the world are proud of this exceptional achievement.

When the UT Women cut down the nets in Cincinnati, they took home the memory of a hard-fought victory across a dramatic 5-month season. In a team loaded up with talent, the members came together for the effort it took to bring home the trophy. With a record of 29 wins and 10 losses, the Tennessee Lady Vols came through in the clinch. They surprised those who counted them out. In the end, they won the final game 68–59, leading for the entire first half in the game against Old Dominion and keeping up the pressure in the second half.

All the loyal fans of the University of Tennessee and all those who enjoy women's basketball have had the privilege of enjoying this fantastic season in a string of fantastic seasons. And with the young team and the new recruits, there's sure to be more excitement on the way in the coming years. What a great achievement this is by an outstanding group of athletes and coaches. Congratulations to the University of Tennessee Lady Vols—the 1997 NCAA champions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. ALLARD. Mr. President, I also ask unanimous consent that morning business be extended for an additional 30 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, without objection, it is so ordered.

Mr. DORGAN. May I ask, Mr. President, the Senator from Colorado if I could ask unanimous consent to follow his presentation with 15 minutes? My understanding is he is going to speak for 15 minutes, so that I be allowed to take the 15 minutes following his 15 minutes.

Mr. ALLARD. That is fine. I requested 30 minutes, so that 15 minutes would be allocated to myself and 15 minutes allocated to the Senator from North Dakota.

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

Mr. DORGAN. I thank the Senator.

THE OPIC ELIMINATION ACT

Mr. ALLARD. Mr. President, during my campaign for the U.S. Senate, I expressed the themes of balancing the budget, congressional reform, making Government smaller, and moving the power out of Washington and to the States and localities. This is why I am proud to introduce Senate bill 519, the Overseas Private Investment Corporation Termination Act, better known as the OPIC Termination Act.

As a Member of the other body during the 104th Congress, I voted to reform the welfare system of this country. I voted to end the subsidies for farmers. And now I believe it is time to end this form of corporate welfare for large companies.

I have never believed in give-away programs. Whether you are a farmer or a large corporate owner, you should play by the rules of the free market system. ''Less Government'' should be the motto of this Congress.

OPIC is a Government agency which was established in 1969 and is now active in 144 countries. It finances investments for American Fortune 500 companies through direct loans, subsidized loan programs, and insures them against political risk, expropriation and political violence. It entices companies to enter into risky transactions from which private lenders shy away.

This private activity may seem to have a good end goal, but the problem is not the end but the means. Basically, this is an insurance program run by the Federal Government for corporations who want to invest in risky political situations. In short, we are running an insurance program for major corporations.

What makes this even more problematic is that OPIC does not back this investment with their own finances, but with the full faith and credit of the U.S. Government—in its simplest terms, the U.S. taxpayer. Every loan and loan guarantee that OPIC finances puts the U.S. taxpayer at risk. Today, nearly $25 billion is being risked in the name of the taxpayers of these corporate OPIC loans.

Compounding the situation is that these loans and loan guarantees are not safe investments. The Congressional Budget Office supplied a list of the quality of the portfolio at the end of the year, 1995. OPIC has consistently taken risks in operations that are defined with the D-minus credit rating and even an F-double-negative credit rating.

As a member of the Banking Committee, I can assure you that if the U.S. taxpayer goes into a bank to get a loan to buy a house and they have an F-double-negative credit rating, the bank will ask you to please leave the building. But the Overseas Private Investment Corporation does it every year, and with the hard-working taxpayers' money, dollars backing these loans. So the same taxpayer who can never have a chance to secure a loan with this rating is securing loans for projects with the same kind of credit rating.

The simple fact is subsidies have shown that this portfolio is so risky you cannot even privatize OPIC because no buyer could risk losing billions of dollars if these loans go bad. Proponents of OPIC state that no loan or loan guarantee has gone bad and this is not risky.

If this scenario sounds familiar, it is because we have seen it before. In the late 1980's, the same claims were made by the Federal Savings and Loan Insurance Corporation, at least until the crisis hit. One decade and $180 billion in taxpayer bailout dollars later, we found this was not the case. It has been said that if we do not learn from the past, we will ultimately repeat it. If we do repeat history, it will again be the

farmer in Sterling, the technician in Denver, and the accountant in Grand Junction who picks up the bill. I have learned from the past, and I do not want my children and grandchildren to suffer through another corporate bailout.

Who gets these loans? Coca-Cola, DuPont, Union Carbide, McDonald's, and even two banks, Chase Manhattan and Citicorp. These, and many other large companies with OPIC loans, are not cash-starved companies, but companies with strong bottom lines. I do not believe the Federal Government should be in the business of business, and I do believe these companies can stay strong and survive without OPIC. As in life, if the risk is too high, then maybe you should look elsewhere.

What do OPIC loans buy? We, the taxpayers, have developed a soft drink bottling company in Poland and Ghana, a travel agency in Armenia, a magazine in Russia, a lumber mill in Lithuania, an art gallery in Haiti, cable television in Argentina, a hamburger bun bakery and phone book directories in Brazil.

Now, there may be some worthwhile projects and successes funded by OPIC, but, again, I do not believe that we need to be risking hard-working taxpayer money on these ventures. Plus, this is a subsidy that does not get built into the cost of a product which may compete against American products that are not subsidized.

Also, proponents of OPIC believe that if OPIC does not provide this insurance, then companies will not enter these risky markets. There are certainly private alternatives to OPIC's activities and one is starting investment funds for developing countries. Today, there are hundreds of private developing country investment funds. Portfolio money is flowing into all parts of the developing world. If interested, they are listed on the New York Stock Exchange. Even the proponents cannot deny the existence of those private alternatives or that they may be available at lower cost. However, it seems they know a good deal when they see one. With OPIC selling the full faith and credit of the U.S. taxpayer, foreign governments would be less likely to stick them with the bill.

Again, here lies the problem. These subsidized loans to promote trade and investment abroad distort the flow of capital and resources away from the most efficient uses, thus distorting trade and investment abroad. OPIC's impact on U.S. capital and resource markets may be negative due to these distortionary effects of subsidized loans. In layman's terms, OPIC distorts the marketplace, pushing out private investment, and does not allow it to grow.

This leads to the question, ''Is this the appropriate role for Government?'' What we are doing with OPIC is investing money in countries involving risky business deals. We are trying to help other countries' government-run corporations make the transition to the private sector. To do that, we run a Government corporation. Thus, we are trying to end other countries' government subsidies by running Government subsidies right here in Washington. This is not moving the power away from Washington, but right into the heart of DC.

I am not the only one saying that it is time for OPIC to go. In the other body, Representatives ANDREWS, KASICH, SANDERS, ROYCE, CONDIT, DEFAZIO, KLUG, PETERSON, SHADEGG, JACKSON, PASCRELL, and DICKEY have introduced H.R. 387 eliminating OPIC.

Also, the National Taxpayers Union says few other Federal programs combine such undesirable elements as corporate welfare, wasteful spending, unnecessary foreign aid, mismanagement and risk to the American taxpayers as the Overseas Private Investment Corporation.

Milton Friedman, one of the leading experts of economics from the Chicago School of Economics, said he does not see any redeeming aspects in the existence of OPIC. It is special interest legislation of the worst kind.

This leads me to another important reason why OPIC should be eliminated.

It seems to me that OPIC may be used as a political slush fund. Whether this is a perception or truth, I believe it is time to end this perception of impropriety.

Mr. President, I ask unanimous consent to have printed in the RECORD a story from the Boston Globe dated Sunday, March 30, 1997.

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

[From the Boston Globe, Mar. 30, 1997]

TRADE TRIP FIRMS NETTED $5.5B IN AID DONATED $2.3M TO DEMOCRATS

(By Bob Hohler)

WASHINGTON.—Businesses that gave Democratic Party committees more than $2.3 million and won coveted seats on US trade missions during President Clinton's first term secured nearly $5.5 billion to support their foreign business operations from a federal investment agency.

In all, 27 corporations that sent executives on trade trips with the late Commerce Secretary Ronald H. Brown obtained part of a multibillion-dollar commitment in federally guaranteed assistance from the Overseas Private Investment Corp., according to a Globe analysis of fund-raising records, trip manifests, and OPIC documents.

All but three of the 27 OPIC recipients donated to Democratic Party committees, and most of them gave between $50,000 and $358,000 during Clinton's first term.

While the Globe reported last month that Brown's trade trips were a fund-raising bonanza for the Democratic Party, what has previously gone unnoticed is the massive amount of OPIC support given to companies that traveled with Brown and donated money to the Democrats.

OPIC provides financing and political risk insurance that many US businesses consider essential to expanding into unstable or developing democracies. The Clinton administration, with Brown coordinating much of the effort, relied heavily on the federally funded corporation to boost US exports and to create jobs through private investment abroad.

No one has alleged that government officials arranged the OPIC support in exchange for political donations, which would violate federal law. But federal and congressional investigators are examining whether Democratic Party leaders pursued a reelection plan based in part on providing perks such as seats on Brown's missions to major business donors, many of whom stood to gain from government actions.

Many of the businesses that sent executives on Brown's missions gave to the Republican Party, though generally less than they donated to the Democrats. And several advocates for campaign finance reform said regardless of the Democrats' campaign strategy, the OPIC support that went to major donors on Brown's missions created the perception that corporate givers got what they wanted.

The average company contribution to Democratic committees from OPIC recipients on Brown's trips was nearly $95,000. The average support from the agency for the 27 recipients was about $200 million per company.

Bill Hogan, director of investigative projects for the Center for Public Integrity, said there were three ways to look at the Brown trips, agency assistance, and donations to Democratic committees.

''One is that it was a happy accident,'' Hogan said. ''Another is that the donations were an unbelievable investment. And the third is that the companies would have gotten the assistance anyway, and they just made nice, spontaneous thank-you gifts to the party.''

OPIC spokeswoman Allison May Rosen said agency officials ''may not have known'' that companies applying for assistance had contributed to Democratic committees or sent executives on missions with Brown.

Rosen said Brown and other administration officials may also have discussed particular projects with OPIC staff, including the agency's president, Ruth R. Harkin, the wife of Senator Tom Harkin, Democrat of Iowa.

During much of Clinton's first term, one of Brown's top associates, Jeffrey E. Garten, then undersecretary for international trade, served on OPIC's board of directors.

In addition, Brown attended several signing ceremonies for OPIC-supported projects, including a 1995 event with Palestinian leader Yasser Arafat for a bottled-water operation in the West Bank and Gaza involving Culligan Water Technologies Inc. of Illinois.

Rosen said OPIC awards corporate support solely on the basis of a professional review process geared to ''using our limited resources in a careful and prudent manner.''

Much of the OPIC support for participants on Brown's missions was granted while the agency experienced what Harkin described to a House panel last year as ''an unprecedented demand for services.'' But even in such a competitive climate, partisan political considerations have never affected a decision on granting OPIC support, according to Rosen.

''It's not in our world,'' she said.

Brown, widely regarded to have been the Clinton administration's most aggressive advocate for US businesses abroad, died with 34 other people when the Air Force plane carrying them on a trade mission to Bosnia crashed into a mountainside in Croatia on April 3, 1996. Four of the victims were executives with companies that had received OPIC support: AT&T, Bechtel Corp., Foster Wheeler Corp., and Harza Engineering Co.

Commerce spokesman Jim Dessler said it was ''natural that there is a correlation between Commerce trade missions, which focus

on emerging markets, and OPIC financing, which deals with investments in developing markets.''

But Dessler said Commerce officials exerted no influence on the OPIC staff on behalf of trade mission participants or Democratic donors. ''Absolutely none,'' he said.

OPIC, whose federal funding is under fire from some lawmakers who consider it ''corporate welfare,'' provides insurance and loan guarantees generally not available in the commercial market because of risks involved. Corporate recipients pay high insurance premiums and substantial loan interest, which has helped OPIC turn a profit every year since it was founded in 1971.

The agency received $104 million in federal funds last year and returned $209 million to the Treasury.

Companies that went on Brown's trade missions received nearly 14 percent of OPIC's total financial commitment of $40.6 billion from 1993 to 1996, which included $34.5 billion in political risk insurance and $6.1 billion in financing.

The businesses on Brown's missions received about $3.5 billion in risk insurance and $2 billion in financing.

Among the companies that traveled with Brown, OPIC supported projects ranging from Pepsi Cola bottling in Poland to rocket engine development in Russia to cellular phone systems in Argentina, Hungary, India, and Nicaragua.

The only Massachusetts company among the OPIC recipients was State Street Bank and Trust Co., which sent an executive to a trade summit with Brown in Amman, Jordan, in 1995. State Street gave $20,500 to the Democratic Senatorial Campaign Committee in 1995 and 1996, and $10,000 to the Democratic National Committee in 1996.

OPIC, in fiscal 1996, provided State Street a $54 million insurance policy on the company's investment in a Brazil manufacturing project.

Kari Murphy, a spokeswoman for State Street, said the company has complied with its policy of taking ''an active role in the governmental process as a good corporate citizen.'' She said that includes obeying ''the letter and spirit of all campaign finance and contribution laws.''

As for the Brown mission, which preceded State Street's OPIC assistance, Murphy said, ''Neither then nor later did State Street or any of our officers seek favorable treatment from public officials or government agencies or make any political contributions in connection with the trip.''

Of the other companies represented on Brown's missions, OPIC gave the bulk of its support—$1.62 billion—to Citicorp of New York and its subsidiaries, Citicorp received financing or political risk insurance for projects in 23 countries during Clinton's first term.

Citicorp was among 15 of the 27 OPIC recipients on Brown's trips that had received support from the agency before Clinton took office. And not all were major Democratic supporters.

Among them was Anderman/Smith Overseas Inc., a Denver-based oil company that received $40 million in political risk insurance from OPIC in 1992 to develop a giant oil field in Russia's western Siberia.

In 1994, when an Anderman/Smith executive joined Brown on a prized trade mission to Russia, OPIC also provided the company with a $40 million loan guarantee.

Yet Anderman/Smith was a small player in Democratic fund-raising, with total contributions of $5,250 coming from an executive's family. ''We wanted to succeed on our own merits,'' said James Webb, the company's chief financial officer.

Webb praised OPIC as competent and professional, saying the agency ''looked into every nook and cranny'' of his company's finances. ''We certainly didn't get any special treatment,'' Webb said.

The biggest giver to the Democrats among the companies on Brown's missions was Entergy Power Development Co. of New Orleans. After donating only $20,000 to Democratic national committees in 1991 and 1992, Entergy's giving soared to $337,613 during Clinton's first term.

Entergy's chairman, Edwin Lupberger, traveled with Brown to China in 1994 to close a deal to build a $1 billion power plant there with the Lippo Group of Indonesia. Lippo's ties to former members of the Clinton administration are under investigation by the FBI.

The Entergy-Lippo deal fell through. OPIC, which does not do business in China, was not involved in the project.

However, Entergy received $165 million of insurance coverage from OPIC in 1996 for a hydroelectric power project in Peru.

An Entergy spokesman did not return a phone call.

Several other federal agencies, including the Export-Import Bank, the US Agency for International Development, and the US Trade and Development Agency, also provided assistance to businesses that gave to the Democratic Party and sent executives on trade missions.

Administration officials said politics played no role in any funding decision. But campaign reform advocates were skeptical.

''In too many cases,'' said Ellen Miller of the advocacy group Public Campaign, ''it looks as if those who had the opportunity to reap those kinds of rewards were those who invested first in the Democratic Party.''

FOREIGN TRADE, US AID

Twenty-seven companies that obtained coveted slots on trade missions with the late Commerce Secretary Ronald H. Brown during President Clinton's first term received support for foreign projects from the Overseas Private Investment Corp., a federal agency. All but three of the companies donated to the Democratic Party in the same period.

Company	Donations to Democratic Party		OPIC aid 1993–96	
	Brown trip	1993–96	Amount	Country
Entergy Power Development	China	$337,613	$165m	Peru.
AT&T	G–7 Summit—China; Middle East; Russia	351,400	100m	India.
US West	India; Russia	243,500	20m	India.
Do	....do		11m	Poland.
Do	....do		24.5m	Brazil.
Do	....do		50m	Indonesia.
Do	....do		75m	Russia.
Do	....do		25m	Hungary.
Do	....do		45m	Hungary.
Do	....do		135m	Russia.
Bechtel Group	Middle East	189,650	54.5m	Algeria
General Electric	Middle East, Mexico	186,275	45.2m	Costa Rica.
Fluor Corp.	China	147.500	200m	Indonesia.
Do	....do		200m	Indonesia.
Enron Corp.	India	142,400	200m	India.
Do	Middle East		10m	Turkey.
Do	Kuwait		200m	Turkey.
Do	....do		100m	Colombia.
Do	....do		300m	India.
Do	....do		69.2m	Philippines.
Edison Mission Energy	China	91,700	50m	Thailand.
Do	....do		200m	Indonesia.
Do	....do		80m	Turkey.
Do	....do		200m	Indonesia.
Akin Gump	Middle East	91,300	65,250	Bolivia.
Tenneco	Middle East	75,450	20.8m	Indonesia.
Do	Spain; India; Latin America		70m	Romania.
Pratt & Whitney	Russia; South Africa; Saudi Arabia	75,000	50m	Russia.
Phibro Energy Production Inc.	Russia	70,450	20m	Russia.
General Motors	Spain; Middle East	61,500	5.8m	Argentina.
Citicorp/Citibank	Middle East; Spain	57,277	200m	Hungary.
Do	....do		200m	Trinidad.
Do	....do		200m	Brazil.
Do	....do		149.6m	Argentina.
Do	....do		100m	Russia.
Do	....do		70m	Brazil.
Do	....do		49.8m	Poland.
Do	....do		38.6m	Peru.
Do	....do		34.1m	Peru.
Do	....do		32.7m	Argentina.
Do	....do		32.5m	Peru.
Do	....do		31.8m	Jamaica.
Do	....do		31.4m	Brazil.
Do	....do		30m	India.
Do	....do		27.4m	Argentina.
Do	....do		27m	Thailand.
Do	....do		26.3m	Turkey.
Do	....do		26.1m	Brazil.

Company	Donations to Democratic Party		OPIC aid 1993–96	
	Brown trip	1993–96	Amount	Country
Do	...do		25m	Haiti.
Do	...do		25m	Russia.
Do	...do		23.4m	Brazil.
Do	...do		20.1m	Philippines.
Do	...do		18.7m	Peru.
Do	...do		17.7m	El Salvador.
Do	...do		17.1m	South Africa.
Do	...do		17m	Slovakia.
Do	...do		15m	Colombia.
Do	...do		14m	Czech Rep.
Do	...do		13m	Brazil.
Do	...do		12.8m	Bolivia.
Do	...do		12.8m	Bolivia.
Do	...do		12.4m	Jamaica.
Do	...do		11.5m	Russia.
Do	...do		11.5m	Colombia.
Do	...do		10m	Indonesia.
Do	...do		9.5m	Jamaica.
Do	...do		8.6m	Costa Rica.
Do	...do		6m	Tanzania.
Do	...do		5.9m	Honduras.
Do	...do		2.3m	Peru.
Do	...do		2.1m	Philippines.
Do	...do		1m	Lebanon.
Do	...do		800,000	Jamaica.
Lockheed Martin	Middle East	50.950	33.5m	Russia.
Pepsi Cola	Middle East	35,000	80m	Poland.
State Street Bank & Trust	Middle East	30,500	54m	Brazil.
Du Pont de Nemours	Middle East	30,000	200m	Russia.
Harza Engineering	Middle East	21,500	47.8m	Nepal.
Motorola	Russia; India	11,700	42.2m	Russia.
Do	...do		36.3m	Lithuania.
Do	...do		43.7m	Brazil.
Do	...do		46.7m	Brazil.
Do	...do		36.7m	India.
Do	...do		600,000	India.
Anderman Smith	Russia	5,250	40m	Russia.
Foster Wheeler	Spain; Middle East; Poland; China	3,000	25.8m	Venezuela.
Turner International	Middle East	2,000	3.7m	Kuwait.
GTE Corp.	Argentina	502m	175m	Argentina.
Do	...do		200m	Argentina.
DuracelI	Russia		12.7m	South Africa.
Cullingan Water Technologies	Jordan; Israel		1.6m	West Banks.
K&M Engineering	Middle East		87,256	Tunisia.
Total		2,338,917	5,458,952,506	

Source: Commerce Department, Federal Election Commission, Overseas Private Investment Corp., Campaign Study Group, Center for Responsive Politics, Globe staff.

Former Commerce Secretry Ron Brown's trade mission: Saudi Arabia—5/2/93–5/6/93; Mexico—12/7/93–12/9/93; South Africa—11/26/93–12/2/93; Israel—1/14/94–1/21/94; Russia—3/27/94–4/2/94; Poland—5/4/94–5/7/94; Latin America—6/25/94–7/2/94; China—8/26/94–9/3/94; India—1/13/95–1/20/95; Middle East—2/4/95–2/11/95; G–7 Summit (Belgium, Spain)—2/23/95–2/28/95; China—10/15/95–10/19/95; Spain—11/9/95–11/12/95; Middle East—10/27/95–10/31/95—Source: Commerce Department.

Mr. ALLARD. The headline from above the fold says, ''Trade-trip firms netted $5.5 billion in aid, Donated $2.3 million to Democrats.'' It goes on to state that 27 corporations that sent executives on trade trips with late Commerce Secretary Ron Brown received part of a multibillion-dollar commitment in OPIC loans and guarantees. All but 3 of the 27 OPIC recipients donated to Democratic Party committees, and most of them gave $50,000 to $385,000 during the President's first term.

As mentioned in the story, it is very difficult to ascertain whether the OPIC loan influenced giving to the party, or if the donation influenced who received the OPIC assistance, or if there was any impropriety at all.

To me, it does not matter. Since the awarding of OPIC assistance is entirely discretionary by the administration in power, it invites and welcomes possible abuse as described in the Boston Globe. OPIC should not exist in the first place, and even the perception that it could be used as a slush fund, whether Republican or Democrats, makes its elimination even more important.

With this bill, some proponents of OPIC will describe me as antibusiness or antitrade. I guess to them, getting the Government out of the business of business is antibusiness. I must say that I believe this is a probusiness, anti big Government proposal.

I am a free trader. I am a supporter of the GATT and NAFTA, and believe that free trade is the best way to raise the living standards for all Americans. We need to support policies that reduce trade barriers. OPIC does not reduce trade barriers for all companies to compete in the marketplace. It is an income transfer program from U.S. taxpayers to a selected group of businesses, who may have donated or will feel obligated to give to a political party. These subsidies may increase exports for a few selected companies that have the political influence to secure these loans, but it does little to expand the overall economic growth of this country. OPIC loans protect inefficiency and reduce total economic activity, shifting economic resources from taxpayers and unsubsidized businesses to politically connected businesses. Free trade is about getting the Government out of the private sector. The Federal Government can advocate U.S. business and trade without supporting politically connected businesses. Let us push for open markets, not for open political purses.

Last, as we are attempting to balance the budget by the year 2002 and reduce Government spending, we must begin to eliminate giveaway programs and corporate welfare. Eliminating OPIC will save $107 million this year and $296 million over the next 5 years. This does not include the money saved if any of OPIC loans or guarantees go bad and have to be bailed out by the taxpayers. We must get all spending under control and all parts of the budget must sacrifice. Balancing our budget will do more to increase economic and job growth than any OPIC loan can offer.

Mr. President, this effort is supported by individuals on both the left and the right of the political spectrum. With all the talk by liberals and conservatives about eliminating corporate welfare, I believe it is time we begin to do what we say and it ought to start here with OPIC. OPIC should not exist under a Republican or Democrat President or Congress.

I thank you for this time and I ask all my colleagues to support S. 519 and this effort to eliminate the Overseas Private Investment Corporation.

The PRESIDING OFFICER. The Senator from North Dakota.

TRAGIC WEATHER CONDITIONS

Mr. DORGAN. Mr. President, a couple of my colleagues this morning have spoken, as I did yesterday, about the devastating blizzards and floods that have confronted people in North and South Dakota and the Minnesota region in recent days. I suppose only those who have been there can fully understand the dimension of the tragedy. It is, indeed, a tragedy.

North Dakota has had the toughest winter that it has ever had, with five and six major blizzards, closing down virtually all roads, including the interstate highways, causing serious problems. On top of that, with the expected floods that would come as a result of the record amount of snowfall from these previous blizzards, last week

something called the grandfather of all blizzards came to North Dakota.

Leon Osborne, who works at the University of North Dakota and is someone who runs a weather service that I think is tops in our region, described this blizzard as the worst in 50 years in our State. This blizzard came on top of all of the other blizzards and on top of the flooding that was already beginning in our State. The snowfall last weekend ranged anywhere from 12 inches to over 20 inches of snowfall with winds 40 and 50 miles an hour in some parts of North Dakota. The picture of North Dakotans trying to fill sandbags in the middle of a snow blizzard is quite extraordinary.

The Dakotans have had a very, very difficult time coping with these problems. Last Tuesday we had a meeting with President Clinton and the head of FEMA, the Federal Emergency Management Agency, and the President signed a disaster declaration for North and South Dakota.

My understanding is that he probably signed a disaster declaration for some of the Minnesota counties today. There are teams of folks from FEMA now on the ground in our region, and there will be a visit to North Dakota by the head of FEMA and by the Secretary of Transportation and other senior officials. My understanding is that the Vice President will also visit North and South Dakota and Minnesota the day after tomorrow.

I intend to travel with the senior officials as they go to North Dakota, as do my colleagues, and we will be a part of a group that attempts to make certain that all of the resources of the Federal Government are made available at this time when it is needed in North Dakota and in our region to help people who are trying to dig out from this blizzard and trying to cope with massive flooding.

The newspaper headlines tell it better than I can. This one describes it pretty well: ''Down, But Not Out.'' North Dakotans are a tough people. They have suffered through a good many weather-related events in years past, but this was about as tough as it gets. ''State Paralyzed by Blizzard.'' The newspaper headlines describe all of the myriad events that have occurred. ''Area Residents Hang Tough Despite Flooding.'' ''Search for Heat and Power Endangers Lives: With Power Lines Down, Crews Struggle To Restore Power to Thousands of Homes.'' It has been a very, very tough time.

The stories of the folks who have had to endure this are really quite remarkable. We have men and women who are trying to restore power to a State in which up to 100,000 citizens were without power. Some are still without power. Men and women, linemen and others working for utility companies, electric co-ops and others are out in tough circumstances trying to restore power to North Dakota. They are doing an extraordinary job for our State.

Livestock losses are going to be very substantial in North Dakota. The threat to human life has been substantial. Fortunately, we have not had many deaths in North Dakota, but it has been a very challenging time. We are told that in some areas, one half of the young calves being born—and this is calving season for ranchers—one half of the calves are dying as they are born.

They are being found on the ground in circumstances where the ranchers simply could not save them. One rancher, I believe, brought five or seven of his calves into the home to try to save their lives. All of them died. Also, 300 milk cows were killed when a dairy barn collapsed under the weight of the snow. There are stories about cows and calves with a full 1-inch thick coat of ice on them as a result of the blizzard, rain, and the snow.

Farmers and ranchers have attempted, especially for the young and the vulnerable calves, to use air dryers to try to remove that ice from the coats of those calves. Then the power fails, so you cannot use air dryers, and the calves die. Those are just some of the stories of people who have been confronted with this challenge.

There was a story, in fact, yesterday about two fellows who were leaving a North Dakota community and were caught by this blizzard with whiteout conditions and they became stuck, could not move, could not see. They saw a building just faintly, just a few yards away, so they went to the building, which turned out to be a small bar on the edge of this town. So they broke into the bar and then used the telephone to call the wife of one of the two men who had broken into the bar and had the wife call the bar owner.

Remember, this is a whiteout blizzard, with no traffic available to move, and they are stuck and caught. The bar owner called the bar where the two fellows had broken in to seek shelter and said, ''Well, help yourself to whatever is there. There is frozen chili in the freezer.'' The folks were stuck there, I guess for a day and a half in the place. I suppose there are worse places to be stuck if you are in the middle of a blizzard, but it is a story that is replicated all across our State of neighbors helping neighbors, especially now confronting digging out from a blizzard and confronting the raging flood that will come.

The flood is going to be a very significant problem. Part of it has already hit. I want to tell my colleagues about the Red River—which, incidentally, is the only river in America that runs north, I believe. Because it runs north, it is running into an area up north that has not yet thawed, and the result is the water cannot flow easily because it is flowing toward ice. So it starts down south in our State and floods there first and then the flood exacerbates as it goes north.

In Wahpeton, flood stage is 10 feet, the current height of the river is 16 feet and is predicted to go to 18½ feet. In Fargo, ND, the flood stage on the Red River is 17 feet, the river is at 33 feet and expected to go to 37½ feet. In Grand Forks, flood stage is 28 feet, and it is expected to crest at 49 feet. That is the Red River. The Sheyenne River is the same story. At West Fargo, the Sheyenne flood stage is 16 feet, and the current height is 23 feet. In Abercrombie, the Wild Rice River flood stage is 10 feet and the current height is 24 feet.

So we face enormous challenges now as we confront digging out from a blizzard that represented the worst blizzard in 50 years and as we anticipate the continuation of a flood. This will be the worst flood that we will have had in a century.

Now, Mr. President, today is Wednesday, and I indicated we met with the President on Tuesday. President Clinton indicated to us that the head of FEMA, the Federal Emergency Management Agency, would come to North Dakota. He indicated he would invite a Cabinet Secretary, too, to come, and a senior team of administration officials will visit our region. I am also told that Vice President GORE will visit North Dakota, South Dakota, and Minnesota on Friday, the day after tomorrow, and I expect that the congressional delegation, myself included, will join him in that visit.

I appreciate very much the attention of the agencies and the administration in understanding the difficulty we face, understanding the gravity of the situation that yet exists in North Dakota with power lines down, with thousands of North Dakotans still without power after many, many days. I believe that we will appreciate very much in North Dakota the visit from the Vice President and from the head of FEMA and Cabinet officials who come to view firsthand what could be done on behalf of the Federal Government to make all of the resources of the Federal Government available to North Dakotans as they work together and fight together to confront these challenges.

Mr. President, my colleagues and I will be working in the coming days on the supplemental appropriations bill, which we hope will include the kind of resources that are necessary for all of the agencies to respond to this problem. Mr. President, there are not many States in our country in which interstate highways are closed or will be closed. Yet this morning Interstate 29 has one lane closed, and it is expected that Interstate 29 will be closed completely in North Dakota. In fact, a dike will be built across the interstate when it is closed, and it will be closed for some time. Interstate 94, a major artery east and west in our State, is now surrounded by lakes of water on both sides, and some predict that we will probably not escape having that interstate closed as well. But it is a very difficult circumstance, with road crews and others struggling in a crisis situation to meet the needs of people who have been confronted by this blizzard and these floods.

Many are finding that just the infrastructure things we normally take for

granted are now shut off, and it makes dealing with all of this much, much more difficult. I suppose electricity is the thing that most of us almost always take for granted every day. I have talked to several North Dakotans in the last hours, and they reiterate that it is something we take for granted, but the loss of electricity, especially in the circumstance in North Dakota, with record low temperatures this morning, dating back to the 1890's, has been a very difficult circumstance for families struggling to keep warm and struggling to confront these elements.

So, Mr. President, Senator CONRAD, myself, and Senator WELLSTONE, who spoke earlier, and others, intend to go to North Dakota with the senior Federal team, either tomorrow or Friday, and do everything we possibly can to try to bring some help to some folks who are now trying to help themselves dig out and prepare for floods. We hope that when all of this is done—and it is going to be some while—that the record will show that everybody rushed to the folks in this region who have been hurt, the North Dakotans and South Dakotans and Minnesotans, and everybody did everything humanly possible to make life better, and extended a helping hand to try to get them through these challenges.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

''(b) TABLE OF CONTENTS.—

"SEC. 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e). (2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term ''Yucca Mountain site'' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

"TITLE I—OBLIGATIONS

"SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PREEXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(e) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County are entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.

''(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

['SEC. 202. TRANSPORTATION PLANNING.

[''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than November 30, 1999.

[''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with Section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

['SEC. 203. TRANSPORTATION REQUIREMENTS.

[''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

[''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

[''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.**]**

'SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary—

''(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999; and

''(2) not later than November 30, 1999, shall, in consultation with the Secretary of Transportation and affected States and tribes, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than that date.

''(b) TRANSPORTATION PLANNING.—

''(1) IN GENERAL.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update

and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility not later than November 30, 1999.

''(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

''(A) transportation routing plans;

''(B) transportation contracting plans;

''(C) transportation training in accordance with section 203;

''(D) public education regarding transportation of spent nuclear fuel and high level radioactive waste; and

''(E) transportation tracking programs.

''(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—

''(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, in accordance with the requirements stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

''(2) REQUIREMENTS.—A shipping campaign transportation plan shall—

''(A) be fully integrated with State, and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d); and

''(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary demonstrates that a specific principle or procedure is inconsistent with a provision of this Act).

''(d) SAFE SHIPPING ROUTES AND MODES.—

''(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

''(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

''(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

''(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

''(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

''(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

''(7) PREFERRED RAIL ROUTES.—

''(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

''(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—

''(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal government. A State shall allocate to local governments within the State a portion any funds that the Secretary provides to the State for technical assistance and funding.

''(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

''(C) TRAINING.—Training under this section—

''(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

''(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

''(iii) shall include—

''(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

''(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

''(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

''(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 2 years prior to any shipment: Provided, however, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (1) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (2) the refusal to accept technical assistance by a State or Indian tribe, or (3) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

''(B) In the event the Secretary is required to transport spent fuel or high level radioactive waste through a jurisdiction prior to 2 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: Provided, however, That in no event shall such shipments exceed 1,000 metric tons per year, And provided further, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

''(3) GRANTS.—

''(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

''(B) GRANTS FOR DEVELOPMENT OF PLANS.—

''(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

''(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

''(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

''(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting annual departmental budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

''(I) the funds requested by states and federally recognized Indian tribes to implement this subsection;

''(II) the amount requested by the President for implementation; and

''(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

''(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

''(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

''(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

''(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be

provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of [1986] *1997*, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State, and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial offsite instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept.

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subparagraph (B), the President shall designate a site for the construction of an interim storage facility. *The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for construction of an interim storage facility.* If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a respository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1997 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1997 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), [once the Secretary has achieved] *in each year in which the actual emplacement rate is greater than* the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the [annual] *actual* emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities*: Provided, however, That the Secretary shall accept not less than 5 percent of the total quantity of spent fuel accepted in any one year from the categories of radioactive materials described in subparagraphs (B) and (C).*

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

''(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in subsection (e)(3) (A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1997. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in subsection (e)(3) (A) through (C) at the interim storage facility. None of the activities carried out pursuant to this subsection shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1997, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination furthers actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in

the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under others provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force

and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

''SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

''(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

''SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

''SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

''SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

''SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all rights, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

''SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, [2002] *2003*, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, [2002] *2003*, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403;

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the

annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403;

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both Houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than 1 year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means

under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

"SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

"SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2,000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

"SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 510. WATER RIGHTS.

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

[The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

[''(1) site characterization activities; and

[''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.**]**

''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

''(1) site characterization activities; and

''(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. **[**The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than 12 working days per calendar year.**]**

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information **[**that is generally available to the public**]** as may be necessary to respond to any inquiry of the Board under this title.

[''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.**]**

''(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the

same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than two times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

[''There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.**]**

''Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

[''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.**]**

[''(4)**]** *(3)* TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

[''(5)**]** *(4)* PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

''SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.''

''SEC. 703. EFFECTIVE DATE.

This Act shall become effective one day after enactment.''.

Mr. MURKOWSKI. Mr. President, this begins our third day of debate on S. 104, the nuclear waste repository legislation, which has been introduced by myself and Senator CRAIG and a number of other cosponsors. This may not be a very exciting topic, Mr. President, but it is an important issue and it is an important responsibility for this body.

What we have is a situation where, as the charts will show, at some 80 sites in 41 States this waste has been accumulating. The Federal Government agreed in 1982 to accept this waste by 1998. Well, 1998 is next year. Now, the site that has been suggested as being the best for the waste is out in the Nevada desert at the Nevada test site.

Again, to refresh the memories of my colleagues, this is what the site looks like. It was used for over 50 years for more than 800 nuclear weapons tests. It is probably one of the more remote areas in the United States, but it is unique inasmuch as it has been a selected test site.

Now, why this site? That is a legitimate question, and I know my colleagues from Nevada are very concerned about it being designated in their State. I am sympathetic to that. But the reality is that it has to be put somewhere, Mr. President. In the debate yesterday, my colleagues from Nevada claimed that during the development of our nuclear program, it was necessary to do our patriotic duty to designate an area out in the Nevada desert, and you might say their State was used for that purpose as a contribution to the effort to fight and win the cold war.

I think it is fair to say, and the statement was made yesterday, that Congress chose that area to be studied for nuclear waste disposal for political reasons. Well, I don't know whether that is correct or not. It had to be somewhere. But Nevada is where we conducted nuclear tests, and where there is radioactivity from those tests. But

in the debate yesterday, the Senators from Nevada indicated there was no rational, technical, or scientific reason for placing a spent fuel storage facility in Nevada. Well, I don't know any other place in the country where we tested 800 nuclear bombs.

Now, it's also important to note that the Department of Energy spent over a billion dollars studying other potential sites before narrowing the list to three sites, including Yucca Mountain. Congress settled on Yucca Mountain in 1987. It indicated that it had a unique geology, and it tied in the reality that the Nevada test site had been used to explode nuclear weapons for 50 years. In other words, it said that from a geological point of view, it meets our expectations. Secondly, it is an area that has been used, and, therefore, it should be sufficient for this type of permanent repository.

As we look at this test site, we should recognize that the last weapon was exploded underground there in 1991. Underground tests are still being performed with nuclear materials being exploded with conventional explosives, as I understand it, from time to time—all with the wholehearted support, I might add, of the Nevada delegation. In fact, not too long ago, one of the Nevada Senators supported storing spent fuel at the site.

I have a copy of a resolution that reappeared, from the Nevada assembly; it's joint resolution No. 15. That is a copy of the resolution, Mr. President, dated February 26, 1975. I am not going to read the whole resolution, but I think it is important to recognize this:

Whereas, the people of southern Nevada have confidence in the safety record of the Nevada test site and in the ability of the staff to site and to maintain safety in handling of nuclear materials.

And, also:

Whereas, nuclear waste disposal can be carried out at the Nevada test site with minimal capital investment relative to other locations.

That is from the copy of the resolution that we have on the chart behind me.

Therefore, be it resolved by the assembly and the State of Nevada jointly that the legislature of the State of Nevada strongly urges the Energy Research and Development Administration to choose the Nevada test site for the disposal of nuclear waste.

Now, Mr. President, that was indicative of the attitude prevailing on February 26, 1975. The resolution was passed. It passed the Nevada Senate by a 12–6 vote, aided by the vote of one of our colleagues here in the Senate from Nevada, and it was signed by the Governor of Nevada, Mike O'Callaghan.

Well, I ask, Mr. President, what has changed? That test site hasn't changed. It is still there. It still has a trained work force, still has an infrastructure for dealing with nuclear materials. The geology of the site certainly hasn't changed. Obviously, at least one of the Nevada Senators thought it was the best place to store nuclear waste in 1975, or he would not have supported this resolution. In my opinion, when you are all through with going through the areas in the rest of the States, it is still the best place.

Where are we today? Well, we are still on our way—business as usual around the Senate, putting off decisions. We began this debate in the 104th Congress with the consideration of S. 1271. The Nevada Senators objected saying that the bill would gut environmental laws, allow unsafe transportation, and endanger the health and safety of Americans. We had objections from the administration saying that we were choosing Nevada as the site prior to the determination that the Yucca Mountain site would be viable as a permanent repository.

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

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

COMMITTEE AMENDMENTS EN BLOC

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the committee amendments as presented be agreed to en bloc.

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

The committee amendments were agreed to en bloc.

AMENDMENT NO. 26

(Purpose: To provide milestones and requirements that allow thorough analysis and public participation and decisions based on sound science)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] PROPOSES AN AMENDMENT NUMBERED 26.

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

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

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

Mr. MURKOWSKI. Mr. President, I believe that the Senator from South Carolina wishes to offer an amendment at this time.

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

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

AMENDMENT NO. 27

(Purpose: To provide that the Savannah River Site and Barnwell County, South Carolina shall not be available for construction of an interim storage facility)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. HOLLINGS, proposes an amendment numbered 27.

On page 28, line 16, after ''Washington'' insert the following: '', and the Savannah River Site and Barnwell County in the State of South Carolina,''.

Mr. HOLLINGS. Mr. President, I rise today in support of the amendment offered by myself and the senior Senator from South Carolina, Senator THURMOND.

We all know the score, the chairman of the Energy and Natural Resources Committee has outlined the state of our nuclear waste policy and we are aware of the need to move this bill forward.

Currently, DOE is contractually bound to begin receiving spent commercial nuclear fuel in 1998. Under the 1982 Nuclear Policy Act, DOE was directed to identify, construct, and operate an underground repository to dispose of the Nation's commercial nuclear fuel.

Identifying such a site proved difficult, so in 1987 Congress intervened and directed DOE to study or characterize only one site, Yucca Mountain, NV. Since 1987 DOE has been studying the Yucca Mountain site to determine if it is a suitable site for the permanent repository. This characterization was to be completed and, if the site was suitable, a permanent facility was to be constructed by 1998.

I don't need to point out how far this process has fallen behind. If it was on schedule then we would not be debating this bill today. It is now 1997, and DOE has not finished its site characterization work. In fact they tell me that, if there is no further delay and the site checks out, then the permanent repository will not be ready until 2010 at the earliest.

Obviously that causes a problem since last year a Federal court held that DOE does have an obligation to dispose of the waste by the 1998 deadline. So where does the waste go in 1998? Well, to Senator MURKOWSKI's credit, he is trying to answer that question. That solution is to construct a temporary storage facility at the Yucca Mountain if the site is suitable for the permanent repository.

The Senator from Alaska has tried to accommodate a bunch of competing interests, and, hoping to avoid a veto by the White House, he has provided a means by which the President can identify an alternative site if the Yucca Mountain site is deemed unsuitable. It is this provision, allowing the President to designate an alternative temporary storage site, that brings me

here today. My friends from Oregon, Senators WYDEN and SMITH, both of whom are on the Energy Committee, offered a provision at markup to ensure that the DOE's Hanford Site be excluded as a possible alternative temporary storage site.

As many of my colleagues know, the DOE's Savannah River Site is located in my State, and I am here today to explain why, like the Hanford Site, it is not a suitable site for a temporary facility. After my colleagues hear SRS's disadvantages, they will agree. SRS is not the place for this spent fuel.

The amendment before us simply codifies that position. It simply states that the Savannah River Site and Barnwell County South Carolina, like Hanford, cannot be identified by the President as an alternative temporary storage site.

I am not going to spend time arguing why Yucca Mountain is the best site for this facility. The chairman of the Energy Committee has done a fine job of that. What I will do is tell you why SRS is not the site.

SRS is a 198,000-acre reservation located in South Carolina and abutting Georgia. It is 12 miles southwest of Augusta, GA, and 10 miles south of Aiken, SC. This is a highly populated area which has been and continues to grow rapidly. I have heard people argue that the Savannah River Site is some rural out-of-the-way place. Well, that is just not the case. The population within a 50-mile radius of SRS numbers about 615,000. This obviously encompasses all of Aiken, SC, and Augusta, GA, whose combined population is more that 400,000 people, plus a number of smaller communities that are too numerous to mention.

What is more astounding is that the population living within a 100-mile radius of the site numbers 2.6 million people. This includes a number of larger cities including the capital of South Carolina, Columbia, Charleston, SC, Hilton Head, SC, Savannah GA, and Augusta, GA. In fact, there are private homes located on private lands located within 200 feet of the site.

To say this is a far and out-of-the-way place is just not the case. Putting additional nuclear waste in such a highly populated area is crazy.

In addition, as I understand the scientists, their most constant fear is that nuclear material is exposed to water and leaches into surface or subsurface waters and that this water carries the contamination off-site. Therefore it is critical that this nuclear material be kept dry and away from the corrosive effects of water.

Well, for anyone who has visited the Savannah River site, or, for that matter the lowcountry of South Carolina, they know that in reality it is all wetlands or as some say, a swamp. In fact, the Savannah River site is literally surrounded by water. There are extensive water resources on, under, and adjacent to the site.

The Savannah River, which marks the border of the States of South Carolina and Georgia also marks the 20-mile western boundary of the site and six major streams flow through the site and into the river.

It is this river, the Savannah, which supplies drinking water for Beaufort and Jasper Counties in South Carolina and the town of Port Wentworth, GA. In addition, it runs directly through the city of Savannah, GA, downstream and supports an active commercial and sport fishing industry.

Studies indicate that portions of the site are within the 100-year flood plain, and although this information is not available, I would not be surprised to find that the entire site is within the 500-year flood plain.

Under the surface there are several aquifer systems. The largest of which is the Cretaceous or Tuscoloosa Aquifer. It is a huge aquifer stretching all across the Southeast. In general, the groundwater on the site flows into one of the numerous streams or swamps on the site and then flows into the Savannah River which is, as I mentioned earlier, the source of drinking water for numerous cities and towns downstream.

The water not making its way to the river is absorbed into the ground and eventually makes it to the groundwater. The level of this groundwater, like its flow, varies but in some places it is literally within inches of the surface. The rate of flow for this groundwater varies with areas where it travels as fast as several hundred meters a year. So it is not hard to imagine a scenario, and we have had cases, where nuclear contaminants have reached the groundwater and quickly moved off site.

It is interesting to note, but not surprising, that virtually every county in South Carolina and Georgia has some number of households getting their drinking water directly from these subsurface aquifers. In fact, over 50 percent of the households in two counties that abut the site draw their drinking water from wells.

Obviously, with the abundant wetlands, rivers, streams, and, an abundance of precipitation, averaging over 44 inches per year, the Savannah River site is not the place for this spent fuel—if you want to keep it dry.

There are numerous other reasons to eliminate the Savannah River site from consideration. Not the least of which is that South Carolina and the Savannah River site are already doing their share to safely store nuclear waste. In fact, foreign research reactor fuel shipped from all over the world passes right by my front door as it is being shipped to Charleston and then up to the Savannah River site. In addition, the site is constantly receiving waste from the nation's nuclear defense facilities and domestic research reactors. We have all the waste we can handle.

Trust me, I have visited the site repeatedly over my career, and I am aware of the cleanup job we face down there. We have spent years getting a waste processing facility up and running, and we are just now really beginning to clean up the 33 million gallons of liquid high-level nuclear waste on site. That does not include all the other forms of waste: low-level, transuranic, and hazardous. To add more waste to a site which has its hands full cleaning up the mess caused by 40 years of nuclear weapons production is not the solution.

It is clear given the dense population of the area and its geography that it is not the best site for any waste. Our goal should be to ensure that the Savannah River site is cleaned up and that its waste is stabilized and moved off-site. The site is not suitable to receive additional waste. This amendment simply ensures that the Savannah River site is not overrun with waste and that it continues without interruption the cleanup and stabilization of its existing contamination.

I urge my colleagues to adopt the amendment. I yield the floor.

Mr. President, I urge adoption of the amendment.

Mr. REID addressed the Chair.

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

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

The PRESIDING OFFICER. The assistant 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.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 532 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 532 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes, followed by Senator REID and Senator BRYAN for up to 10 minutes each, and further, that debate only be in order at this time.

Mr. REID addressed the Chair.

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

Mr. REID. Mr. President, reserving the right to object, if I understand the unanimous consent request, the manager of the bill will speak for 20 minutes, the Senators from Nevada will speak for 10 minutes each, and there will be no further debate on this bill tonight. Is that correct?

Mr. MURKOWSKI. It wasn't my intent necessarily to eliminate debate from any other Senator who may come down. I have no objection if that is the proposal from the other side.

Mr. REID. I want no further debate tonight.

Mr. MURKOWSKI. Then I would agree. If we may withhold that for a moment, let me check with the Cloakroom. I want to make sure we don't have anyone else.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I advise my colleagues from Nevada that I agree to their alteration to the agreement which would limit debate to 20 minutes on this side and 10 minutes each, with the understanding that there be no further debate at this time.

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

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we began this debate with the consideration of Senate bill 1271. The Senators from Nevada, of course, objected, saying the bill would gut environmental laws, saying it would allow unsafe transportation and endanger the health and safety of Americans.

We had objections from the administration. They opposed choosing Nevada as the interim site prior to a determination that Yucca Mountain would be viable as a permanent repository. To address these concerns and others, we have attempted to adjust our bill. We began with Senate bill 1271, then a new bill, Senate bill 1936, and again with an amendment in the form of a committee substitute to Senate bill 1936. With each new version of the bill, we attempted to strengthen the public health and environmental safeguards as well as meet the criteria of Members who were concerned about these items.

First, in an effort to address the administration's concerns, we made it clear that no construction of an interim facility would take place at the Nevada test site until Yucca Mountain was determined to be technically viable as a permanent repository. So let me make that clear. No construction would be initiated without the viability being determined.

We have extended the time period in order to accommodate the reality that nothing moves very fast when you are addressing nuclear waste.

With respect to concerns over radiation protection standards, we began with a 100-millirem standard which could not be reviewed by any Federal agency. The bill before us today allows the EPA to issue a stricter standard if it determines one is necessary. So we have tightened up on the radiation standards.

With respect to the NEPA requirements, our latest version requires the Department of Energy and the NRC to fulfill the requirements of NEPA in conjunction with the operation of both an interim storage facility and a repository. Our first bill did not contain that requirement. So, again, we tightened it up with regard to NEPA requirements.

With respect to concern about transportation safety, we have accepted transportation language offered by Senator MOSELEY-BRAUN of Illinois, Senator WYDEN, and others.

With respect to the preemption of other laws, we proposed language consistent with the preemption authority found in the existing Hazardous Material Transportation Act. Indeed, I think we have made substantial changes in the bill. What is before us today is far different than what we originally introduced as Senate bill 1271 in the 104th Congress.

Despite all of the changes we have made, the opponents of this bill continue to object to the bill as if no changes were made. We have heard it referred to as ''Mobile Chernobyl,'' ''emasculating NEPA laws'' and ''running roughshod over all environmental laws.''

The emotional rhetoric that has been used fails to recognize the changes we have made in this bill and the charges that we have refuted.

The suggestion has been made that the transportation is unsafe. We have shown how we have safely been moving fuel around for many years. I have some charts behind me to show that. Not only have we moved fuel, but fuel has been moved overseas.

Here is a chart showing specifically fuel what is coming to the United States from other countries: Australia; it is coming from Turkey, Iran, Pakistan, and Canada. How does it get here? It moves. It is transported. And it is transported safely. The French, the Japanese, and the Swedes are moving spent nuclear fuel. Spent nuclear fuel is coming from Japan, going to France for reprocessing, being taken back to Japan, and being put back in the reactors. They have what they call reprocessing. They don't bury their waste. They put it back in the reactors and burn it. It combats proliferation. I am not here to argue the merits of that. I am simply showing that this waste does move, and it moves in transportation casks.

We have heard it argued that transportation casks are unsafe. But we have shown that the transportation casks can withstand significant exposure to crashes, and can survive fires. We have shown the casks have been tested by a locomotive hitting them at the 90 miles an hour, or crash into a brick wall at 80 miles per hour, submerged in water, and bathed in fire. These casks are safe, and they are designed to survive any type of real world accident. We have the technology to do that.

I also want to show a chart relative to the movement of waste throughout the United States, which I think is significant inasmuch as it reflects on the reality that we move a tremendous amount of waste throughout the United States.

But here we are. In the years 1979 to 1995, there were 2,400 shipments across the United States through every State except Florida and South Dakota. I don't know how we missed those. But there are the transportation routes. So we have moved them safely. We have shown that our national labs have certified that the casks can survive any real world crash.

We have heard statements that radiation protection standards are unsafe. We have shown how our standard is more protective than the current EPA guidance that allows five times as much. We allow EPA to tighten the standards further, if need be.

It has been said on the other side that the Nuclear Waste Technical Review Board says there is no compelling technical or safety reasons to move fuel through a central location.

We have shown that a more complete reading of the Technical Review Board's testimony—and their report—indicates there is a need for interim storage, and there is a need for Yucca if Yucca is determined to be a suitable site for the permanent repository.

The other side has indicated we can delay this action until August 1998, at a time when a viability determination is made with respect to Yucca.

We have shown that delay is what has gotten us into this situation in the first place.

There is a court case which has already determined that the Federal Government is liable because of its delays and its inability to accept the waste.

Eight months from now, when the Government is in breech of contract,

then the courts are going to consider the damage that we face.

We as legislators have a responsibility to protect the taxpayers. With each delay, the damage is going to mount. With each delay, the liability to the taxpayer will mount. With each delay, there will be a pressure to yield to even further delays. The call for delay is really a siren's song. It is a trap. It is an excuse for no action.

Only yesterday I heard our ranking member, Senator BUMPERS, suggesting that we could wait until August 1998 to deal with this problem. Well, it might sound reasonable at first. It has been so long now. But let's give it a little more thought.

Will Congress deal with the nuclear waste issue in an election year with time running out in the 105th Congress? I think not. Will my friends from Nevada forego their rights to filibuster the bill at that time? I think not. As a practical matter, delay until August 1998 will slip to 1999. And, if we are waiting until 1999, why not allow the decision to wait for the license applications in 2001 or 2002? All the while we will be in violation of our contractual commitment. We will be increasing the damages. If we delay until 2001 or 2002, then why not delay until final licensing of a permanent repository is due in the year 2015.

Let me refer you to the picture of where we propose to put this. This waste would be put in a temporary repository located at the Nevada test site, which was used for more than 50 years and over 800 nuclear weapons tests have taken place in that area.

That is what we propose. It would be adjacent to the continuing development of a permanent site in Yucca Mountain. We have gotten nearly 5 miles of tunnel done now. The problem is that site is not going to be ready until the year 2015.

I do not expect the changes we have made in this bill, along with the others, will necessarily satisfy all my friends on the other side. All the members of the Nevada delegation have appeared before the committee, and they have said they would oppose any approach that would bring nuclear waste to Nevada, so I do not realistically expect my good friends to change their minds. They are doing what they feel they must do for their State. But I do hope my other colleagues who have not expressed support for our bill will understand just how far we have already come to make accommodations and to reject the emotional rhetoric that has been heard so often with regard to this bill.

We are starting this bill with 63 votes. That is what we had last year. It is no secret that we are seeking a higher number. So we are prepared to adopt amendments today to further address the concerns of some Members who have indicated concerns to the White House as well and to generally try to tackle all reasonable concerns that still may persist about the bill. We have developed this substitute amendment. We have worked closely with Senator BINGAMAN, and I commend him and his staff for their hard work.

Let me go over the amendments very briefly, point by point. S. 104 sets the size of the interim storage facility at 60,000 metric tons. Opponents of S. 104 have charged that the large size of this interim storage facility diverts resources away from the permanent repository at Yucca.

The Senators from Nevada have also incorrectly stated that it is our intent to make the interim repository the de facto permanent repository. Clearly, that is not the case.

Our amendment allows the Secretary to set the size of the facility based on the emplacement. Initial capacity would be 33,100 metric tons. This adequately addresses charges made by the critics of S. 104 that the repository is too large, and it makes it clear that the interim facility can never be a substitute for a permanent repository.

As we have said all along, the work at Yucca for the permanent repository will go on; it must go on. This provision in our substitute makes it clear that it has to go on.

S. 104, as reported, envisioned the initial operation of a central storage facility by December 31 in the year 2002, if Yucca Mountain is determined to be viable, and December 31, 2004, if it is determined not to be viable. Critics of S. 104 charged that this did not allow adequate time for the NEPA and the NRC licensing process to work.

Our amendment addresses these concerns by shifting those dates to June 30, 2003, and June 30, 2005.

S. 104 sets a 100-millirem dose standard that could be reviewed and changed to protect public health and safety. Critics of S. 104 argued that this was not good enough and that there should be a risk-based standard as recommended by the National Academy of Sciences.

Our amendment, therefore, mandates full EPA involvement in the setting of the risk-based radiation protection standard that is likely to result in a standard of 25 to 30 millirem. This is the approach endorsed by the Senators from Nevada I believe yesterday.

S. 104 ensured that the State and local jurisdictions could not hamstring Federal intent by allowing the Atomic Energy Act and the Hazardous Materials Transportation Act to preempt all inconsistent laws. Critics charged that this preemption authority was too broad because it allowed Federal laws to be preempted as well.

Our amendment, therefore, makes it clear that our bill would preempt State and local laws only, only where State intransigence prevents Federal purposes. We have adopted a more narrow approach that attempts to I think bring in a careful balance of State and Federal law.

We do not preempt Federal law. Therefore, let us be very clear about what we have attempted to do with our amendment here today. We have worked to address all the key objections of critics of S. 104 and still have a bill.

The statement of administration position and the recent letters sent to the majority leader by the Secretary of Energy really are not referring to the bill that incorporates the amendments we proposed here today, so their objection, if you will, is inappropriate because it does not relate to the changes we have made, and we look forward to any comments the administration might make with regard to these adjustments.

Let me go over each of the administration's criticisms and how we have addressed them. The administration's position initially stated that S. 104 would ''effectively replace EPA's authority to set acceptable release standards.''

Mr. President, I am going to need about 3 more minutes here with no objection from my colleagues from Nevada. I would ask that they be extended 3 more minutes as well.

Mr. REID. Whatever the Senator needs, we will extend the time.

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

Mr. MURKOWSKI. I thank my friend. Let me begin again.

The administration's position states that S. 104 would ''effectively replace EPA's authority to set acceptable release standards.'' Our amendment, as I have stated earlier, places the EPA in a key role developing risk-based standards for the repository consistent with the recommendations of the National Academy of Sciences.

The administration position states that S. 104 would create loopholes in the application of the National Environmental Policy Act.

We have answered that. A full EIS is required prior to placement of any waste in temporary storage or the repository, and our amendment requires the evaluation of transportation which S. 104 excluded.

The administration also stated that S. 104 would ''weaken existing environmental standards by preempting all Federal, State and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act.''

Our amendment completely changes section 501 of the bill. There will be full application of health and safety laws except where the local jurisdiction attempts to unreasonably stand in the way of the Federal mandate.

The administration's position further states that S. 104 ''would undermine the ongoing work at the permanent disposal site by siphoning away resources.''

That is simply not true. Our amendment establishes a user fee which was specifically added to provide sufficient funds for the construction and operation of a central storage facility and continued work at Yucca Mountain.

Finally, the administration's position states that ''it would undermine

the credibility of the Nation's nuclear waste disposal program by designating a site for an interim storage facility before viability has been assessed.''

As I have said earlier, that is simply not true. Our bill specifically conditions the use of the Nevada test site as a site for a temporary storage until completion, until completion of a viability assessment for the repository at Yucca Mountain. We have attempted to mirror the administration's position on this issue, and I think we have.

Mr. President, we have worked very hard to satisfy legitimate concerns of the administration and all Senators. We continue to remain open to suggestions. Our willingness to consider new approaches will not stop with the Senate passage of this bill. There will be consideration in the House, and there will be a conference. This is not the last word. We will continue our quest for compromise that is not only acceptable to a bipartisan majority of Congress but hopefully the President as well.

Finally, Mr. President, I want to again advise my colleagues of my thanks to Senator BINGAMAN for the efforts made to accommodate his amendments. I think we were able to accommodate seven of the eight. I would like to conclude by simply explaining the one that we could not resolve.

As the Chair is aware, Senator BINGAMAN opposes our provision, and that specific provision is if the Yucca Mountain site fails as a permanent disposal site, if it fails in the sense of the licensing viability or suitability test, why, then the President must pick an alternative temporary site. Our position is that if we should get to this point, and it is very unlikely that it could occur, that Yucca would fail as a permanent disposal site, it would be the President's obligation to pick a temporary site. It would also bind Congress in approving the President's site. However, if Congress does not approve, or if the President fails to pick a site in 2½ years, then we go back to the Nevada test site more or less as the default position.

Senator BINGAMAN's position is a little different. He says if Yucca fails and the President picks a site, and, of course, Congress must approve, but if the Yucca site is not approved and the President does not pick, or Congress does not approve, then the waste would stay where it is, at 80 sites in 41 States, and it would stay there, well, until we developed a new nuclear waste program for the country. It could stay there basically, in his contention, for an extended period of time.

We found that irreconcilable. We feel that in order to bring this to a conclusion, we have to structure the amendments in such a way as to determine, indeed, that if Yucca Mountain is not deemed to be an adequate site and if the President finds it necessary as a consequence of Yucca not being deemed an adequate site, the responsibility is the President's, with the approval of Congress, but if all proposed to duck responsibility, then clearly it comes back to the Nevada test site in default. And the rationale for that is obvious. Without closing the loop, we have left a loophole, and we would not see a satisfactory determination by the parties who must bear the responsibility. And the Congress and the Senate certainly share in that.

So with that concluding remark, I yield and encourage the Chair to grant an equal amount of time to my good friends from Nevada.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, will the Chair advise the Senator from Nevada how much time the Senator from Alaska consumed?

The PRESIDING OFFICER. The Senator consumed 25 minutes.

Mr. REID. Will the Chair advise the Senator when he has used 11 minutes?

The PRESIDING OFFICER. Yes, sir. If you will proceed, I will be happy to do that.

Mr. REID. Mr. President, I do not mean in any way to denigrate pigs. I like pigs. As far as I am concerned, they do not look too bad. But no matter how you dress up a pig, formal clothes or dress, it still looks like a pig. And this legislation, no matter how you dress it up, still appears to be garbage. It is a bill that is not good legislation. No matter how you dress it up, it is a bad piece of legislation. Not the least reason for that, Mr. President, is the fact that now, this year, we are trying to interchange the word ''viability'' with ''suitability.'' They are two totally different concepts with two totally different meanings.

As defined by the Department of Energy, viability is simply a finding that to that point in time, no disqualifying characteristic has been found. It simply says to this point we have not yet found anything wrong. It does not mean that the site will be suitable. Subsequent to viability, there is significant additional technical study to be pursued in the context of a repository design. The site could still be found unsuitable for an extended period later, while they find out if it is suitable. So an assessment of viability does not mean much.

This distinction between viability and suitability has been repeatedly pointed out to the Congress. It is a shame that in this debate, this year, we are now trying to satisfy the element of suitability by using the word ''viability.'' The distinction was emphasized by the immediate past Director of DOE's Office of Civilian Radioactive Waste Management, who cannot be considered someone who is opposed to the nuclear industry. He simply said the finding of suitability is much different and a much higher standard than the finding of viability.

The distinction was emphasized in S. 104 testimony by the Chairman of the Nuclear Waste Technical Review Board. He said repeatedly, as did the former Chairman of the Office of Radioactive Waste Management, ''Do not confuse viability with suitability. Suitability is the final step before license applications can be pursued. No centralized interim storage should be approved before that suitability decision has been made.'' This is very clear. So, in this debate let us not confuse suitability with viability.

There have been constant statements made on this Senate floor during the past few days that nuclear waste transportation is just fine, they do it other places. How many times have we heard statements, people saying we transport nuclear waste all over? Let me read from a letter written to my colleague, Senator RICHARD BRYAN, on March 28, 1997. This is not something that took place in ancient history. This is a brandnew letter. Let me read it:

DEAR SENATOR BRYAN: As the Senate prepares for a vote on S. 104, I thought you might find my recent experience with real-world transportation of radioactive waste in Gorleben, Germany of interest.

In early March, I was part of an international team which monitored the transport of six CASTOR casks of high-level atomic waste from southern Germany to the small northern farming community of Gorleben, a distance of about 300 miles. My experiences are chronicled in the enclosed issue of the Nuclear Monitor. But I want to add just a few points.

Too often, I feel like many of your Senate colleagues believe nuclear waste transportation is just another routine industrial endeavor and that, if they vote for a bill like S. 104, this transport will just be carried out with few problems.

The reality in Germany is quite different. The CASTOR shipments were met with protest every mile of the way. The shipments were front page news in every German newspaper the entire week I was in the country. Near Gorleben, a farming area and home of the ''interim'' waste storage facility, opposition to the transport and the ''interim'' facility is very nearly unanimous. In some towns nearby, I could not find a single house or farm that did not display anti-CASTOR, anti-nuclear, and anti-government signs. Farmers barricaded roads, and dug holes under them so the 100-ton CASTOR casks could not travel across them. Schoolchildren were forcibly removed from their schools, so police could use them as staging areas. The CASTOR transports had changed a quiet, conservative region of Germany into a bastion of protest and anger, causing a divisiveness in German society only now being recognized by the German Parliament, which has begun hearings on the issues.

The transport of these six casks required 30,000 police and $100 million. More than 170 people were injured during demonstrations, more than 500 arrested. Even the police have called for an end to the shipments; they no more like arresting demonstrators (who many sympathize with) than they like guarding highly radioactive waste casks. I personally measured the radiation from one of these casks: at 15 feet, it was 50 times higher than background levels—an amount no one should involuntarily be exposed to, and pregnant women and children should never be exposed to. The police, of course, stand much closer than 15 feet, and for hours at a time.

Eight casks, of 420, have been shipped to Gorleben. Total cost to the German government has been about $150 million. Each shipment the protests and anger increase, instead of dying down.

Perhaps obviously, while watching the casks lumber down the highway toward Gorleben, at about 2 miles per hour (it took them about six hours to move the final 14 miles), surrounded by police and protestors, I reflected on what this might mean to our own radioactive waste programs. We're not trying to move six casks, or eight, or even 420. Under S. 104, we could be moving as many as 70,000 casks—not six in one year, but six every day. And we wouldn't be moving them 300 miles, but many hundreds and thousands of miles at a time.

I frankly don't know if we will experience protests like those in Germany, though I suspect we will. But I do know we will experience the same type of anger expressed by the local farmers and townspeople, the same type of distrust of government and authority, and the same kinds of societal divisions. And I have to ask myself, has anyone in the Senate actually thought about what these waste shipments could mean? I fear not.

Nor, I am convinced, is the U.S. government as prepared as the German government to handle these shipments. Germany was able to place 30,000 police, brought in from all across the country, along the transport route. Medical people and the Red Cross were well in evidence. The first line of emergency responders—the police—obviously were present for every mile of the transport. And they were clearly well-trained, if sometimes visibly uncomfortable in their roles.

It will not work to simply load up a huge cask of high-level atomic waste from a nuclear utility and send it onto an American highway or railway like a truck or boxcar carrying cars or oranges or even gasoline or some other hazardous material. Radioactive waste shipments are qualitatively different and require much more thought, planning and contemplation than the U.S. Senate so far appears willing to provide.

In the end, it required establishment of a literal police state in the Wendland area of Germany, and very nearly a war zone, to complete this cask movement. I do not believe this would be a credible or accepted policy in the United States.

With only eight of 420 casks shipped, Germany's Parliament is re-evaluating the entire program. Perhaps we can learn from them, and begin our re-evaluation before the shipments start.

I would be happy to further brief you or your colleagues on my experiences at your convenience.

It is signed by Michael Mariotte.

So, Mr. President, saying you can ship these casks with no problem is just not common sense, in light of what has happened in other places of the world. In the country of Germany, a very sophisticated country, Parliament has had to stop the shipment program.

This substitute is no different from the bill as originally submitted. S. 104 and its nuclear industry advocates insist that waste will be stored in Nevada no matter what. And they do not at all consider the transportation problems, as I indicated we should. The substitute amendment says that if Yucca Mountain is determined unacceptable by the President, then a different interim storage site must be designated within 24 months. If a different interim site is not so designated within that period, then Nevada would become the default storage site.

Sponsors of S. 104 in this Senate and the nuclear industry know that no such designation is possible within 24 months. Everyone knows that. That is why this substitute is as big a sham as the original bill. As I indicated, you can dress up a pig however you want, but it is still a pig. This legislation is still garbage, no matter how they try to dress it up.

They know that there has been spent to this point over a decade trying to understand the area around Yucca Mountain well enough to approve permanent storage there. They want to void the billions of dollars spent in Yucca Mountain and sidetrack, short-circuit the system. They know that any site that receives nuclear waste will keep it forever, because a permanent repository will never be built. That is the whole game of the very powerful, greedy, devious, deceptive nuclear waste industry. They do not want to play by the rules. They want to have their own game where they set their own rules, as they are trying to do in S. 104, and they are trying to doctor it up by saying we have made the goal lines not 100 yards apart, they are only 80 yards apart. That is not true.

They know once waste is moved from its generator site to a centralized site, it will never be moved again. A suitability decision will permit designation of a site. Viability will not.

So the only possible way to proceed, the only way to overcome the overwhelming opposition to centralized interim storage, is to designate an interim storage site at a place that has already been found suitable for permanent disposal of spent nuclear fuel. That is the only way to do it.

It is this inability to see that S. 104 is putting the horse behind the cart, that is, establishing an interim site before a suitability decision—it is this blindness that compels me to believe S. 104 is really all about sabotaging this country's avowed policy to permanently dispose of nuclear waste.

The industry, with all their money and all their profits, want to change the system. They want to change the rules in the middle of the ball game. Everyone knows that Nevada is not happy with Yucca Mountain. But at least some rules have been established there, where scientists have at least some say in what is going on there. And the reason the nuclear waste industry is willing to change—wants to change the rules in the middle of the game is they know that Yucca Mountain is being, at this stage, studied, analyzed, and characterized in a fair fashion.

Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. I repeat. Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. What could be more outrageous than that?

Such a policy goes beyond stupidity, goes beyond unfairness. It would knowingly risk public health and safety by storing waste at a site that has been determined to be an unsafe site, and, by storing waste on an open, concrete pad, exposed——

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator has used 11 minutes.

Mr. REID. I thank the Chair.

By storing waste on an open, concrete pad, exposed to the weather and all manner of natural and accidental damage. That is wrong. Permanent storage, because that is what it would be, at a temporary site would be about the worst decision this Senate could make.

This legislation, this so-called substitute, is as bad as the original bill. I defy anyone to controvert what we have talked about here today, about the problems they had in Germany. Eight casks out of 420, moved 300 miles, not thousands of miles like we are moving them here. They had to call out 30,000 police and army personnel to allow those to proceed, at a cost of $150 million.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair. I yield myself such time as I may need.

Mr. President, I want to continue this discussion of my colleague. Each of us was thinking in the same frame of reference. He said no matter how much you dress up a pig it's still a pig. I learned as a youngster the old adage, you cannot make a silk purse out of a sow's ear. You cannot make a silk purse out of a sow's ear. And that is exactly what we have here.

We have not had a chance to review in detail all the asserted changes that the chairman of the committee intends, and we will have a chance to comment on that tomorrow. But central to this debate, the basic issue, the point at which all discussion begins, every thoughtful and analytical and policy frame of reference, is the question of whether or not we should place interim storage anywhere before a determination is made with respect to a permanent repository or dump. That is why the administration continues to oppose this legislation, Senator BINGAMAN opposes this legislation, why every environmental organization in America opposes this legislation. Because the basic flaw is this is unnecessary and unwise. We will have a chance to expand upon this tomorrow.

But you go back to the origin of this debate, 17 years ago, you scratch the surface and always the nuclear utility industry and its highly paid advocates have one mission and one mission only—remove the waste from the reactor site. That was the essence of the debate, as we have pointed out time and time again on the floor dating

back to 1980 when then the Holy Grail of the industry was an ''away-from-reactor'' storage program; the same basic concept, anywhere away from here, get it out, away from reactor storage. The Congress wisely rejected in 1980 that approach, just as they have rejected that approach consistently, year after year.

I want to refer to the Nuclear Waste Technical Review Board. We have talked about that a great deal. Much has been made of its contents. But the point that needs to be made is there is no urgent technical need for interim storage of spent fuel—none. Our colleague, the ranking member of the committee, last night, the senior Senator from Arkansas [Mr. BUMPERS], went on at great length about: There is no necessity, no need to do so. Indeed, any thoughtful policy approach rejects that premise.

Again, in 1997, a reconstituted Nuclear Waste Technical Review Board reaches the same conclusion, namely that there is no necessity and no reason to move at this time.

They make a second point here that I think is important to emphasize, and that is, if the site selection process is to retain any integrity at all, here is what Dr. Cohon said in his testimony of February 5:

> However, to maintain the credibility of the site-suitability decision, siting a centralized storage near Yucca Mountain—

That is interim storage he has reference to—

> should be deferred until a technically defensible site-suitability determination can be made at Yucca Mountain.

That is the essence of the argument, that no decision should be made until a defensible site-suitability determination can be made at Yucca Mountain.

He goes on to say:

> We have estimated that such a determination could be made within about 4 years.

Those are Dr. Jared Cohon's comments.

So, Mr. President, it is clear that the nuclear utility industry is scrambling at the last moment to put together a few flourishes on the legislation that is before us, but they will not and cannot change the basic flaw in that they would propose to site interim storage at the Nevada test site before a determination is made with respect to the permanent repository.

Let me say, for those who have followed this issue over the years, the only justification for siting it at the Nevada test site—and this was debated last year on the floor, to some extent—was the assumption, the predicate that Yucca Mountain would be the permanent repository. That was the only basis. How in the world can you place interim storage until you have a determination made as to whether the permanent facility, which is the whole predicate of the interim storage licensing decision, has been determined, and that has not occurred.

So this has nothing to do with science. Frequently, science is invoked to defend the course of action that our colleagues on the other side of this issue would urge upon the body. This has absolutely nothing to do with science; it has everything to do with nuclear politics as advocated by the nuclear power industry and their legions of lobbyists who line the hallways and the corridors of this Chamber, as well as the other body.

A second point I think needs to be made here and was addressed, in part, by my senior colleague, and that is the transportation issue. If we should not be moving it at all until a decision is made, why place at risk the citizens of 43 States, 51 million people, along highway and rail corridors in America? Senator REID is quite correct that Europe is often cited: ''My gosh, they have their situation handled; why can't we do it here?'' Believe me, once you start moving 85,000 metric tons of high-level nuclear waste, you are going to have communities, and rightly so, exercised about the transport of those kinds of volumes.

The chairman of the committee says, ''Well, we're shipping nuclear waste around now.'' That is true to some extent, but the difference between 2,500 shipments and 17,000 shipments in which the 2,500 shipments have traveled 900 miles or less is a vastly different proposition in terms of magnitude of risk of shipping waste over thousands of miles. Remember, most of these reactors are in the East and would be transported virtually from coast to coast, a very different proposition again.

Something else that we have tried to make understandable in this debate to our opponents is the fact that the casks that would be used have not yet been designed, nor have they been manufactured. So we are talking about a totally different reconfigured cask that will take some time.

I invite my colleagues' attention to the testimony of Dr. Jared Cohon, again, earlier this year when he indicated that it is not just a siting decision. He says:

> But developing a storage facility—

And he is referring there, again, to interim storage—

> requires more than a siting decision. It also requires the development of a transportation system, and it is likely that such transportation system will take several years to develop.

So the notion that somehow instantaneously this problem is taken care of, just pass S. 104 and all of our problems go away.

I want to respond to one other issue briefly before concluding. The notion is somehow fostered here that if an interim storage facility is located at the Nevada test site, that rather than having 109 different reactor sites around the country where nuclear waste is stored, we will have only one. Mr. President, that is not correct. We will have 110, not 109.

Many people may not be familiar with the fact that immediately after a spent fuel cell assembly is removed from the reactor because it no longer has the efficiency necessary to generate electrical power, it is stored for many, many years in a spent-fuel pond or pool for it to cool off for a period of time. We are talking about reactors that are licensed up to the period of 2033. So we are going to have nuclear waste stored at many sites around the country for many, many years, irrespective of S. 104.

So the notion that is held out of ''pass this bill and we will have no nuclear waste other than at the site designated in this bill, the Nevada test site,'' is certainly a false premise and, indeed, once the waste is removed, the reactor itself remains and is hazardous for an extended period of time.

There are many things we will be talking about in more detail during the course of the debate over the next few days. But no matter how they try to recast this as a different piece of legislation, some chameleon-hued piece of nuclear legislation, when you get to the very essence, the core of the legislation, its fatal and unperfectable flaw is that it calls for siting interim storage before the decision is made on the permanent facility, and no one in the scientific community is arguing for that proposition.

So this is nuclear politics, and we are simply responding to the bidding of the nuclear utility industry, which, for more than a decade now, has urged the Congress, in one form or another, to remove the reactor waste, send it somewhere else, send it anywhere, but get it out from under us, and that is the objection that the policymakers, who have given this their thoughtful attention—the President of the United States and others—have said that is what is wrong with this legislation. It is what was wrong with the legislation in 1996, and that has not changed in the original form in which this bill was introduced, and based upon the discussion of the chairman of the committee, it has not changed in the substitute that is being proposed.

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

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

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk to the pending committee substitute.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby

move to bring to a close debate on the substitute amendment to S. 104, the Nuclear Policy Act:

Trent Lott, Frank Murkowski, Lauch Faircloth, Phil Gramm, Craig Thomas, Gordon Smith, Ted Stevens, Pete Domenici, Slade Gorton, Larry Craig, William Roth, Conrad Burns, Spencer Abraham, Bob Smith, Susan Collins, and Don Nickles.

Mr. LOTT. Madam President, for the information of all Senators, this cloture vote would occur on Friday unless consent can be granted for a vote on Thursday. Also, the interested parties are in the process of negotiating a consent agreement that would call for the final passage of S. 104 by the close of business tomorrow. Needless to say, if that is agreed to, the cloture vote would not be necessary. I encourage our colleagues to continue to negotiate on this important legislation, and I hope that they will be able to reach an agreement shortly.

MORNING BUSINESS

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

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

REPORT CONCERNING SCIENCE AND TECHNOLOGY POLICY—MESSAGE FROM THE PRESIDENT—PM 28

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

A passion for discovery and a sense of adventure have always driven this Nation forward. These deeply rooted American qualities spur our determination to explore new scientific frontiers and spark our can-do spirit of technological innovation. Continued American leadership depends on our enduring commitment to science, to technology, to learning, to research.

Science and technology are transforming our world, providing an age of possibility and a time of change as profound as we have seen in a century. We are well-prepared to shape this change and seize the opportunities so as to enable every American to make the most of their God-given promise. One of the most important ways to realize this vision is through thoughtful investments in science and technology. Such investments drive economic growth, generate new knowledge, create new jobs, build new industries, ensure our national security, protect the environment, and improve the health and quality of life of our people.

This biennial report to the Congress brings together numerous elements of our integrated investment agenda to promote scientific research, catalyze technological innovation, sustain a sound business environment for research and development, strengthen national security, build global stability, and advance educational quality and equality from grade school to graduate school. Many achievements are presented in the report, together with scientific and technological opportunities deserving greater emphasis in the coming years.

Most of the Federal research and education investment portfolio enjoyed bipartisan support during my first Administration. With the start of a new Administration, I hope to extend this partnership with the Congress across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well-equipped for the challenges and opportunities that lie ahead.

The future, it is often said, has no constituency. But the truth is, we must all be the constituency of the future. We have a duty—to ourselves, to our children, to future generations—to make these farsighted investments in science and technology to help us master this moment of change and to build a better America for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 9, 1997.*

MESSAGES FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 28. An act to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas.

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

H.R. 785. An act to designate the J. Phil Campbell, Senior, National Resource Conservation Center.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities.

H.R. 1000. An act to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits and the amount of food stamp benefit to be provided to the household under the Food Stamp Act of 1977.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; to the Committee on Finance.

MEASURE PLACED ON THE CALENDER

The following measure was read the second time and placed on the calendar:

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

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. CAMPBELL (for himself and Mr. CONRAD):

S. 528. A bill to require the display of the POW/MIA flag on various occasions and in various locations; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. GRAMS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Finance.

By Mr. KOHL:

S. 530. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. 531. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. KEMPTHORNE, Mr. THOMAS, Mr. DORGAN, Mr. CONRAD, Mr. DASCHLE, Mr. JOHNSON, Mr. CRAIG, Mr. BURNS, Mr. ENZI, Mr. HARKIN, Mr. BINGAMAN, Mr. ROBERTS, Mr. KERREY, and Mr. GRASSLEY):

S. 532. A bill to authorize funds to further the strong Federal interest in the improvement of highways and transportation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 533. A bill to exempt persons engaged in the fishing industry from certain Federal antitrust laws; to the Committee on the Judiciary.

By Mr. DODD:

S. 534. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. WELLSTONE, Mr. GLENN, Mr. COCHRAN, Mr. BURNS, Mr. MOYNIHAN, Mr.

HARKIN, Mr. DODD, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Mr. CAMPBELL, Mr. MACK, Mr. TORRICELLI, Mr. GRASSLEY, Mr. INOUYE, Mr. HOLLINGS, Mr. ROBB, Mr. DURBIN, Mrs. BOXER, Mr. BRYAN, Mr. DASCHLE, Mr. FORD, Mr. D'AMATO, Mr. REID, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. FAIRCLOTH, Mr. LEVIN, Ms. COLLINS, Mr. KERRY, Mrs. MURRAY, Mr. REED, Mr. KENNEDY, Mr. SANTORUM, Mrs. FEINSTEIN, and Mr. ROCKEFELLER):

S. 535. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. BIDEN, Mr. D'AMATO, Mr. SHELBY, Mr. KOHL, Mr. GRAHAM, Mr. CLELAND, Mr. HATCH, Mr. HARKIN, Mr. THURMOND, Mr. STEVENS, Mr. DURBIN, Mr. HUTCHINSON, Mr. ABRAHAM, Mr. REID, Mr. FEINGOLD, and Mrs. MURRAY):

S. 536. A bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Ms. SNOWE, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. COLLINS, Ms. LANDRIEU, Mr. HARKIN, Mr. COCHRAN, Mr. KENNEDY, Mr. BIDEN, Mr. FAIRCLOTH, Mr. DASCHLE, Mr. WYDEN, Mr. INOUYE, Mr. SARBANES, Mr. BINGAMAN, Mr. HUTCHINSON, Mr. FORD, Mr. REID, Mr. LEAHY, Mr. DODD, Mr. ABRAHAM, Mr. BENNETT, Mr. CHAFEE, Mr. FEINGOLD, Mr. GREGG, Mr. REED, Mr. MACK, Mr. ROBB, Mr. JEFFORDS, Mr. LEVIN, Mr. FRIST, Mr. BOND, Mr. WELLSTONE, Mr. SPECTER, Mr. BURNS, Mr. GLENN, Mr. COATS, Mr. AKAKA, and Mr. LIEBERMAN):

S. 537. A bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 538. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. KOHL):

S. 539. A bill to exempt agreements relating to voluntary guidelines governing telecast material from the applicability of the antitrust laws; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 540. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the medicare program; to the Committee on Finance.

By Mr. ALLARD:

S. 541. A bill to provide for an exchange of lands with the city of Greely, Colorado, and The Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 542. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FAR HORIZONS; to the Committee on Commerce, Science, and Transportation.

By Mr. COVERDELL (for himself, Mr. MCCONNELL, Mr. ABRAHAM, Mr. SANTORUM, and Mr. ASHCROFT):

S. 543. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; read the first time.

S. 544. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. KERRY, Mr. HELMS, Mr. KERREY, Mr. ROBB, Mr. ROTH, and Mr. THOMAS):

S. Res. 69. Resolution expressing the sense of the Senate regarding the March 30, 1997, terrorist grenade attack in Cambodia; to the Committee on Foreign Relations.

By Mr. D'AMATO (for himself, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. LAUTENBERG, Mr. GRAHAM, Mr. REID, and Mr. FEINGOLD):

S. Con. Res. 19. Concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. CONRAD):

S. 528. A bill to require the display of the POW/MIA flag on various occasions and in various locations; to the Committee on the Judiciary.

THE NATIONAL POW/MIA RECOGNITION ACT OF 1997

Mr. CAMPBELL. Mr. President, I want to begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who served in the Armed Forces of our Nation.

Many of us have visited one or more of the military academies that train our future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular service. On the grounds of each academy is a chapel, a spectacular place that at once identifies itself as a place of worship.

In each chapel, a place has been reserved for the prisoners of war and the missing in action from their particular service. A pew has been set aside and marked by a candle, a powerful symbol that not all have returned from battle. This hallowed place has been set aside so that all POW's and MIA's are remembered with dignity and honor. It is a moving and emotional moment to pause at this reserved pew, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors, and pilots and to be inspired today by what they have done.

We can do more to honor the memory of the POW's and MIA's who have served in our Nation's wars.

Therefore, today I am introducing the National POW/MIA Recognition Act of 1997. This act would authorize the POW/MIA flag to be displayed over military installations, post offices, and memorials around the Nation and other appropriate places of significance on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays. A companion bill has been introduced in the House of Representatives by Congresswoman JANE HARMAN from California.

Congress has officially recognized the National League of Families POW/MIA flag. Displaying this flag would be a powerful symbol to all Americans that we have not forgotten—and will not forget.

As you know, the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th century wars alone, more than 147,000 Americans were captured and became prisoners of war; of that number more than 15,000 died while in captivity. When we add to the number those who are still missing in action, we realize that more can be done to honor their commitment to duty, honor, and country.

The display of the POW/MIA flag would be a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden on sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, as they remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can do. Let us now demonstrate our indebtedness and gratitude for those who served that we might live in freedom.

Just as those special reserved pews in the chapels of the military academies recall the spirit and presence of our POW's and MIA's, so too will the display of their flag over military installations and other Government offices be a special reminder that we have not forgotten—and will not forget. Before this coming Memorial Day I invite my Senate colleagues to please join me in passing this bill to display the POW/MIA flag on national days of celebration.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 528

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 ''National POW/MIA Recognition Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

(2) many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

(3) as a symbol of the Nation's concern and commitment to accounting as fully as possible for all Americans still held prisoner, missing, or unaccounted for by reason of their service in the Armed Forces and to honor the Americans who in future wars may be captured or listed as missing or unaccounted for, Congress has officially recognized the National League of Families POW/MIA flag; and

(4) the American people observe and honor with appropriate ceremony and activity the third Friday of September each year as National POW/MIA Recognition Day.

SEC. 3. DEFINITION OF POW/MIA FLAG.

In this Act, the term ''POW/MIA flag'' means the National League of Families POW/MIA flag recognized and designated by section 2 of Public Law 101–355 (104 Stat. 416).

SEC. 4. DISPLAY.

The POW/MIA flag shall be displayed on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays, on the grounds or in the public lobbies of—

(1) major military installations as designated by the Secretary of Defense;

(2) Federal national cemeteries;

(3) the national Korean War Veterans Memorial;

(4) the national Vietnam Veterans Memorial;

(5) the White House;

(6) the official office of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service System; and

(7) United States Postal Service post offices.

SEC. 5. REPEAL OF PROVISION RELATING TO DISPLAY OF POW/MIA FLAG.

Section 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (36 U.S.C. 189 note, Public Law 102–190) is repealed.

SEC. 6. REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the agency or department responsible for a location listed in section 2 shall prescribe any regulation necessary to carry out the provisions of this Act.

By Mr. GRASSLEY (for himself and Mr. GRAMS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Finance.

THE FARM INDEPENDENCE ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise to introduce a bill on the Internal Revenue Code. From time to time we need to change the Internal Revenue Code, particularly when it deals with agriculture. However, there may be some people listening who do not understand agriculture. They may see these efforts as doing something special for farmers. I want to clarify today that I am a person who comes from the school of thought that every penny of legal tax that is owed the Federal Government should be paid. But I think, also, we have a responsibility, as Representatives of the people, to make sure that we balance taxpayers' compliance with taxpayers' rights.

The legislation I am introducing today is centered on a proposition that has been the law for approximately 40 years. It proscribes that most farm landlords, just like small business people and other commercial landlords, should not have to pay self-employment tax on cash rent income. For 40 years it has been that way for farm people and city people alike. But in 1995, there was an Arkansas Federal tax court case that said the IRS could take other expansive factors into consideration. As a result of that tax case, the IRS decided to issue a related technical advice memorandum. These are widely deemed to be IRS policy statements on the law. As a result, many farm landlords are now treated differently from commercial and other city landlords. Consequently, farmers and retired farmers now find themselves paying 15.3 percent self-employment tax on cash rent.

So, I say to the IRS, as I give an explanation for my legislation this morning: Don't try to game the system. The law remains what people have counted on for 40 years. Unless there is an act of Congress, you ought to respect history before you change the rules. Obviously, the test of time ought to prove the taxpayer was right and the IRS was wrong, particularly since there now is a difference between the farm sector and the city sector.

The correct rationale is simple, the self employment tax applies to income from labor or employment. Income from cash rents represents the value of ownership or equity in land, not labor or employment. Therefore, the self employment tax should not ordinarily apply to income from cash rents.

So, along with Senator GRAMS of Minnesota, I am introducing this bill so farmers and retired farmers are not going to be encroached upon by the IRS and the Tax Code as a result of this Arkansas Federal tax court case and the IRS technical advice memorandum. The IRS has thus, through this court case and broadened by its own pronouncement, introduced a new barrier to the family farmer. Our legislation would remove this new IRS barrier so that farm families and retired farmers can continue to operate.

Specifically, our legislation would clarify that when the IRS is applying the self-employment tax to the cash rent farm leases, it should limit its inquisition to the lease agreement. This is not an expansion of the law for the taxpayers. Rather, it is a narrowing of an antitaxpayer expansion initiated by the Internal Revenue Service. The tax law does not ordinarily require cash rent landlords in cities to pay the self-employment tax. Indeed, cash rent farm landlords are the only ones occasionally required to pay the tax. This is due to a 40-year-old exception that allowed the retired farmers of the late 1950's to become vested in the Social Security system.

However, the law originally imposed the tax on farm landlords only when their lease agreements with their renters required the landlord to participate in the operation of the farm and in the farming of the land.

Forty years later and we are here today, the IRS has expanded the application of the self-employment tax for farmland owners. Now the Tax Court has told the IRS that in one particular instance, the IRS could look beyond the lease agreement. On this very limited authority, the IRS has unilaterally expanded the one court case even further so it now approximates a national tax policy.

Our legislation clarifies that the IRS should examine only the lease agreement. Thus, it would preserve the pre-1996 status quo. We want to preserve the historical self-employment tax treatment of farm rental agreements, equating them with landlords in small businesses and commercial properties within the cities. The 1957 tax law was designed to benefit retired farmers of that generation so that they would qualify for Social Security.

So, obviously, those persons of the 1950's have all since passed from the scene. Their children and grandchildren are now the victims of this IRS expansion of their old rule. Congress does not intend that farm owners be treated differently from other real estate owners, other than as they have been historically. We need the clarity provided in our legislation in order to turn back an improper, unilateral, and targeted IRS expansion of old tax law. In other words, I see this legislation as removing this new IRS barrier to the family farm and the American dream.

I ask unanimous consent that the text of our bill be printed in the RECORD.

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

S. 529

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 ''Farm Independence Act of 1997''.

SEC. 2. LEASE AGREEMENT RELATING TO EXCLUSION OF CERTAIN FARM RENTAL INCOME FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1)(A) of the Internal Revenue Code of 1986 (relating to net earnings from self-employment) is amended by striking ''an arrangement'' and inserting ''a lease agreement''.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1)(A) of the Social Security Act is amended by striking ''an arrangement'' and inserting ''a lease agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Mr. GRAMS. Mr. President, I rise this morning in strong support of the Farm Independence Act of 1997 which my good friend, Senator GRASSLEY, and I introduce here today. This legislation is critical in protecting American farmers and ranchers from yet another IRS attack—the third this year—on the family farm.

I suspect when President Grover Cleveland remarked that, ''just when you thought you were making ends meet, someone moves the ends,'' the former President must have been thinking about the Internal Revenue Service.

This time, the IRS has issued a decision in one of its technical advice memoranda that, if fully enforced, will result in a 15.3-percent tax increase for thousands of farmers. Let me repeat that. A recent IRS decision could result in a 15.3-percent tax increase for thousands of farmers.

Essentially, if a producer incorporates—and many Minnesota producers, both small and large, do—and then rents his land to the farm corporation, the rental income the farmer receives is not only subject to income tax but to an additional 15.3-percent self-employment tax.

The purpose of the Grassley-Grams Farm Independence Act of 1997 is simple and it is straightforward. Our bill would stop the IRS from imposing this 15.3-percent tax increase on our farmers and ranchers.

Mr. President, last Congress, we passed the most sweeping reforms in agricultural policy in 60 years and gave farmers the freedom to farm. At that time, we also promised farmers regulatory relief, improved research and risk management, free and fair trade, and—perhaps most importantly—we promised farmers tax relief.

Now, many of us in Congress have made tax relief a top priority. I do so, in part, because it is a top priority for Minnesota farmers, and toward this end, I am an original cosponsor of a bill to repeal the estate tax, and I strongly support legislation to cut capital gains taxes.

But, unfortunately, we haven't made much progress in convincing the President and some in Congress that this is not fat-cat legislation but absolutely necessary for the survival and success of the family farm.

But, even more frustrating than these obstacles to providing farmers with critical relief from the death tax and capital gains taxes are back-door attempts by the IRS to actually raise taxes on our farmers and ranchers.

First, came the alternative minimum tax which attacked cash-based accounting. Second, came a decision that income from culled cows—cows that don't milk—is income that disqualifies low-income farmers from receiving the earned income tax credit. And, now, the IRS wants to exact a 15.3-percent tax increase on thousands of American farmers and ranchers.

Mr. President, I am 100 percent committed to providing Minnesota farmers with tax relief they desperately need. I hope the President and others in Congress come around on this issue as well.

But, at a bare minimum, the President should send a signal to the IRS that these back-door attempts to raise revenues on the backs of the Nation's farmers and ranchers is totally unacceptable.

I am convinced that a second gold age of agriculture is within reach in the final days of this century and also the whole of the next if only we in Government help—rather than hinder—our farmers' and ranchers' efforts.

So, Mr. President, I urge my colleagues to support the Farm Independence Act of 1997. I also commend the Senator from Iowa for his leadership on this issue.

By Mr. KOHL:

S. 530. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

THE BANKRUPTCY ABUSE REFORM ACT OF 1997

Mr. KOHL. Mr. President, I rise today to introduce the Bankruptcy Abuse Reform Act of 1997, legislation which addresses a serious problem that threatens Americans' confidence in our bankruptcy laws. The measure would cap at $100,000 the State homestead exemption that an individual filing for personal bankruptcy can claim. It passed the Senate last term when it was included into the Bankruptcy Technical Corrections Act (S. 1559), and I hope that we can all support this measure again this year. The goal of our measure is simple but vitally important: to make sure that our Bankruptcy Code is more than just a beachball for crooked millionaires who want to hide their assets.

Let me tell you why this legislation is critically needed. In chapter 7 Federal personal bankruptcy proceedings, the debtor is allowed to exempt certain possessions and interests from being used to satisfy his outstanding debts. One of the chief things that a debtor seeks to protect is his home, and I agree with that in principle. Few question that debtors should be able to keep the roofs over their heads. But, in practice, this homestead exemption has become a source of abuse.

Under section 522 of the Code, a debtor may opt to exempt his home according to local, State, or Federal bankruptcy provisions. The Federal exemption allows the debtor to shield up to $15,000 of value in his house. The State exemptions vary tremendously: some States do not allow the debtor to exempt any of his home's value, while eight States set no ceiling and allow an unlimited exemption. The vast majority of States have exemptions under $40,000.

My amendment under section 522 would cap State exemptions so that no debtor could ever exempt more than $100,000 of the value of his home.

Mr. President, in the last few years, the ability of debtors to use State homestead exemptions has led to flagrant abuses of the Bankruptcy Code. Multimillionaire debtors have moved to one of the eight States that have unlimited exemptions—most often Florida or Texas—bought multi-million-dollar houses, and continued to live like kings even after declaring bankruptcy. This shameless manipulation of the Bankruptcy Code cheats creditors out of compensation and rewards only those who can game the system. Oftentimes, the creditor who is robbed is the American taxpayer. In recent years, S&L swindlers, insider trading convicts, and other shady characters have managed to protect their ill-gotten gains through this loophole.

One infamous S&L banker with more than $4 billion in claims against him bought a multi-million-dollar horse ranch in Florida. Another man who pled guilty to insider trading abuses lives in a 7,000-square-foot beachfront home worth $3.25 million—all tucked away from the $2.75 billion in suits against him. We read even now about the possibility that O.J. Simpson may seek to avoid the civil suit judgment against him buying a lavish home in Florida, a State with an unlimited exemption, and declaring bankruptcy to avoid paying his multimillion-dollar obligations. These deadbeats get wealthier while legitimate creditors—including the U.S. Government—get the short end of the stick.

Simply put, the current practice is grossly unfair and contravenes the intent of our laws: People are supposed to get a fresh start, not a head start, under the Bankruptcy Code.

In addition, these unlimited homestead exemptions have made it increasingly difficult for the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to go after S&L crooks. With the S&L crisis costing us billions of dollars and with a deficit that still remains unacceptably high, we owe it to the taxpayers to make it as hard as possible for those responsible for fraud to profit from their wrongs.

Mr. President, the legislation that I have introduced today is simple, effective, and straightforward. It caps the homestead exemption at $100,000, which is close to the average price of an

American house. And it will protect middle class Americans while preventing the abuses that are making the American middle class question the integrity of our laws—the abuses the average American taxpayer is paying for out of pocket.

Indeed, it is even generous to debtors. Other than the eight States that have no limit to the homestead exemption, no State has a homestead exemption exceeding $100,000. In fact, 38 States have exemptions of $40,000 or less. My own home State of Wisconsin has a $40,000 exemption and that, in my opinion, is more than sufficient.

Mr. President, this proposal is an effort to make our bankruptcy laws more equitable. I urge my colleagues to support this important measure.

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. 530

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 ''Bankruptcy Abuse Reform Act of 1997''.

SEC. 2. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt an aggregate interest that exceeds $100,000 in value in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor.''.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. 531. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

ARCTIC NATIONAL WILDLIFE REFUGE LEGISLATION

Mr. ROTH. Mr. President, I read recently that ''the best thing we have learned from nearly five hundred years of contact with the American wilderness is restraint,'' the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

With this in mind, Ioffer legislation today that designates the coastal plain of Alaska as wilderness area. At the moment this area is a national wildlife refuge—one of our beautiful and last frontiers. By changing its designation, Mr. President, we can protect it forever.

And I can't stress how important this is.

The Alaskan wilderness area is not only a critical part of our Earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills and undulating tundra. It is untamed—rich with caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra swans, black brant, and more. In all, about 165 species use the coastal plain.

It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

The fact is, Mr. President, there are parts of this Earth where it is good that man can come only as a visitor. These are the pristine lands that belong to all of us. And perhaps most importantly, these are the lands that belong to our future.

Considering the many reasons why this bill is so important, I came across the words of the great Western writer, Wallace Stegner. Referring to the land we are trying to protect with this legislation, he wrote that it is ''the most splendid part of the American habitat; it is also the most fragile.'' And we cannot enter ''it carrying habits that [are] inappropriate and expectations that [are] surely excessive.''

The expectations for oil exploration in this pristine region are excessive. There is only a 1-in-5 chance of finding any economically recoverable oil in the refuge. And if oil is found, the daily production of 400,000 barrels per day is less than 0.7 percent of world production—far too small to meet America's energy needs for more than a few months.

In other words, Mr. President, there is much more to lose than might ever be gained by tearing this frontier apart. Already, some 90 percent of Alaska's entire North Slope is open to oil and gas leasing and development. Let's keep this area as the jewel amid the stones.

What this bill offers—and what we need—is a brand of pragmatic environmentalism, an environmental stewardship that protects our important wilderness areas and precious resources, while carefully and judiciously weighing the short-term desires or our country against its long-term needs.

Together, we need to embrace environmental policies that are workable and pragmatic, policies based on the desire to make the world a better place for us and for future generations. I believe a strong economy, liberty, and progress are possible only when we have a healthy planet—only when resources are managed through wise stewardship—only when an environmental ethic thrives among nations—and only when people have frontiers that are untrammeled and able to host their fondest dreams.

Mr. LIEBERMAN. Mr. President, I am proud to join again with Senator ROTH in this effort to designate the Arctic National Wildlife Refuge as a wilderness area.

This legislation would save the American people the huge social and environmental costs of unwise and unnecessary development of one of nature's crown jewels. The Arctic National Wildlife Refuge is the last complete Alaskan wilderness with elements of each tundra ecosystem, the biological heart of the North Slope of Alaska. It is on a par with our other great national resources, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, and Denali. This is a unique piece of God's Earth that must be preserved for our entire Nation for centuries to come.

Make no mistake, environmental impacts to the Arctic National Refuge from oil development would be severe and irreversible. The refuge includes the calving grounds for one of the largest caribou herds in North America, the Porcupine herd—152,000 strong. Native American customs have centered around the herd's annual migration for at least 20,000 years. The refuge is a treasure chest of plants, animals, and wilderness unique to the world in terms of abundance, diversity, and value to humankind. Over 200 species of plants and animals thrive in the refuge, including muskoxen, snow geese, Arctic foxes, Arctic grayling, and Arctic char. It is the only natural area in the United States with all three species of North American bears—the black bear, the grizzly bear and the polar bear. It is one of the most natural areas in our Nation, untouched by development, and the last of its kind.

Many environmental studies demonstrate that the negative environmental effects of opening the Arctic Refuge to development will be severe. Biologists from Federal and State agencies and universities have concluded that oil development will harm the calving of the caribou herd, and reduce its long term numbers very significantly. The Office of Management and Budget has stated that ''exploration and development activities would bring physical disturbances to the area, unacceptable risks of oil spills and pollution, and long-term effects that would harm wildlife for decades.'' Raymond Cameron, formerly of the Alaska Department of Fish and Game, documented that 19 percent

fewer calves are born to caribou cows on developed lands as opposed to undeveloped lands, with a 2-percent margin of error. His study also documented that caribou cows miss yearly calving at a 36-percent rate in developed areas, versus only 19 percent in undeveloped areas. Even a small change in calving success can lead to long-term population declines. A study by the State of Alaska showed that the Arctic caribou herd at Prudhoe Bay declined from 23,400 to 18,100—23 percent—since 1992. All the population decline occurred in habitat affected by oil development, while herds in undeveloped areas grew slightly. Biologists fear that development impacts would be proportionately greater on the herd that uses the Arctic Refuge.

The amount of oil that potentially can be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment to be worth it. A 1995 assessment of petroleum reserves by the U.S. Geological Survey reported that there is a 95-percent chance that only 148 million barrels of oil exist in the refuge. This would amount to a drop in the national oil bucket—an 8-day supply. Even if the USGS high estimate were correct, the refuge would hold at most a 290-day supply for the United States.

We can all hope for another strike like Prudhoe Bay. But the simple reality, based on the very best geological science and economics available today, is that alternative energy supplies, as well as the real energy savings from national energy conservation programs, are far more reliable, tangible, and less destructive energy sources than a wild gamble with the Alaskan wilderness.

The remaining 90 percent of the Alaskan North Slope is already open to oil and gas leasing. Is it too much to protect what little we have left? Every reliable national poll conducted on this issue shows Americans of all political persuasions are against development in the refuge by a more than three to one margin. Let's honor our history of conservation and protect the future for generations to come, by saving the Arctic National Wildlife Refuge.

By Mr. BAUCUS (for himself, Mr. KEMPTHORNE, Mr. THOMAS, Mr. DORGAN, Mr. CONRAD, Mr. DASCHLE, Mr. JOHNSON, Mr. CRAIG, Mr. BURNS, Mr. ENZI, Mr. HARKIN, Mr. BINGAMAN, Mr. ROBERTS, Mr. KERREY, and Mr. GRASSLEY):

S. 532. A bill to authorize funds to further the strong Federal interest in the improvement of highways and transportation, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION AUTHORIZATION AND REGULATORY STREAMLINING ACT

Mr. BAUCUS. Mr. President, I am pleased today to introduce the Surface Transportation Authorization and Regulatory Streamlining Act, or STARS 2000. I am joined in this effort by my colleagues on the Environment and Public Works Committee, Senators KEMPTHORNE and THOMAS. And by Senators DORGAN, CONRAD, DASCHLE, JOHNSON, BURNS, CRAIG, ENZI, HARKIN, BINGAMAN, ROBERTS, and KERREY of Nebraska.

This bill reauthorizes this Nation's surface transportation programs for the year 2000, and beyond.

As most of my colleagues know, we must act soon to renew these programs since today's law, the Intermodal Surface Transportation Efficiency Act, or ISTEA, will expire on September 30.

STARS 2000 builds on the progress already made by ISTEA. But it also makes some important improvements. Let me focus on the three most significant aspects of the bill.

FUNDING LEVELS

First, the bill increases funding for our highway programs to $27 billion annually. Transportation is a critical part of our Nation's economic growth and prosperity. The investments we make today in transportation will help keep us globally competitive well into the next century.

Furthermore, these investments directly generate hundreds of thousands of jobs—in Montana, in Idaho, in Illinois, in every State. They also indirectly help sustain businesses and millions more jobs all across the country.

The funding in STARS 2000 will support all types of transportation projects. It also will enable States and local governments to make the investment decisions that best reflect their transportation priorities.

The funding level in STARS 2000 corresponds to the amount of money estimated to be in the highway trust fund over the next 6 years.

As my colleagues know, this is money already being collected from the tax on gasoline and other fuels. My view is that we should spend it for the purpose for which it was collected.

Even with this increase, however, we will not eliminate the shortfall in meeting our transportation needs. The Department of Transportation estimates that over $50 billion would be needed each year in order to just maintain current highway and bridge conditions.

Yet, today annual spending by all levels of government is only $39 billion per year.

Our competitors know the advantage of a sound transportation system. That is why Japan invests over four times what we do in transportation as a percentage of GDP. The Europeans spend twice as much.

We cannot afford to squander this important competitive edge. While STARS 2000 is not the complete solution, it is a big step in the right direction.

STREAMLINING

Second, STARS 2000 dramatically streamlines and simplifies today's transportation programs. It reduces administrative burdens on the States and the complexity of the programs by consolidating several funding categories and by allowing for greater flexibility in decisionmaking.

The bill has two key categories for funding. The National Highway System, which makes up 60 percent of the core program, and the Surface Transportation Program, which accounts for the remaining 40 percent.

The National Highway System carries the bulk of our recreational and commercial traffic. It consists of 160,000 miles of highways, including the entire 45,000 mile Interstate System.

These roads connect our cities and towns. Our farms to their markets. And our manufacturing facilities to our seaports. It just makes sense that the NHS should be a priority.

STARS 2000 devotes over $14 billion annually to these roads.

As with current law, the Surface Transportation Program remains the most flexible category of funds. States can shift funds among projects to best serve their transportation needs. STARS 2000 retains ISTEA's programs and project eligibilities and includes over $9 billion annually for them.

FUNDING FORMULAS

Third, STARS 2000 updates ISTEA's funding formulas. One criticism of the current formulas is that they are based on outdated and unnecessary data.

This bill rectifies that problem by using up-to-date information.

The STARS formula also reflects the transportation needs of a State. We have included such factors as lane miles, vehicle miles traveled, and freeze-thaw cycles, to better account for the cost of maintaining and improving our highway system.

ENVIRONMENT

STARS 2000 also continues the commitment to the environment that began in ISTEA. It dedicates some $380 million annually to congestion mitigation and air quality projects.

Furthermore, it requires that these funds be spent on projects in areas that have not attained our transportation-related air quality standards.

Frankly, I had hoped to include more funding for these projects in this bill. But as this legislation progresses, I intend to work with my colleagues to see if we can't be more generous here.

STARS 2000 also continues the transportation enhancement program. This is an innovative program that has given States the ability to invest in nontraditional highway projects such as bike paths, pedestrian walkways and historic preservation.

CONCLUSION

In conclusion, STARS 2000 is a good bill. But it also is one of several bills that our committee will consider in the coming weeks.

Under the leadership of our chairman, Senator CHAFEE and our subcommittee chairman, Senator WARNER, along with Senator MOYNIHAN, and others, I have no doubt that these various

proposals will be brought together to produce a fair bill.

A bill that will bring this Nation and its transportation system into the next century.

Before yielding the floor, I wish to thank the primary cosponsors of this bill, Senators KEMPTHORNE and THOMAS, for their hard work in developing this legislation. I am also grateful for the help of our State transportation departments, particularly in Montana and Idaho, and their staff, in fashioning this bill.

STARS 2000 brings a new approach and some new ideas to our surface transportation policy. I commend it to my colleagues for their consideration.

Mr. President, I ask unanimous consent that a copy of the bill and a short summary of it be printed in the RECORD.

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

S. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Surface Transportation Authorization and Regulatory Streamlining Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. POLICY.

Section 101 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) DECLARATION OF POLICY.—Congress finds and declares that—

''(1) investments in highways and transportation systems contribute to the Nation's economic growth, international competitiveness, and defense, and improve the personal mobility and quality of life of its citizens;

''(2) there are significant needs for increased Federal highway and transportation investment across the United States, including a need to improve and preserve Interstate System and other National Highway System routes, which are lifelines for the national economy;

''(3) the Federal Government's interest in transportation includes—

''(A) ensuring that people and goods can move efficiently over long distances between metropolitan areas and thus across rural areas;

''(B) ensuring that people and goods can move efficiently within metropolitan and rural areas;

''(C) preserving environmental quality and reducing air pollution;

''(D) promoting transportation safety; and

''(E) ensuring the effective use of intelligent transportation systems and other transportation technological innovations in both urban and rural settings;

''(4) rural States do not have the fiscal resources to support highway investments within their borders that benefit the United States as a whole by enabling the movement of people and goods between metropolitan areas and thus across rural States;

''(5) since State governments already take into account the public interest before making transportation decisions affecting citizens of the States—

''(A) the need for Federal regulation of State transportation activities is limited; and

''(B) it is appropriate for Federal transportation programs to be revised to minimize regulations and program requirements and to provide greater flexibility to State governments; and

''(6) the Federal Government should continue to allow States and local governments flexibility in the use of Federal highway funds and require transportation planning and public involvement in transportation planning.''.

TITLE I—LEVEL AND DISTRIBUTION OF FUNDS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of title 23, United States Code, $14,163,000,000 for each of fiscal years 1998 through 2003.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $9,442,000,000 for each of fiscal years 1998 through 2003.

(3) FEDERAL LANDS HIGHWAY INVESTMENTS.—

(A) FEDERAL LANDS HIGHWAYS PROGRAM.—

(i) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title, $191,000,000 for each of fiscal years 1998 through 2003.

(ii) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title, $172,000,000 for each of fiscal years 1998 through 2003.

(iii) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title, $84,000,000 for each of fiscal years 1998 through 2003.

(B) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 206 of that title, $155,000,000 for each of fiscal years 1998 through 2003.

(4) TERRITORIES.—For the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, collectively, $35,000,000 for each of fiscal years 1998 through 2003. Such sums shall be allocated among those territories at the discretion of the Secretary of Transportation.

SEC. 102. EFFECTIVE USE OF ADDITIONAL HIGHWAY ACCOUNT REVENUE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 162. Effective use of additional highway account revenue

''(a) DETERMINATION OF ADDITIONAL AMOUNTS TO BE APPORTIONED.—

''(1) PUBLICATION OF INFORMATION.—Not later than 90 days after the beginning of each fiscal year beginning with fiscal year 1999, the Secretary shall publish in the Federal Register the following information:

''(A) The total estimated revenue of the Highway Trust Fund (other than the Mass Transit Account) during the period consisting of that fiscal year and the 5 following fiscal years, including all interest income credited or to be credited during the period.

''(B) The amount obtained by dividing the amount determined under subparagraph (A) by 6.

''(C) The amount obtained by subtracting $27,000,000,000 from the amount determined under subparagraph (B).

''(2) APPORTIONMENT.—If the amount determined under paragraph (1)(C) is greater than zero, the Secretary shall—

''(A) multiply that amount by 0.85; and

''(B) apportion the amount determined under subparagraph (A) in accordance with subsection (b)(1).

''(b) METHOD OF APPORTIONMENT.—

''(1) IN GENERAL.—For each fiscal year, the amount determined under subsection (a)(2) shall be apportioned as follows:

''(A) 60 percent of the amount shall be added to the amount authorized to be appropriated for the fiscal year for the National Highway System under section 101(1) of the Surface Transportation Authorization and Regulatory Streamlining Act.

''(B) 40 percent of the amount shall be added to the amount authorized to be appropriated for the fiscal year for the surface transportation program under section 101(2) of that Act.

''(2) APPORTIONMENT ADJUSTMENT PROGRAM.—After making the apportionment under paragraph (1), the Secretary shall make such additional apportionments as are necessary under section 157.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for fiscal year 1999 and each fiscal year thereafter.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''162. Effective use of additional highway user taxes.''.

SEC. 103. APPORTIONMENT OF PROGRAM FUNDS.

(a) IN GENERAL.—Section 104(b) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) NATIONAL HIGHWAY SYSTEM.—

''(A) APPORTIONMENT.—For the National Highway System, as follows:

''(i) INTERSTATE LANE MILES.—20 percent in the ratio that lane miles on Interstate routes in each State bears to the total of all such lane miles in all States.

''(ii) INTERSTATE VEHICLE MILES TRAVELED.—25 percent in the ratio that vehicle miles traveled on Interstate routes in each State bears to the total of all such vehicle miles in all States.

''(iii) NATIONAL HIGHWAY SYSTEM LANE MILES.—30 percent in the ratio that lane miles on National Highway System routes in each State bears to the total of all such lane miles in all States.

''(iv) NATIONAL HIGHWAY SYSTEM VEHICLE MILES TRAVELED.—10 percent in the ratio that vehicle miles traveled on the National Highway System in each State bears to the total of all such vehicle miles in all States.

''(v) SPECIAL FUEL.—15 percent in the ratio that special fuels volume for each State bears to the total special fuels volume for all States.

''(B) USE OF DATA.—In making the calculations for this paragraph, for paragraph (3), and for section 157, the Secretary shall use the most recent calendar or fiscal year for which data are available as of the first day of the fiscal year for which the apportionment is to be made.

''(C) DEFINITIONS.—In this paragraph:

''(i) LANE MILES ON INTERSTATE ROUTES.—The term 'lane miles on Interstate routes' shall have the meaning used by the Secretary in developing Highway Statistics Table HM–60.

''(ii) LANE MILES ON NATIONAL HIGHWAY SYSTEM ROUTES.—The term 'lane miles on National Highway System routes' shall have the meaning used by the Secretary in developing Highway Statistics Table HM–48.

''(iii) SPECIAL FUELS VOLUME.—The term 'special fuels volume' shall have the meaning used by the Secretary in developing column 8 of Highway Statistics Table MF–2.

''(iv) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

''(v) VEHICLE MILES TRAVELED.—The terms 'vehicle miles traveled on Interstate routes' and 'vehicle miles traveled on the National Highway System' shall have the meanings used by the Secretary in developing Highway Statistics Table VM–3.'';

(2) by striking paragraph (2);

(3) by striking paragraph (3) and inserting the following:

''(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program, as follows:

''(A) FEDERAL-AID HIGHWAY LANE MILES.—25 percent in the ratio that lane miles on Federal-aid highways in each State bears to the total of all such lane miles in all States.

''(B) FEDERAL-AID HIGHWAY VEHICLE MILES TRAVELED.—53 percent in the ratio that vehicle miles traveled on Federal-aid highways in each State bears to the total of all such vehicle miles in all States.

''(C) BRIDGE DECK SURFACE AREA.—10 percent in the ratio that the square footage of bridge deck surface in each State, including such square footage with respect to bridges not on Federal-aid highways, bears to the total of such square footage in all States, except that, in this subparagraph, the term 'bridge' includes only structures of at least 20 feet in length.

''(D) AIR QUALITY.—4 percent in accordance with the following table:

"State	Percentage
Alabama	0.41
Alaska	0.00
Arizona	1.50
Arkansas	0.00
California	23.02
Colorado	0.00
Connecticut	2.63
Delaware	0.45
District of Columbia	0.48
Florida	3.34
Georgia	1.73
Hawaii	0.00
Idaho	0.00
Illinois	5.48
Indiana	1.26
Iowa	0.00
Kansas	0.00
Kentucky	0.82
Louisiana	0.47
Maine	0.48
Maryland	3.47
Massachusetts	4.60
Michigan	3.25
Minnesota	0.00
Mississippi	0.00
Missouri	1.11
Montana	0.00
Nebraska	0.00
Nevada	0.17
New Hampshire	0.43
New Jersey	6.45
New Mexico	0.00
New York	10.96
North Carolina	1.38
North Dakota	0.00
Ohio	4.91
Oklahoma	0.00
Oregon	0.66
Pennsylvania	6.76
Rhode Island	0.65
South Carolina	0.00
South Dakota	0.00
Tennessee	1.25
Texas	5.47
Utah	0.55
Vermont	0.00
Virginia	2.38
Washington	1.78
West Virginia	0.30
Wisconsin	1.40
Wyoming	0.00.

''(E) POPULATION IN RELATION TO LANE MILES.—2 percent, as follows: The Secretary shall (i) divide the total population of all States by the total number of lane miles on Federal-aid highways in all States; (ii) for each State divide the State's population by the number of lane miles on Federal-aid highways within its borders; (iii) for each State divide the number determined by (ii) into the number determined by (i); (iv) add together the number determined under (iii) for every State; and (v) divide the number for each State under (iii) by the number for all States determined under (iv). The Secretary shall apportion to each State, of the funds apportioned under this subparagraph, the percentage equal to the number determined under (v).

''(F) FEDERAL LANDS.—5 percent as follows: The Secretary, after consultation with the General Services Administration, the Department of the Interior, and other agencies as appropriate, shall (i) determine the percentage of the total land in each State represented by the sum of the percentage of land owned by the Federal Government in the State and the percentage of land in the State held in trust by the Federal Government; (ii) add together the individual State percentages determined under clause (i) for all States; and (iii) divide the amount for each State under clause (i) by the amount for all States under clause (ii). The 5 percent shall be apportioned among the States in accord with each State's percentage under clause (iii).

''(G) FREEZE-THAW.—1 percent, to be apportioned among the States in accordance with the table set forth in clause (i), or in accordance with clause (ii).

''(i) TABLE.—

"State	Percentage
Alabama	1.2
Alaska	2.4
Arizona	1.0
Arkansas	1.4
California	0.8
Colorado	3.3
Connecticut	2.3
Delaware	1.8
District of Columbia	1.9
Florida	0.2
Georgia	1.1
Hawaii	0.0
Idaho	2.9
Illinois	1.9
Indiana	1.9
Iowa	2.1
Kansas	2.1
Kentucky	1.9
Louisiana	0.7
Maine	2.5
Maryland	2.0
Massachusetts	2.4
Michigan	2.2
Minnesota	2.0
Mississippi	1.1
Missouri	2.0
Montana	3.0
Nebraska	2.4
Nevada	2.2
New Hampshire	2.0
New Jersey	2.6
New Mexico	2.1
New York	2.9
North Carolina	2.3
North Dakota	2.2
Ohio	2.1
Oklahoma	1.6
Oregon	1.6
Pennsylvania	2.3
Rhode Island	2.1
South Carolina	1.4
South Dakota	2.5
Tennessee	1.8
Texas	1.1
Utah	3.2
Vermont	2.0
Virginia	1.9
Washington	1.8
West Virginia	2.2
Wisconsin	2.1
Wyoming	3.5.

''(ii) ALTERNATE APPROACH.—Notwithstanding section 315, the Secretary may, through notice and comment rulemaking, adopt an approach in lieu of the table set forth in clause (i) in order to apportion funds subject to this subparagraph among the States in a manner that reflects the relative frequency of freeze-thaw cycles within the States. The Secretary may use that alternate approach to apportioning funds for a fiscal year only if a final rule, adopted after notice and comment, is in effect prior to the beginning of that fiscal year.

''(H) DEFINITIONS.—In this paragraph:

''(i) LANE MILES ON FEDERAL-AID HIGHWAYS.—The term 'lane miles on Federal-aid highways' shall have the meaning used by the Secretary in developing Highway Statistics Table HM–60.

''(ii) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

''(iii) VEHICLE MILES TRAVELED ON FEDERAL-AID HIGHWAYS.—The term 'vehicle miles traveled on Federal-aid highways' shall have the meaning used by the Secretary in developing Highway Statistics Table VM–2.'';

(4) in paragraph (5)—

(A) in subparagraph (A), by striking ''(A) Except as provided in subparagraph (B)—''; and

(B) by striking subparagraph (B); and

(5) by striking paragraph (6).

(b) POPULATION DETERMINATIONS.—Section 104 of title 23, United States Code, is amended by adding at the end the following:

''(k) POPULATION DETERMINATIONS.—For the purposes of subsection (b)(3) and section 157, population shall be determined on the basis of the most recent estimates prepared by the Secretary of Commerce.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 104(b) of title 23, United States Code, is amended in the matter preceding paragraph (1) by striking ''paragraph (5)(A) of this subsection'' and inserting ''paragraph (5)''.

(2) Section 137(f)(1) of title 23, United States Code, is amended by striking ''section 104(b)(5)(B) of this title'' and inserting ''section 104(b)(1)''.

(3) Section 139 of title 23, United States Code, is amended by striking ''sections

104(b)(1) and 104(b)(5)(B) of this title'' each place it appears and inserting ''section 104(b)(1)''.

(4) Section 142(c) of title 23, United States Code, is amended by striking ''section 104(b)(5)(A)'' and inserting ''section 104(b)(5)''.

(5) Section 159(b) of title 23, United States Code, is amended—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking ''section 104(b)(5)(A)'' and inserting ''section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)''; and

(ii) in clause (ii), by striking ''section 104(b)(5)(B)'' and inserting ''section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)'';

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''section 104(b)(5)(A)'' and inserting ''section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)'';

(ii) in subparagraph (B), by striking ''(5)(B)'' and inserting ''(5)(B) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)''; and

(iii) in the last sentence, by striking ''section 104(b)(5)'' and inserting ''section 104(b)(5) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)''; and

(C) in paragraph (4), by striking ''section 104(b)(5)'' and inserting ''section 104(b)(5) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)''.

(6) Section 161(a) of title 23, United States Code, is amended by striking ''paragraphs (1), (3), and (5)(B) of section 104(b)'' each place it appears and inserting ''paragraphs (1) and (3) of section 104(b)''.

(7) Section 1009 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1933) is amended by striking subsection (c).

SEC. 104. APPORTIONMENT ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Section 157 of title 23, United States Code, is amended to read as follows:

''§ 157. Apportionment adjustment program

''(a) DEFINITIONS.—In this section:

''(1) LOW-DENSITY STATE.—The term 'low-density State' means a State that is listed in the table in paragraph (4) and that has an average population density of 20 individuals or fewer per square mile.

''(2) SMALL STATE.—The term 'small State' means a State that is listed in the table in paragraph (4) and that has a population of 1,500,000 individuals or fewer and a land area of 10,000 square miles or less.

''(3) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

''(4) STATED PERCENTAGE.—The term 'stated percentage', with respect to a State, means the percentage listed for the State in the following table:

''State	Percentage
Alaska	1.25
Delaware	0.40
Hawaii	0.55
Idaho	0.70
Montana	0.95
Nevada	0.67
New Hampshire	0.48
New Mexico	1.05
North Dakota	0.63
Rhode Island	0.55
South Dakota	0.70
Vermont	0.43
Wyoming	0.66.

''(b) PROGRAM.—On October 1 (or as soon as possible thereafter) of each fiscal year beginning after September 30, 1997, the Secretary shall apportion among the States, in addition to amounts apportioned under paragraphs (1) and (3) of section 104(b), and section 104(f)(2), the amounts required by this section.

''(c) ADDITIONAL APPORTIONMENTS AND SEQUENCE OF CALCULATING ADDITIONAL APPORTIONMENTS.—

''(1) FIRST CALCULATION.—The Secretary shall apportion $95,000,000 to the Commonwealth of Puerto Rico.

''(2) SECOND CALCULATION.—For each low-density State and each small State, the Secretary shall calculate the total amount obtained by multiplying the stated percentage for the State by the total amount of funds apportioned to all States under paragraphs (1) and (3) of section 104(b) and section 104(f)(2) plus the amount apportioned under paragraph (1). For any low-density or small State that received, under paragraphs (1) and (3) of section 104(b) and section 104(f)(2) combined, apportionments less than the amount for the State determined pursuant to the first sentence of this paragraph, the Secretary shall apportion to the State such additional amount as is required to make up that difference.

''(3) THIRD CALCULATION.—In addition to any amount required to be apportioned by paragraph (2) for a fiscal year, the Secretary shall make additional apportionments so that no State receives an amount that is less than the amount determined by multiplying (A) the percentage that is 95 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available by (B) the total amount of funds apportioned to all States immediately after the Secretary has made any additional apportionments required by paragraph (2).

''(4) FOURTH CALCULATION.—The Secretary shall determine for each State the percentage apportioned to that State of the total amount of funds apportioned to all States under paragraphs (1) and (3) of section 104(b). The Secretary shall calculate, for each State, the total amount obtained by multiplying (A) the percentage for that State under the first sentence of this paragraph by (B) the total amount of funds apportioned to all States after the apportionment made by paragraph (3). If the amount for a State under the calculation made under the preceding sentence, minus the total amount apportioned to that State after the apportionments made by paragraph (3), is greater than zero, the Secretary shall make an additional apportionment, equal to that amount, to that State.

''(5) FIFTH CALCULATION.—For each low-density State and each small State, the Secretary shall calculate the total amount obtained by multiplying the stated percentage for the State by the total amount of funds apportioned to all States after the apportionment made by paragraph (4). For any low-density or small State that receives, after the apportionment made by paragraph (4), total apportionments less than the amount for the State determined pursuant to the first sentence of this paragraph, the Secretary shall apportion to the State such additional amount as is required to make up that difference.

''(d) TERMS AND CONDITIONS.—Amounts apportioned in accordance with subsection (c), and amounts authorized to be appropriated under section 101(4) of the Surface Transportation Authorization and Regulatory Streamlining Act—

''(1) shall be available for obligation, when allocated, for the year authorized and the 3 following fiscal years;

''(2) shall be subject to this title; and

''(3) may be obligated for National Highway System projects under section 103, surface transportation program projects under section 133, or any other purpose authorized under this title.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for fiscal year 1998 and each fiscal year thereafter.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157 and inserting the following:

''157. Apportionment adjustment program.''.

(c) REPEAL OF CERTAIN APPORTIONMENT ADJUSTMENT PROGRAMS.—

(1) REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.—

(A) IN GENERAL.—Section 160 of title 23, United States Code, is repealed.

(B) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 160.

(2) DONOR STATE BONUS AMOUNTS.—Section 1013 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 157 note; 105 Stat. 1940) is amended by striking subsection (c).

(3) HOLD HARMLESS APPORTIONMENT ADJUSTMENT.—Section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943) is amended by striking subsection (a).

(4) 90 PERCENT OF PAYMENTS ADJUSTMENT.—Section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1944) is amended by striking subsection (b).

SEC. 105. PROGRAM ADMINISTRATION, RESEARCH, AND PLANNING FUNDS.

(a) PROGRAM ADMINISTRATION.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System'' and inserting ''apportionments are made pursuant to this section and section 157''; and

(ii) by striking ''not to exceed 3¾ per centum of all sums so authorized'' and inserting ''not to exceed 2 percent of the total of the apportionments'';

(B) by inserting after the first sentence the following: ''For the purpose of calculating apportionments referred to in the preceding sentence, the deductions made under this subsection shall be made only after the completion of all other aspects of calculating the apportionments and from amounts calculated without taking into account the deductions.''; and

(C) in the third sentence (after the amendment made by subparagraph (B)), by striking ''such determination'' and inserting ''the determination described in the first sentence''; and

(2) in the matter preceding paragraph (1) of subsection (b), by striking '', after making the deduction'' and all that follows through

the colon and inserting ''shall make apportionments for the fiscal year in the following manner:''.

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended by striking ''(f)(1)'' and all that follows through the end of paragraph (1) and inserting the following:

''(f) METROPOLITAN PLANNING.—

''(1) SET ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside to carry out section 134 not to exceed 1 percent of the funds authorized to be appropriated for the National Highway System under section 103 and the surface transportation program under section 133.''.

(c) RESEARCH AND PLANNING.—Section 307 of title 23, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (f) the following:

''(g) FREEZE-THAW RESEARCH.—Not later than 90 days after the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act, the Secretary shall undertake an enhanced level of research to determine means of reducing the long-term and short-term costs of constructing and maintaining asphalt pavement in areas with severe or frequent freeze-thaw cycles.

''(h) CONSIDERATION OF RURAL ISSUES IN TRANSPORTATION RESEARCH, INTELLIGENT TRANSPORTATION SYSTEMS, AND TECHNOLOGY PROGRAMS.—In selecting topics for research, allocating funds among contractors and State and local governments for research, and researching, developing, testing, and promoting intelligent transportation systems and other technological applications, the Secretary shall give careful consideration to the national interest in—

''(1) understanding transportation issues that affect rural areas;

''(2) developing a scientific and technological infrastructure in rural areas; and

''(3) permitting rural as well as metropolitan areas to benefit from the deployment of modern transportation technology.''.

SEC. 106. RECREATIONAL TRAILS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out the recreational trails program under part B of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261 et seq.) $30,000,000 for each of fiscal years 1998 through 2003.

(b) APPORTIONMENT FORMULA.—

(1) ADMINISTRATIVE COSTS.—Whenever an apportionment is made of the sums authorized to be appropriated to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261), the Secretary shall deduct an amount, not to exceed 3 percent of the sums authorized, to cover the cost to the Secretary for administration of and research under the recreational trails program and for administration of the National Recreational Trails Advisory Committee. The Secretary may enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations, and may enter into contracts with for-profit organizations, to carry out the administration and research described in the preceding sentence.

(2) APPROPRIATION TO THE STATES.—After making the deduction authorized by paragraph (1), the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among the States in the following manner:

(A) EQUAL AMOUNTS.—Fifty percent of that amount shall be apportioned equally among eligible States (as defined in section 1302(g)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(g)(1))).

(B) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—Fifty percent of that amount shall be apportioned among eligible States (as defined in section 1302(g)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(g)(1))) in amounts proportionate to the degree of nonhighway recreational fuel use in each of those States during the preceding year.

(c) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any recreational trails project shall be determined in accordance with subsection (d).

(d) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the Federal share payable on account of a recreational trails project shall not exceed 80 percent.

(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency sponsoring a project under this section may contribute Federal funds toward a project's cost, if the share attributable to the Secretary of Transportation does not exceed 50 percent and the share attributable to the Secretary and the Federal agency jointly does not exceed 80 percent.

(3) ALLOWABLE MATCH FROM FEDERAL GRANT PROGRAMS.—Notwithstanding any other provision of law, the following Federal grant programs may be used to contribute Federal funds toward a project's cost and may be accounted for as contributing to the non-Federal share:

(A) The State and Local Fiscal Assistance Act of 1972 (Public Law 92–512).

(B) Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(C) The Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.).

(D) The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (16 U.S.C. 461 note; 102 Stat. 4552).

(E) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(F) The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(G) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193).

(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments of the non-Federal share of individual projects if the total Federal share payable for all projects within the State under this program for a Federal fiscal year's apportionment does not exceed 80 percent. A project funded under paragraph (2) or (3) may not be included in the calculation of the programmatic non-Federal share.

(5) STATE ADMINISTRATIVE COSTS.—The Federal share payable on account of the administrative costs of a State, incurred in administering this program and carrying out statewide trail planning, shall be determined in accordance with section 120(b) of title 23, United States Code.

SEC. 107. RULES FOR ANY LIMITATIONS ON OBLIGATIONS.

(a) NONE ESTABLISHED.—Nothing in this Act establishes a limitation on the total of all obligations for any fiscal year for Federal-aid highways and highway safety construction programs.

(b) RULES FOR OBLIGATION AUTHORITY LIMITS.—Chapter 1 of title 23, United States Code (as amended by section 102(a)), is amended by adding at the end the following:

''§ 163. Rules for any limitations on obligations

''(a) IN GENERAL.—Any provision of a statute enacted before or after the date of enactment of this section that establishes a limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1998, or any fiscal year thereafter, shall be in accordance with this section (as in effect on the date of enactment of this section) or stated as an amendment to this section.

''(b) PROHIBITION ON CERTAIN LIMITATIONS.—Obligations under section 125, for Federal lands highway investments, and for recreational trails under part B of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261 et seq.), shall not be subject to any limitation on obligation authority.

''(c) DISTRIBUTION OF OBLIGATION LIMITATIONS.—

''(1) IN GENERAL.—If, with respect to fiscal year 1998 or any fiscal year thereafter, a provision of a statute establishes a limitation on obligations for Federal-aid highways and highway safety construction programs, paragraphs (2) through (4) shall apply.

''(2) DISTRIBUTION FORMULA.—For a fiscal year, any limitation described in paragraph (1) shall be distributed among the States by allocation in the ratio that—

''(A) the total of the amounts apportioned to each State under sections 104, 157, and 162 for the fiscal year; bears to

''(B) the total of the amounts apportioned to all States under those sections for the fiscal year.

''(3) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding any limitation described in paragraph (1), for each fiscal year, the Secretary—

''(i) shall provide each State with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction programs that have been apportioned or allocated to the State, except in those cases in which the State indicates its intention to lapse sums apportioned to the State;

''(ii) after August 1 of the fiscal year—

''(I) shall revise a distribution of the funds made available under the limitation described in paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

''(II) shall redistribute sufficient amounts to States able to obligate amounts in addition to the amounts previously distributed for the fiscal year, giving priority to those States that have unobligated balances of funds apportioned that are relatively large when compared to the amount of funds apportioned to those States under sections 104 and 157 for the fiscal year; and

''(iii) shall not distribute amounts authorized for administrative expenses.

''(B) STATE INFRASTRUCTURE BANKS.—For the purposes of subparagraph (A)(ii), funds made available and placed in a State infrastructure bank approved by the Secretary but not obligated out of the bank shall be considered to be not obligated.

''(4) ADDITIONAL OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—Subject to paragraph (3), a State that after August 1 and on or before September 30 of a fiscal year obligates the amount distributed to the State for the fiscal year under paragraph (2) may obligate for Federal-aid highways and highway safety construction programs on or before September 30 of the fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to the State under sections 104 and 157

that are not obligated on the date on which the State completes obligation of the amount so distributed.

''(B) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each fiscal year, the aggregate amount that may be obligated by all States under subparagraph (A) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States under sections 104 and 157 that would not be obligated in the fiscal year if the total amount of obligation authority provided for the fiscal year were used.

''(C) LIMITATION ON APPLICABILITY.—In the case of a fiscal year, subparagraph (A) shall not apply to any State that on or after August 1 of the fiscal year has the amount distributed to the State under a limitation for the fiscal year reduced under paragraph (3).

''(d) MAINTENANCE OF OVERALL PROGRAM BALANCE.—If a limitation on obligations is established for a fiscal year—

''(1) the Secretary shall determine the percentage by which the limitation reduces the amount of funds that otherwise would be available for obligation by each State; and

''(2) notwithstanding sections 133, 144, and 149, for the fiscal year, the amounts that are required to be made available for use in the State under paragraphs (1) and (2) of section 133(d), the amounts that the State is required to reserve under section 144, and the amounts subject to section 149, shall be reduced by the percentage determined by the Secretary under paragraph (1).''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 102(b)), is amended by adding at the end the following:

''163. Rules for limitations on obligation authority.''.

TITLE II—PROGRAM STREAMLINING

SEC. 201. PLANNING-BASED EXPENDITURES ON ELEMENTS OF TRANSPORTATION INFRASTRUCTURE.

(a) BRIDGE EXPENDITURES.—

(1) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(A) by striking subsections (a) and (b) and inserting the following:

''(a) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

''(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under section 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

''(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2003, to carry out bridge projects eligible under section 133(b), will be not less than 6 times the amount apportioned to the State under this section for fiscal year 1997.

''(b) SET ASIDES.—

''(1) DISCRETIONARY BRIDGE PROGRAM.—

''(A) IN GENERAL.—On October 1 of each fiscal year beginning with fiscal year 1998, before making any apportionment under paragraph (1) or (3) of section 104(b), the Secretary shall set aside—

''(i) $36,300,000 from the amount available for apportionments under section 104(b)(1); and

''(ii) $24,200,000 from the amount available for apportionments under section 104(b)(3).

''(B) USE OF SET ASIDE.—The amounts set aside under subparagraph (A) shall be available for obligation in the same manner and to the same extent as sums apportioned under section 104(b)(3), except that the amounts shall be obligated at the discretion of the Secretary, in accordance with procedures to be established by the Secretary, for bridge projects eligible under section 133(b).'';

(B) by striking subsections (c) through (f) and (h) through (p);

(C) by redesignating paragraphs (3) and (4) of subsection (g) as paragraphs (2) and (3), respectively, of subsection (b);

(D) by striking subsection (g);

(E) in subsection (q), by striking ''(q) As used in'' and inserting ''(c) DEFINITION OF REHABILITATE.—In''; and

(F) in subsection (b) (as amended by subparagraph (C))—

(i) in paragraph (2), by striking ''apportioned to each State in each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997,'' and inserting ''reserved by each State under subsection (a) for each of fiscal years 1998 through 2003''; and

(ii) in paragraph (3)—

(I) in the first sentence, by striking ''apportioned to'' and inserting ''reserved under subsection (a) by''; and

(II) in the second sentence, by striking ''a State bridge apportionment and before transferring funds to the States,'' and inserting ''the amount to be reserved under subsection (a) for a fiscal year by a State described in the preceding sentence,''.

(2) CONFORMING AMENDMENTS.—

(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence—

(I) by striking ''apportioned'' and inserting ''reserved'';

(II) by striking ''to each State in accordance with'' and inserting ''by each State for the purposes of''; and

(III) by striking ''apportionment'' each place it appears and inserting ''amount reserved'';

(ii) in the second sentence, by striking ''apportionment'' each place it appears and inserting ''amount reserved''; and

(iii) in the third sentence, by striking ''State's apportionment'' and inserting ''amount reserved by the State''.

(B) Section 115(c) of title 23, United States Code, is amended by striking ''144,,''.

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking ''and in section 144 of this title''.

(D) Section 140(b) of title 23, United States Code, is amended in the last sentence by striking ''and the bridge program under section 144''.

(E) Section 151(d) of title 23, United States Code, is amended by striking ''section 104(a), section 307(a), and section 144 of this title'' and inserting ''sections 104(a) and 307(a)''.

(F) Section 307(c)(1) of title 23, United States Code, is amended by striking ''sections 104 and 144 of this title'' and inserting ''section 104''.

(b) SAFETY PROGRAMS.—

(1) SURFACE TRANSPORTATION PROGRAM.—Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) SAFETY PROGRAMS.—

''(A) REQUIRED SET-ASIDE.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

''(i) an amount equal to 2.5 percent of the amount apportioned to a State under section 104(b)(3) for fiscal year 1997 shall be available only to carry out activities eligible under section 130;

''(ii) an amount equal to the amount described in clause (i) shall be available only to carry out activities eligible under section 152; and

''(iii) an amount equal to 5 percent of the amount apportioned to a State under section 104(b)(3) for fiscal year 1997 shall be available only to carry out activities eligible under section 130 or 152.

''(B) WAIVER.—For a fiscal year, the Secretary shall waive the set-aside required under clause (i) or (ii) of subparagraph (A), and permit the amount of the set-aside to be used in accordance with subparagraph (A)(iii), upon receipt of a certification by the State that the amount that will be made available for the purpose of the waived set-aside for that fiscal year, when combined with the amount made available for that purpose for the preceding fiscal year, or the amount to be made available for that purpose for the following fiscal year, will average, per fiscal year, not less than 2.5 percent of the amount apportioned to the State under section 104(b)(3) for fiscal year 1997.''.

(2) PROGRAM IMPROVEMENTS.—Title 23, United States Code, is amended—

(A) in section 130—

(i) in subsection (e), by striking the first sentence and inserting the following: ''Funds authorized for or expended under this section may be used for the installation of protective devices at railway-highway crossings.''; and

(ii) in subsection (f), by striking ''APPORTIONMENT'' and all that follows through the first sentence and inserting ''FEDERAL SHARE.—''; and

(B) in section 152—

(i) in subsection (c), by striking ''(other than a highway on the Interstate System)''; and

(ii) in subsection (e), by striking the first sentence.

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133(d) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) TRANSPORTATION ENHANCEMENT ACTIVITIES.—With respect to funds apportioned for each of fiscal years 1998 through 2003, an amount equal to 5 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out transportation enhancement activities.''.

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT ACTIVITIES.—

(1) IN GENERAL.—Section 149 of title 23, United States Code, is amended—

(A) in the section heading, by striking ''**program**'' and inserting ''**activities**'';

(B) by striking subsection (a) and inserting the following:

''(a) USE OF FUNDS.—Funds apportioned to a State under section 104(b)(3)(D) may be used only in accordance with this section.'';

(C) in subsection (b), by striking ''Except'' and all that follows through ''program only'' and inserting ''Funds described in subsection (a) may be used only''; and

(D) in subsection (c), by striking ''section 104(b)(2)'' and inserting ''section 104(b)(3)(D)''.

(2) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 149 and inserting the following:

''149. Congestion mitigation and air quality improvement activities.''.

(B) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking ''CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT,''; and

(ii) in paragraph (1)(A)(i), by striking ''104(b)(2),''.

(C) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ''104(b)(2),'' and inserting ''104(b)(3)(D),''.

(D) Section 217 of title 23, United States Code, is amended—

(i) in subsection (a)—

(I) in the subsection heading, by striking ''STP AND CONGESTION MITIGATION PROGRAM'' and inserting ''SURFACE TRANSPORTATION PROGRAM''; and

(II) by striking ''sections 104(b)(2) and 104(b)(3) of this title'' and inserting ''section 104(b)(3)''; and

(ii) in subsection (d), by striking ''sections 104(b)(2) and 104(b)(3) of this title'' and inserting ''section 104(b)(3)''.

SEC. 202. NATIONAL HIGHWAY SYSTEM.

(a) DEFINITION OF NATIONAL HIGHWAY SYSTEM.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining ''National Highway System'' and inserting the following:

''The term 'National Highway System' means the Federal-aid highway system established under section 103(b).''.

(b) PROGRAM SPECIFICATIONS.—Section 103 of title 23, United States Code, is amended—

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

''§ 103. National Highway System''

(2) by striking subsections (g) and (h); and

(3) by redesignating subsection (i) as subsection (c) and moving the subsection to appear after subsection (b).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 103 and inserting the following:

''103. National Highway System.''.

SEC. 203. INTERSTATE MAINTENANCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—Section 119 of title 23, United States Code, is amended—

(1) in the section heading, by striking ''**program**'' and inserting ''**activities**'';

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking ''sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139(a) and (b) of''; and

(ii) by striking ''subsection (e)'' and inserting ''subsection (d)''; and

(B) by striking the second sentence;

(3) by striking subsections (d), (f), and (g); and

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

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 119 and inserting the following:

''119. Interstate maintenance activities.''

(2) Sections 134(i)(4) and 135(f)(3) of title 23, United States Code, are amended—

(A) by striking ''and pursuant to the bridge and Interstate maintenance programs'' each place it appears and inserting '', pursuant to the bridge program under section 144, and as Interstate maintenance activities under section 119''; and

(B) by striking ''or pursuant to the bridge and Interstate maintenance programs'' each place it appears and inserting '', pursuant to the bridge program under section 144, or as Interstate maintenance activities under section 119''.

SEC. 204. SURFACE TRANSPORTATION PROGRAM AMENDMENTS.

Section 133 of title 23, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

''(12) With respect to each area of a State that is a nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide, or for PM–10 resulting from transportation activities, or for any combination of these substances, also for any congestion mitigation and air quality improvement project or program without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard addressed by the project or program. For the purpose of this paragraph, an area that has been designated as nonattainment for carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) shall be considered to be a nonattainment area regardless of whether the area has been 'classified' under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.).

''(13) Placement of funds in a State infrastructure bank approved by the Secretary.'';

(2) in subsection (c), by striking ''unless such roads are on a Federal-aid highway system on January 1, 1991, and'';

(3) in subsection (d)(3)—

(A) by striking subparagraph (A) and inserting the following:

''(A) GENERAL RULE.—

''(i) URBAN AREAS.—Except as provided in subparagraph (C), for each fiscal year, a State shall allocate for use in each area of the State with an urbanized area population of over 200,000 individuals an amount of the funds apportioned under section 104(b)(3) for the fiscal year obtained by multiplying—

''(I)(aa) if funds were allocated for use in the area under the surface transportation program for fiscal year 1997, the amount of such funds required to be allocated for use in the area for that year; or

''(bb) if funds were not allocated for use in the area under the surface transportation program for fiscal year 1997, the amount of such funds that would have been required to be allocated for use in the area for fiscal year 1997 if the area had had an urbanized area population of 200,001 individuals as of October 1, 1996; by

''(II) the amount obtained by dividing—

''(aa) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for the fiscal year; by

''(bb) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for fiscal year 1997.

''(ii) OTHER AREAS.—Except as provided in subparagraph (C), for each fiscal year, a State shall allocate for use in each area of the State that is not an area described in clause (i) an amount of the funds apportioned under section 104(b)(3) for the fiscal year obtained by multiplying—

''(I) the amount of funds required to be allocated for use in the area under the surface transportation program for fiscal year 1997; by

''(II) the amount obtained by dividing—

''(aa) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for the fiscal year; by

''(bb) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for fiscal year 1997.'';

(B) in subparagraph (B), by striking ''subparagraph (A)(ii)'' and inserting ''this section'';

(C) by striking subparagraph (C) and inserting the following:

''(C) SPECIAL RULE FOR CERTAIN STATES.—Subparagraph (A) shall not apply in the case of a State that is noncontiguous with the continental United States.'';

(D) by striking subparagraph (D);

(E) by redesignating subparagraph (E) as subparagraph (D); and

(F) in subparagraph (D) (as so redesignated)—

(i) by striking ''obligate'' each place it appears and inserting ''allocate'';

(ii) by striking ''(A)(i)'' each place it appears and inserting ''(A)''; and

(iii) by striking ''obligated'' and inserting ''allocated'';

(4) in subsection (e), by striking paragraph (2) and inserting the following:

''(2) CERTIFICATION.—Before the beginning of each fiscal year, the Governor of each State shall certify to the Secretary that the State will meet all the requirements of this section and shall notify the Secretary that the amount of obligations expected to be incurred for surface transportation program projects during the fiscal year is in accordance with the surveys, plans, specifications, and estimates for each proposed project included in the surface transportation program category in the transportation improvement program of the State developed under section 135 for the fiscal year. A State may request an adjustment to an obligation amount referred to in subparagraph (A)(ii) later in the fiscal year. Acceptance by the Secretary of the notification and certification shall be deemed to be a contractual obligation of the United States to pay the Federal share of costs incurred by the State for projects not subject to review by the Secretary under this chapter.''; and

(5) in subsection (f)—

(A) by striking ''6-fiscal year period 1992 through 1997'' and inserting ''6-fiscal-year period 1998 through 2003''; and

(B) by striking ''obligate in'' each place it appears and inserting ''allocate to''.

SEC. 205. CONFORMING AMENDMENTS TO DISCRETIONARY PROGRAMS.

(a) OPERATION LIFESAVER.—Section 104 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) OPERATION LIFESAVER.—From administrative funds deducted under subsection (a), the Secretary shall expend $500,000 for each fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.''.

(b) REPEAL OF SET-ASIDES FOR THE INTERSTATE AND NATIONAL HIGHWAY SYSTEM DISCRETIONARY PROGRAMS.—Section 118 of title 23, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

SEC. 206. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

''SEC. 206. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

''(a) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—Congress finds that public roads owned by States—

''(A) can provide valuable assistance to the Federal Government in ensuring adequate and safe transportation to, in, and across federally owned land and Indian reservations; and

''(B) supplement the efforts of the Federal Government in developing and maintaining roads to serve federally owned land and Indian reservations.

''(2) PURPOSE.—The purpose of this section is to further the Federal interest in State-owned or State-maintained roads that provide transportation to, in, or across federally owned land or Indian reservations by establishing the Cooperative Federal Lands Transportation Program.

''(b) PROGRAM.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on State-owned or State-maintained highways that cross, are adjacent to,

or lead to federally owned land or Indian reservations, as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway owned or maintained by the State and may be a highway construction or maintenance project eligible under this title or any project of a type described in section 204(h).

''(c) DISTRIBUTION OF FUNDS FOR PROJECTS.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—The Secretary—

''(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate, shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

''(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

''(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

''(I) the percentage for the State determined under clause (i); by

''(II) the sum determined under clause (ii).

''(B) ADJUSTMENT.—The Secretary shall—

''(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

''(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

''(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

''(A) the percentage for the State, if any, determined under paragraph (1); by

''(B) the funds made available for the program for the fiscal year.

''(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

''(d) TRANSFERS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section for use in carrying out projects on any Federal lands highway that is located in the State.

''(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.''.

(b) DEFINITION OF FEDERAL LANDS HIGHWAY INVESTMENT.—Section 101(a) of title 23, United States Code, is amended—

(1) by adding at the end the following:

''The term 'Federal lands highway investment' means funds authorized for the Federal lands highways program or the Cooperative Federal Lands Transportation Program under chapter 2.''; and

(2) by reordering the undesignated paragraphs so that they are in alphabetical order.

(c) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by inserting after the item relating to section 205 the following:

''206. Cooperative Federal Lands Transportation Program.''.

TITLE III—REDUCTION OF REGULATION

SEC. 301. PERIODIC REVIEW OF AGENCY RULES.

(a) IN GENERAL.—The Secretary of Transportation shall carry out a periodic review of all significant rules issued by the Department of Transportation and shall determine which of the rules should be amended, rescinded, or continued without change, based on a consideration of—

(1) the continued need for each rule; and

(2) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules.

(b) PLAN.—Not later than 60 days after the date of enactment of this Act, the Secretary shall develop and publish in the Federal Register a plan for the periodic review of all significant rules issued by the Department of Transportation.

SEC. 302. PLANNING AND PROGRAMMING.

Section 135 of title 23, United States Code, is amended by adding at the end the following:

''(i) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

SEC. 303. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking ''Before September 30, 2000, the'' and inserting ''The''.

TITLE IV—EFFECTIVE DATE; TRANSITION RULES.

SEC. 401. EFFECTIVE DATE; TRANSITION RULES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) FUNDS.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall apply only to funds authorized to be appropriated or made available after September 30, 1997.

(c) UNOBLIGATED BALANCES.—Section 118 of title 23, United States Code (as amended by section 205(b)), is amended by adding at the end the following:

''(f) UNOBLIGATED BALANCES AS OF OCTOBER 1, 1997.—

''(1) IN GENERAL.—Except as otherwise provided by law, unobligated balances of funds apportioned or allocated to a State before October 1, 1997, under this title, the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), or other law concerning Federal-aid highways, shall be available for obligation in the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on September 30, 1997.

''(2) TRANSFERABILITY.—

''(A) INTERSTATE CONSTRUCTION AND INTERSTATE MAINTENANCE PROGRAMS.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the Interstate construction program under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this subsection) or the Interstate maintenance program under section 104(b)(5)(B) (as in effect on the day before the date of enactment of this subsection), to the apportionment of the State under section 104(b)(1).

''(B) BRIDGE REPLACEMENT AND REHABILITATION PROGRAM.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the bridge replacement and rehabilitation program under section 144 (as in effect on the day before the date of enactment of this subsection) to the apportionment of the State under paragraph (1) or (3) of section 104(b) (or both).

''(C) SURFACE TRANSPORTATION PROGRAM.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the surface transportation program under section 104(b)(3) (as in effect on the day before the date of enactment of this subsection) to the apportionment of the State under section 104(b)(3).

''(D) OTHER PROGRAMS.—A State may transfer unobligated balances of funds apportioned or allocated to the State before October 1, 1997, under sections 157 and 160 (as in effect on the day before the date of enactment of this subsection), and sections 1013(c) and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (as in effect on the day before the date of enactment of this subsection), to the apportionment of the State under section 104(b)(3).

''(E) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this paragraph shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred as the laws are in effect after the date of enactment of this subsection, except that a transfer of funds permitted under this paragraph shall not extend the time period within which the transferred funds either must be obligated or lapse.

''(F) EFFECT ON CERTAIN DETERMINATIONS.—A decision by a State to transfer funds under this paragraph shall have no effect on any determination of the apportionments or obligation authority of the State.''.

SUMMARY OF KEY PROVISIONS OF STARS 2000

STARS 2000 is a six-year transportation reauthorization proposal.

FUNDING LEVELS

The Department of Transportation estimates that the Highway Account of the Highway Trust Fund could sustain annual funding levels of $27 billion into the next century. This figure includes annual revenue, interest accumulated from unobligated balances, and the gradual spend-down of unobligated balances.

STARS 2000 funding levels are approximately $27 billion annually.

The breakdown is as follows:

National Highway System—$14.163 billion
Surface Transportation Program—$9.442 billion
Equity programs—approximately $2.8 billion
Federal lands programs
1. Indian reservation roads—$191 million
2. Public lands highways—$172 million
3. Parks and Parkways—$84 million
Cooperative Federal Lands Transportation Program (new)—$155 million
Territories—$35 million
Recreational Trails—$30 million

FUNDING FORMULAS

STARS 2000 funding formulas are based heavily on the extent and use of a State's highway system. Interstate lane miles and vmt, NHS lane miles and vmt, federal-aid lane miles and vmt, square footage of bridges, diesel sales and 4 other formula factors consisting of air quality, federal land ownership, population in relation to lane miles and freeze/thaw cycles.

STARS 2000 also includes a 95% minimum allocation equity account.

STREAMLINED PROGRAM

Under STARS 2000, the federal program is streamlined in order to allow the program to be highly flexible. This enables different States to choose projects that meet their transportation priorities. Projects such as highway reconstruction, safety improvements, transit, bridges, enhancements, CMAQ projects or other eligible investments.

NATIONAL HIGHWAY SYSTEM

Funding for the National Highway System represents sixty percent of the core formula program under STARS 2000. Funds may be used for Interstate maintenance activities, bridge improvements and other uses eligible under today's current NHS program.

SURFACE TRANSPORTATION PROGRAM

Funding for the Surface Transportation Program (STP) represents forty percent of the core formula program under STARS 2000. Under this flexible program, funds may be used for projects eligible under today's Surface Transportation Program and projects eligible under today's Congestion Mitigation and Air Quality (CMAQ) program.

ENHANCEMENTS

STARS 2000 retains the transportation enhancement program. Today, the core of the enhancement program is a 10% set-aside of the $4 billion STP program—$400 million. STARS 2000 requires 5% of the new $9.44 billion STP program be set-aside annually—approximately $480 million. Eligibility under the enhancement program is not changed.

SAFETY PROGRAMS

Current law requires a 10% set-aside of STP funds for railway crossing elimination and hazard elimination programs.

STARS 2000 retains this set-aside (10% of what a State received under the STP category in 1997), but gives States additional flexibility in meeting this requirement. States must spend at least 2.5% of the requirement on railway-highway crossing projects, at least 2.5% of the requirement on hazard elimination projects and the remaining 5% may be used for either program at the discretion of the State.

BRIDGE PROGRAM

STARS 2000 eliminates the bridge program as a separate category. However, STARS 2000 retains the national commitment to bridges repairs by requiring every State to spend at least as much on bridges as it does today, using National Highway System or Surface Transportation Program funds.

The bridge discretionary program is also retained at FY 1997 levels—$60.5 million annually to be funded from the NHS and STP program.

CONGESTION MITIGATION AND AIR QUALITY

STARS 2000 eliminates the CMAQ program as a separate category. However, included in the Surface Transportation Program funding formula is an ''air quality'' factor. States that receive funds under the air quality factor—which are those States that receive CMAQ funds under today's CMAQ formula for their nonattainment areas—would be required to spend such funds in their nonattainment areas for CMAQ eligible projects. This provision translates into a $380 million air quality program.

RECREATIONAL TRAILS

STARS 2000 proposes a $30 million annual funding level for the National Recreational Trails program. Funds are to be used for both motorized and nonmotorized trails, consistent with current law. The matching requirement has been adjusted from today's 50/50 matching ratio to a new 80/20 matching ratio.

FEDERAL LANDS

STARS 2000 retains the current federal lands categories—public lands, Indian reservation roads, parks and parkways. Current funding levels are retained as well.

A new Federal lands category, the Cooperative Federal Lands Transportation Program is also proposed at $155 million annually. These funds are to be used by States to improve State-owned or maintained roads that lead to, are adjacent to or pass through Federal lands or reservations.

REGULATORY REVIEW

The Department of Transportation is required to review all significant rules it has issued. Any rules that are obsolete, overlapping, duplicative or conflict with other Federal rules shall be either amended, rescinded or continued without change after such periodic review.

Mr. THOMAS. Mr. President, I rise this morning to talk about the reauthorization of the Federal highway bill. I am very pleased to join with Senators BAUCUS and KEMPTHORNE in the introduction of the Surface Transportation Authorization and Regulatory Streamlining Act for the Next Century, STARS 2000. I am also pleased that there will be 14 original cosponsors in support of this important legislation.

This is the time for the reauthorization of the Federal highway bill, called ISTEA, that has been in place for the past 6 years and has made a very important contribution to this country and its transportation. It has made some important changes in our surface transportation policies, but as we move into the 21st century, we need to update the law and make it more flexible and more efficient in order to meet the transportation challenges of the new century. I believe STARS 2000, achieves this goal. It will create new rules of the road to help us to build the highways and bridges to the 21st century.

With respect to the gas tax, it is a user fee, of course, that each of us pay as we buy gas wherever we are in this country. American taxpayers have been shortchanged with regard to the benefits they are getting from the gas tax. Not all of the gas taxes have been used for surface transportation. We need to get back to a user-fee system where the taxes paid, in this case by the users of highways, are used then for surface transportation. STARS 2000 addresses this problem by restoring the integrity of the fee system by spending as much out of the highway fee system as it can sustain. We have been spending less than $20 billion annually. STARS 2000 raises the authorization to $27 billion. We believe those dollars ought to go into the highway system.

In addition, it provides a framework for any additional revenues such as the 4.3 cents that currently goes to deficit reduction. Should these user fees be transferred to the highway trust fund, they would be distributed according to the bill's formula. STARS 2000 will help my State and many States maintain a national system.

If you are going to go from Washington to California, you obviously have to go throughout the whole country and therefore it is key to have a Federal system. In my State, a small State in terms of population but large in terms of space, we pay more per capita than any other State, nearly $200 for every person in our State for highway gas taxes, and yet we have deteriorating bridges and roads, as do many States.

In addition, the Federal Government owns 50 percent of Wyoming. One of the principle authors of this bill and my friend, Senator KEMPTHORNE, his State of Idaho has even larger holdings. In Nevada, it is 86 percent federally owned so we have to take Federal lands into account as we talk about a Federal system.

In fact, Yellowstone Park, located in Wyoming, has a backlog of nearly $250 million in road repairs and maintenance that needs to be considered. Unfortunately, we are not meeting these needs. For example, the Clinton administration admits that this country only invests 70 percent of what needs to be invested just to maintain our transportation infrastructure. These shortfalls hurt all taxpayers, of course. The STARS 2000 coalition States are bridge States—people and goods cross these States to other destinations. A set of efficient and well maintained roads are as important to the cities that export goods across the country and around the world as they are to people in our States. These transactions contribute to the Nation's economy and its job creation. STARS 2000 will make a smooth flow of people and goods across the country a reality.

One of the keys to the highway program is that each State knows best what it should be doing with the resources it has, and its priorities are. Clearly, the highways and roads in New York City are quite different than those in Wyoming or Nevada, so we need to have the flexibility for State and local officials to make the decisions there. STARS 2000 does that by significantly increasing the surface transportation program, the STP portion, and puts the decisionmaking authority for how this money is allocated into the hands of state and local people.

Unfortunately, the administration bill, NEXTEA, is advertised as building

a bridge to the 21st century. Unfortunately, it is my belief that in its present form that bridge will collapse. NEXTEA does not restore the integrity of the trust fund, so for the American taxpayer, there is no trust in the trust fund. It does not streamline the program. It does not make the kinds of changes that are needed. It hangs on to what we have done in the past. It also handcuffs local authorities in terms of making decisions. NEXTEA adds regulations. God knows, we need to move away from regulations and allow the highway program to be more efficient.

STARS 2000 emphasizes the Federal component of our program and achieves a fair and equitable method of distribution. Based on a percentage share of the Federal highway program, 37 States do better and 1 tied compared to NEXTEA; 33 States do better than under the current law; 25 States higher, 6 the same compared to STEP 21. In addition, STARS 2000 addresses the donor/donee issue by creating a 95 percent minimum allocation to all States. That means all States will get at least 95 percent of what they put into the highway trust fund.

The STARS 2000 coalition will be a significant factor in the ISTEA reauthorization debate. Without our coalition, without our States, you cannot get there from here—physically or politically. STARS 2000 is more than a marker. It is a coalition of States that are needed to make an interstate map to the 21st century.

Quite often, in my experience in the House, the highway money flows where the votes are. But that really does not work in a transportation program. You have to have one that covers the country and is, indeed, a Federal program. The funding formulas under STARS 2000 are based on the transportation needs of the country.

STARS 2000 maintains the integrity of the original ISTEA. It improves it by a smarter investment of taxpayers' money. It meets our growing infrastructure needs. It increases job and economic growth and increases flexibility and efficiency. We get more bang for the buck.

So we are emphasizing the National Highway System, allowing more decisions to be made closer to home, and I certainly would submit to my fellow Members of the Senate this is a bill that we can all support and will provide a better infrastructure for highway surface transportation.

Mr. President, I appreciate the time. I thank Senators KEMPTHORNE and BAUCUS for their hard work on this legislation and look forward to working with them in the future.

I yield the floor.

Mr. KEMPTHORNE. Mr. President, may I commend my colleague from Wyoming, Senator THOMAS, for giving an excellent view as to the bill that we are submitting to Congress today, the Surface Transportation Authorization and Streamlining Act, or STARS 2000.

I appreciate the fact that Senator THOMAS and Senator BAUCUS of Montana and I will be able to form this partnership, with many more partners in the Senate joining our effort, including the Senator from Kansas, who will be joining us. I also want to recognize that I appreciate Senator JOHN WARNER, who is the chairman of this particular subcommittee dealing with this issue of the national highway bill, for holding a hearing in the State of Idaho, for coming to Idaho so that the western perspective could be made part of the public record. Also, Senator BAUCUS, who came to that hearing in Idaho—I appreciate my neighbor from Montana coming over and making that effort; it was an excellent hearing—and, too, acknowledging Senator CHAFEE, the chairman of the full committee, making that hearing in the West a reality. So, again, it demonstrates that all of us, while we may be coming at this from slightly different views, are working together. That is important and significant.

With STARS 2000, I believe, as Senator THOMAS has pointed out, we are going to restore the integrity of what a trust fund is: a trust fund. So the money that is gathered for that dedicated purpose ought to be used for that dedicated purpose. Doesn't that sound amazing that we would have to even say that? But it is not happening. Currently we only authorize about $18 billion that are to be used on the national highway program. The full amount that could be used, the maximum, is $27 billion. So this legislation by Senator BAUCUS and Senator THOMAS and myself would authorize the full $27 billion to be used for the highways of this country, because that is why we have been collecting this highway tax.

It provides a fair distribution throughout the United States, and it is going to address the very key issues, such as extent and usage of the highways; the lane miles that are there; the poor air quality in some regions of the country, some of the cities that are having difficulty with poor air quality; the tax-exempt Federal lands, as have been referenced. In the State of Idaho we are 67 percent federally owned. In the State of Texas—I do not believe there is any federally owned land in the State of Texas. So you can see we come at this from different perspectives. Low population density—Idaho is the 13th State, as far as ranking in landmass, yet we rank 41st in population. So you can see there are not a lot of folks. Take the District of Columbia, for example, this city right here around Capitol Hill. It has a little over one-half-million people. The State of Idaho has 1 million people in the entire State, versus one-half-million in just this city.

It also authorizes full funding for the National Recreational Trails Act, $30 million annually, something that had been talked about and was to have occurred years ago. It has not done so. We are going to do right by that.

We also know there is this issue of the donor/donee States. Some States put in their share, and they get more than they put in. Other States put in their share, and they get less back than they put in. We address that head on by increasing the minimum allocation program from 90 percent up to 95 percent. Under STARS 2000 formulas and proposed increased funding levels, it would result in 47 States receiving greater funding than they do under the current ISTEA program. Mr. President, 47 States will actually receive more funds.

Again, as has been pointed out, we really do provide for the streamlining, for greater flexibility, so those programs, such as the Surface Transportation Act—in essence, we double the funds in that account. We double that, and then we say to the States and the local communities: Now, with that additional funding, you make the decisions of where you think your priorities are in your State, rather than people back in Washington, DC, who may never have been to your State determining how it should be spent.

This is the national highway bill that we are talking about. I want to underscore national, because it is to apply to all 50 States. That is how we are going to have good interstate commerce. The administration says they understand the needs of rural America. If they understand the needs of rural America, I question why the administration's proposed reauthorization of the highway bill cuts funding to eight of the most rural States in the country.

What is this question of rural and urban? Let me give an example, if I may, Mr. President. Here is the State of Idaho. I would use as an example highway 95 that runs, in essence, from the Canadian border virtually down to the Nevada border, a little over 500 miles. Again, the State of Idaho, population of 1 million people. Let us take relatively the same distance, and let us go from right here, Washington, DC, and if we drive to Boston, it is 463 miles—about the same distance. So I am making it a good comparison. The difference is, here you have one million people to support systems such as this. In this area, where you actually go through seven States, not one State and the District of Columbia, you have virtually 43 million people as a tax base to support that infrastructure. It just shows you that in the less densely populated areas we do need to have assistance.

Do you know there are trucking firms that enter the State of Idaho at Eastport to go through customs? Then they immediately exit the State of Idaho and they travel the Canadian highways heading toward Seattle, for example, and then reenter the United States. Why do they do that? As one trucking company, Swift Transportation, testified at our hearing out in Idaho, they have 5,000 trucks that run throughout the United States, but they said there are so many significantly unsafe portions of, for example, highway 95, they do not allow their truck

drivers to go on highway 95 because of safety considerations. They said that is the only stretch of highway that they really have that sort of restriction on anywhere in the United States.

Yet this is a national highway bill. It is not the national and Canadian highway bill. So we need to address this, and that is what this does. But it is not parochial. Certainly I am trying to look out for rural America, but I reiterate, this legislation does better for 47 States than under the current program that is in existence today.

So I believe we have something here that is good for the country. It is going to put the faith back into what a trust fund is supposed to be. It is going to give greater flexibility for those of us who believe in States rights, the 10th amendment; that folks in those 50 States can make just as good if not better decisions than we do at the Federal level. So it has so much to offer to so many.

Again, I am proud to be part of this, and I thank Senator THOMAS and Senator BAUCUS for their efforts in this partnership.

Mr. BINGAMAN. Mr. President, I rise to speak briefly about the Surface Transportation Authorization and Regulatory Streamlining Act. As I do, Mr. President, I want to emphasize my belief that the Intermodal Surface Transportation Efficiency Act [ISTEA], has in large part been a great success for our Nation. ISTEA has been a revolutionary effort to distribute transportation funding to assist States in major highway, bridge, environmental, research, and safety projects. After 6 years, however, we have learned that there are areas of ISTEA in which we can make significant improvement. STARS 2000 is the best mechanism so far by which we can do that.

I am cosponsoring STARS 2000 because it reemphasizes the national interest in a national transportation system. Mr. President, each State is a vital part of the national system; without one part the whole system fails. The highway system in New Mexico for instance, serves not just its resident and industrial traffic needs, but its highways also serve as a vital link for commerce between the Pacific coast and the eastern seaboard, and between Mexico and Canada. The system of highways crossing New Mexico is also crucial for the movement of manpower, equipment, and supplies in support of our Nation's defense. STARS 2000 offers a balanced, sensible approach so that all the States continue to play a central role to the overriding national goals.

Just as importantly, STARS 2000 effectively addresses the unique character of western, rural States and their importance to our national system of highway. New Mexico, for example, has only six-tenths of 1 percent of the total U.S. population. However, it must maintain 2 percent, 3,000 miles, of the National Highway System. Many people do not realize that road travel takes on a different meaning in the West. For instance, a trip from Farmington, NM, to Hobbs, NM, is 513 miles, and there are few options other than driving to make that tip. By contrast, that same distance would take you from Washington, DC, to Detroit, MI.

STARTS 2000 also builds on the successes of ISTEA. For instance, the Surface Transportation Program maintains Federal support for the bride replacement and rehabilitation program. STARS 2000 also maintains support for Federal lands roads, a program that is vital to States in the West where a vast majority of our Nation's Federal lands are located. Forty percent of New Mexico, for example, is Federal land. STARS 2000 eliminates the old system that penalizes a State for using Federal funds on roads located on Federal lands and Indian reservations. This is a step in the right direction and it is desperately needed in the West. I am concerned that STARS proposes only level funding for the Indian reservation road program. Although I am supporting S. 437, the American Indian Transportation Improvement Act, I will continue to try to increase funding for roads and bridges on Indian reservations.

STARS 2000 also includes a program that addresses congestion management and air quality. I am concerned, however, with the degree to which resources for this activity have been cut and the fact that it is eliminated as a separate category within STARS. CMAQ has been a significant reason cities like Albuquerque have attained and are maintaining clear air standards, and I hope we will find ways to keep this program working.

Additionally, STARS 2000 addresses the need to maintain our Nation's current system of roads and bridges. Unless the current system is sufficiently maintained, we will inevitably have to spend many more dollars to rebuild the system, something we can ill-afford. In New Mexico, like most other States, maintenance costs overwhelm the State's total highway budget. To its credit, New Mexico applies much of its highway funding to maintenance. Nevertheless, if the entire New Mexico road budget were applied to maintenance alone, only 7,500 of the State's 11,600 miles of highways could be adequately maintained. As many as 5,800 miles of New Mexico's roads have deteriorated to the point that they must be replaced at a cost of $1.15 million per mile. As a result, New Mexico, like most other States in the West, is unable to fund other critical transportation objects.

As we continue to recommit ourselves to maintaining and improving our Nation's transportation system, let me say that it is also incumbent upon the individual States to share in this ever-increasing responsibility. Clearly, there is a strong national transportation interest, but the States must recognize its own obligations. We are doing our part at the Federal level, and States must do the same.

Mr. President, I am proud to cosponsor this bill, and I commend my esteemed colleagues, Senators BAUCUS, KEMPTHORNE, and THOMAS, for working diligently to assemble this legislation. I believe that STARS is a measure that will eventually lead to a better, more efficient transportation system in our country and ultimately a stronger economy.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 533. A bill to exempt persons engaged in the fishing industry from certain Federal antitrust laws; to the Committee on the Judiciary.

THE FISHING INDUSTRY BARGAINING ACT

Mr. MURKOWSKI. Mr. President, on behalf of Senator STEVENS and myself, I am reintroducing the Fishing Industry Bargaining Act, a bill to allow antitrust immunity for certain cooperative activities involving domestic fishermen and processors.

This bill will allow collective agreement between fishermen and processors. It is patterned after legislation adopted by the Alaska State Legislature, but which requires congressional action to fully take effect.

Under existing law, fishermen are able to form associations for the purpose of collective bargaining with individual processors. This bill will allow them to work with similar associations of processors to establish first-wholesale purchase prices—that is, the prices paid to the processors for fish products, and ex-vessel prices paid to the fishermen.

This is intended to counter the fact that prices currently are all too often set by first-wholesale buyers rather than producers. As a result, processors forced to accept a price set by their buyers are in turn forced to set ex-vessel prices based on the buyers' offer, rather than prices that respond fully to other market forces.

I want to make it clear that this bill in no way would allow processors to associate solely amongst themselves to set either ex-vessel or wholesale prices. That is the kind of activity our current antitrust law is primarily designed to prevent, and this bill will leave that unchanged. Processors would continue to be prohibited from agreeing on prices unless fishermen participated in and were party to any agreement.

What the bill will accomplish is to strengthen the position of the United States seafood industry generally—fishermen and processors together. In this, it would apply to fishermen and fish processors in all parts of the country, not just in Alaska.

We look forward to a hearing which will air the views of the Alaska fishing industry and the fishing industry in other parts of the country, and urge prompt action by this Congress.

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. 533

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 ''Fishing Industry Bargaining Act''.

SEC. 2. EXEMPTION FROM FEDERAL ANTITRUST LAWS.

(a) The Act of June 25, 1934 (48 Stat. 1213 and 1214, chapter 742; 15 U.S.C. 521 and 522) is amended—

(1) in section 2, by striking ''If the Secretary'' and inserting ''Subject to section 3, if the Secretary''; and

(2) by adding at the end the following new section:

''SEC. 3. PRICING.

''(a) IN GENERAL.—For purposes of section 2, a price paid pursuant to a collective agreement entered into under subsection (b) shall not constitute a monopolization or restraint of trade in interstate or foreign commerce.

''(b) COLLECTIVE AGREEMENT.—Persons described in the first undesignated paragraph of section 1, acting through one or more associations described in that section, may enter into a collective agreement with fish processors, including fish processors acting though an association of fish processors, that establishes—

''(1) the price to be paid to those persons by fish processors for an aquatic product; and

''(2) the minimum price that a fish processor may accept for the sale of an aquatic product.

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section is intended to permit fish processors to collectively agree with other fish processors on a price referred to in subsection (b)(1) without entering into an agreement under subsection (b).

''(2) FEDERAL ANTITRUST LAWS.—The establishment and implementation of a collective agreement under subsection (b) shall not be construed to be a violation of any of the Federal antitrust laws, including—

''(A) the Act of July 2, 1890, commonly known as the 'Sherman Act' (26 Stat. 209 et seq., chapter 647; 15 U.S.C. 1 et seq.);

''(B) the Act of October 15, 1914, commonly known as the 'Clayton Act' (38 Stat. 730 et seq., chapter 323; 25 U.S.C. 12 et seq.);

''(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and

''(D) the Act of June 19, 1936, commonly known as the 'Robinson-Patman Antidiscrimination Act' (49 Stat. 1526 et seq., chapter 592; 15 U.S.C. 13, 13a, 13b, 13c, and 21a).''.

By Mr. DODD:

S. 534. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

HANDGUN SAFETY ACT OF 1997

Mr. DODD. Mr. President, I rise to speak on the need for increased attention to gun safety. Increasingly, children are gaining access to loaded and unlocked guns with fatal consequences. Recently, an 8-year-old girl in Bridgeport, CT, took a gun that was left behind a couch and shot and killed her 10-year-old sister.

These tragedies happen far too frequently. A report from the Centers for Disease Control and Prevention notes that nearly 1.2 million latch-key children have access to loaded and unlocked firearms each day. Children cause over 10,000 unintentional shootings each year in which 800 people die.

This violence is not limited to the home. The Connecticut Department of Health recently completed a survey of 12,000 Connecticut teenagers called the Voice of Connecticut Youth. More than one-third of boys in 9th and 11th grades said they either had a gun or could get one in less than a day. When you consider intentional and unintentional shootings, 16 children are killed with firearms every day in this country.

We must put an end to the tragedy of gun violence. We need to take steps to ensure that gun owners are storing their guns safely—unloaded, locked, and out of the reach of children. That is why I am cosponsoring Senator KOHL's legislation, S. 428, which requires licensed manufacturers, importers, and dealers to sell handguns with a child safety or locking device. The bill also requires a warning that the improper locking or storage of a handgun may result in civil or criminal penalties.

Today I am also introducing a separate measure that would simply add another section to Senator KOHL's bill. The section would authorize the National Institute of Justice to conduct a study on possible standards for gun locks. As we move to have greater use of gun locks, we ought to make sure that those locks are high quality.

These small steps forward could save thousands of lives. They will not affect responsible gun owners who are already doing the right thing, but they will remind careless gun owners of the need for increased safety.

My home State of Connecticut is out in front on this issue. One of our State laws requires locks on handguns, another State law requires that guns be stored away from children. But one State can only do so much. A gun bought outside our State can become an instrument of tragedy within our State. And we also need to make kids across the Nation safer. In many ways, this issue is simple—if we require safety caps on medicine to protect kids, we should clearly require safety locks on guns.

I urge my colleagues to join with me and Senator KOHL in support of these gun safety measures.

Mr. President, I ask unanimous consent that a copy of my bill, the Handgun Safety Act of 1997, be printed in the RECORD.

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

S. 534

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 ''Handgun Safety Act of 1997''.

SEC. 2. HANDGUN SAFETY.

(a) DEFINITION OF LOCKING DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'locking device' means—

''(A) a device that, if installed on a firearm and secured by means of a key or a mechanically-, electronically-, or electromechanically-operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically-, electronically-, or electromechanically-operated combination lock; or

''(B) a locking mechanism incorporated into the design of a firearm that prevents discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), beginning 90 days after the date of enactment of the Handgun Safety Act of 1997, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun—

''(A) to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun; or

''(B) to any person, unless the handgun is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the gun and on a separate sheet of paper included within the packaging enclosing the handgun:

'''THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN.

'FAILURE TO PROPERLY LOCK AND STORE YOUR FIREARM MAY RESULT IN CIVIL OR CRIMINAL LIABILITY UNDER STATE LAW. IN ADDITION, FEDERAL LAW PROHIBITS THE POSSESSION OF A HANDGUN BY A MINOR IN MOST CIRCUMSTANCES.'

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(iii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off-duty).''.

(c) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of subparagraph (A) or (B) of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

SEC. 3. STUDY ON STANDARDS FOR LOCKING DEVICES.

Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall—

(1) conduct a study to determine the feasibility of developing minimum quality standards for locking devices (as that term is defined in section 921(a) of title 18, United States Code (as amended by this Act)); and

(2) submit to the Attorney General of the United States and the Secretary of the Treasury a report, which shall include the results of the study under paragraph (1) and any recommendations for legislative or regulatory action.

By Mr. MCCAIN (for himself, Mr. WELLSTONE, Mr. GLENN, Mr. COCHRAN, Mr. BURNS, Mr. MOYNIHAN, Mr. HARKIN, Mr. DODD, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Mr. CAMPBELL, Mr. MACK, Mr. TORRICELLI, Mr. GRASSLEY, Mr. INOUYE, Mr. HOLLINGS, Mr. ROBB, Mr. DURBIN, Mrs. BOXER, Mr. BRYAN, Mr. DASCHLE, Mr. FORD, Mr. D'AMATO, Mr. REID, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. FAIRCLOTH, Mr. LEVIN, Ms. COLLINS, Mr. KERRY, Mrs. MURRAY, Mr. REED, Mr. KENNEDY, Mr. SANTORUM, Mrs. FEINSTEIN, and Mr. ROCKEFELLER):

S. 535. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Labor and Human Resources.

THE MORRIS K. UDALL PARKINSON'S RESEARCH AND EDUCATION ACT OF 1997

Mr. MCCAIN. Mr. President, today, I proudly reintroduce the Morris K. Udall Parkinson's Research and Education Act of 1997. This legislation addresses the importance of Parkinson's research by authorizing $1 million for Parkinson's research.

Approximately 1 million people in this country are afflicted with Parkinson's disease. Parkinson's disease is a debilitating, degenerative disease which is caused when nerve centers in an individual's brain lose their ability to regulate body movements. People afflicted by this disease experience tremors, loss of balance and repeated falls, loss of memory, confusion, and depression. Ultimately, this disease results in total incapacity for an individual including the inability to speak. This disease knows no boundaries, does not discriminate, and strikes without warning.

This important piece of legislation honors Mo Udall, a dear friend of mine who served as a dedicated Congressman from Arizona for 30 years. Mo is remembered most for his warmth, compassion, integrity, and his wit. He was a champion of civil rights, political reform, and a protector of the environment. In 1980, Congressman Mo Udall was diagnosed with Parkinson's disease and he began his valiant battle against this disastrous disease. Mo was forced to resign from Congress in 1991, his exemplary career prematurely ended by Parkinson's.

I was fortunate enough to have not only worked with Mo Udall as a Representative from Arizona, but to have Mo as a mentor and a close, personal friend. Mo's stewardship and integrity would not allow him to become involved in partisan politics. When I arrived in Washington, DC, as a freshman Congressman from Arizona, Mo reached across the aisle, took me under his wing and provided me with guidance, leadership, humor, and, most importantly, friendship. I can never begin to adequately thank Mo for all that he provided me and his profound impact on my early years as a Member of Congress. In some way, I hope that my efforts on his behalf and the millions of others with Parkinson's can be a token of appreciation for all that Mo has given me and our country.

Personally, I have witnessed the devastating effects and personal tolls which Parkinson's disease has on its victims, as I have watched this horrible disease wreck havoc on my dear friend, Mo. I have watched Mo, his family, and friends wage a daily battle against this painful disease. Every day, Mo and millions like him throughout the country face a disease which is physically crippling and financially devastating. I can truly empathize with the fear and frustration that Mo and others like him must be feeling as they become prisoners within their own bodies, clinging to the hope that a scientific breakthrough may soon be discovered and they will be liberated from their personal prison.

The Morris K. Udall Parkinson's Research and Education Act provides the hope Mo and millions like him are looking for. This bill will help us make significant scientific progress by increasing the Federal Government's financial investment in Parkinson's research for fiscal year 1998 by authorizing $1 million.

An important component of this legislation will be the establishment of up to 10 Morris K. Udall Centers for Research on Parkinson's Disease throughout the Nation. These centers will be responsible for conducting basic and clinical research in addition to delivering care to Parkinson's patients. Uniting these three areas will assure that research developments will be coordinated and the care delivered to patients will be effective, high quality services based upon the most recent research developments. The Morris K. Udall Centers will be structural in a manner which allows them to become a source for developing teaching programs for health care professionals and disseminating information for public use.

In addition, this bill will create a national Parkinson's Disease Information Clearinghouse to gather and store pertinent data on Parkinson's patients and their families. This collected data will facilitate and enhance knowledge and understanding of Parkinson's disease.

This bill will establish a Morris K. Udall Excellence Award to recognize publicly the investigators with a proven record of excellence and innovation in Parkinson's research and whose work has demonstrated significant potential for the diagnosis or treatment of the disease.

I am heartened by the tremendous progress scientists are making in Parkinson's research. There is significant scientific evidence indicating that there is very strong potential for major breakthroughs in the cause and treatment of Parkinson's in this decade. According to a wide array of experts, we are on the verge of substantial, groundbreaking scientific discoveries regarding the cause and potential cure of Parkinson's disease. We need to seize this rare opportunity to discover the cause, treatment, and a potential cure for one of the Nation's most disabling diseases. It is imperative that we give our scientific researchers the necessary funding and support to combat this and other neurological diseases, and to improve the lives of many Americans.

This is why we must enact the Morris K. Udall Parkinson's Research and Education Act of 1997. We can't allow this opportunity to make significant progress in the area of Parkinson's research slip away because of a lack of support for our Nation's scientific researchers.

Finally, I would like to thank the hundreds of individuals who have written or called my office in support of this measure. These individuals are committed to seeing this legislation enacted this year and are hopeful that Parkinson's research will finally receive a fair and justifiable investment from the Federal Government.

I ask unanimous consent that a small sampling of the many letters I have received in support of the Morris K. Udall Parkinson's bill from actual Parkinson's patients, family, and friends of Parkinson's patients, advocate groups, scientists, and physicians be included in the RECORD.

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

PHOENIX, AZ, *April 1, 1997.*

HON. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: My friend Richard and I first met in the lobby of St. Joseph's Hospital Barrows Neurological Institute in Phoenix Arizona. I was in my late thirties, he was in his early fifties, we had both been diagnosed with Young-Onset-Parkinsons Disease. We were both afraid.

We became friends as we vowed to fight this disease which was trying to imprison us

in our own bodies. We had just learned about the ''Udall Bill.'' We had just learned that scientists promised a cure within three to five years if they received sufficient funding. The ''Udall bill'' could make that happen. We saw the promise of a miracle.

We talked about it in depth. We knew we had been marked for a slow death and we shared with each other how we feared for our families. I raised my three children as a single parent, and my kids were struggling under the weight that my illness had brought us. Richards' wife had just told him that she couldn't stand living with him as he slowly became a freak to observers and she couldn't stand the strain having to care for him through the pain and slow death. So she left him. He felt it wasn't her fault.

We knew the enemy. The worst thing of this disease was it's slow tortuous progression. We preferred death rather than the years of Hell we were facing. But it was not a choice. With the Udall bill, we might make it. We still had the will to fight. We grasped at hope. We hoped that we could stand the side effects of our medication and hold out until the bill was passed. Once it did, we knew it would take three years for significant improvement in care—but we grasped at the hope. We dedicated the only functioning time we thought we might have left to getting the bill passed.

We wrote letters, we visited our representatives, we put up flyers, we scrimped and saved to mail letters to friends and to travel to other states to tell them about the bill, but Richard's disease progressed very quickly. Within a year he had to have an attendant at home to feed him, bathe him, dress him. Then he had to go to a nursing home. He was barely able to whisper, unable to walk, unable to sit up without being tied to his chair—his head hung over and his eyes reflected his suffering—He was fully aware of what was happening every minute of his torture.

I continued my advocacy efforts, including three trips from Arizona to Washington DC to try to help our Representatives to understand why they should pass the bill. And I would go to the nursing home and report to Richard. Last year we came very close, but we didn't make it. I told Richard and his face and neck were wet with tears as I told him to try to just 'hang in there' one more year. I had told him that the year before. We both cried. We were afraid. We were alone. Richard whispered that he knew he'd never hold his grandchildren, but he'd not go down without knowing we'd ''kick Parkinsons in the ass'' first. Richard died of Parkinsons Disease last month.

I'm 44 years now, I have difficulty walking short distances and my strength struggles for me to sit up. Although my medication's losing effectiveness and side effects don't cease, I'm still here. Still holding on. With your help, I will see the passage of the ''Udall bill for Parkinsons''.

Thank you for doing all that you are, to help us ''kick Parkinsons in the ass''.

MARYHELEN DAVILA.

KINGWOOD, TX, *April 8, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you so much for your support and concern for the Parkinson's disease community. I have suffered with PD for 22 years. My hopes for a cure have been raised and dashed on several occasions. Without adequate funding PD will dash the hopes of millions of American as the baby boomer generation approaches the age when PD typically strikes.

Unless you experience if you can't know how awful this disease is. Day after day it takes away the very fiber of who you are, what you might be and what you might do for society your family and yourself. At the age of 52 I can no longer be counted on to perform even the basic duties of life for myself. Wheelchairs, walkers, hospital beds combined with hundreds of dollars of medicine each month are what I count on for mobility. While my husband and family and our support group have been my heroes through these 22 years, their resources are exhausted. The Udall bill gives us all the hope that we need to combat this lousy disease one day at a time until a cure if found.

Again, thank you for your support for this disease which has been so neglected for so long. In 1817 James Parkinson wrote his paper describing the most prevalent symptoms of this disease. This work 180 years later is still used today to describe in disease. Let 1997 be the year that we change all that. Let it be the year we raise the consciousness of all Americans about the devastation caused by PD and neurological disorders. Let this decade of the brain unravel the mysteries of neurological disorders and let our leaders in Washington pave the way for the cure.

Do it for Mo, and do it for me. Thanks for listening. This letter was typed by my husband Bob.

Original signed by,

NANCY MARTONE.

MANLIUS, NY, *April 1, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your support and leadership on behalf of people with Parkinson's Disease.

At the age of forty-nine I was stricken with Parkinson's Disease. I managed to continue working till I retired last year at the age of fifty-six. I was earning about $165,000.00 per year as a trial attorney.

My disability and those with early onset of the disease place a heavy financial burden on the Government and the private sector. I am applying for Social Security Disability plus private disability plans. My medical costs are $18,000.00 plus per year and in two years my medical costs will be another burden on the Social Security trust funds. I estimate that the cost of my illness to society will exceed $1,100,000 if I live to age sixty-seven when I would normally retire.

I also notice on the internet that Parkinson's Disease is striking younger and younger people and that the mean age of diagnosis is now fifty-seven years old. If this trend continues, more people will be receiving Social Security Trust Funds at an early age and fewer people than expected making contributions.

As I attend support group meetings, I see many people drained of energy, strength and who are unable to articulate their plight. Scientists and researchers express the possibility of new medicines and a cure if more research dollars are invested as proposed by the Parkinson's Bill. Let's apply more research funds to keep people with Parkinson's Disease working longer and leading a healthier life.

For those who no longer speak for themselves and myself, I wish to thank you for your support.

Very truly yours,

A. DALE SEVERANCE.

BERKELEY, CA, *March 20, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to you regarding the Morris K. Udall Parkinson's Research and Education Bill which is going to be reintroduced in the Senate next month. As you remember the Udall Bill passed the Senate but stalled in the House in 1996. May I take a minute of your time to explain why the Udall Bill is so important to me?

My wife Frances, now 57, was diagnosed with Parkinson's Disease nine years ago. She is a clinical psychologist and Jungian analyst who still manages to work, but most people stricken with Parkinson's are not so lucky. Unfortunately 40% of the newly diagnosed cases are people under 60 years of age—this disease of the elderly is hitting middle aged people with disastrous results. The disease is incurable and progressive forcing doctors, lawyers, professors, business people, teachers and artists to give up productive lives. I have seen the devastation of families and careers first hand among the many Parkinson's patients I have met. And I have also seen unbelievable courage, intelligence and absolute brilliance as people try to find a way to live with the disease.

Without further research there is no hope to cure the disease. The current medications mask the symptoms and that is all. The present national research effort is a joke. There is no unified research agenda and the 30 million dollars allotted to the disease (compared 217 million dollars for Alzheimer's and one and a half billion dollars for AIDS) is not nearly enough. There is terrific research potential but no money. The Udall Parkinson's Research and Education Bill will provide the coordination, the research agenda, and the money. Please help us by cosponsoring the bill, or if you cannot cosponsor it, could you at least vote for it? We desperately need your help!

I would very much like to talk with you about the Bill if you have any questions (510–527–0966 or tobriner@uclink.berkeley.edu).

Thanks so much for your help.

STEPHEN TOBRINER,
Professor of Architectural History,
University of California, Berkeley.

ORINDA, CA, *March 29, 1996.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for agreeing to introduce the Morris K. Udall Parkinson's Research and Education Act to the House. I am grateful for your efforts on behalf of this bill.

My closest friend, Frances Tobriner, was diagnosed with Parkinson's Disease when she was 46 years old. She is now 57 years old and is courageously managing to work as a psychologist. I have learned that this disease is not limited to the elderly. Young, talented people are vulnerable. There is no cure for this disease and those of us who are able bodied bear helpless witness to the progressive deterioration of those we care about.

There are many research possibilities that await funding. I believe that the advances in research will help not only the many victims of Parkinson's disease, but other neurological ailments as well. To date there is no unified research agenda and the relatively small amount of money is not enough. The Udall Parkinson's Research and Education Act will help enormously.

Thank you for your efforts. Know that you have support among constituents.

Sincerely yours,

SUE N. ELKIND, PH.D.

MERRIAM, KS, *April 3, 1997.*

Re Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1997.

Hon. JOHN MCCAIN
U.S. Senate,
Washington, DC

DEAR SENATOR MCCAIN: This is to thank you and Sen. Paul Wellstone for taking the

lead in reintroducing the Udall bill in the 105th Congress, as well as the many other Senators who are already supporting the bill.

A stepped-up effort in research and coordination of that research means added hope for me and my family that a possible cure may be found in time to help me. You see, I was diagnosed with Parkinson's Disease at the age of 44, nearly 13 years ago. It was only two years after my marriage to my wonderful husband, who has stood by me ''in sickness'' much sooner than we ever imagined. I managed to follow through on a long-term project, as President of a Kansas City group which established a 100,000-watt FM community radio station in 1988 after 11 years of effort. I kept up with the station and other community interests and part-time teaching pretty much full force until 1990, but since then I have had to cut back more and more. You can't imagine how grateful I am for access to the internet (my husband's idea) which re-established my ability to connect to the world.

My husband who is a community college teacher of 29 years has had to take on domestic duties I once did. His daughter, 4 when we married, never remembers when I was a normal, active person. And my aging parents help drive me to the doctors, as my right side is too weak most of the time to allow me to push the gas pedal.

This disease CAN go the way of polio, tuberculosis, small pox and others—GONE. Maybe not for me, but surely for the thousands of millions who don't yet know they are at risk for it.

Sincerely,

BARBARA BLAKE-KREBS.

EAST BRUNSWICK, NJ, *March 31, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for introducing the Morris Udall Bill for Parkinson's Disease Research. I will make a special trip to Washington on April 9, 1997 to be present at your introduction.

In 1946 my grandfather, Benjamin Miller, died of complications from bedsores and infection as a result of Parkinson's Disease. He was forced to live with uncontrollable tremors, locked rigid muscles, loss of all motor function and eventually the total incapacity to care for himself. The last 10 years of his life he was in a totally rigid state and toward the end he could only move his eyes. Contrary to our religious law, my mother agreed to allow his body to be used for research believing that the help it might provide others would more than make up for this breach of tradition. She often said that because of her decision, her father played a part in the development and refinement of L-dopa.

As fate would have it, my brother is now diagnosed with Parkinson's and while his lifestyle is somewhat better than it might have been 50 years ago, his hideous fate is sealed unless the research continues until a definitive cure has been found.

Through your foresight to introduce the Udall Bill in the 105th congress there is great potential for a breakthrough in Parkinson's disease treatment and ultimately the discovery of a cure.

Thank you again.

Sincerely,

MRS. BARBARA SCHIRLOFF.

RUSH-PRESBYTERIAN-ST. LUKE'S MEDICAL CENTER, RUSH UNIVERSITY—DEPARTMENT OF NEUROLOGICAL SCIENCES, CENTER FOR BRAIN REPAIR,
Chicago, IL, April 2, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I was very pleased to hear that you have re-introduced the Udall Bill. As a researcher of Parkinson's disease for 25 years, I can assure you that the bill is timely and that the money will be well spent if the bill is passed. I have witnessed the revolution in this field from the early years of levodopa through the discovery of the neurotoxin MPTP, the implantation of adrenal tissue and now pallidotomy and neural grafting. They have been exciting and productive times and quite frankly, it has just plain been fun doing the work and actually seeing it impact the lives of our patients.

Currently, my laboratory is working on the mechanisms responsible for the neuroprotection that appears to be occurring with the drug pramipexole. Although the drug itself appears to offer the PHD patient a new and very effective addition to the antiparkinson arsenal, the more interesting aspect of our research is that the drug appears to be turning on the production of a new trophic molecule that has the potential to reverse the neurodegenerative process. We are currently trying to isolate this protein so that it can be tested. Our lab has also recently discovered important signals that influence the development of DA neurons (which die in PD). We can now take so-called progenitor cells and convert them into DA cells from grafting. If we are successful at doing this in human cells, we would be able to provide the world with adequate tissue for grafting on demand and thereby totally bypass the abortion issue since cells from only one abortion could be expanded in the lab to serve the needs of all transplant centers. Finally, we are also trying to determine in humans the cause for levodopa induced hallucinations. We know nothing about this phenomenon except that it is the number one cause for patients being placed in nursing homes and once PD patients enter a nursing home they generally die there.

As you will hopefully recognize, my laboratory is very vested in the treatment and management of PD. Our approach to this disease is, we feel, novel and appropriate to the current status of knowledge in this field. We are not restricted by ideas. We are restricted by lack of funds. I am not at all reluctant to ask the government for money for research. Having been in this business as long as I have, I have come to recognize that we in science actually spend our research dollars in a frugal and effective manner. We have so little of it we have to make it last and work effectively. I can therefore assure you that this will not be a ''pork'' project but will actually result in the desired and intended effects. I therefore thank you for your efforts to increase funding for my field. Even though I don't necessarily agree with the notion of legislative earmarking for research dollars, PD is a disease where throwing adequate funding at it will have a tremendous impact and likely reduce health care costs dramatically.

If I can ever be of any help to you in your efforts to make this bill a reality or if you simply need background information, please feel free to contact me. Again, thanks for your help.

Sincerely,

PAUL M. CARVEY, PH.D.
(Associate Professor of Neurological Sciences and Pharmacology Director, Neuropharmacology Research Laboratories).

REDWOOD CITY, CA
April 3, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am so grateful that you are sponsoring the Udall Bill. I pray that it will pass. We (I am a member of the Parkinsn (sic) Listserv) have been asked to catalog our symptoms for you, so here goes: I was diagnosed with Parkinson's 6 years ago after progressive weird symptoms which I did not realize were significant, such as loss of ability to wash my hair with my left hand, difficulty shuffling and holding cards when I play bridge, a couple of episodes of feeling like I was walking underwater, it was so hard to move; I was diagnosed immediately when seen by a neurologist and put on medication which gave me strange twisting motions of one of my feet. We lowered the dosage. The dyskinesia went away, but the medicine supposedly has a tapering off of effectiveness. So far, it works. I can once again wash my hair with my left hand thanks to the medicine. My illness is progressing, not too fast, but the changes I've had to make are accumulating: walk one mile instead of three, cut back on activities (dropped out of a bridge group, buy instead of make pies, etc., don't crochet or paint—doesn't seem worth the effort) great difficulty in doing up buttons, loss of strength, tire easily, not able to 'write' legibly, nor be heard by most people when I speak (young people can usually hear me), have difficulty standing up from chairs, usually can't taste or smell, though I can now and then which makes me impatient for THE CURE, knowing that all is apparently not lost, just somehow not available. I am terribly worried about inability to get long term care health insurance. Nobody will take me and I dread the effect on my husband if he has to spend everything to take care of me. I am blessed with a wonderful, caring husband, who never complains about my increasing dependency on him.

Bless you for what you have given your country.

Sincerely,

MRS. ELIZABETH SOUTHWOOD.

THE PARKINSON'S INSTITUTE,
Sunnyvale, CA, April 7, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC

DEAR SENATOR MCCAIN: Thank you for your unflagging support of the Udall Parkinson's Research bill. I am writing today to explain why this bill is so important to me, to my colleagues in research and clinical care, and to the patients and families who suffer from Parkinson's disease and other movement disorders.

I have been a practicing neurologist for more than 25 years and have specialized in Parkinson's disease care and research for the last 15 years. As a scientist in close touch with the international research community in the field of neurodegenerative diseases, I see tremendous potential in a dozen scientific directions for finding a cure for Parkinson's disease within the next decade. That is not a statement I make lightly, nor is it a statement that can be applied across the board to the diseases of aging. Instead, it is based on a careful assessment of the technologies that are open now and to the new technologies opening daily to the scientists who specialize in movement disorders.

As a physician who sees only patients with Parkinson's disease and related movement disorders—some of which are even more devastating—I realize that every patient I see is

under a kind of death watch. Their disease is inexorably progressive; there is no cure; and even the gold standard of medications available cannot control symptoms indefinitely. I have learned, as all physicians must learn, to achieve a certain detachment from the inevitability that faces my patients, but it remains a constant trial to look at these individuals and know that my armamentarium is so limited. Part of the way to deal with this challenge, both for physician and patient, is to take comfort in the fact that there is enormous hope through the efforts of the researchers in my own laboratory and in similar institutions around the world.

What is needed to take advantage of the new technologies and the enormous pool of talented investigators waiting to use them is to make them available to a much larger number of laboratories; to increase the probability that the critical breakthroughs will occur sooner rather than later. No one laboratory can travel every possible avenue of investigation no matter how impressive their equipment and no matter how many bright young postdoctoral fellows are on staff. Rather, we must seek to multiply the approaches to the puzzling problems that still face us by utilizing the different insights, experience, and research philosophies of a variety of laboratories across the country at academic medical centers, at NIH, and in independent research institutes like our own.

Ultimately, that takes money and that is where we turn to the Congress for help directed specifically to Parkinson's disease. You know, I'm sure, of the discrepancies in research funding per patient between Parkinson's disease and other disorders. The message I want to send to you today is that research dollars for movement disorders will not be thrown into a black hole of hopelessness, but invested in a national program with tremendous hope for the future.

Sincerely,

J. WILLIAM LANGSTON, M.D.,
President.

APDA PARKINSON'S DISEASE INFORMATION & REFERRAL CENTER AT THE UNIVERSITY OF ARIZONA,
TUCSON, AZ, *April 7, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: We are writing to tell you how grateful we are that you have taken on the role of lead republican sponsor in the Senate for the Morris K. Udall bill for Parkinson's Research. There is tremendous support for this bill in Arizona, not only among Parkinson's patients and their family members, but among an ever-widening circle of physicians, scientists and thoughtful members of the general public. It is clear that research holds the key to improved treatments—even a cure—for Parkinson's disease. Only through research will we find a way to reduce the human suffering and economic burden of this terrible illness.

In Arizona we have taken a special interest in the Udall bill, partly because it is our state which Mo Udall served so well, partly because our state's attractiveness as a ''retirement'' state means we have a higher proportion of residents in the age range most at risk for PD, and partly because several of our state's medical institutions—the University of Arizona College of Medicine in Tucson, the Barrow Neurological Institute in Phoenix, and the Mayo clinic in Scottsdale—already oversee extensive Parkinson's research programs.

Members of the Arizona Chapter of the American Parkinson Disease Association (APDA) and the staff of its associated Information & Referral Center at the University of Arizona have worked hard to educate Arizona residents about Parkinson's disease and the promise of Parkinson's research. The recent *Agenda 97* symposium at the University of Arizona brought together Parkinson's researchers, advocates and government officials for a public forum. The outstanding efforts of the APDA committee *Arizona Parkinson's Advocates,* led by Bob Dolezal, have made the Mo Udall bill a popular cause throughout the State.

We applaud your efforts and support you one hundred percent. Thank you again for leading the way to passage of the Udall bill in 1997.

Sincerely,

ERWIN B. MONTGOMERY, JR., MD,
Medical Director, APDA Information & Referral Center at the University of Arizona.
CYNTHIA A. HOLMES, PHD,
Coordinator, APDA Information & Referral Center at the University of Arizona.

PRINCETON, NJ, *March 31, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Your dedication to bring about the reintroduction of the Morris K. Udall Parkinson's Disease Research and Education Act is most appreciated. The bitter sweet partial victory at the end of the 104th Congressional session was difficult to accept.

To Americans suffering from this hideous disease, the issue is so clearly defined: there are 1 to 1.5 million people struck with a disease that costs the government 6 billion dollars annually to maintain status quo; whereas an annual investment of 100 million dollars for research would yield a net savings of $124,500,000,000 in five years based on the forecast of eminent scientists who predict major advances in the treatment of or even a possible cure for Parkinson's disease.

It is with this great anticipation that I face my 17th year living with the disease. During the last number of years, managing my daily minimal activities have become more and more difficult. Since I am only 55 years old, I still have a window of opportunity to re-enter the world of participation rather than inaction. Currently my life revolves around frantically attempting to accomplish somethings during the infrequent and much too short periods of time that my medication kicks in.

I must believe that with your leadership and guidance the Udall bill will make its perileous journey through the Halls of Congress and will gain enough bi-partisan support for passage and thus insure more adequate research and development funding. For those 50,000 People with Parkinson's who received their diagnosis during this past 12 months and for my own salvation, I join you and your staff in an all-out effort to guarantee the passage of the new Udall bill.

Sincerely,

MARGARET TUCHMAN.

By Mr. GRASSLEY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. BIDEN, Mr. D'AMATO, Mr. SHELBY, Mr. KOHL, Mr. GRAHAM, Mr. CLELAND, Mr. HATCH, Mr. HARKIN, Mr. THURMOND, Mr. STEVENS, Mr. DURBIN, Mr. HUTCHINSON, Mr. ABRAHAM, Mr. REID, Mr. FEINGOLD, and Mrs. MURRAY):

S. 536. A bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes; to the Committee on the Judiciary.

THE DRUG-FREE COMMUNITIES ACT OF 1997

Mr. GRASSLEY. Mr. President, as you know the issue of drug use by our children is very important to me. I believe that we must do whatever we can to protect our children from the harmful effects of illegal drugs. The survey by the Partnership for a Drug-Free America recently released showed that children continue to cite their parents as a reliable source of information about the dangers of drugs. This confirms a 1996 study by the Center on Addiction and Substance Abuse which showed that the extent parents shouldered responsibility for their kids resisting drugs was a key indicator of whether or not their child experimented with drugs. Not Presidents, not Federal officials, not television, but parents and others who play an integral role in a child's life make the difference.

Today, in conjunction with 13 of my fellow Senators, we are introducing the Drug Free Communities Act of 1997. This act will take funds currently being spent for less productive areas of the Federal drug control budget and route them to community coalitions with proven track records. Seeking to make the most efficient use of taxpayer dollars, Federal grants will match funding efforts from the private sector and the local community.

It will put resources in the hands of those who make a difference; of the people that our children say their opinions they respect. It puts the resources at the community level, where parents, teachers, coaches, and community leaders can use these resources to educate our children about the evils of drug use.

There are four key features to this legislation, features that make it different from existing funding opportunities. First, communities must take the initiative. In order to receive support, a community coalition must demonstrate that there is a long-term commitment to address teen-drug use by having a sustainable coalition that includes the involvement of representatives from a wide variety of community activists.

In addition, every coalition must show that it will be around for a while. Community coalitions must be in existence for at least 6 months prior to applying for funds provided for in this bill, and they are only eligible to receive support if they can match these donations dollar for dollar with non-Federal funding, up to $100,000 per coalition.

The third key feature of this legislation is an assurance that the funds for this bill will come from existing legislation. We plan on working closely

with the members of the Appropriations Committee to find appropriate off-sets within the current $16 billion Federal drug control budget.

An advisory commission, consisting of local community leaders, and State and National experts in the field of substance abuse, will oversee the implementation of the program at the Office of National Drug Control Policy. They will insure the funds are directed to communities and programs that make a difference in the lives of our children.

At other times I've talked about the statistics—how drug use is up again this year among teens, and how emergency room admissions are rising after years of decline, and other depressing statistics. But the bill we introduce today is in support of organizations that are on the front lines, making a difference in the lives of our children. I urge my fellow members to join my colleagues and me in supporting this legislation for our children.

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. 536

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 ''Drug-Free Communities Act of 1997''.

SEC. 2. NATIONAL DRUG CONTROL PROGRAM.

(a) IN GENERAL.—The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) is amended—

(1) by inserting between sections 1001 and 1002 the following:

''**CHAPTER 1—OFFICE OF NATIONAL DRUG CONTROL POLICY**'';

and

(2) by adding at the end the following:

''CHAPTER 2—DRUG-FREE COMMUNITIES

''SEC. 1021. FINDINGS.

''Congress finds the following:

''(1) Substance abuse among youth has more than doubled in the 5-year period preceding 1996, with substantial increases in the use of marijuana, inhalants, cocaine, methamphetamine, LSD, and heroin.

''(2) The most dramatic increases in substance abuse has occurred among 13- and 14-year-olds.

''(3) Casual or periodic substance abuse by youth of 1997 will contribute to hard core or chronic substance abuse by the next generation of adults.

''(4) Substance abuse is at the core of other problems, such as rising violent teenage and violent gang crime, increasing health care costs, HIV infections, teenage pregnancy, high school dropouts, and lower economic productivity.

''(5) Increases in substance abuse among youth are due in large part to an erosion of understanding by youth of the high risks associated with substance abuse, and to the softening of peer norms against use.

''(6)(A) Substance abuse is a preventable behavior and a treatable disease; and

''(B)(i) during the 13-year period beginning with 1979, monthly use of illegal drugs among youth 12 to 17 years of age declined by over 70 percent; and

''(ii) data suggests that if parents would simply talk to their children regularly about the dangers of substance abuse, use among youth could be expected to decline by as much as 30 percent.

''(7) Community anti-drug coalitions throughout the United States are successfully developing and implementing comprehensive, long-term strategies to reduce substance abuse among youth on a sustained basis.

''(8) Intergovernmental cooperation and coordination through national, State, and local or tribal leadership and partnerships are critical to facilitate the reduction of substance abuse among youth in communities throughout the United States.

''SEC. 1022. PURPOSES.

''The purposes of this chapter are—

''(1) to reduce substance abuse among youth in communities throughout the United States, and over time, to reduce substance abuse among adults;

''(2) to strengthen collaboration among communities, the Federal Government, and State, local, and tribal governments;

''(3) to enhance intergovernmental cooperation and coordination on the issue of substance abuse among youth;

''(4) to serve as a catalyst for increased citizen participation and greater collaboration among all sectors and organizations of a community that first demonstrates a long-term commitment to reducing substance abuse among youth;

''(5) to rechannel resources from the fiscal year 1998 Federal drug control budget to provide technical assistance, guidance, and financial support to communities that demonstrate a long-term commitment in reducing substance abuse among youth;

''(6) to disseminate to communities timely information regarding the state-of-the-art practices and initiatives that have proven to be effective in reducing substance abuse among youth;

''(7) to enhance, not supplant, local community initiatives for reducing substance abuse among youth; and

''(8) to encourage the creation of and support for community anti-drug coalitions throughout the United States.

''SEC. 1023. DEFINITIONS.

''In this chapter:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator appointed by the Director under section 1031(c).

''(2) ADVISORY COMMISSION.—The term 'Advisory Commission' means the Advisory Commission established under section 1041.

''(3) COMMUNITY.—The term 'community' shall have the meaning provided that term by the Administrator, in consultation with the Advisory Commission.

''(4) DIRECTOR.—The term 'Director' means the Director of the Office of National Drug Control Policy.

''(5) ELIGIBLE COALITION.—The term 'eligible coalition' means a coalition that meets the applicable criteria under section 1032(a).

''(6) GRANT RECIPIENT.—The term 'grant recipient' means the recipient of a grant award under section 1032.

''(7) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

''(8) PROGRAM.—The term 'Program' means the program established under section 1031(a).

''(9) SUBSTANCE ABUSE.—The term 'substance abuse' means—

''(A) the illegal use or abuse of drugs, including substances listed in schedules I through V of section 112 of the Controlled Substances Act (21 U.S.C. 812);

''(B) the abuses of inhalants; and

''(C) the use of alcohol, tobacco, or other related product prohibited by State or local law.

''(10) YOUTH.—The term 'youth' shall have the meaning provided that term by the Administrator, in consultation with the Advisory Commission.

''SEC. 1024. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Office of National Drug Control Policy to carry out this chapter—

''(1) $10,000,000 for fiscal year 1998;

''(2) $20,000,000 for fiscal year 1999;

''(3) $30,000,000 for fiscal year 2000;

''(4) $40,000,000 for fiscal year 2001; and

''(5) $43,500,000 for fiscal year 2002.

''(b) ADMINISTRATIVE COSTS.—Not more than the following percentages of the amounts authorized under subsection (a) may be used to pay administrative costs:

''(1) 10 percent for fiscal year 1998.

''(2) 6 percent for fiscal year 1999.

''(3) 4 percent for fiscal year 2000.

''(4) 3 percent for fiscal year 2001.

''(5) 3 percent for fiscal year 2002.

''Subchapter I—Drug-Free Communities Support Program

''SEC. 1031. ESTABLISHMENT OF DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

''(a) ESTABLISHMENT.—The Director shall establish a program to support communities in the development and implementation of comprehensive, long-term plans and programs to prevent and treat substance abuse among youth.

''(b) PROGRAM.—In carrying out the Program, the Director shall—

''(1) make and track grants to grant recipients;

''(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art practices that the Administrator determines to be effective in reducing substance abuse; and

''(3) provide for the general administration of the Program.

''(c) ADMINISTRATION.—Not later than 30 days after receiving recommendations from the Advisory Commission under section 1042(a)(1), the Director shall appoint an Administrator to carry out the Program.

''SEC. 1032. PROGRAM AUTHORIZATION.

''(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this subchapter, a coalition shall meet each of the following criteria:

''(1) APPLICATION.—The coalition shall submit an application to the Administrator in accordance with section 1033(a)(2).

''(2) MAJOR SECTOR INVOLVEMENT.—

''(A) IN GENERAL.—The coalition shall consist of 1 or more representatives of each of the following categories:

''(i) Youth.

''(ii) Parents.

''(iii) Businesses.

''(iv) The media.

''(v) Schools.

''(vi) Organizations serving youth.

''(vii) Law enforcement.

''(viii) Religious organizations.

''(ix) Civic and fraternal groups.

''(x) Health care professionals.

''(xi) State, local, or tribal governmental agencies with expertise in the field of substance abuse (including, if applicable, the State authority with primary authority for substance abuse).

''(xii) Other organizations involved in reducing substance abuse.

''(B) ELECTED OFFICIALS.—If feasible, in addition to representatives from the categories listed in subparagraph (A), the coalition shall have an elected official (or a representative of an elected official) from—

''(i) the Federal Government; and

''(ii) the government of the appropriate State and political subdivision thereof or the governing body or an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e))).

''(C) REPRESENTATION.—An individual who is a member of the coalition may serve on the coalition as a representative of not more than 1 category listed under subparagraph (A).

''(3) COMMITMENT.—The coalition shall demonstrate, to the satisfaction of the Administrator—

''(A) that the representatives of the coalition have worked together on substance abuse reduction initiatives for a period of not less than 6 months, acting through entities such as task forces, subcommittees, or community boards; and

''(B) substantial participation from volunteer leaders in the community involved (especially in cooperation with individuals involved with youth such as parents, teachers, coaches, youth workers, and members of the clergy).

''(4) MISSION AND STRATEGIES.—The coalition shall, with respect to the community involved—

''(A) have as its principal mission the reduction of substance abuse in a comprehensive and long-term manner, with a primary focus on youth in the community;

''(B) describe and document the nature and extent of the substance abuse problem in the community;

''(C)(i) provide a description of substance abuse prevention and treatment programs and activities in existence at the time of the grant application; and

''(ii) identify substance abuse programs and service gaps in the community;

''(D) develop a strategic plan to reduce substance abuse among youth in a comprehensive and long-term fashion; and

''(E) work to develop a consensus regarding the priorities of the community to combat substance abuse among youth.

''(5) SUSTAINABILITY.—The coalition shall demonstrate that the coalition is an ongoing concern by demonstrating that the coalition—

''(A) is—

''(i)(I) a nonprofit organization; or

''(II) an entity that the Administrator, in consultation with the Advisory Commission, determines to be appropriate; or

''(ii) part of, or is associated with, an established legal entity;

''(B) receives financial support (including, in the discretion of the Administrator, in-kind contributions) from non-Federal sources; and

''(C) has a strategy to solicit substantial financial support from non-Federal sources to ensure that the coalition and the programs operated by the coalition are self-sustaining.

''(6) ACCOUNTABILITY.—The coalition shall—

''(A) establish a system to measure and report outcomes—

''(i) consistent with common indicators and evaluation protocols established by the Administrator, in consultation with the Advisory Commission; and

''(ii) receives the approval of the Administrator;

''(B) conduct—

''(i) for an initial grant under this subchapter, an initial benchmark survey of drug use among youth (or use local surveys or performance measures available or accessible in the community at the time of the grant application); and

''(ii) biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

''(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the coalition receives information, has experience—

''(i) in gathering data related to substance abuse among youth; or

''(ii) in evaluating the effectiveness of community anti-drug coalitions.

''(b) GRANT AMOUNTS.—

''(1) IN GENERAL.—

''(A) GRANTS.—

''(i) IN GENERAL.—Subject to clause (iii), for a fiscal year, the Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

''(ii) RENEWAL GRANTS.—Subject to clause (iii), the Administrator may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year, during the 4-year period following the period of the initial grant.

''(iii) LIMITATION.—The amount of a grant award under this subparagraph may not exceed $100,000 for a fiscal year.

''(B) COALITION AWARDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Administrator may, with respect to a community, make a grant to 1 eligible coalition that represents that community.

''(ii) EXCEPTION.—The Administrator may make a grant to more than 1 eligible coalition that represents a community if—

''(I) the population of the community exceeds 2,000,000 individuals;

''(II) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

''(III) each of the coalitions has independently met the requirements set forth in section 1032(a).

''(2) RURAL COALITION GRANTS.—

''(A) IN GENERAL.—

''(i) IN GENERAL.—In addition to awarding grants under paragraph (1), to stimulate the development of coalitions in sparsely populated and rural areas, the Administrator, in consultation with the Advisory Commission, may award a grant in accordance with this section to a coalition that represents a county with a population that does not exceed 30,000 individuals. In awarding a grant under this paragraph, the Administrator, in consultation with the Advisory Commission, may waive any requirement under subsection (a) if the Administrator, in consultation with the Advisory Commission, considers that waiver to be appropriate.

''(ii) MATCHING REQUIREMENT.—Subject to subparagraph (C), for a fiscal year, the Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

''(B) RENEWAL GRANTS.—The Administrator may award a renewal grant to an eligible coalition that is a grant recipient under this paragraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, during the 4-year period following the period of the initial grant.

''(C) LIMITATIONS.—

''(i) AMOUNT.—The amount of a grant award under this paragraph shall not exceed $50,000 for a fiscal year.

''(ii) AWARDS.—With respect to a county referred to in subparagraph (A), the Administrator may award a grant under this section to not more than 1 eligible coalition that represents the county.

''SEC. 1033. INFORMATION COLLECTION AND DISSEMINATION WITH RESPECT TO GRANT RECIPIENTS.

''(a) COALITION INFORMATION.—

''(1) GENERAL AUDITING AUTHORITY.—For the purpose of audit and examination, the Administrator—

''(A) shall have access to any books, documents, papers, and records that are pertinent to any grant or grant renewal request under this chapter; and

''(B) may periodically request information from a grant recipient to ensure that the grant recipient meets the applicable criteria under section 1032(a).

''(2) APPLICATION PROCESS.—The Administrator shall issue regulations regarding, with respect to the grants awarded under section 1032, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Administrator.

''(3) REPORTING.—The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this subchapter.

''(b) DATA COLLECTION AND DISSEMINATION.—

''(1) IN GENERAL.—The Administrator may collect data from—

''(A) national substance abuse organizations that work with eligible coalitions, community anti-drug coalitions, departments or agencies of the Federal Government, or State or local governments and the governing bodies of Indian tribes; and

''(B) any other entity or organization that carries out activities that relate to the purposes of the Program.

''(2) ACTIVITIES OF ADMINISTRATOR.—The Administrator may—

''(A) evaluate the utility of specific initiatives relating to the purposes of the Program;

''(B) engage in research and development activities related to the Program; and

''(C) disseminate information described in this subsection to—

''(i) eligible coalitions and other substance abuse organizations; and

''(ii) the general public.

''SEC. 1034. TECHNICAL ASSISTANCE AND TRAINING.

''(a) IN GENERAL.—

''(1) TECHNICAL ASSISTANCE AND AGREEMENTS.—With respect to any grant recipient or other organization, the Administrator may—

''(A) offer technical assistance and training; and

''(B) enter into contracts and cooperative agreements.

''(2) COORDINATION OF PROGRAMS.—The Administrator may facilitate the coordination of programs between a grant recipient and other organizations and entities.

''(b) TRAINING.—The Administrator may provide training to any representative designated by a grant recipient in—

''(1) coalition building;

''(2) task force development;

''(3) mediation and facilitation, direct service, assessment and evaluation; or

''(4) any other activity related to the purposes of the Program.

''Subchapter II—Advisory Commission

''SEC. 1041. ESTABLISHMENT OF ADVISORY COMMISSION.

''(a) ESTABLISHMENT.—There is established a commission to be known as the 'Advisory Commission on Drug-Free Communities'.

''(b) PURPOSE.—The Advisory Commission shall advise, consult with, and make recommendations to the Administrator concerning matters related to the activities carried out under the Program.

''SEC. 1042. DUTIES.

''(a) IN GENERAL.—The Advisory Commission—

''(1) shall, not later than 30 days after its first meeting, make recommendations to the Director regarding the selection of an Administrator;

''(2) may review any grant, contract, or cooperative agreement proposed to be made by the Program;

''(3) may make recommendations to the Administrator regarding the activities of the Program;

''(4) may review any policy or criteria established by the Administrator to carry out the Program;

''(5) may—

''(A) collect, by correspondence or by personal investigation, information concerning initiatives, studies, services, programs, or other activities of coalitions or organizations working in the field of substance abuse in the United States or any other country; and

''(B) with the approval of the Administrator, make the information referred to in subparagraph (A) available through appropriate publications or other methods for the benefit of eligible coalitions and the general public; and

''(6) may appoint subcommittees and convene workshops and conferences.

''(b) RECOMMENDATIONS.—If the Administrator rejects any recommendation of the Advisory Commission under subsection (a)(1), the Administrator shall notify the Advisory Commission and the Director in writing of the reasons for the rejection not later than 15 days after receiving the recommendation.

''(c) CONFLICT OF INTEREST.—A member of the Advisory Commission shall recuse himself or herself from any decision that would constitute a conflict of interest.

''SEC. 1043. MEMBERSHIP.

''(a) IN GENERAL.—The President shall appoint 15 members to the Advisory Commission as follows:

''(1) 6 members shall be appointed from the general public and shall include leaders—

''(A) in fields of youth development, public policy, law, or business; or

''(B) of nonprofit organizations or private foundations that fund substance abuse programs.

''(2) 6 members shall be appointed from the leading representatives of national substance abuse reduction organizations, of which no fewer than 4 members shall have extensive training or experience in drug prevention.

''(3) 3 members shall be appointed from the leading representatives of State substance abuse reduction organizations.

''(b) CHAIRPERSON.—The Advisory Commission shall elect a chairperson or cochairpersons from among its members.

''(c) EX OFFICIO MEMBERS.—The ex officio membership of the Advisory Commission shall consist of any 2 officers or employees of the United States that the Director determines to be necessary for the Advisory Commission to effectively carry out its functions.

''SEC. 1044. COMPENSATION.

''(a) IN GENERAL.—Members of the Advisory Commission who are officers or employees of the United States shall not receive any additional compensation for service on the Advisory Commission. The remaining members of the Advisory Commission shall receive, for each day (including travel time) that they are engaged in the performance of the functions of the Advisory Commission, compensation at rates not to exceed the daily equivalent to the annual rate of basic pay payable for grade GS–10 of the General Schedule.

''(b) TRAVEL EXPENSES.—Each member of the Advisory Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''SEC. 1045. TERMS OF OFFICE.

''(a) IN GENERAL.—Subject to subsection (b), the term of office of a member of the Advisory Commission shall be 3 years, except that, as designated at the time of appointment—

''(1) of the initial members appointed under section 1043(a)(1), 2 shall be appointed for a term of 2 years;

''(2) of the initial members appointed under section 1043(a)(2), 2 shall be appointed for a term of 2 years; and

''(3) of the initial members appointed under section 1043(a)(3), 1 shall be appointed for a term of 1 year.

''(b) VACANCIES.—Any member appointed to fill a vacancy for an unexpired term of a member shall serve for the remainder of the unexpired term. A member of the Advisory Commission may serve after the expiration of such member's term until a successor has been appointed and taken office.

''SEC. 1046. MEETINGS.

''(a) IN GENERAL.—After its initial meeting, the Advisory Commission shall meet at the call of the Chairperson (or Cochairpersons) of the Advisory Commission or a majority of its members or upon the request of the Director or Administrator of the Program for which the Advisory Commission is established.

''(b) QUORUM.—8 members of the Advisory Commission shall constitute a quorum.

''SEC. 1047. STAFF.

''The Advisory Commission may elect an executive secretary to facilitate the conduct of business of the Advisory Commission. The Administrator shall make available to the Advisory Commission such staff, information, and other assistance permitted by law as the Advisory Commission may reasonably require to carry out the functions of the Advisory Commission.

''SEC. 1048. TERMINATION.

''The Advisory Commission shall terminate on the date that is 5 years after the date of the enactment of this chapter.''.

(b) REFERENCES.—Each reference in Federal law to subtitle A of the Anti-Drug Abuse Act of 1988, with the exception of section 1001 of such subtitle, in any provision of law that is in effect on the day before the date of enactment of this Act shall be deemed to be a reference to chapter 1 of the National Narcotics Leadership Act of 1988 (as so designated by this section).

Mr. DEWINE. Mr. President, I am very proud to join the Senator from Iowa in being an original cosponsor of the drug-free communities legislation.

In the last 5 years, substance abuse by America's young people has more than doubled. Even more troubling, it is taking place at younger and younger ages.

We need to turn this around. And this is a challenge that requires the involvement of the whole community—young people, their parents, schools, businesspeople, the media, law enforcement, religious organizations, civic and fraternal groups, as well as professionals in the area of drug abuse treatment.

Community-based antidrug coalitions have proven their worth in the fight against drug abuse. I'm thinking of groups like the Madison County Prevention Assistance Coalition Team—or PACT—in Madison County, OH. PACT was established in a rural area in central Ohio in 1991, and rapidly inspired over 50 local substance abuse prevention initiatives.

What PACT did was mobilize the community. Middle school students acted as mentors and role models for third graders. Teachers in Head Start taught their students about drug abuse prevention. A local church held a father-son retreat.

A research team from Miami University found that Madison County's alcohol-related crime dropped by 50 percent. And students are reporting a decline in the use and availability of alcohol and other drugs.

The key is mobilizing the community. The bill we're introducing today will help tap into this resource—by redirecting Federal funding to community coalitions that have developed comprehensive programs to educate children about the dangers of drugs. A similar bill was introduced in the House by Representatives PORTMAN, HASTERT, RANGEL, and LEVIN.

This bill will channel funds from the fiscal year 1998 drug control budget—in the form of matching grants—to community coalitions with proven track records. It will enhance programs that work, without allocating new funds.

I think this is exactly the type of legislation we need. It's a sensible and cost-effective approach to solving a major problem. And I will join my colleague from Iowa in working for its enactment.

Mr. BIDEN. Mr. President, I am pleased to join in introducing today with Senator GRASSLEY and others the Drug-Free Communities Act of 1997. This legislation will help take an important step forward toward a goal we all share—keeping kids away from drugs and drugs away from kids.

This 5 year, $140 million authorization to fund local antidrug prevention efforts could be an important catalyst to getting local groups together to plan, coordinate, and carry out the wide variety of drug prevention treatment activities we all know are necessary to reverse the rise of drug abuse among our children. By unleashing the talents and energy of local coalitions of local businesses, schools, law enforcement, religious organizations, doctors, and others we can build community-wide and community-based drug prevention efforts.

For all these reasons, I am pleased to offer my support for the concept embodied in this legislation. But, I must offer two important conditions to my support for this bill. First, as potentially valuable as antidrug coalitions can be, I do not believe it would be wise for us to ''rob Peter to pay Paul'' by trying to fund this drug prevention effort by cutting funding for other, worthy drug prevention efforts. It is my

understanding that the other sponsors of this legislation in both the House and the Senate share this view, and I look forward to working with them to find the modest dollars necessary to fund this effort.

Second, it is also my understanding that the sponsors of this legislation are continuing to work with the Drug Director to iron out the bureaucratic details of how this effort will be undertaken at the Federal level. I am confident that none of the sponsors of this bill have any desire to establish any new layers of wasteful bureaucracy, so I look forward to working with them to pass the most efficient, effective effort possible.

This bill offers a key example of the bipartisan support for drug prevention and drug treatment efforts which exists at the grassroots level throughout our Nation. In the weeks and months ahead, I look forward to working with my colleagues in the same bipartisan fashion.

As my colleagues have heard me note on numerous occasions—our Nation stands on the edge of the ''baby boomerang''—with 39 million American children under the age of 10, the greatest number since the 1960's. We must prepare for these 39 million as they enter their teen years when they will be at their greatest likelihood of falling prey to drugs and crime. If we do not, we will pay for our lack of foresight with what could be the most severe epidemic of youth drug abuse, youth violence, and youth crime our Nation has ever suffered.

Preparing each of these 39 million American children means giving them the techniques and the desire to stay away from drugs—in short, drug prevention. The Drug-Free Communities Act of 1997 is one of what must be many elements of a comprehensive, nationwide drug prevention effort. I am pleased to cosponsor this legislation and I look forward to passing it into law.

Mr. D'AMATO. Mr. President, I join my colleagues in the introduction of the Drug Free Communities Act and urge its passage. This bill responds to a distressing increase in teenage drug use by providing startup funding and technical assistance to community coalitions that work together to prevent drug use.

According to the University of Michigan's 1996 Monitoring the Future study, more than half of all high school students use illicit drugs by the time they graduate. The Office of National Drug Control Policy cited in their strategy report that nearly 1 in 4 high school seniors used marijuana on a past-month basis in 1996.

The age for which children start using drugs is declining. While the number of teenagers using marijuana increased 37 percent from 1994 to 1995, the age of first use declined from 17.8 years of age in 1987 to 16.3 years of age in 1994. There was also a drop in age for first use of cocaine from 23.3 years to 19 years old. Drug use is starting at an early age.

Drug abuse costs this country approximately $67 billion a year in social, health and criminal costs. But the 14,000 drug-related deaths each year cannot be calculated in costs. The destruction of lives of the drug users, their families, friends, and neighbors is inevitable.

The need to correct the trend is imperative and it is communities that can do it. Community coalitions are essential for an effective prevention program. It is the community groups that see the problem first hand and know what is needed in that area to stop children from using drugs.

This bill will provide the incentive for community action groups to work together for the sole purpose of drug prevention. Groups representing youths, parents, businesses, schools, law enforcement, religious organizations, health professionals, as well as government agencies will be expected to prepare a strategy and implement it—together. But the community must be organized first, prior to receiving grant funds, in order for the coalition to prove a long-term commitment.

The grants will be distributed to organized community coalitions that have matching funds and those funds cannot be derived from the Federal Government. This requirement ensures that the coalition has support and can be sustained after the grant sunsets. This will not be another Federal program, but rather a means to support organized coalitions that devise and implement a comprehensive antidrug campaign while they get off the ground.

Several groups in my State have already endorsed this proposal including the Syracuse Police Department, the mayor of Syracuse and agencies in Onondaga County. Respected national organizations that deal with drug and alcohol abuse have also endorsed the proposal including DARE, Mothers Against Drunk Driving, Partnership for a Drug-Free America, and Empower America, among others.

This is a comprehensive strategy to a problem that is best dealt with at the local level. I urge my colleagues to closely review the merits of this bill and support its passage. Our communities need it.

Mr. GRAHAM. Mr. President, I rise today as a proud cosponsor of the Drug Free Communities Act.

The objective of this bill is to protect our greatest national resource—our children—from the deadly scourge of drug abuse. And it protects them in a way that has been proven through the centuries—by strengthening communities. This bill gives local communities the support they need to keep drugs away from their young people. And it allows them to use it in a way that has proven to be effective in their community, and not as some Washington bureaucrat dictates.

Unfortunately, recent studies of drug use in America demonstrate the need for a program such as this. The statistics on substance abuse among our Nation's children are particularly disturbing:

According to the University of Michigan's 1996 study ''Monitoring the Future,'' half of all high school students have tried some type of illicit drug by the time they graduate. Drug use among eighth graders has risen 150 percent in the last 5 years. Overall, drug use for children between the ages of 12 and 17 has increased more than 100 percent, from 5.3 percent in 1992 to 10.9 percent in 1995.

The drug most often used by these children continues to be marijuana. More children are smoking marijuana and they are starting to do so at a younger age. According to the ''Monitoring the Future'' study, almost 25 percent of high school seniors had used marijuana during the previous month. Between 1994 and 1995, the rate of use among 12- to 17-year-olds increased 37 percent, from 6 percent to over 8 percent.

And the use of marijuana often leads to the use of stronger and more dangerous drugs. A study completed by Columbia University's Center on Addiction and Substance Abuse found that children who smoke marijuana are 85 times more likely to try cocaine than children who have never tried marijuana.

The use of cocaine and heroin among our children is also on the increase. Among high school seniors in 1996, over 7 percent had tried cocaine at some time. And the number of younger children experimenting with these drugs is alarming. During the last 5 years, heroin use among 8th to 12th graders and the number of 8th graders who had tried cocaine had doubled.

So what can we do to help our youth reject the temptation to use drugs? We can help families to convince kids that they must never even try illegal drugs.

That is why I am proud to be a cosponsor of the Drug-Free Communities Act of 1997, which we are here to introduce today. This bill will help communities reduce drug use among youth by providing matching grants of up to $100,000 to community coalitions for the establishment of programs designed to prevent and treat substance abuse in young people. These grants will be used to provide support to local communities who have proven their long-term commitment to reducing drug use among youth. It includes provisions for an advisory commission of substance abuse experts to oversee the program, to ensure that grants go only to those programs that have demonstrated success in keeping our children and grandchildren off drugs.

There are several reasons why every Member of Congress should support this bill:

This program helps local communities in a way that is consistent with the 1997 strategy of the Office of National Drug Control Policy. The No. 1 goal of the strategy is to encourage

America's youth to reject illegal drugs by assisting community coalitions to develop programs that will accomplish this goal. The grants provided for in the Drug Free Communities Act will establish a partnership between the Federal Government and local communities.

There are safeguards to prevent abuse of the program. Only established groups that can provide matching funds will be eligible to receive funding. This ensures that only programs that have a proven track record of success in fighting drug abuse among our young people will receive funding.

I urge my colleagues to join me in supporting this important bill. Our children's future depends on keeping them free of drugs, and this legislation will help those groups who can make a difference in the lives of our youth. There is no greater service that we can provide to our country than to keep our children drug-free.

Mr. ABRAHAM. Mr. President, I am pleased to be an original cosponsor of the Drug Free Communities Act of 1997. This bill will lend a helping hand to local coalitions that are leading the fight against substance abuse.

Few would argue that substance abuse, particularly among our youth, is a growing problem in communities across our Nation. Drug use among teens has increased sharply in recent years. There is reason to believe, however, that local coalitions, reflecting a broad cross-section of the communities they serve, can do much to combat drug use among youths as well as adults.

The Drug Free Communities Act would lend important assistance to these coalitions. Specifically, the bill would authorize grants of up to $100,000 to local coalitions whose principal mission is the reduction of substance abuse. To be eligible for a grant, a coalition must include representatives from the religious, business, law enforcement, education, parental, and health care communities, as well as local government officials, in the geographic region served by the coalition. To enhance coalition accountability—and thus to direct resources to the most successful coalitions—a participating coalition would be required to conduct an initial benchmark survey of drug use in its community, followed by biennal surveys. No new funding would be needed for the bill, as grant moneys would be drawn from the existing budget of the Office of National Drug Control Policy.

In short, Mr. President, this bill recognizes that the efforts of local leaders are indispensable in the war on drugs. I am proud to support those efforts, and look forward to passage of this bill.

By Ms. MIKULSKI (for herself, Ms. SNOWE, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. COLLINS, Ms. LANDRIEU, Mr. HARKIN, Mr. COCHRAN, Mr. KENNEDY, Mr. BIDEN, Mr. FAIRCLOTH, Mr. DASCHLE, Mr. WYDEN, Mr. INOUYE, Mr. SARBANES, Mr. BINGAMAN, Mr. HUTCHINSON, Mr. FORD, Mr. REID, Mr. LEAHY, Mr. DODD, Mr. ABRAHAM, Mr. BENNETT, Mr. CHAFEE, Mr. FEINGOLD, Mr. GREGG, Mr. REED, Mr. MACK, Mr. ROBB, Mr. JEFFORDS, Mr. LEVIN, Mr. FRIST, Mr. BOND, Mr. WELLSTONE, Mr. SPECTER, Mr. BURNS, Mr. GLENN, Mr. COATS, Mr. AKAKA, and Mr. LIEBERMAN):

S. 537. A bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program; to the Committee on Labor and Human Resources.

THE MAMMOGRAPHY QUALITY STANDARDS ACT

Ms. MIKULSKI. Mr. President, I am honored to be joined by my colleagues, both men and women from both sides of the aisle, in introducing the reauthorization of the Mammography Quality Standards Act [MQSA]. The bill I am introducing today reauthorizes the original legislation which passed in 1992 with bipartisan support.

What MQSA does is require that all facilities that provide mammograms meet key safety and quality-assurance standards in the area of personnel, equipment, and operating procedures. Before the law passed, tests were misread, women were misdiagnosed, and people died as a result of sloppy work. Since 1992, MQSA has been successful in bringing facilities into compliance with the Federal standards.

What are these national, uniform quality standards for mammography? Well, facilities are required to use equipment designed specifically for mammography. Only radiological technologists can perform mammography. Only qualified doctors can interpret the results of mammography. Facilities must establish a quality assurance and control program to ensure reliability, clarity, and accurate interpretation of mammograms. Facilities must be inspected annually by qualified inspectors. Finally, facilities must be accredited by an accrediting body approved by the Secretary of Health and Human Services.

This current reauthorization makes a few minor changes to the law to ensure the following: Patients and referring physicians must be advised of any mammography facility deficiency. Women are guaranteed the right to obtain an original of their mammogram. Finally, both State and local government agencies are permitted to have inspection authority.

I like this law because it has saved lives. The frontline against breast cancer is mammography. We know that early detection saves lives. But a mammogram is worse than useless if it produces a poor-quality image or is misinterpreted. The first rule of all medical treatment is: Above all things, do no harm. And a bad mammogram can do real harm by leading a woman and her doctor to believe that nothing is wrong when something is. The result can be unnecessary suffering or even a death that could have been prevented. That is why this legislation is so important. This law must be reauthorized so that we don't go back to the old days when women's lives were in jeopardy.

I want to make sure that women's health care needs are met comprehensively. It is expected that 180,000 new cases of breast cancer will be diagnosed and about 44,000 women will die from the disease in 1997. This makes breast cancer the most common cancer among women. And only lung cancer causes more deaths in women.

We must aggressively pursue prevention in our war on breast cancer. I pledge to fight for new attitudes and find new ways to end the needless pain and death that too many American women face. This bill is an important step in that direction. On behalf of all the women of the Senate, I invite the men of the Senate who have not already cosponsored to do so. The women of America are counting on your support.

Mr. DODD. Mr. President, I rise today to voice my strong support, as an original cosponsor of the reauthorization of the Mammography Quality Standards Act [MQSA].

I first lent my support to this effort when the MQSA was initially introduced and passed in the 102nd Congress. For the past 5 years, this critically important legislation has provided women with safe and reliable mammography services. As the Mammography Quality Standards Act comes up for reauthorization, I urge all of my fellow colleagues to once again make a commitment to the health and well being of America's women by supporting this legislation.

Breast cancer is the most common type of cancer to affect women. In fact, almost 1 in 9 women will develop breast cancer at some point in their lives. Mammography, while not a cure for cancer, provides the best detection system for diagnosing this dangerous and deadly disease. And, early detection of breast cancer is often the key to effective treatment and recovery.

The Mammography Quality Standards Act ensures that mammography service providers comply with Federal requirements. These quality standards guard against inaccurate or inconclusive mammography results, thereby reducing the costly procedures associated with false positive diagnoses.

Before this legislation was originally enacted, women were often at the mercy of their mammography service provider, unaware if these providers lacked the necessary equipment, or even adequately trained technicians. The MQSA is helping to effectively eliminate concerns of substandard mammography and its possibly tragic results by assuring that only the correct radiological equipment is used in

mammography testing. Further, this legislation is assuring women that only physicians adequately trained in this medical area are interpreting mammograms.

New to this legislation are some additional requirements which seek to further assure women that their mammogram service produces the most accurate and timely detection of any irregularities. Mammography service providers will now be required to retain women's mammogram records so that an accurate medical history is maintained. Reauthorization of these quality standards will also ensure that patients are notified about substandard mammography facilities.

I wish to commend Senator MIKULSKI for her leadership on this crucial legislation. Again, it is my pleasure to join my colleagues in ensuring that quality mammography service is readily available, and I urge the Senate to act quickly and approve this critically important measure for American women.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 538. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District and for other purposes; to the Committee on Energy and Natural Resources.

THE BURLEY IRRIGATION DISTRICT TRANSFER ACT

● Mr. CRAIG. Mr. President, I am today introducing a bill to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka irrigation project to the Burley Irrigation District. The introduction of this legislation results from a hearing I held in the Senate Energy Committee in the past Congress and is nearly identical to S. 1291 from that Congress. I am introducing this project-specific legislation because it is obvious to me a general transfer bill is not workable; each reclamation project has unique qualities, and projects should be addressed individually or in distinct groupings.

The Reclamation Act of 1902 was part of the history of Federal public land laws designed to transfer lands out of Federal ownership and to settle this Nation. The origins of that policy predate the Constitution and derive from the early debates that led to the Northwest Ordinance of 1787. The particular needs and circumstances of the arid and semiarid lands west of the 100th meridian led to various proposals to reclaim the lands, including the Desert Land Act and the Carey Act. In his State of the Union Message of 1901, President Theodore Roosevelt finally called for the Federal Government to intervene to develop the reservoirs and works necessary to accomplish such irrigation. The reclamation program was enormously successful. It grew from the irrigation program contemplated by one President Roosevelt to the massive works constructed four decades later by the second President Roosevelt. For those of us in the Northwest, there is a very personal meaning to a line from Woody Guthrie's song about the Columbia that goes: ''your power is turning our darkness to dawn, so roll on Columbia, roll on.''

If what is known now had been known then, some projects may have been constructed differently. However, that is not the question we have before us. The central question is whether and to what extent the Federal Government should seek to transfer the title and responsibility for these projects. Has the Federal mission been accomplished?

The best transfer case would be the single purpose irrigation or municipal and industrial [M&I] system that is fully repaid, operation has long since been transferred, and the water rights are held privately. That is the case with the Burley Irrigation District transfer.

The transfer of title is not a new idea. Authority to transfer title to the All American Canal is contained in section 7 of the Boulder Canyon Project Act of 1928. General authority is contained in the 1955 Distribution Systems Loan Act. Recently, Congress passed legislation dealing with Elephant Butte and Vermejo.

The Burley Irrigation District is part of the Minidoka project that was built under the authorization of the 1902. Reclamation Act. By a contract executed in 1926, the District assumed the operation and maintenance of the system.

All construction contracts and costs for the canals system, pumping plants, power house, transmission lines and other improvements have been paid in full. Contracts for storage space at Minidoka, American Falls, and Palisades reservoirs have been paid in full, along with all maintenance fees. This project is a perfect example of the Federal Government maintaining only a bare title, and that title should now be transferred to the project recipients who have paid for the facilities and the rights of the Burley Irrigation District.●

By Mr. BIDEN (for himself, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 540. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the Medicare Program; to the Committee on Finance.

THE MEDICARE MAMMOGRAPHY SCREENING EXPANSION ACT

● Mr. BIDEN. Mr. President, there is no doubt a lot of women in their forties who are awfully confused these days about whether they should receive a regular mammogram to test for breast cancer. Over the last several years—and especially over the last couple of months—the debate in the scientific community and the conflicting scientific studies have not painted a very clear picture for younger women.

But, what is perfectly clear—what is not in dispute—is that older women should receive regular mammograms. Mammograms save lives. And, the scientific studies confirm it. If all women over 50 received regular mammograms, breast cancer mortality could be reduced by one-third. The recommended screening guidelines reflect this, no matter what group's guidelines you read. The American Cancer Society, the American College of Obstetricians and Gynecologists, the American Medical Association, the American Academy of Family Physicians, and the American College of Physicians all recommend that women over 50 receive annual mammograms.

Now, here's the problem. Women 65 and over have Medicare as their health insurance. The guidelines tell them—and their doctors are telling them—to get a mammogram once a year. But, Medicare pays for mammograms only once every 2 years. This means that an elderly woman must pay the cost of every other mammogram herself—or go without a mammogram every other year. And, even when Medicare pays for the mammogram, the woman is still responsible for at least 20 percent of the cost.

The result, Mr. President, is that too many women are following Medicare's payment rules—and not getting tested—rather than following the scientific guidelines—and being tested.

Two years ago, a study was published in the New England Journal of Medicine. It found that only 14.4 percent of women without Medicare supplemental insurance—that is, women who do not have, on top of Medicare, private insurance that may cover mammograms on an annual basis—only 14.4 percent of those women received even a mammogram once every 2 years, let alone annually. Even among those women with supplemental insurance, less than half had a mammogram over the course of 2 years. The study concluded that a woman's inability to pay a share of the costs for mammograms ''is an obstacle to the effective mass screening of older women for breast cancer.'' And, I would add, an obstacle to saving thousands of lives.

So, Mr. President, today I am introducing the Medicare Mammography Screening Expansion Act. This bill does two things. First, it would cover mammograms under Medicare once every year, as recommended by the guidelines, instead of once every 2 years, which is now the law. Second, it would eliminate the 20-percent copayment that is currently charged to women when they receive a mammogram, so that women are not discouraged from obtaining this important preventive measure because of the cost. I should note that eliminating the copayment is not unprecedented. Medicare already does not charge copayments for flu shots and most clinical laboratory tests.

Mr. President, we know that mammograms save lives. Yet, current Medicare policy creates barriers that are

preventing women from seeking this simple, life-saving procedure. I urge my colleagues to join me in making mammography screenings more available and more affordable for American women.●

By Mr. ALLARD:

S. 541. A bill to provide for an exchange of lands with the city of Greeley, CO, and the Water Supply and Storage Co. to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROCKWELL RANCH LAND TRANSFER ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing legislation that would provide for a land exchange between the city of Greeley, the Water Supply and Storage Co., and the Forest Service. This legislation was introduced last year and was passed by the House of Representatives as part of the Presidio package. It's my hope that we can pass this legislation and have it signed into law before the session ends.

The city of Greeley and Water Supply and Storage operate eight reservoirs in the Arapaho-Roosevelt National Forest. Because of the location of the reservoirs they are operated under Forest Service supervision. This supervision has at times been controversial due to disputes concerning whether being located on Forest Service property allows them to divert water in the national forest for purposes other than the benefit of the owners. The legislation I am introducing would benefit Greeley and Water Supply and Storage by allowing them to protect these significant investments. As an additional benefit this legislation would put an end to a bitter dispute between Greeley and the Forest Service. The national forest would also greatly benefit from this legislation. It would receive 708 acres of inholdings within the forest and the wilderness area. This land has been sought by the Forest Service for some time and this exchange would finally allow them to consolidate valuable resources in Colorado.

I offered this same bill last year when I was in the House of Representatives. Unfortunately, it was caught up in election year politics, specifically, my election. This year I want to put that behind, and work toward passing this legislation as negotiated over the past several years with Greeley, and with Water Supply and Storage, and with the Forest Service.

I believe that as introduced this legislation strikes a balance between protecting the rights of my constituents in Greeley and Thornton and protecting the environment.

As currently drafted, Greeley and Thornton have not only agreed to transfer their inholdings, they have also agreed to continue to participate in negotiations with a variety of governmental organizations and environmental groups to designate habitat for the whooping crane. Furthermore, they have agreed to an improved stream flow in the Poudre River as a condition of the exchange and since many westerners would rather part with blood than water, I think they've gone the extra mile.

This legislation is win/win for all involved. We should put all the politics behind us, pass the legislation, and move on to matters that are less easily resolved.

By Mr. COVERDELL (for himself, Mr. MCCONNELL, Mr. ABRAHAM, Mr. SANTORUM, and Mr. ASHCROFT):

S. 544. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; to the Committee on the Judiciary.

THE VOLUNTEER PROTECTION ACT OF 1997

Mr. COVERDELL. Mr. President, in just a few weeks, on April 27–29, the Presidents' Summit for America's Future will assemble in Philadelphia, cochaired by President Clinton and President Bush. This is an effort to mobilize millions of citizens and thousands of organizations to ensure a bright future for our youth and make effective citizen service an integral part of the American way of life. A number of leading corporations and service organizations have made specific commitments of resources and volunteers to achieve the summit's goal.

The leaders at the summit will issue a great call to action for Americans, asking them to volunteer their time and efforts in community service. This is in the best tradition of America. The thread of helping your neighbor and taking an active part of civic life runs all through the history of our Nation. It is woven deeply into the fabric of our communities. It is a tie that binds us together as a robust and healthy society.

Yet many who would heed that call to participate in the great tradition of volunteerism will not do so. Not because they lack the desire or the ability to help, but for fear of punitive litigation. In a recent Gallup study one in six volunteers reported withholding their services for fear of being sued. About 1 in 10 nonprofit groups report the resignation of a volunteer over litigation fears.

That is why I am today introducing the Volunteer Protection Act of 1997, a bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working for nonprofit organizations and governmental entities. Senators MCCONNELL, ABRAHAM, SANTORUM, and ASHCROFT have joined me as original cosponsors.

This act provides that no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by the volunteer's acts or omissions on behalf of the organization. To enjoy this protection, the volunteer must be acting within the scope of his or her responsibilities in the organization and must not cause harm by willful or criminal misconduct, gross negligence, or reckless misconduct.

In other words, this act provides volunteers liability protection for simple negligence only. It does not provide immunity from suit for misconduct that includes violent crimes, hate crimes, sex crimes, or civil rights violations. It does not apply where the defendant was under the influence of drugs or alcohol.

It is intended to protect volunteers who make a simple, honest mistake. The injured party will still have the recourse of suing the organization itself to be made whole. Nonprofit organizations will continue to have the duty to properly screen, train, and supervise their volunteers. The organization's liability is not affected. But we will free the volunteers from fear of crushing lawsuits for mistakes made while trying to do a good deed.

Federalism concerns arise whenever Congress takes up tort law. Our bill gives States flexibility to impose conditions and make exceptions to the granting of liability protection. It allows States to affirmatively opt out of this law for those cases where both the plaintiff and defendant are citizens of the State.

This bill requires clear and convincing evidence of gross negligence before punitive damages may be awarded against a volunteer, nonprofit organization, or governmental entity because of a volunteer's actions. It also establishes a rule of proportionate liability rather than joint and several liability in suits based on the action of a volunteer.

Mr. President, the Volunteer Protection Act will encourage the spirit of civic involvement and volunteerism that is so crucial to a healthy civil society and stronger communities. I urge my colleagues to support this 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. 544

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 ''Volunteer Protection Act of 1997''.

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them and the organizations they serve;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs

than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) reform efforts should respect the role of the States in the development of civil justice rules, but recognize the national Government's role.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to—

(1) volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity; and

(2) nonprofit organizations or governmental entities.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer, nonprofit organization, or governmental entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity; and

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Except as provided under subsection (e), nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the volunteer was operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or vehicle owner to possess an operator's license or to maintain insurance.

(4) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(5) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES OF VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer, nonprofit organization, or governmental entity in an action brought for harm because of the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—The limitations on the liability of a volunteer, nonprofit organization, or governmental entity under this section shall not apply to any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(5) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, nonprofit organization, or governmental entity based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of each defendant who is a volunteer, nonprofit organization, or governmental entity for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or

any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER.—The term ''volunteer'' means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

Mr. MCCONNELL. Mr. President, volunteer service has become a high risk venture. Our ''sue happy'' legal culture has ensnared those selfless individuals who help worthy organizations and institutions through volunteer service. And, these lawsuits are proof that no good deed goes unpunished.

In order to relieve volunteers from this unnecessary and unfair burden of liability, I am pleased to join in the introduction of the Volunteer Protection Act.

The litigation craze is hurting the spirit of voluntarism that is an integral part of American society. From school chaperones to Girl Scout and Boy Scout troop leaders to unpaid rural doctors and nursing home aides, volunteers perform valuable services. And, these volunteers are being dragged into court and needlessly and unfairly sued. The end result? Too many people pointing fingers and too few offering a helping hand.

So, this bill creates immunity from lawsuits for those volunteers who act within the scope of their responsibilities, who are properly licensed or certified where necessary, and who do not act in a willful, criminal or grossly negligent fashion.

The bill recognizes that the States may enact their own form of volunteer protection and provides that State laws may permit the following:

A requirement that the organization or entity adhere to risk management procedures, including the training of volunteers;

A requirement that the organization or entity be accountable for the actions of its volunteers in the same way that an employer is liable for the acts of its employees;

An exemption from the liability protection in the event the volunteer is using a motor vehicle or similar instrument;

An exemption from the liability protection if the lawsuit is brought by a State or local official; and

A requirement that the liability protection applies only if the nonprofit organization or government entity provides a financially secure source of recovery, such as an insurance policy for those who suffer harm.

I look forward to the Senate's prompt consideration of this bill. Our communities are depending upon us to enact this pro-volunteer legislation. The time has come for us to help those who have given so much to all of us.

Mr. ABRAHAM. Mr. President, I am extremely pleased to rise today to join my colleagues, Senator COVERDELL and Senator MCCONNELL, in introducing the Volunteer Protection Act of 1997. I commend Senators COVERDELL and MCCONNELL for their leadership in encouraging and supporting the voluntarism that is so important to communities in Michigan and across this country.

This long overdue legislation will provide volunteers and nonprofit organizations with desperately needed relief from abusive lawsuits brought based on the activities of volunteers. Those are precisely the activities that we should be protecting and encouraging.

Last Congress, I spoke on the floor many times concerning the need for litigation reform and describing the litigation abuses that plague our small businesses, our consumers, our schools, and others. I came to Congress as a freshman Senator intending to press for lawsuit reforms, and I did. I supported the securities litigation reform legislation, which Congress successfully enacted over the President's veto, and I also supported the product liability reform bill, which the President unfortunately killed with his veto. I also introduced legislation with Senator MCCONNELL to provide broader relief in all civil cases, and offered floor amendments that would do the same.

I continue to support broader civil justice reforms and I particularly look forward to considering product liability reform legislation both in the Commerce Committee and on the floor. But I believe that our voluntary, nonprofit organizations urgently need protection from current lawsuit abuses. I encourage my colleagues to consider the problems facing our community groups and their volunteers, and to support this legislation. I hope that in this instance President Clinton will support this litigation reform bill, recognize the value of volunteers and nonprofit groups, and give them the protection they need to keep doing their good deeds.

Nonprofit organizations hold our Nation together. In them we learn to care for our neighbors. They are key to our survival as a nation and we must protect them with systemic reforms.

America has a vast interstate network of 114,000 operating nonprofit organizations, ranging from schools to hospitals to clinics to food programs.

This network's revenues totaled $388 billion in 1990. Meanwhile, revenues for the 19,000 support institutions, which raise money to fund operating organizations came to $29 billion. And total revenues for religious congregations were $48 billion. That's $465 billion worth of nonprofit activity we enjoyed in 1990 alone, Mr. President.

Nonprofit organizations rely heavily on volunteers, and Americans gladly comply. According to a 1993 report from the Independent Sector, a national coalition of 800 organizations, Americans donated 9.7 billion hours of their time to nonprofit organizations that year. This volunteer time produced the equivalent of 5.7 million full time volunteers, worth an estimated $112 billion.

Unfortunately voluntarism is declining nationwide. According to the Independent Sector report, the percentage of Americans volunteering dropped from 54 percent in 1989 to 51 percent in 1991 and 48 percent in 1993. Americans also are giving less money. The average household's charitable donation dropped from $978 in 1989 to $880 in 1993.

The decline of giving and volunteering spells danger for our voluntary organizations, for the people who depend on them, and for the social trust that is based on the spirit of association.

But why is voluntarism on the decline? Obviously there are a number of relevant factors, not least among them the need so many people today feel to work ever-harder and ever-longer to bear our growing tax burden. But one major reason for the decline is America's litigation explosion. Nonprofit organizations are forced to spend an increasing amount of time and resources preparing for, avoiding, and/or fighting lawsuits. Thus litigation has rendered our nonprofit organizations less effective at helping people, and allowed Americans to retreat more into their private lives, and away from the public, social activity that binds us together as a people.

The litigation costs facing voluntary associations are many. John Graham, on behalf of the American Society of Association Executives [ASAE], gave testimony last year arguing that liability insurance premiums for associations have increased an average 155 percent in recent years. Some of our most revered nonprofit institutions have been put at risk by increased liability costs.

Dr. Creightin Hale of Little League Baseball reports that the liability rate for a league increased from $75 to $795 in just 5 years. Many leagues cannot afford this added expense, on top of increasing costs for helmets and other equipment. These leagues operate without insurance or disband altogether, often leaving children with no organized sports in their neighborhood.

What kind of suits add to insurance costs? ASAE reports that one New Jersey umpire was forced by a court to pay a catcher $24,000. Why? Because the catcher was hit in the eye by a softball while playing without a mask. The catcher complained that the umpire should have lent him his.

Organizations that try to escape skyrocketing insurance costs must self-insure, and Andrea Marisi of the Red

Cross will describe self-insurance costs only as ''huge.'' The result? Obviously, we have fewer funds available for providing services than would otherwise be the case.''

Outside insurance generally comes with significant deductibles. Charles Kolb of the United Way points out that insurance deductibles for his organization fall into the range of $25,000–30,000. When, as has been the case in recent years, the organization is subjected to three or four lawsuits per year, $100,000 or more must be diverted from charitable programs.

And there are even more costs. Mr. Kolb reports that the costs in lost time and money spent on discovery, for example going through files for hours on end to establish who did what when, can run into the thousands of dollars. Further, as the Boy Scouts' William Cople puts it: ''We bear increased costs from risk management programs of many kinds—[including] those to prevent accidents. We have higher legal bills as well. But even more of a problem is the need to find pro-bono help to quell possible lawsuits. The Scouts must spend scarce time, and use up scarce human capital in preventing suits. For example, 5 years ago the General Counsel's office, a pro-bono operation, committed less than 100 hours per year on issues relating to lawsuits. Last year we devoted about 750 hours to that duty.'' The Boy Scouts must do less good so that they can defend themselves from lawsuits.

Frivolous lawsuits also increase costs by discouraging voluntarism. Dottie Lewis of the Southwest Officials Association, which provides officials for scholastic games, observes, ''Some of our people got to the point where they were just afraid to work because of the threat of lawsuits.'' What makes this fear worse is the knowledge that one need do no harm in order to be liable.

Take for example Powell versus Boy Scouts of America. While on an outing with the Sea Explorers, a scouting unit in the Boy Scouts' Cascade Pacific Council, a youth suffered a tragic, paralyzing injury in a rough game of touch football. Several adults had volunteered to supervise the outing, but none observed the game. The youth filed a personal injury lawsuit against two of the adult volunteers. The jury found the volunteers liable for some $7 million, which Oregon law reduced to about $4 million—far more than the volunteers could possibly pay.

What is more, as Cople points out, ''the jury seemingly held the volunteers to a standard of care requiring them constantly to supervise the youth entrusted to their charge, even for activities which under other circumstances may routinely be permitted without such meticulous oversight.''

One child's tragedy led a jury to impose an unreasonable standard of care on individuals who, after all, had volunteered their time and effort for an outing, not a football game.

No one can provide the meticulous oversight demanded by the jury. Thus volunteers are left at the mercy of events, and juries, beyond their control.

Such unreasonable standards of care also penalize our nonprofit organizations. Len Krugel of the Michigan Salvation Army reports that regulations and onerous legal standards often keep his organization from giving troubled youths a second chance. Because the organization is held responsible for essentially all actions by its employees and volunteers, it can take no risks in hiring. Thus the Salvation Army can neither hire nor accept voluntary services from any individual with any drug conviction, including a 0.3 reading on a breathalyzer test for alcohol consumption. As Mr. Krugel observes, ''If we can't give these kids a second chance, who can?''

Then there is the problem of joint and several liability, in which one defendant is made to pay for all damages even though responsible for only a small portion. Such findings are a severe burden on the United Way, a national organization that sponsors numerous local nonprofit groups. Although it cannot control local operations, the United Way often finds itself a defendant in suits arising from injuries caused by the local entity.

Such holdings result from juries' desire to find someone with the funds necessary to pay for an innocent party's injuries. But this search for the deep pocket leads to what Ms. Marisi calls a ''chilling effect'' on Red Cross relations with other nonprofits. The Red Cross is now less willing to cooperate with smaller, more innovative local agencies that might make it more effective.

Thus nonprofits forbear from doing good because they cannot afford the insurance, they cannot afford the loss of volunteers, they cannot afford the risk of frivolous lawsuits.

The Volunteer Protection Act will address the danger to our nonprofit sector, Mr. President. It will not solve all the problems facing our volunteers and nonprofits, but it will provide voluntary organizations with critical protection against improper litigation, at the same time that it recognizes the ability of the States to take additional or even alternative protections in some cases. By setting the standard for the protection of volunteers outright, this bill provides much-needed lawsuit relief immediately to volunteers and nonprofits wherever they may be. Let me briefly describe what this bill does.

The bill protects volunteers from liability unless they cause harm through action that constitutes reckless misconduct, gross negligence, willful or criminal misconduct, or is in conscious, flagrant disregard for the rights and safety of the individual harmed. This ensures that where volunteers truly exceed the bounds of appropriate conduct they will be liable. But in the many ridiculous cases I have discussed—where no real wrongdoing occurred—the volunteer will not be forced to face and defend a lawsuit.

In lawsuits based on the actions of a volunteer, the bill limits the punitive damages that can be awarded. It is unfortunate that charities and volunteers have punitive damages awarded against them in the first place, but they do—Congressman JOHN PORTER reports that in August of 1990 a Chicago jury awarded $12 million to a boy who was injured in a car crash. The ''negligent'' party? The estate of the volunteer who gave his life attempting to save the boy.

Under this bill, punitive damages in cases involving the actions of a volunteer could be awarded against a volunteer, nonprofit organization, or government entity only upon a showing by the claimant that the volunteer's action represented willful or criminal misconduct, or showed a conscious, flagrant disregard for the rights and safety of the individual harmed.

This should ensure that punitive damages, which are intended only to punish a defendant and are not intended to compensate an injured person, will only be available in situations where punishment really is called for because of the egregious conduct of the defendant.

The bill also protects volunteers from excessive liability that they might face through joint and several liability. Under the doctrine of joint and several liability, a plaintiff can obtain full damages from a defendant who is only slightly at fault. I have spoken many times before about the unfairness that may result from the application of this legal doctrine. The injustice that results to volunteers and nonprofits is often even more acute, because they lack the resources to bear unfair judgments.

This bill strikes a balance by providing that, in cases based on the actions of a volunteer, any defendant that is a volunteer, nonprofit organization, or government entity will be jointly and severally responsible for the full share of economic damages but will only be responsible for noneconomic damages in proportion to the harm that that defendant caused. That is a fair approach.

Finally, I would like to speak for a moment about how this legislation preserves important principles of federalism and respects the role of the States. First, the bill does not preempt State legislation that provides greater protections to volunteers. In this way, it sets up outer protections from which all volunteers will benefit and permits States to do more. Second, the bill includes an opt-out provision that permits States, in cases involving only parties from that State, to affirmatively elect to opt out of the protections provided in the Volunteer Protection Act. A State can do so by enacting a statute specifically providing for that. I suspect that no States will elect to do so, but I feel that, as a matter of principle, it is important to include that provision.

In short, these reforms can help create a system in which plaintiffs sue only when they have good reason—and only those who are responsible for their damages—and in which only those who are responsible must pay. Such reforms will create an atmosphere in which our fear of one another will be lessened, and our ability to join associations in which we learn to care for one another will be significantly greater.

And that, Mr. President, will make for a better America.

I urge my colleagues on both sides of the aisle to support this important piece of legislation.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. FRIST], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 6

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 61

At the request of Mr. LOTT, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Ms. COLLINS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 71

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 224

At the request of Mr. WARNER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 253

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 253, a bill to establish the negotiating objectives and fast track procedures for future trade agreements.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 394

At the request of Mr. HATCH, the names of the Senator from Washington [Mr. GORTON], the Senator from Texas [Mr. GRAMM], the Senator from Hawaii [Mr. INOUYE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 404

At the request of Mr. BOND, the names of the Senator from Michigan [Mr. ABRAHAM], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 404, a bill to modify the budget process to provide for separate budget treatment of the dedicated tax revenues deposited in the Highway Trust Fund.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 415, a bill to amend the Medicare Program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 428

At the request of Mr. KOHL, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 436

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 436, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

S. 479

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mr. ROBERTS], the Senator from Kentucky [Mr. FORD], the Senator from Wyoming [Mr. THOMAS], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

S. 493

At the request of Mr. KYL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 494

At the request of Mr. KYL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 495

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. ALLARD], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Oklahoma [Mr. INHOFE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 495, a bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Mississippi [Mr. COCHRAN] were added as

cosponsors of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

SENATE JOINT RESOLUTION 24

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. D'AMATO], the Senator from Kentucky [Mr. FORD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Indiana [Mr. COATS], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of Senate Concurrent Resolution 13, a concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

SENATE CONCURRENT RESOLUTION 19—RELATIVE TO PROPERTY CLAIMS

Mr. D'AMATO (for himself, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. LAUTENBERG, Mr. GRAHAM, Mr. REID, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 19

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic development, and many countries have begun the difficult and wrenching process of trying to right the past wrongs of previous totalitarian regimes;

Whereas restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation are arbitrary and discriminatory in violation of international law; and

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring). That the Congress—

(1) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of plundered properties;

(2) urges countries which have not already done so to return plundered properties to their rightful owners or, as an alternative, pay compensation, in accordance with principles of justice and in a manner that is just, transparent, and fair;

(3) calls for the urgent return of property formerly belonging to Jewish communities as a means of redressing the particularly compelling problems of aging and destitute survivors of the Holocaust;

(4) calls on the Czech Republic, Latvia, Lithuania, Romania, Slovakia and any other country with restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation to remove such restrictions from their restitution or compensation laws;

(5) calls upon foreign financial institutions, and the states having legal authority over their operation, that possess wrongfully and illegally property confiscated from Holocaust victims, from residents of former Warsaw Pact states who were forbidden by Communist law from obtaining restitution of such property, and from states that were occupied by Nazi, Fascist, or Communist forces, to assist and to cooperate fully with efforts to restore this property to its rightful owners; and

(6) urges post-Communist countries to pass and effectively implement laws that provide for restitution of, or compensation for, plundered property.

Mr. D'AMATO. Mr. President, at the close of last Congress, I submitted a concurrent resolution addressing property claims issues in Central and Eastern Europe. Representative CHRISTOPHER H. SMITH, the cochairman of the Commission, submitted an identical resolution in the House. Today, we are resubmitting this measure, and are joined by all the members of the Helsinki Commission as original cosponsors.

Mr. President, I wish I could report to you that there has been improvement in this area since our concurrent resolution was submitted last September. Regrettably, there has not. Let me give you just two examples of the kinds of cases that moved me to submit this concurrent resolution.

In 1991, Latvia passed a restitution law after regaining its independence from the Soviet empire. This law raised the hope that those forced from their homes by the 1940 Soviet invasion, and kept out by a 50-year occupation, would finally be able to return. And this is what Eso Anton Benjamins thought, too, when in 1995 a Latvian municipal court ordered that the current occupants of the Benjamins' family home vacate the property.

Unfortunately, the current occupant is none other than the Russian Ambassador to Latvia. The Russian Government has refused to move its representative from the private property of Mr. Benjamins, notwithstanding the Latvian court's legal order to do so, and the Latvian authorities have not evicted them.

In the Czech Republic, things are not much better. Under laws adopted after the Velvet Revolution, Susan Benda is theoretically eligible for the restitution of her family property, which had been confiscated by the Nazis but which her family had been unable to reclaim at the end of World War II. Notwithstanding this eligibility under the law and the Czech Government's purported intention to restore Jewish properties that had been seized by the Nazis, the Czech Ministry of Finance has arbitrarily imposed onerous and burdensome conditions for restitution which appear to be designed to defeat the intent of the law.

So while Czech officials may tell us they have properly addressed this issue, those seeking the return of wrongfully confiscated property in Prague find that an entirely different reality awaits them.

I am also deeply troubled by recent reports that some $50 million may have been embezzled from the funds received by Ukraine from Germany for the victims of Nazi prosecution. It is imperative that the Ukrainian Government make an investigation into this matter an urgent priority. Not only must this

money be found and returned to the rightful recipients, but immediate measures should be taken to ensure that this cannot happen again.

Americans who came to this country to escape persecution are discovering that, in many Central and East European countries, they are once again being penalized, this time by discriminatory laws that restrict restitution or compensation to those who currently hold the citizenship of or residency in the country in question. This is the case in the Czech Republic, Latvia, Lithuania, Romania, and Slovakia.

Mr. President, this status quo cannot continue. I know it is not possible to turn back the clock completely or erase the wrongs that have been done. I commend the many emerging democracies attempting to address this complex issue, acting on both a moral obligation to redress past wrongs and a desire to underscore the differences between their new and old systems of government. But more can and should be done—and this resolution calls for concrete steps. It deserves our support, and the victims of past wrongs in this region deserve our help.

I urge my colleagues to join with me and the other cosponsors of this concurrent resolution in pressing for a fair, just, and timely property restitution and compensation process so that the victims of the Holocaust and subsequent Communist oppression are not denied what is rightfully theirs.

SENATE RESOLUTION 69—RELATIVE TO CAMBODIA

Mr. MCCAIN (for himself, Mr. KERRY, Mr. HELMS, Mr. KERREY, Mr. ROBB, Mr. ROTH, and Mr. THOMAS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 69

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Agreements on a Comprehensive Political Settlement of the Cambodia Conflict;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murders of journalists and political party activists, the recent unsolved attack on party officials of the Buddhist Liberal Democratic Party in 1995, and the quality of the judicial system—described in a 1996 United Nations report as ''thoroughly corrupt''—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the Senate—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;

(2) condemns the attack as an act of terrorism detrimental to peace and the development of democracy in Cambodia;

(3) calls upon the United States Government to offer to the Cambodia Government all appropriate assistance in identifying and prosecuting those responsible for the attack; and

(4) calls upon the Cambodia Government to accept such assistance and to expeditiously identify and prosecute those responsible for the attack.

Mr. MCCAIN. Mr. President, on March 30, 1997, there was a political rally outside the Cambodian National Assembly in the capital city of Phnom Penh. One of the participants in this rally was Sam Raimsy, a prominent opposition figure and leader of the Khmer Nation Party.

In the course of the demonstration, someone lobbed grenades into the crowd. Nineteen people were killed, including one of Sam Raimsy's bodyguards. More than a 100 others were injured, one of which was an American citizen, Mr. Ron Abney. Ron works for the International Republican Institute, of which I am proud to be chairman. For years, Ron has worked with all political parties to promote free and democratic institutions in Cambodia. We all hope for his prompt and complete recovery from his injuries.

Mr. President, this was a particularly cowardly and brutal act of political terrorism. Among the killed and injured were many women and children. In addition, the real target of this attack was Cambodia's efforts to build a peaceful and democratic future on the ruins of the devastation wrought by decades of war and tyranny.

Immediately after the attack, I wrote to Cambodia's two Co-Prime Ministers, Norodom Ranariddh and Hun Sen, expressing my outrage and demanding that the perpetrators of this attack be brought to justice. I have received a response from Prince Ranariddh, in which he calls the March 30 atrocity a ''most heinous and savage criminal act committed on innocent and peace-loving people.'' He also said that he had ordered ''immediate measures to be taken to arrest, try and sentence the criminal(s) and all those involved.''

I believe, however, that it is also important for the Senate to make clear its outrage at this attack. The resolution that I have just introduced extends the Senate's sympathy to the victims of the grenade attack, condemns the bombing itself as an act of terrorism, and calls upon the governments of Cambodia and the United States to cooperate in identifying and prosecuting those individuals responsible for the attack.

I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

THE NUCLEAR WASTE POLICY ACT OF 1997

MURKOWSKI AMENDMENT NO. 26

Mr. MURKOWSKI proposed an amendment to the bill (S. 104) to amend the Nuclear Waste Policy Act of 1982; as follows:

Beginning on page 1, strike all after the enacting clause and insert the following:

That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

''(b) TABLE OF CONTENTS.—

''SEC. 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''(32) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(33) SUITABLE.—The term 'suitable' means that there is reasonable assurance that the site features of a repository and the engineered barriers contained therein will allow the repository, as an overall system, to provide containment and isolation of radionuclides sufficient to meet applicable standards for protection of public health and safety.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management

system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 205 in accordance with the emplacement schedule, beginning no later than 18 months after issuance of a license for an interim storage facility under section 205(g).

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than 18 months after issuance of a license under section 205(g) for an interim storage facility designated under section 204(c)(1). Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than 2 years after the effective date of this section.

''(e) NOTICE AND MAP.—No later than 6 months after the effective date of this section, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.

''(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.

''(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''(k) This section shall become effective on the date on which the Secretary submits a license application under section 205 for an interim storage facility at a site designated under section 204(c)(1).

''SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary—

''(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas; and

''(2) not later than 24 months after the Secretary submits a license application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site.

''(b) TRANSPORTATION PLANNING.—

''(1) IN GENERAL.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility.

''(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

''(A) transportation routing plans;

''(B) transportation contracting plans;

''(C) transportation training in accordance with section 203;

''(D) public education regarding transportation of spent nuclear fuel and high level radioactive waste; and

''(E) transportation tracking programs.

''(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—

''(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, consistent with the principles and procedures stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

''(2) REQUIREMENTS.—A shipping campaign transportation plan shall—

''(A) be fully integrated with State and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d) (unless the Secretary certifies in the plan that the State or tribal government has failed to cooperate in fully integrating the shipping campaign transportation plan with the applicable State or tribal government plans); and

''(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary certifies in the plan that a specific principle or procedure is inconsistent with a provision of this Act).

''(d) SAFE SHIPPING ROUTES AND MODES.—

''(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

''(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

''(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

''(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

''(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

''(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

''(7) PREFERRED RAIL ROUTES.—

''(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

''(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—

''(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal governments. A State shall allocate to local governments within the State a portion any funds that the Secretary provides to the State for technical assistance and funding.

''(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

''(C) TRAINING.—Training under this section—

''(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

''(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

''(iii) shall include—

''(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

''(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

''(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

''(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian Tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian Tribe for at least 3 years prior to any shipment: Provided, however, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (1) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (2) the refusal to accept technical assistance by a State or Indian Tribe, or (3) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

''(B) In the event the Secretary is required to transport spent fuel or high level radioactive waste through a jurisdiction prior to 3 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian Tribes along the shipping route no later than three months prior to the commencement of shipments: Provided, however, That in no event shall such shipments exceed 1,000 metric tons per year, And provided further, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

''(3) GRANTS.—

''(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

''(B) GRANTS FOR DEVELOPMENT OF PLANS.—

''(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

''(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

''(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

''(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting the annual department budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

''(I) the funds requested by States and federally recognized Indian tribes to implement this subsection;

''(II) the amount requested by the President for implementation; and

''(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

''(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

''(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

''(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

''(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1997, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 (in the case of employees of railroad carriers) and 49 U.S.C. 31105 (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a training, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. VIABILITY ASSESSMENT AND PRESIDENTIAL DETERMINATION.

''(a) VIABILITY ASSESSMENT.—No later than December 1, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

''(1) the preliminary design concept for the critical elements of the repository and waste package;

''(2) a total system performance assessment, based upon the preliminary design concept in paragraph (1) of this subsection and the scientific data and analysis available on June 30, 1998, describing the probable behavior of the repository relative to the overall system performance standard under section 206(f) of this Act or, if the standard under section 206(f) has not been promulgated, relative to an estimate by the Secretary of an overall system performance standard that is consistent with section 206(f);

''(3) a plan and cost estimate for the remaining work required to complete the license application under section 206(c) of this Act, and

''(4) an estimate of the costs to construct and operate the repository in accordance with the preliminary design concept in paragraph (1) of this subsection.

''(b) PRESIDENTIAL DETERMINATION.—No later than March 1, 1999, the President, in his sole and unreviewable discretion, may make a determination disqualifying the Yucca Mountain site as a repository, based on the President's views that the preponderance of information available at such time indicates that the Yucca Mountain site is not suitable for development of a repository of useful size. If the President makes a determination under this subsection,

''(1) the Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site and section 206 of this Act shall cease to be in effect; and

''(2) no later than 6 months after such determination, the Secretary shall report to Congress on the need for additional legislation relating to the permanent disposal of nuclear waste.

''(c) PRELIMINARY SECRETARIAL DESIGNATION OF INTERIM STORAGE FACILITY SITES.—

''(1) If the President does not make a determination under subsection (b) of this section, no later than March 31, 1999, the Secretary shall make a preliminary designation of a specific site within Area 25 of the Nevada Test Site for planning and construction of an interim storage facility under section 205.

''(2) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subsection (b), the President shall designate a site for the construction of an interim storage facility. The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the interim storage facility site as defined in section 2(19) of this Act is designated as the interim storage facility site for purposes of section 205. The interim storage facility site shall be deemed to be approved by law for purposes of this paragraph.

''SEC. 205. INTERIM STORAGE FACILITY.

''(a) NON-SITE-SPECIFIC ACTIVITIES.—As soon as practicable after the date of enactment of the Nuclear Waste Policy Act of

1997, the Secretary shall submit to the Commission a topical safety analysis report containing a generic design for an interim storage facility. If the Secretary has submitted such a report prior to such date of enactment, the report shall be deemed to have satisfied the requirement in the preceding sentence. No later than December 31, 1998, the Commission shall issue a safety evaluation report approving or disapproving the generic design submitted by the Secretary.

''(b) SITE-SPECIFIC AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site designated under section 204 and licensed by the Commission under this section. The Commission shall license the interim storage facility in accordance with the Commission's regulations governing the licensing of independent storage of spent nuclear fuel and high-level radioactive waste (10 CFR part 72). Such regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The Commission may amend 10 CFR part 72 with regard to facilities not covered by this Act as deemed appropriate by the Commission.

''(c) LIMITATIONS AND CONDITIONS.—

''(1) The Secretary shall not commence construction of an interim storage facility (which shall mean taking actions within the meaning of the term ''commencement of construction'' contained in the Commission's regulations in section 72.3 of title 10, Code of Federal Regulations) before the Commission, or an appropriate officer or Board of the Commission, makes the finding under section 72.40(b) of title 10, Code of Federal Regulations.

''(2) After the Secretary makes the preliminary designation of an interim storage site under section 204, the Secretary may commence site data acquisition activities and design activities necessary to complete license application and environmental report under subsection (d) of this section.

''(3) Notwithstanding any other applicable licensing requirement, the Secretary may utilize facilities owned by the Federal government on the date of enactment of the Nuclear Waste Policy Act of 1997 and located within the boundaries of the interim storage site, in connection with addressing any imminent and substantial endangerment to public health and safety at the interim storage facility site, prior to receiving a license from the Commission for the interim storage facility, for purposes of fulfilling requirements for retrievability during the first five years of operation of the interim storage facility.

''(d) LICENSE APPLICATION.—No later than 30 days after the date on which the Secretary makes a preliminary designation of an interim storage facility site under section 204, the Secretary shall submit a license application and an environmental report in accordance with applicable regulations (subpart B of part 72 of title 10, Code of Federal Regulations, and subpart A of part 51 of title 10, Code of Federal Regulations, respectively). The license application—

''(1) shall be for a term of 40 years; and

(2) shall be for a quantity of spent nuclear fuel or high-level radioactive waste equal to the quantity that would be emplaced under section 507 prior to the date that the Secretary estimates, in the license application, to be the date on which the Secretary will receive and store spent nuclear fuel and high-level radioactive waste at the permanent repository.

''(e) DESIGN.—

''(1) The design for the interim storage facility shall provide for the use of storage technologies which are licensed, approved, or certified by the Commission, to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(f) LICENSE AMENDMENTS.—

''(1) The Secretary may seek such amendments to the license for the interim storage facility as the Secretary may deem appropriate, including amendments to use new storage technologies licensed by the Commission or to respond to changes in Commission regulations.

''(2) After receiving a license from the Commission to receive and store spent nuclear fuel and high-level radioactive waste in the permanent repository, the Secretary shall seek such amendments to the license for the interim storage facility as will permit the optimal use of such facility as an integral part of a single system with the repository.

''(g) COMMISSION ACTIONS.—

''(1) The issuance of a license to construct and operate an interim storage facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Prior to issuing a license under this section, the Commission shall prepare a final environmental impact statement in accordance with the National Environmental Policy Act of 1969, the Commission's regulations, and section 207 of this Act. The Commission shall ensure that this environmental impact statement is consistent with the scope of the licensing action and shall analyze the impacts of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(2) The Commission shall issue a final decision granting or denying a license for an interim storage facility not later than 32 months after the date of submittal of the application for such license.

''(3) No later than 32 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall make any amendments necessary to the definition of 'spent nuclear fuel' in section 72.4 of title 10, Code of Federal Regulations, to allow an interim storage facility to accept (subject to such conditions as the Commission may require in a subsequent license)—

''(A) spent nuclear fuel from research reactors;

''(B) spent nuclear fuel from naval reactors;

''(C) high-level radioactive waste of domestic origin from civilian nuclear reactors that have permanently ceased operation before such date of enactment; and

''(D) spent nuclear fuel and high-level radioactive waste from atomic energy defense activities.

Following any such amendments, the Secretary shall seek authority, as necessary, to store such fuel and waste at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, licensing, construction, or operation of the interim storage facility.

''SEC. 206. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) CHARACTERIZATION OF THE YUCCA MOUNTAIN SITE.—The Secretary shall carry out site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. Such activities shall be limited to only those activities which the Secretary considers necessary to provide the data required for evaluation of the suitability of such site for an application to be submitted to the Commission for a construction authorization for a repository at such site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) GUIDELINES.—The Secretary shall amend the guidelines in part 960 of title 10, Code of Federal Regulations, to base any conclusions regarding whether a repository site is suitable on, to the extent practicable, an assessment of total system performance of the repository.

''(b) ENVIRONMENTAL IMPACT STATEMENT.—

''(1) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall prepare an environmental impact statement on the construction and operation of the repository and shall submit such statement to the Commission with the license application. The Secretary shall supplement such environmental impact statement as appropriate.

''(2) SCHEDULE.—

''(A) No later than September 30, 2000, the Secretary shall publish the final environmental impact statement under paragraph (1) of this subsection.

''(B) No later than October 31, 2000, the Secretary shall publish a record of decision on applying for a license to construct and operate a repository at the Yucca Mountain site.

''(c) LICENSE APPLICATION.—

''(1) SCHEDULE.—No later than October 31, 2001, the Secretary shall apply to the Commission for authorization to construct a repository at the Yucca Mountain site.

''(2) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(3) DECISION NOT TO APPLY FOR A LICENSE FOR THE YUCCA MOUNTAIN SITE.—If, at any time prior to October 31, 2001, the Secretary determines that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a geological repository, the Secretary shall—

''(A) notify the Congress and the State of Nevada of the Secretary's determinations and the reasons therefor; and

''(B) promptly take the actions described in paragraphs (1) and (2) of section 204(b).

''(d) REPOSITORY LICENSING.—The Commission shall license the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following the filing by the Secretary of any additional information needed by the Commission to issue a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the risk of the repository beyond the standard established in subsection (f)(1).

''(5) APPLICATION OF HEALTH AND SAFETY STANDARDS.—The licensing determination of the Commission with respect to risk to the health and safety of the public under paragraphs (1), (2), or (3) of this subsection shall be based solely on a finding whether the repository can be operated in conformance with the overall performance standard in subsection (f)(1) of this section, applied in accordance with the provisions of subsection (f)(2) of this section and the standards established by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note).

''(e) MODIFICATION OF THE COMMISSION'S REPOSITORY LICENSING REGULATIONS.—The Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste (10 CFR part 60), as necessary, to be consistent with the provisions of this Act. The Commission's regulations shall provide for the modification of the repository licensing procedure in subsection (d) of this section, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(f) REPOSITORY LICENSING STANDARDS AND ADDITIONAL PROCEDURES.—In complying with the requirements of section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall achieve consistency with the findings and recommendations of the National Academy of Sciences, and the Commission shall amend its regulations with respect to licensing standards for the repository, as follows:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—

''(A) RISK STANDARD.—The standard for protection of the public from releases of radioactive material or radioactivity from the repository shall limit the lifetime risk, to the average member of the critical group, of premature death from cancer due to such releases to approximately, but not greater than, 1 in 1000. The comparison to this standard shall use the upper bound of the 95-percent confidence interval for the expected value of lifetime risk to the average member of the critical group.

''(B) FORM OF STANDARD.—The standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be an overall system performance standard. The Administrator shall not promulgate a standard for the repository in the form of release limits or contaminant levels for individual radionuclides discharged from the repository.

''(C) ASSUMPTIONS USED IN FORMULATING AND APPLYING THE STANDARD.—In promulgating the standard under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall consult with the Secretary of Energy and the Commission. The Commission, after consultation with the Secretary, shall specify, by rule, values for all of the assumptions considered necessary by the Commission to apply the standard in a licensing proceeding for the repository before the Commission, including the reference biosphere and size and characteristics of the critical group.

''(D) DETENTION.—As used in this subsection, the term 'critical group' means a small group of people that is—

''(i) representative of individuals expected to be at highest risk of premature death from cancer as a result of discharges of radionuclides from the permanent repository;

''(ii) relatively homogeneous with respect to expected radiation dose, which shall mean that there shall be no more than a factor of ten in variation in individual dose among members of the group; and

''(iii) selected using reasonable assumptions—concerning lifestyle, occupation, diet, and eating and drinking habits, technological sophistication, or other relevant social and behavioral factors—that are based on reasonably available information, when the group is defined, on current inhabitants and conditions in the area of 50-mile radius surrounding Yucca Mountain contained within a line drawn 50 miles beyond each of the boundaries of the Yucca Mountain site.''

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the construction authorization, license, or license amendment, as applicable, if it finds reasonable assurance that for the first 10,000 years following the closure of the repository, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of establishing the overall system performance standard in paragraph (1) and making the finding in paragraph (2),—

''(A) the Administrator and the Commission shall not consider climate regimes that are substantially different from those that have occurred during the previous 100,000 years at the Yucca Mountain site;

''(B) the Administrator and the Commission shall not consider catastrophic events where the health consequences of individual events themselves to the critical group can be reasonably assumed to exceed the health consequences due to impact of the events on repository performance; and

''(C) the Administrator and the Commission shall not base the standard in paragraph (1) or the finding in paragraph (2) on scenarios involving human intrusion into the repository following repository closure.

''(4) CONGRESSIONAL REVIEW.—

''(A) Any standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be deemed a major rule within the meaning of section 804(2) of title 5, United States Code, and shall be subject to the requirements and procedures pertaining to a major rule in chapter 8 of such title.

''(B) The effective date of the construction authorization for the repository shall be 90 days after the issuance of such authorization by the Commission, unless Congress is standing in adjournment for a period of more than one week on the date of issuance, in which case the effective date shall be 90 days after the date on which Congress is expected to reconvene after such adjournment.

''(5) REPORT TO CONGRESS.—At the time that the Commission issues a construction authorization for the repository, the Commission shall submit a report to Congress—

''(A) analyzing the overall system performance of the repository through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 10,000 years after repository closure and including the time after repository closure of maximum risk to the critical group of premature death from cancer due to repository releases.

''(B) analyzing the consequences of a single instance of human intrusion into the repository, during the first 1,000 years after repository closure, on the ability of the repository to perform its intended function.''

''(g) ADDITIONAL ACTIONS BY THE COMMISSION.—The Commission shall take final action on the Secretary's application for construction authorization for the repository no later than 40 months after submission of the application.

''SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under section 203, 204, section 205(a), section 205(c), section 205(d), and section 206(a) shall be considered a preliminary decision making activity. No such activity shall be considered final agency action for purposes of judicial review. No activity of the Secretary or the President under sections 203, 204, 205, or 206(a) shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

''(b) STANDARDS AND CRITERIA.—The promulgation of standards or criteria in accordance with the provisions of this title, or under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42

U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

''(c) REQUIREMENTS RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.—

''(1) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),—

''(A) in any final environmental impact statement under sections 205 or 206, the Secretary or the Commission, as applicable, shall not be required to consider the need for a repository or any interim storage facility; the time of initial availability of a repository of interim storage facility; the alternatives to geological disposal or centralized interim storage; or alternative sites to the Yucca Mountain site or the interim storage facility site designated under section 204(c)(1); and

''(B) compliance with the procedures and requirements of this title shall be deemed adequate consideration of the need for centralized interim storage or a repository; the time of initial availability of centralized interim storage or the repository or centralized interim storage, and all alternatives to centralized interim storage and permanent isolation of high-level radioactive waste and spent nuclear fuel in an interim storage facility or a repository, respectively.

''(2) The final environmental impact statement for the repository prepared by the Secretary and submitted with the license application for a repository under section 206(c) shall, to the extend practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(c) CONSTRUCTION WITH OTHER LAWS.—Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

''(d) JUDICIAL REVIEW.—Judicial review under section 502 of this Act of any environmental impact statement prepared or adopted by the Commission shall be consolidated with the judicial review of the licensing decision to which it relates.

''SEC. 208. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

(3) NOTICE AND MAPS.—Concurrent with the Secretary's designation of an interim storage facility site under section 204(c)(1), the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

''SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

''(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if their integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

''SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

''SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States or any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or wavier, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

''SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before

Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

''SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after the effective date of the construction authorization issued by the Commission for the repository under section 206(g), all right, title and interest of the United States in the property described in subsection (b) and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

''SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF THE SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of fees to the Secretary in the amounts set under paragraphs (2), (3), and (4), sufficient to offset expenditures described in subsection (c)(2). Subsequent to the enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

''(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

''(i) any unobligated balance collected pursuant to this paragraph during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

''(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

''(C) For purposes of this paragraph, the term 'offsetting collection period' means—

''(i) the period beginning on October 1, 1999 and ending on September 30, 2003; and

''(ii) the period on and after October 1, 2006.

''(3) NUCLEAR WASTE MANDATORY FEE.—

''(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

''(i) 1.0 mill per kilowatt-hour generated and sold, minus

''(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

''Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

''(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

''(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,'' dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comments) after the date of enactment of the Nuclear Waste Policy of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

''(ii) rely on projections from the Energy Information Administration, consistent with the projection contained in the reference case in the most recent 'Annual Energy Outlook' published by such administration in making any estimate of future nuclear power generation; and

''(iii) take into account projected balance in, and expenditures from, the Nuclear Waste Fund.

''(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenue are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

''(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(A) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(B) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403—

the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

''(5) EXPEDITED PROCEDURES FOR APPROVAL OF CHANGES TO THE NUCLEAR WASTE MANDATORY FEE.—

''(A) At any time after the Secretary transmits a proposal for a fee adjustment under paragraph (3)(C) of this subsection, a joint resolution may be introduced in either House of Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the adjustment to the basis for the nuclear waste mandatory fee, submitted by the Secretary on XX.' (The blank space being appropriately filled in with a date).

''(B) A joint resolution described in subparagraph (A) shall be referred to the committees in each House of Congress with jurisdiction.

''(C) In the Senate, if the committee to which is referred a joint resolution described in subparagraph (A) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the date on which it is introduced, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

''(D) In the Senate, the procedure under section 802(d) of title 5, United States Code,

shall apply to a joint resolution described under subparagraph (A).

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a)(3), (a)(4), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) PURPOSES OF THE NUCLEAR WASTE FUND AND THE NUCLEAR WASTE OFFSETTING COLLECTION—Subject to subsections (d) and (e) of this section, the Secretary may make expenditures from the Nuclear Waste Fund or the Nuclear Waste Offsetting Collection in section 401(a)(2) only for—

''(A) identification, development, design, licensing, construction, acquisition, operation, modification, replacement, decommissioning, and post-decommissioning maintenance and monitoring of the integrated management system or parts thereof;

''(B) the administrative cost of the integrated management system, including the Office of Civilian Radioactive Waste Management under section 402, the Nuclear Waste Technical Review Board under section 602, and those offices under the Commission involved in regulation of the integrated management system or parts thereof; and

''(C) the provision of assistance and benefits to States, units of general local government, nonprofit organizations, joint labor-management organizations, and Indian tribes under title II of this Act.''.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund;

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings, and

''(ii) interest earned on these obligations shall be credited to the Nuclear Waste Fund.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund and the Nuclear Waste Offsetting Collection, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''(a) CONFLICTING REQUIREMENTS.—Except as provided in subsection (b) of this section, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

''(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this Act or a regulation prescribed under this Act is not possible; or

''(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this Act or a regulation prescribed under this Act.

''(b) SUBJECTS EXPRESSLY PREEMPTED.—Except as otherwise provided in this Act, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this Act or a regulation prescribed under this Act, is preempted:

''(1) The designation, description, and classification of spent fuel or high-level radioactive waste.

''(2) The packing, repacking, handling, labeling, marketing, and placarding of spent nuclear fuel or high-level radioactive waste.

''(3) The siting, design, or licensing of—

''(A) an interim storage facility;

''(B) a repository;

''(C) the capability to conduct intermodal transfer of spent nuclear fuel under section 201.

''(4) The withdrawal or transfer of the interim storage facility site, the intermodal transfer site, or the repository site to the Secretary of Energy.

''(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of packaging or a container represented, marked, certified, or sold

as qualified for use in transporting or storing spent nuclear fuel or high-level radioactive waste.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXECUTIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral arguments, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with

the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

"SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

"SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) Subject to the conditions contained in the license for the interim storage facility, the Secretary's spent fuel and high-level radioactive waste emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2003 and 1,200 MTU in fiscal year 2004; 2,000 MTU in fiscal year 2005 and 2000 MTU in fiscal year 2006; 2,700 MTU in fiscal year 2007; and 3,000 MTU annually thereafter.

''(3) Subject to the conditions contained in the license for the interim storage facility, of the amounts provided for in paragraph (2) for each year, not less than one-sixth shall be—

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997.

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation activities; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from research or atomic energy defense activities; Provided, however, that the Secretary shall accept not less than five percent of the total quantity of fuel and high-level radioactive waste accepted in any year from the categories of radioactive materials described in subparagraphs (B) and (C).

''(b) If the Secretary is unable to begin emplacement by June 30, 2003 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2003, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2003.

"SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 510. WATER RIGHTS.

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"SEC. 511. DRY STORAGE TECHNOLOGY.

''The Commission is authorized to establish, by rule, procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment of the Nuclear Waste Policy Act of 1997.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

''(1) site characterization activities; and

''(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

''(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under

paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

''(3) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(4) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession, of, and delivery of spent nuclear fuel and high-level radioactive waste in accordance with the emplacement schedule under section 507;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for the five fiscal years beginning after the fiscal year in which the date of enactment of the Nuclear Waste Policy Act of 1997 occurs.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.

"TITLE VIII—MISCELLANEOUS

"SEC. 801. SENSE OF THE SENATE.

It is the sense of the Senate that the Secretary and the petitioners in *Northern States Power (Minnesota)*, v. *Department of Energy*, pending before the United States Court of Appeals for the District of Columbia Circuit (No. 97–1064), should enter into a settlement agreement to resolve the issues pending before the court in that case prior to the date of enactment of the Nuclear Waste Policy Act of 1997.

"SEC. 802. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall become effective one day after enactment.''.

THURMOND (AND HOLLINGS) AMENDMENT NO. 27

Mr. THURMOND (for himself and Mr. HOLLINGS) proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

On page 28, line 16, after ''Washington'' insert the following: '', and the Savannah River Site and Barnwell County in the State of South Carolina,''.

NOTICE OF HEARING

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Friday, April 11, 1997, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Food and Drug Administration [FDA] reform. For further information, please call the committee, 202/224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Tuesday, April 29, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony from the General Accounting Office on their evaluation of

the development of the draft Tongass land management plan.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 9, 1997, at 9:30 a.m. on the nomination of Kenneth Mead to be inspector general of Department of Transportation.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 9, 1997, at 10 a.m. on aviation accidents: investigations and responses.

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

COMMITTEE ON FINANCE

Mr. GRAMS. Mr. President, the Finance Committee requests unanimous consent for the full committee to hold a hearing on Medicare payment policies for post-acute care on Wednesday, April 9, 1997, beginning at 10 a.m. in room SD–215.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, at 2 p.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 9, 1997, at 1:30 p.m. for a hearing on the role of the Department of Commerce in the Federal statistical system, and opportunities for reform and consolidation.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet on Wednesday, April 9, 1997, at 10 a.m. in open session, to receive testimony on unmanned aerial vehicle programs, operations and modernization effort in review of S. 450, the National Defense Authorization Act for fiscal years 1998 and 1999.

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

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development, of the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, to conduct a hearing on S. 462, the Public Housing Reform and Responsibility Act of 1997.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, to hold a hearing.

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

ADDITIONAL STATEMENTS

CONGREGATION KOL HAVERIM

● Mr. LIEBERMAN. Mr. President, I rise today to honor Congregation Kol Haverim of Glastonbury, CT, in recognition of the groundbreaking for its new synagogue building held on April 13, 1997. Through sheer determination, a singleness of purpose and spirit, as well as the considerable generosity of its members and the community at large, this congregation of 200 families is now realizing a dream that no one would have thought possible only a few short years ago.

Congregation Kol Haverim was formed only 13 years ago by a handful of Jewish families in the Glastonbury area, worshiping initially in the backroom of a local grocery store, and later purchasing a former Knights of Columbus hall that serves as its present one room home. Over the past 2 years, the congregation has raised over $1.3 million and its architects have designed a new building, to be added as an addition to the existing facility, that has been praised by local town planning and zoning officials as a model of design for new construction in the area.

In addition to attending to the spiritual needs of its members through worship services and its ever-growing religious school, Congregation Kol Haverim has always tried to attend to the needs of the local community and Greater Hartford, as well, through its various adult education, community outreach, and other programs. Whether through sponsoring a lecture or the volunteers it regularly provides to local soup kitchens or its participation in area-wide food or clothing drives, Congregation Kol Haverim, like other houses of worship in the area, has always strived to give of itself to the surrounding communities from which it draws its strength. The new building will provide a pleasant and welcoming new home for sacred study, communal worship, and social action.

I congratulate Congregation Kol Haverim, as it begins this new chapter in its existence. I thank its members for their initiative and all the good work they have done over the past 13 years, and I encourage them to continue to address all the good work that remains to be done.●

IN HONOR OF THE FALLEN AIRMEN OF THE 440TH AIRLIFT WING

● Mr. KOHL. Today, Mr. President, I would like to take a moment to remember the men and women of the 440th Airlift Wing, based at Mitchell Field in Milwaukee, who died and were injured in the course of their duty on April 1, 1997. At a treacherous airport in Honduras, far from home, three airmen made the ultimate sacrifice for their country. On a routine resupply mission, their C–130 skidded off the end of the runway while attempting to land at Tocontin International Airport in Tegucigalpa. The plane burst into flames killing Senior M. Sgt. Leland Rassmussen, S. Sgt. Vicki Clifton, and Senior Airman Samuel Keene. Also injured in the crash were T. Sgt. Joseph Martynski, Capt. Ian Kincaid, M. Sgt. Steven Hilger, T. Sgt. Danny Formanski, Capt. Michael Butler, S. Sgt. Dean Ackmann, and Capt. Robert Woodard.

The 440th flies out of my hometown, Milwaukee, WI and I am proud of their commitment to excellence. Over the years they have been called on many times to serve their country in foreign lands and dangerous circumstances. They are an example of the best the Reserve system has to offer, and I was deeply saddened to hear of their loss.

Too often we take for granted the risks members of the military run on a day-to-day basis. We assume that because the United States is at peace soldiers do not face danger. While in fact, everyday men and women in our armed services put their lives on the line. They do it quietly and without fanfare. It seems that only when tragedy strikes do we take a moment to appreciate their courage and sacrifice.

I would also like to take a moment to thank those brave Honduran citizens who risked their lives to help victims

of the crash. With the wreckage burning only 100 yards from two gas stations, these good Samaritans waded into the fiery crash site to rescue complete strangers. Because of their selfless courage, lives were saved and crippling injuries avoided.

Those injured in the accident have my best wishes for a speedy and complete recovery. My heart goes out to the families of Leland, Vicki, and Samuel. Over the years these three airmen have foregone time with their families in order to serve their country, and now the Nation owes them a debt it can never fully repay. All we can offer is our deepest sympathy and highest esteem.●

CHRISTOPHER REEVE ON MEDICAL RESEARCH

● Mr. HARKIN. Mr. President, on March 13, 1997, along with Senator ARLEN SPECTER, I introduced bipartisan legislation, S. 441, the National Fund for Health Research Act. This important bill would provide additional resources for health research over and above those provided to the National Institutes of Health in the annual appropriations process. The fund will help eradicate some of the illnesses that now strike millions of Americans.

At this time I would like to submit for the RECORD a letter from Christopher Reeve endorsing the National Fund for Health Research Act. Christopher Reeve has worked tirelessly since his accident to increase funding for medical research. We all owe Christopher Reeve a debt of gratitude for bringing health care concerns to the attention of all Americans. He and I both realize that the Fund for Health Research Act could hold the key to finding successful treatments for hundreds of diseases. In his letter, Christopher Reeve states that S. 441 will give our best researchers the funds they need to stay ahead of a developing crisis. I agree wholeheartedly with his assessment and urge the Senate to move quickly on this legislation. I now ask that the text of Christopher Reeve's letter be printed in the RECORD.

The letter follows:

CHRISTOPHER REEVE,
March 20, 1997.

President CLINTON,
The White House, Washington, DC.

DEAR MR. CLINTON. I was sorry to hear about your unfortunate accident but glad to know you will make a full recovery and that your activities won't be limited in the future. The sight of you in a wheelchair was very moving but also a helpful image for all Americans particularly the disabled.

At the risk of becoming a pest, I'm taking this opportunity to ask your support for legislation introduced last week by Senators Specter and Harkin which would require insurance companies to donate 1 penny out of every dollar they receive in premiums to the NIH. It is estimated that this would provide an additional $6 billion dollars annually for research.

I feel it is an excellent proposal because it does not raise taxes, the insurance companies can afford it and they ultimately receive the additional benefit of having to pay for fewer claims. And as I am sure you're aware, recent studies have shown the cost effectiveness of research, is of course a crucial factor in the balanced budget debate. As America ages, the attendant health problems will not go away unless we give our best researchers the funds they need to stay ahead of a developing crisis.

Thank you again for all the helpful comments you have made so far about research since the convention last year. Now is the time for all of us to push into high gear.

With best wishes for a speedy recovery.

Sincerely,

CHRISTOPHER REEVE,
(Signed by Michael Manganiello,
Special Assistant to Christoper Reeve).●

COMMEMORATING THE CITY OF NASSAU BAY'S ASTRONAUT DAY FESTIVAL

● Mrs. HUTCHISON. Mr. President, I rise to commend the city of Nassau Bay for its efforts to celebrate the development of space exploration and the international cooperation associated with it. Nassau Bay is hosting a special day of recognition for America's astronauts and their Russian counterparts on April 12, 1997. In addition, the State of Texas has proudly honored these brave men and women by declaring April 12th ''Space Explorers' Day'' in Texas. I rise today to appropriately recognize this day in the U.S. Senate.

Nassau Bay is located near NASA's Lyndon B. Johnson Center. The community has been integrally involved in this Nation's space exploration activities since we began the space program a generation ago. Nassau Bay residents were among those to walk on the Moon and provide the technical and managerial support necessary for America's successful space program. Today, Nassau Bay is still critical to NASA's manned space mission. Nassau Bay rightfully celebrates the continuation of that mission by hosting ''Astronaut Day'' on April 12.

Astronaut Day celebrates the men and women who have expanded humankind's horizons and recognizes the technological advances resulting from their work that have been incorporated into our everyday lives. I join Nassau Bay and the State of Texas in honoring the many dedicated men and women who devote their time and talents to helping this Nation realize the cherished dream of space exploration. They have truly broadened the frontiers of knowledge and their outstanding accomplishments are worthy of special recognition.

Mr. President, I appreciate this opportunity to give Nassau Bay the recognition it deserves in the U.S. Senate. I urge my colleagues to join me, the city of Nassau Bay, and the State of Texas in reflecting on the important contributions our space pioneers and explorers have made to history, science, and the quality of our lives on this planet.●

GIRL SCOUTS AND BOY SCOUTS OF RHODE ISLAND, 1996

● Mr. CHAFEE. Mr. President, it is with great pleasure that I present to you Rhode Island's outstanding recipients of the highest honors for Girl Scouts and Boy Scouts. They have distinguished themselves as community leaders, service volunteers, and mentors for their peers.

For more than 50 years, artist Norman Rockwell captured in his paintings the spirit and sense of America and its people. A large number of these paintings portrayed Scouts and Scouting. Few other childhood activities better represent the commitment to God, country, and community that is inherent in Scouting.

Providing girls and boys with tools and leadership skills that will be useful throughout their lives, Scouting is indelibly linked with transforming youths into able, educated, well-rounded adults. Activities like camping, service projects, and weekly meetings aim to build character, encourage responsible citizenship, and develop physical, mental, and emotional fitness.

The highest honors that a Girl Scout can earn are the Gold and Silver Awards, which are presented to those girls who have shown exemplary commitments to personal excellence and unwavering public service. Likewise, the Eagle Award is the highest honor that can be earned by a Boy Scout. Recipients have displayed the highest achievable skills in outdoor activities and incomparable service records.

Behind every Girl Scout and Boy Scout troop is a group of similarly dedicated parents and leaders who guide the youths through their achievements.

It is for all these reasons that I am proud to honor the recipients of Girl Scouts' Gold and Silver Awards and the Boy Scouts' Eagle Scout Award. The outstanding achievements of these young recipients warrant our praise, admiration, and thanks. So that we all may know who they are, I ask that the complete list of awardees be printed in the RECORD.

The list follows:

GIRL SCOUT 1996 GOLD AWARD RECIPIENTS

CUMBERLAND, RI

Nicole Tetreault.

JOHNSTON, RI

Shannon Quigley, Sandra Shackford.

NARRAGANSETT, RI

Kate Hohman, Renee Johnson, Jill Raggio.

NORTH PROVIDENCE, RI

Marissa Borrelli.

SAUNDERSTOWN, RI

Angela Briggs.

SMITHFIELD, RI

Heather Harkness, Christina Riccio.

WAKEFIELD, RI

Meghan Higgins.

WOONSOCKET, RI

Melissa Brin.

GIRL SCOUT 1996 SILVER AWARD RECIPIENTS

BRISTOL, RI

Sara Belisle, Kathleen Cahill, Sandra Koch, Afiya Samuel.

CRANSTON, RI

Robin Grady, Bethany Lavigne, Kathryn Mullican, Jessica Sanchez.

CUMBERLAND, RI

Suzanne Gustafson, Elizabeth Rivard.

EAST GREENWICH, RI

Elissa Carter.

EXETER, RI

Laura Moriarty.

KENYON, RI

Tracy Williams.

LINCOLN, RI

Johanna Simpson.

LITTLE COMPTON, RI

Ruth Gordon.

MIDDLETOWN, RI

Meredity Benvenuto, Meghan Franklin, Elizabeth Mack, Heather Markman, Casey Serls.

NARRAGANSETT, RI

Lucia Marotta.

NEWPORT, RI

Mary Ann Compton, Amanda Grosvenor, Jennifer Sawyer.

NORTH KINGSTOWN, RI

Kelly Blinkhorn.

NORTH PROVIDENCE, RI

Nicole Aiello, Beth Bader, Bonnie Bryden, Sarah Cardin, Jenifer DeGrace, Laura Ann DiTommaso, Jean Ann Douglas, Valeria Ferrara, Sabra Integlia, Alison Kole, Carissa Leal, Candida Linares, Karen Linares, Summer Lockett, Pamela Ricci, Dawn Shurtleff, Stephanie Swartz.

NORTH SMITHFIELD, RI

Maureen McPherson, Laura Peach, Sarah Peach, Lisa Rowey, Heather Senecal.

PAWTUCKET, RI

Briana Fishbein, Nicole Gendron, Alyssa Nunes.

PORTSMOUTH, RI

Jennifer Lake, Carrie Miller, Elizabeth Nunes.

PROVIDENCE, RI

Arielle Ascrizzi, Mika Clark, Angela Fayerweather, Rita McCartney, Stacy Montvilo.

SAUNDERSTOWN, RI

Karena Burnham.

WARREN, RI

April Lau, Nicole Peck, Jody Valente.

WARWICK, RI

Carolyn Beagan, Sara Berman, Amanda Cadden, Becky Csizmesia, Justine Evans, Kristen Giza, Bethany Linden, Amanda Marcoccio, Kerri McLaughlin, Lauren Ramieri, Catherine Rousseau, Leah Wallick.

WEST GREENWICH, RI

Rachel Fontaine.

WEST KINGSTON, RI

Audra Criscione.

WEST WARWICK, RI

Tracyjo Jorgensen, Jennifer Malaby, Kerrin Massey.

WESTERLY, RI

Jamie Hanson, Karen McGrath, Heather Norman.

WYOMING, RI

Kelly Marie Henry.

BOY SCOUT 1996 EAGLE AWARD RECIPIENTS

BARRINGTON, RI

John Eugene McCann IV, Curtis G. Barton, Thayer Harris, Bretton R. McDonough, Benjamin A. Rasmussen, William Prescott Read, Christopher J. Ryan, Jeffrey J. Previdi, Brian Wood, Casey M. O'Donnell, Nicholas C. Seadale, Brian C. Keeney, N. Ross Kiely.

BLACKSTONE, MA

Kevin M. Boyko, Timothy P. Doyle.

BRISTOL, RI

Michael David Blank, Raymond B. Murray.

BURRIVILLE, RI

Kenneth DeBlois.

CENTRAL FALLS, RI

Daniel Joseph Malenfant.

COVENTRY, RI

Michael B. Sullivan, Jeffrey A. Taylor.

CRANSTON, RI

Zaven R. Norigian, Benjamin Mark Terry, Michael Frank Ferraro, Seth Benjamin Kahn, Michael P. Gallo, Michael W. Libby, Kevin Michael Thurber, Joshua A. Terry, David O. Ober, Matthew Brian Beltrami.

CUMBERLAND, RI

Sven John Myeberg, Adam Ryan Dau, Albert R. Greene III.

EAST GREENWICH, RI

William R. Sequino, J. David C. M. Whittingham, Derrick James Mong, Derek L. Flock, Matthew V. Cawley, Matthew Lundsten, Matthew Wolcott, Mark A. Fondi.

FOSTER, RI

Adam C. Copp, Nickolas A. Charrette.

GLOCESTER, RI

Scott Adam Carpenter, Steven Bruce Nelson.

HOPKINTON, RI

James M. Lord.

JOHNSTON, RI

Robert F. Amato, Daniel C. Ullucci, Donald J. Bressette, William J. Giblin, Jr., Steven E. Piccotte, Jr.

KINGSTON, RI

Dana Clark Seaton.

MANVILLE, RI

Christopher Scott Horton.

MIDDLETOWN, RI

Michael A. Incze.

NEWPORT, RI

Jesse Silvia, Michael A. Thomas, Jr., Robert A. Zeuge, Doug M. Nelson, Roland E. Zeuge, John Kenneth Mossey.

NORTH KINGSTOWN, RI

Andrew J. Vanasse, Donald T. Braman, Nicholas J. Veasey.

NORTH SCITUATE, RI

Mark Ullucci.

NORTH SMITHFIELD, RI

Joshua S. Mowry, Timothy M. Reilly, David R. Katz.

PAWTUCKET, RI

Jonathan A. Bray, Jupesi Gonzalez, Jessie Alan Dyer.

PORTSMOUTH, RI

Jason C. Weida, Michael David Andrews, Samuel Magrath IV, Scott R. Obara, Douglas M. Doherty, Kenneth E. Hoffman, Jr., Christopher Cardoza, Jason J. Reynolds.

PROVIDENCE, RI

Andrew P. Magyar, Peter N. Wood, Jr., Brendan R. Foley-Marsello, Jeremy S. Harkey, Matthew T. Whitman, Michael Edward Winiarski, Nicholas Q. Emlan, Damon G. Cotter, Luke C. Doyle, William David Garrahan, Richard James Marcoux, Andrew M. Good.

RIVERSIDE, RI

Michael W. Caine, Michael L. Robertson, Kevin J. Smith, Matthew Michael Hodges, Eric Olson.

SAUNDERSTOWN, RI

Joshua J. Gabriel.

SCITUATE, RI

Scott D. Bear, Jared A. Fasteson, Wayne F. Smith.

SEEKONK, MA

Matthew James Schupp, Zebulon P. Fox, Andrew L. Libby.

WARWICK, RI

Jon Thomas Selby, Marc A. Berman, Chris C. Schreib, Joseph Michael Bizon, Michael J. Narowicz, Joseph M. O'Connor, Michael A. Milner, Jason G. Naylor, Steven M. Sullivan.

WEST GREENWICH, RI

Edward C. Morgan, Geoffrey Albro.

WEST WARWICK, RI

Steven R. Bentley, John Richard Ferri, Joshua Joseph Roch, Paul Ambrose Lague, Brendon M. Warner, Jonathan Santini, Eric R. Bosworth, Dana P. Graves, Jacob James Cahalan, Charles Gardner.

WESTERLY, RI

Peter E. Cabral.●

SIXTH ANNIVERSARY OF THE RE-INDEPENDENCE OF THE REPUBLIC OF GEORGIA

● Mr. McCONNELL. Mr. President, I rise today to commemorate the sixth anniversary of the re-independence of the Republic of Georgia.

Georgia has a rich cultural heritage spanning over 2,000 years, and recent history provides a remarkable story in the struggle against communism. First annexed by Russia in 1801, Georgia experienced a brief glimpse of independence in 1918 when Georgia relinquished its ancient monarchy for a democratically elected government. In 1921, however, the iron curtain descended on this small, yet proud country, and over the next 70 years suffered terribly under the heavy hand of Soviet communism and its centrally planned economy. Through it all, the Georgian people never gave up their hope or desire for freedom and independence.

On April 9, 1989, violence erupted in the Georgian capitol of Tbilisi, as Soviet troops swarmed the city and fell on 10,000 peaceful citizens demonstrating for independence. During the ensuing violence, more than 200 people were injured and 19 killed. Some, including women and children, were tragically beaten to death with shovels. This event marked the beginning of the end of Soviet domination. Exactly 2 years later, on April 9, 1991, Georgia officially declared its independence, a day which is remembered as the anniversary on which Georgia's long fight for freedom was again realized.

Since then, under the leadership of President Eduard Shevardnadze, Georgia has made remarkable strides toward a free market economy and democratic rule of law. A constitution founded on democratic principles and values has been adopted, and free and fair presidential and parliamentary elections were held. A new generation of young, energetic democratic leaders has emerged, led by 34-year-old Zurab Zhvania, Chairman of the Parliament,

who I recently met with. On the economic front, Georgia's new currency, the lari, has remained stable since its introduction in 1995. The International Monetary Fund and the U.S. Department of State have praised Georgia's economic initiatives and their significant progress in developing a free-market economy. Several U.S. corporations have already established a presence in Georgia, spurring jobs and economic growth in both nations.

Mr. President, I encourage everyone to note this historic day, and congratulate Georgia on its extraordinary progress toward democracy and free-market principles.●

RAISING ACADEMIC STANDARDS AND LOWERING COLLEGE COSTS AT WEST MESA HIGH SCHOOL, ALBUQUERQUE, NM

● Mr. BINGAMAN. Mr. President, I rise to honor the achievements of the students and educators at West Mesa High School in Albuquerque, NM, and especially its growing Advanced Placement [AP] program.

On Tuesday, April 1, I had the opportunity to visit West Mesa and speak with students and teachers participating in the school's AP program. Several State legislators and business leaders joined me in a short but invaluable group discussion and class visit.

Perhaps most impressive was the visit to one of Mr. Tomas Fernandez' AP English classes, where students explained in their own words why AP courses are so important. In this class, the students don't ask for less home work or ''dumbed-down'' classes; they are demanding more challenging classes and higher academic expectations for all students. While AP classes are new to many, and set a very high standard, the students had found that they could succeed.

Principal Milton Baca and a growing number of West Mesa teachers are responding to this demand by providing more and more challenging classes in the school's growing AP program. For example, West Mesa recently added an AP Calculus course in addition to its AP English course, and five teachers attended AP teacher training institutes last summer. More teachers are planning to attend AP training courses this summer so they can start an AP science course in the next school year. I applaud all of these efforts.

For college-bound students, taking AP courses and passing AP exams can translate into valuable college credits for advanced high school work. For those AP students who decide not to go to college, they and their prospective employers can be confident that they are better prepared academically and will have an advantage as they compete for jobs and enter the work force.

Because AP programs are so beneficial to both work- and college-bound students, I have been working on efforts to expand these programs, as part of the solution to our State's clear need for immediate, measurable education reform. To show the importance of strong academic skills to employers, I am working with several businesses in New Mexico to develop employment incentives for students who take and pass AP exams, especially in the core academic areas of English, math, and science. In addition, I am gratified that the State legislature increased funding for the AP New Mexico program to $200,000 next year, as I requested in testimony before the relevant committees.

Despite this important progress, West Mesa High School and New Mexico have a long way to go to more fully utilize the AP program as a way to challenge high school students, raise academic achievement to higher levels, and improve our long-term economic productivity. In New Mexico, roughly 5,000 students took AP classes in 1996—up 22 percent from 2 years ago—with a 20-percent increase in AP tests taken, but this is still below the national average. New Mexico's per-capita participation rate remains 20 percent lower than Arizona's and 40 percent below the national average.

We are facing an uphill struggle to improve our schools and students' academic performance in several areas, including making better use of the AP program. But the strides that West Mesa High School is making are compelling evidence that we can make real and lasting positive change in our schools. I congratulate West Mesa's students and teachers on their accomplishments so far, wish them well on further advancement, and offer my assistance as they continue to improve.●

UNIVERSAL SERVICE IMPLEMENTATION

● Mr. MCCAIN. Mr. President, I have read the report in the Wall Street Journal that Federal Communications Commission Chairman Reed E. Hundt proposes to implement only a portion of the new universal service fund rules by the statutory deadline of May 8. Specifically, he suggests delaying the adoption of rules assuring reasonable rates for telephone subscribers in rural and high-cost areas, although he would proceed to implement a new $3 billion yearly fund to wire schools, libraries, and health care facilities through an unspecified tax on telephone company revenues.

Last January I wrote to Chairman Hundt about his apparent desire to implement these provisions prior to implementing the remainder of the universal service provisions of the statute. At that time, I stated that sound implementation of the Telecommunications Act requires that the Commission resolve all the related issues involved in universal service carefully and contemporaneously.

Apparently Chairman Hundt has not changed his view, Mr. President, but neither have I.

Implementing universal service funding in separate stages would be incompatible with the law. The Telecommunications Act of 1996 states clearly and unambiguously that the FCC ''shall initiate a single proceeding to implement the recommendations from the Joint Board . . . and shall complete such proceeding'' by May 8, 1997.

It would be consistent with this unequivocal statutory requirement for the FCC to adopt specific new rules on May 8 and have them take effect in the future. It would also be consistent with the statute for the FCC to adopt general outlines of new rules on May 8, and fill in specific details by subsequent order. The FCC can, and in my judgment should, avail itself of these courses of action if it finds, for whatever reason, that it cannot adopt final rules on all aspects of universal service on May 8. But one thing the FCC cannot do by law is pick and choose some statutory requirements to put into effect on May 8, and delay the rest till later.

Let me be clear. I can understand the possible problem Chairman Hundt faces: too much proposed subsidy, and not enough revenue to handle it without raising rates for telephone service. I emphatically am not suggesting that he simply proceed to adopt final universal service fund rules and thereby raise telephone rates on May 8. But if, after studying universal service as extensively as it has, the FCC has concluded that it cannot implement the universal service provisions of the statute without increasing telephone rates or incurring similar unacceptable outcomes, it must defer from implementing any universal service rules until it can satisfactorily demonstrate to both the Congress and the public that any rate increases that would result are inevitable in fact and appropriate in amount.

Unless and until the FCC can do that, the Commission should take no final action on universal service. To try and evade the issue by implementing the parts of universal service that may be politically desirable while dodging the rest because it appears politically unpalatable would be a dereliction of the Commission's duty under law.●

HONORING LARA GREEN SPECTOR

● Mr. LAUTENBERG. Mr. President, I rise to honor Lara Green Spector, the Tobacco-Free Kids East Regional Youth Advocate of the Year. Lara is a ninth grader from Montclair High School in New Jersey who truly exemplifies the old adage that one person can make a difference.

Lara was the motivating force behind Montclair's recently passed ordinance banning cigarette vending machines and self-service displays. Who knows how many Montclair teenagers and children may not take up smoking because cigarettes are now more difficult to obtain. And local public officials, school advisers and residents all agree that this ordinance would never have

become a reality without Lara's initiative, leadership and tenacity.

Lara also organized a townwide program for the Great American Smokeout in November 1996. Her program included a poster contest in the local elementary schools and a quiz contest in the middle schools. She also created and distributed a fact sheet to every Montclair student. For years, tobacco companies have used youth oriented advertisements, like Joe Camel, to send a false message to young people that smoking is cool and glamorous. Education campaigns like Lara's help blow away their smoke screens and demonstrate that cigarettes are addictive and deadly.

Mr. President, for years, I have led the crusade in this Chamber against teenage and youth smoking. I am certainly happy to have an exceptional foot soldier like Lara join me in the fight.

By working to stop children and young people from smoking, Lara Green Spector is enhancing lives and saving lives. She is an outstanding student, activist, and citizen, and I have a feeling that we have not heard the last from her on Capitol Hill.●

COMMEMORATING THE 50th ANNIVERSARY OF JACKIE ROBINSON'S DEBUT IN PROFESSIONAL BASEBALL

● Mrs. FEINSTEIN. Mr. President, 50 years ago a true American hero walked onto Ebbets Field one afternoon and forever shattered the color barrier with one swing of his bat. His name was Jack Roosevelt Robinson.

On that day, 7 years before Brown versus the Board of Education allowed school children of all colors to sit in the same classroom, 16 years before Martin Luther King Jr. spoke of his dreams at the foot of the Lincoln Memorial, and 18 years before the Civil Rights Act became the law of the land, Jackie Robinson did more for the equal rights movement and the sport of baseball than had anyone before him.

Jackie Robinson on April 15, 1947, became the first professional black athlete to play America's pastime, baseball. In his Brooklyn Dodgers uniform, he not only broke the color barrier, but he also broke numerous baseball records during his 10-year professional career.

By the end of his tenure as a player, Jackie Robinson would become one of America's most celebrated and honored athletes. He became major league baseball's first Rookie of the Year—an award now named after him, the national league's Most Valuable Player, holder of the coveted batting title, a six-time member of Dodgers' World Series teams, a member of the 1955 world champion Dodgers, and a member of the Baseball Hall of Fame.

As the senior U.S. Senator representing California, I am particularly proud of the fact that Jackie Robinson was from the Golden State, raised in Pasadena, and was a star athlete at the University of California at Los Angeles. At UCLA, Robinson became the first athlete ever to win varsity letters in four sports: baseball, basketball, football, and track.

Such an amazing and talented athlete, however, was not welcomed into the arms of American baseball fans or of its players back in the spring of 1947.

Jackie Robinson fought prejudice and harassment with every base he ran, every ball he hit, and every victory he helped win for his team. Players and coaches yelled racial slurs at him, and one team even threatened to strike in protest of Robinson's presence in their city. But Robinson, remembering how his mother refused to sell their family home and move away amid protests from white neighbors, persevered.

He faced hatred and racism with courage and conviction, proving to teammates, opponents and fans alike that he had earned the right to play professional baseball through his sheer athleticism. Along the way, Robinson became the role model for future baseball icons such as Hank Aaron and Willie Mayes.

Shortly after his retirement from baseball in 1957, Jackie Robinson helped to further the rights of all African-Americans by becoming a spokesman and fundraiser for the National Association for the Advancement of Colored people [NAACP]. He traveled the country urging black communities to work together for equal rights, educating and encouraging them to participate in the new civil rights movement. He became a role model all over again, this time to millions of men and women who saw inequality and wanted to change it.

Jackie Robinson represents everything good with baseball, and everything great with America. By commemorating his achievements and his entrance onto the professional baseball fields, his legacy lives on, inspiring yet another generation of fans to realize their dreams and break new ground along the way.

Jackie Robinson once said, ''A life is not important except in the impact it has on other lives.'' By that standard, Jackie Robinson's life was as important as America's greatest heroes throughout history, and we as a nation are all grateful and proud of his accomplishments.

Major league baseball has recognized Jackie Robinson's achievements by dedicating the 1997 season to his memory. As part of these festivities, last week's opening day games were played in all major league stadiums with a Jackie Robinson commemorative baseball. Just last weekend, the Los Angeles Dodgers paid tribute to the Hall of Famer in a pregame ceremony attended by Rachel Robinson, Jackie's widow.

The Dodgers plan many other activities throughout the year such as a Jackie Robinson poster distributed to all Los Angeles district schools, a special section devoted to Robinson on the Dodgers' official web site, a salute to Jackie Robinson scholarship winners, an historic Robinson display at Dodger Stadium and assistance with the Jackie Robinson Foundation Golf Classic. Additionally, President Clinton will honor his memory with Rachel Robinson in an April 15 ceremony at Shea Stadium during a game between the Dodgers and the New York Mets.

I salute the memory of Jackie Robinson on this, the 50th anniversary of his becoming the first black baseball player in the major leagues.●

MEASURE READ THE FIRST TIME—S. 543

Mr. LOTT. Madam President, I understand that S. 543, introduced today by Senator COVERDELL, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

Mr. LOTT. I now ask for its second reading and object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR THURSDAY, APRIL 10, 1997

Mr. LOTT. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, April 10.

I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the Thurmond amendment to S. 104, the Nuclear Policy Act.

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

PROGRAM

Mr. LOTT. Madam President, for the information of all Senators, tomorrow at 9:30 a.m. the Senate will resume consideration of the Thurmond amendment to the Nuclear Policy Act. Thus far, we have made, I think, some progress on this important legislation. It is my hope that the Senate will be able to make additional progress during tomorrow's session and that we will be able to bring it to conclusion. But I do want to advise Senators that we do expect the likelihood of votes on amendments tomorrow and possibly even final passage, although that is still being discussed.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:03 p.m., adjourned until Thursday, April 10, 1997, at 9:30 a.m.