INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. ROCKEFELLER. Mr. President, I want to commend my colleagues, Senators JEFFORDS, FRIST, HARKIN, and KENNEDY, and all the others that worked so long and hard to develop this bipartisan legislation. This is a carefully crafted compromise to balance the rights and concerns of school administrators and teachers as well as students and parents.

Because of attending a family memorial service in New York City, I could not be here for the final votes. Had I been in Washington, I would have supported the leadership and voted for final passage of the reauthorization of the Individuals With Disabilities Education Act, IDEA.

Our country should be proud of our efforts to provide education and opportunities to individuals with disabilities. Thanks to the IDEA, we opened schools to disabled children over 20 years ago and everyone in our society benefits from such inclusion and education.

In forging this legislation, leaders had to deal with difficult issues, including discipline problems sometimes involving weapons or drugs. Groups worked long and hard to develop an approach that would ensure that our schools are safe but that a disabled student's rights and education are are also protected. Classroom teachers will now be included in the planning and process which is a major change and important improvement.

Federal funding and leadership on IDEA is crucial, but this program is a partnership with States and local schools. West Virginia, like other States, assumes the lion share of education funding but Federal funding provides incentives and leadership. As always with a comprehensive reauthorization package, there are some lingering issues and questions. On balance, this legislation is a tremendous achievement that continues our Federal commitment to help disabled students in West Virginia and every State in our country.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 9TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending May 9, the United States imported 7,566,000 barrels of oil each day, 1,057,000 barrels less than the 8,623,000 imported during the same week a year ago.

While this is one of the few weeks that Americans imported less oil than the same week a year ago, Americans still relied on foreign oil for 53.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,566,000 barrels a day.

MESSAGES FROM THE HOUSE

At 12:06 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 49. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 67. Concurrent resolution authorizing the 1977 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 73. Concurrent resolution concerning the death of Chaim Herzog.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 914) to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures; with amendments, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 73. Concurrent resolution concerning the death of Chaim Herzog; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Elizabeth Anne Moler, of Virginia, to be Deputy Secretary of Energy.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 Mrs. HUTCHISON:

S. 738. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRYAN (for himself and Mr. REID):

S. 739. A bill to validate conveyances of certain lands in the State of Nevada that form part of the right-of-way granted by the United States to the Central Pacific Railway Company; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE:

S. 740. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

By Mr. BREAUX:

S. 741. A bill to amend the Communications Act of 1934 to enable the Federal Communications Commission to enhance its spectrum management program capabilities through the collection of lease fees for new spectrum for radio services that are statutorily excluded from competitive bidding, and to enhance law enforcement and public safety radio communications; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE:

S. 742. A bill to promote the adoption of children in foster care; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 743. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 744. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 738. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

Mrs. HUTCHISON. Mr. President, I think it is very important in this country that we have a national rail passenger system. Rail is a viable alternative transportation. We now have a bus system that is feeding into Amtrak stations so people can come from small communities on the bus, into the Amtrak station, and go anywhere in the country as long as we keep our national system. You can go from Marshall, TX, to Chicago, IL, or to San Antonio and then to Los Angeles or all the way to Florida. It is really an exciting opportunity.

However, Mr. President, the national rail passenger service that we have now is really just an experiment. It really does not work very well, through no fault of the people who run it. Tom Downs is actually doing a terrific job. But we in Congress have put so many constraints and mandates on him that he cannot possibly compete to survive.

So, in fact, it is time to get the railroad back on track. It is time to get

this railroad right. We can do it if Congress will correct some of the problems that we have put on this rail passenger train and let them compete. We have told them, ''Run a good railroad,'' but we have tied one arm behind their back. So now it is time to let them compete, with the help of the bill I am introducing, most of which passed out of the Commerce Committee last year.

I am chairman of the Surface Transportation Subcommittee. It is in my purview to reauthorize Amtrak, and I want to reauthorize it and reform it so that it can compete and, hopefully, by the year 2002, there will not have to be operational subsidies from the taxpayers of America. But there is no question this will fail unless we have these reforms that will allow Amtrak to operate more like a business.

So, what are we trying to do? We are trying to have a system that is up and going without operational subsidies by the year 2002. Many of my friends say, ''I do not know why we should help Amtrak. Why should we have taxpayer subsidies of Amtrak when all the other transportation modes do not need taxpayer subsidies?'' Every transportation mode has taxpayer subsidies. Part of the reason we have mobility in our country is because we subsidize highways, we subsidize airports, we now also subsidize trains, and it does provide mobility.

I want to try to get Amtrak back on track, get it to run right, and see if we can have a passenger rail system that is dependable, that provides good service and viable transportation options to all the people of our country, whether they are elderly and do not want to drive, whether they just cannot drive, whether they do not like to fly, whether they live in a small community that does not have any kind of passenger service. We want people to have this mobility.

How are we going to do it? The Amtrak reform bill, first, will repeal two laws that have been very expensive. One is the 6-year termination provisions for anyone who is employed at Amtrak, if a line is shut down. Now, I am sure there are a lot of people in America that would like to have a 6-year termination agreement that says if you lose your job, you get 6 years full pay. That would be nice, but it is not realistic, and it certainly does not meet today's standards. Even many Amtrak employees tell me that they realize this is out of line. It is a congressional mandate that they have a 6-year termination agreement, but they know that Amtrak cannot compete with that kind of agreement in place. It is just much too expensive. They would rather keep their jobs. They love what they are doing. They want to keep their jobs rather than have a 6-year termination agreement.

So we want to require Amtrak to have free and open bargaining with its unions in the absence of a Government mandate of a 6-year termination agreement. In fact, it would be free and open like every other union negotiation is in this country. That is fair, and I think most Amtrak employees agree that is fair. Let them sit at the bargaining table with open and fair negotiations, and they will be able to get the best that the market can bear while still having a good job, a viable job, and doing a service for the people of our country.

This bill will also extinguish the prohibition on contracting out. One of the things that Tom Downs tells me they need is the ability to make the decision if they want to contract out in order to save costs, because if we are going to tell Mr. Downs that he has to run a tight ship, we cannot put mandates on him that are not anywhere else in any other competitive system in our country and expect him to do a good job. We have to take the shackles off.

We also must give him the ability to have some liability reform. He says one of the most expensive things he has to deal with is liability and not being able to have the right of indemnification with the people that own the tracks Amtrak uses. We need to have liability reform, and, in fact, this was passed out of the Commerce Committee last year. Like last year's bill, the liability reform in my bill would have caps on punitive damages for two times compensatory damages or $250,000, whichever is greater.

In fact, these kinds of liability limits, I think, are quite reasonable. Many States are enacting these kinds of liability limits, in particular for publicly assisted transportation services. It allows a person who has been wrongly injured to have compensation for that, but it puts some limitation so there will be a budget on it, so that there will be some reliability about how much you have to put in the budget for that kind of occurrence. It also confirms the right of passenger rail operators and owners of rights-of-way to contractually indemnify each other for liability arising out of an accident.

In addition to the reforms, we have accountability. We have an independent audit of Amtrak that will commence as soon as the bill is passed and signed by the President that will provide a basis upon which to judge what we can do better in Amtrak.

Like last year's bill, we also have an Amtrak reform council that is designed to monitor Amtrak's progress and viability and to make independent recommendations. We want overseers who are saying to Amtrak, is what you are doing what's best, and also to tell Congress that if we are not going to be able to make this work, we are not going to keep throwing money at Amtrak if it does not have a chance to survive.

So we have told this independent council if you make a determination that Amtrak just cannot make it, even with the reforms that we are giving them, then tell us. We will pull the plug and we will say it was a great effort but it just did not work.

Mr. President, what we are trying to do is give Amtrak a chance. We are trying to get it right. It is time to get this railroad right. In fact, it is time to get it back on track. We have had 26 years of experiments. We have not gotten it right yet. Most of that is at the feet of Congress. We have to give them a chance to compete if, in fact, we are going to have by the year 2002 a national rail passenger train opportunity—real mobility for people that live in small towns, people who are elderly, people who do not want to fly, and who can't fly or simply want more transportation options. We want mobility in our country. And we have made huge investments in infrastructure in our country in highways and airports. I think rail is a component part of that system.

We want a passenger rail opportunity in this country. But we don't want taxpayers subsidizing the operations of trains for the passengers who do not choose to use this route.

So we believe that this is the fairest way—reauthorize, reform, tell them to get their act together, and give them the tools to do it. That is the mandate of this bill.

So, Mr. President, I thank you and ask unanimous consent that this legislation be printed in the RECORD.

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

S. 738

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 SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies; and

(10) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

TITLE I—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, is amended to read as follows:

"§ 24701. Operation of basic system

''Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.''.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) by striking ''90 days'' and inserting ''180 days'' in subsection (a)(1);

(2) by striking ''a discontinuance under section 24707(a) or (b) of this title'' in subsection (a)(1) and inserting ''discontinuing service over a route'';

(3) by inserting ''or assume'' after ''agree to share'' in subsection (a)(1); and

(4) by striking ''section 24707(a) or (b) of this title'' in subsections (a)(2) and (b)(1) and inserting ''paragraph (1)''.

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking '', 24701(a),''.

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a);

(2) by striking paragraphs (1) and (2) of subsection (b); and

(3) by striking ''(3) State'' and inserting ''State''.

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

Section 24101(c)(2) of title 49, United States Code, is amended by inserting '', separately or in combination,'' after ''and the private sector''.

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

''(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.''.

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

''(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 10922(d)(1)(F)(i) of this title, other than a recipient of funds under section 18 of the Federal Transit Act;

''(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

''(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

''(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.''.

(b) POLICY STATEMENT.—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.''.

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: ''Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.''.

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 304A(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) applies to a proposal in the possession or control of Amtrak.''.

SUBTITLE B—PROCUREMENT

SEC. 121. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking ''(2)'' in subsection (a)(2) and inserting ''(b)''; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NOTICES.— Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served

and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) NO PRECEDENT FOR FREIGHT.—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad's employees.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

SUBTITLE D—USE OF RAILROAD FACILITIES

SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

''(a) LIMITATIONS.—

''(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers, the Alaska Railroad and its passengers, or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak or the Alaska Railroad, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

''(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater; and

''(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

''(2) For purposes of this subsection, the term 'claim' means a claim made directly or indirectly—

''(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier including the Alaska Railroad or private rail car operators; or

''(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

''(3) Notwithstanding paragraph (1)(A), if, in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the

action was brought, subject to the provisions of paragraph (1).

(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsesction (a), incurred after the death of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statuatory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

''28103. Limitations on rail passenger transportation liability.''.

TITLE II—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's debt obligations.

(d) DEADLINE.—The independent assessment shall be completed not later than 90 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 9 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Two individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Two individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC. 204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time the Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202; and

(3) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a), it shall develop and submit to the Congress—

(1) an action plan for a restructured and rationalized intercity rail passenger system; and

(2) an action plan for the complete liquidation of Amtrak.

If the Congress does not approve by concurrent resolution the implementation of the plan submitted under paragraph (1) within 90 calendar days after it is submitted to the Congress, then the Secretary of Transportation and Amtrak shall implement the plan submitted under paragraph (2).

SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.''.

SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''.

SEC. 207. EXEMPTION FROM TAXES.

(a) IN GENERAL.—Subsection (l) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of the subsection as precedes ''or a rail carrier'' in paragraph (1) and inserting the following:

''(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—

''(1) IN GENERAL.—Amtrak'';

(2) by inserting '', and any passenger or other customer of Amtrak or such subsidiary,'' in paragraph (1) after ''subsidiary of Amtrak'';

(3) by striking ''or fee imposed''in paragraph (1) and all that follows through ''levied on it'' and inserting '', fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom'';

(4) by striking the last sentence of paragraph (1);

(5) by striking ''(2) The'' in paragraph (2) and inserting ''(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The''; and

(6) by inserting after paragraph (1) the following:

''(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

''(A) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION

Year of assessment	Percentage of exemption
1997	40
1998	60
1999	80
2000 and later years	100

''(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

''(1) $1,138,000,000 for fiscal year 1998;

''(2) $1,058,000,000 for fiscal year 1999;

''(3) $1,023,000,000 for fiscal year 2000;

''(4) $989,000,000 for fiscal year 2001; and

''(5) $955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.''.

TITLE IV—MISCELLANEOUS

SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking ''rail carrier under section 10102'' in subsection (a)(1) and inserting ''railroad carrier under section 20102(2) and chapters 261 and 281''; and

(2) by amending subsection (c) to read as follows:

''(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11303, 11342(a), 11504(a) and (d), and 11707. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.''.

SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking ''1996'' and inserting ''2001''.

SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 243 of that title, are repealed.

SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code, is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking ''the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)'' and inserting ''a high-speed rail passenger transportation area''.

SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 407. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;

(3) by inserting '', including a unit of State or local government,'' after ''means a person'' in paragraph (7), as so redesignated; and

(4) by inserting after paragraph (7), as so redesignated, the following new paragraph:

''(8) 'rail passenger transportation' means the interstate, intrastate, or international transportation of passengers by rail, including mail and express.''.

SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Amtrak,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

SEC. 410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking ''and publicly owned intracity or intercity bus terminals and facilities'' in paragraph (2) and inserting a comma and ''including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of both''.

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4); and

(3) by adding at the end thereof the following:

''(5) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity

passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

''(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.''.

SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking ''3'' in paragraph (1)(C) and inserting ''4'';

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

''(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

''(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.'';

(4) striking subparagraphs (D) and (E) of paragraph (1);

(5) inserting after subparagraph (C) the following:

''(D) 3 individuals appointed by the President of the United States, as follows:

''(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

''(ii) one individual with technical expertise in finance and accounting principles.

''(iii) one individual selected as a representative of the general public.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) The Secretary may be represented at a meeting of the board only by the Administrator of the Federal Railroad Administration.''.

By Mr. DASCHLE:

S. 740. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

THE ELECTRONIC FUNDS TRANSFER TAX PAYMENTS BY SMALL BUSINESSES ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1 year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

Last July, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans posed many questions to me that the IRS letter did not answer: ''How much will this cost my business?''; ''Will I have to purchase new equipment to make these electronic transfers?''; and ''Will the IRS be taking the money directly out of my account?''

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement. The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10-percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6-month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. A recent hearing in the House of Representatives documented a series of uncertainties and potential problems accompanying an extension of the electronic funds transfer mandate to smaller firms.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible, the IRS should avoid taking an adversarial approach toward the small business community or, for that matter, any taxpayer. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, my bill will help the IRS fulfill this important part of its mission.

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. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. BREAUX:

S. 741. A bill to amend the Communications Act of 1934 to enable the Federal Communications Commission to enhance its spectrum management program capabilities through the collection of lease fees for new spectrum for radio services that are statutorily excluded from competitive bidding, and to enhance law enforcement and public safety radio communications; to the Committee on Commerce, Science, and Transportation.

THE PRIVATE WIRELESS SPECTRUM AVAILABILITY ACT

● Mr. BREAUX. Mr. President, I introduce the Private Wireless Spectrum Availability Act of 1997. This legislation will help the more than 300,000 U.S. companies, both large and small, that have invested $25 billion in internally owned and operated wireless communications systems. It will provide these companies with critically needed spectrum and will do so through an equitable lease fee system.

The private wireless communications community includes industrial, land transportation, business, educational, and philanthropic organizations that own and operate communications systems for their internal use. The top 10 U.S. industrial companies have more than 6,000 private wireless licenses. Private wireless systems also serve America's small businesses in the utility, contracting, taxi, and livery industries.

These internal-use communications facilities greatly enhance public safety and the quality of American life. They also support global competitiveness for American firms. For example, private wireless systems support: the efficient production of goods and services; the safe transportation of passengers and products by land and air; the exploration, production, and distribution of energy; agricultural enhancement and production; the maintenance and development of America's infrastructure;

and compliance with various local, State, and Federal operational government statutes.

Current regulatory policy inadequately recognizes the public interest benefits that private wireless licensees provide to the American public. Consequently, allocations of spectrum to these private wireless users has been deficient. Private wireless entities received spectrum in 1974 and 1986 when the FCC allocated channels in the 800 megahertz and 900 megahertz bands. Over time, however, the FCC has significantly reduced the number of channels available to industrial and business entities in those allocations. Private wireless entities now have access to only 299 channels, or 32 percent of the channels of the original allocation.

Spectrum auctions have done a great job of speeding up the licensing of interpersonal communications services and have generated significant revenues for the U.S. Treasury. They have also unfortunately skewed the spectrum allocation process toward subscriber-based services and away from critical radio services such as private wireless which are exempted from auctions. Nearly 200 megahertz of spectrum has been allocated for the provision of commercial telecommunications services, virtually all of which has been assigned by the FCC through competitive bidding.

Competitive bidding is not the proper assignment methodology for private wireless telecommunications users. Private wireless operations are site-specific systems which vary in size based on that user's particular needs, and are seldom mutually exclusive from other private wireless applicants. Auctions, which depend on mutually exclusive applications and use market areas based on population, simply cannot be designed for private wireless systems.

This legislation mandates that the FCC allocate no less than 12 megahertz of new spectrum for private wireless use as a measure to maintain our industrial and business competitiveness in the global arena, as well as to protect the welfare of the employees in the American workplace. Research indicates that private wireless companies are willing to pay a reasonable fee in return for use of spectrum. They recognize that their access to spectrum increases with their willingness to pay fair value for the use of this national asset.

My bill grants the FCC legislative authority to charge efficiency-based spectrum lease fees in this new spectrum allocation. These lease fees should encourage the efficient use of spectrum by the private wireless industry, generate recurring annual revenues as compensation for the use of spectrum, and retain spectrum ownership by the public. Furthermore, the fees should be easy for private frequency advisory committees to calculate and collect.

Mr. President, I am mindful that some peripheral concerns expressed by small businesses that service private wireless users are not addressed in this bill. I assure these companies that I will work with them through the legislative process to address these issues. I urge my colleagues to join me in supporting this bill and ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Wireless Spectrum Availability Act''.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) PUBLIC SAFETY.—The term ''public safety'' means fire, police, or emergency medical service including critical care medical telemetry, and such other services related to public safety as the Commission may include within the definition of public safety for purposes of this Act.

(3) PRIVATE WIRELESS.—The term ''private wireless'' encompasses all land mobile telecommunications systems operated by or through industrial, business, transportation, educational, philanthropic or ecclesiastical organizations where these systems, the operation of which may be shared, are for the licensees' internal use, rather than subscriber-based Commercial Mobile Radio Services (CMRS) systems.

(4) SPECTRUM LEASE FEE.—The term ''spectrum lease fee'' means a periodic payment for the use of a given amount of electromagnetic spectrum in a given area in consideration of which the user is granted a license for such use.

SEC. 3. FINDINGS.

The Congress finds that:

(1) Private wireless communications systems enhance the competitiveness of American industry and business in international commerce, promote the development of national infrastructure, improve the delivery of products and services to consumers in the United States and abroad, and contribute to the economic and social welfare of citizens of the United States.

(2) The highly specialized telecommunications requirements of licensees in the private wireless services would be served, and a more favorable climate would be created for the allocation of additional electromagnetic spectrum for those services if an alternative license administration methodology, in addition to the existing competitive bidding process, were made available to the Commission.

SEC. 4. SPECTRUM LEASING FEES.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end thereof the following:

''SEC. 12. SPECTRUM LEASE FEE PROGRAM.

''(a) SPECTRUM LEASE FEES.—

''(1) IN GENERAL.—Within 6 months after the date of enactment of the Private Wireless Spectrum Availability Act, the Commission shall by rule—

''(A) implement a system of spectrum lease fees applicable to newly allocated frequency bands, as described in section 5 of the Private Wireless Spectrum Availability Act, assigned to systems (other than public safety systems (as defined in section 2(2) of the Private Wireless Spectrum Availability Act)) in private wireless service;

''(B) provide appropriate incentives for licensees to confine their radio communication to the area of operation actually required for that communications; and

''(C) permit private land mobile frequency advisory committees certified by the Commission to assist in the computation, assessment, collection, and processing of amounts received under the system of spectrum lease fees.

''(2) FORMULA.—The Commission shall include as a part of the rulemaking carried out under paragraph (1)—

''(A) a formula to be used by private wireless licensees and certified frequency advisory committees to compute spectrum lease fees; and

''(B) an explanation of the technical factors included in the spectrum lease fee formula, including the relative weight given to each factor.

''(b) FEE BASIS.—

''(1) INITIAL FEES.—Fees assessed under the spectrum lease fee system established under subsection (a) shall be based on the approximate value of the assigned frequencies to the licensees. In assessing the value of the assigned frequencies to licensees under this subsection, the Commission shall take into account all relevant factors, including the amount of assigned bandwidth, the coverage area of a system, the geographic location of the system, and the degree of frequency sharing with other licensees in the same area. These factors shall be incorporated in the formula described in subsection (a)(2).

''(2) ADJUSTMENT OF FEES.—The Commission may adjust the formula developed under subsection (a)(2) whenever it determines that adjustment is necessary in order to calculate the lease fees more accurately or fairly.

''(3) FEE CAP.—The spectrum lease fees shall be set so that, over a 10-year license term, the amount of revenues generated will not exceed the revenues generated from the auction of comparable spectrum. For purposes of this paragraph, the 'comparable spectrum' shall mean spectrum located within 500 megahertz of that spectrum licensed in a concluded auction for mobile radio communication licenses.

''(c) APPLICATION TO PRIVATE WIRELESS SYSTEMS.—After the Commission has implemented the spectrum leasing fee system under subsection (a) and provided licensees access to new spectrum as defined in section 5(c)(2) of the Private Wireless Spectrum Availability Act, it shall assess the fees established for that system against all licensees authorized in any new frequency bands allocated for private wireless use.''.

SEC. 5. SPECTRUM LEASE FEE PROGRAM INITIATION.

(a) IN GENERAL.—The Commission shall allocate for use in the spectrum lease fee program under section 12 of the Communications Act of 1934 (47 U.S.C. 162) not less than 12 megahertz of electromagnetic spectrum, previously unallocated to private wireless, located between 150 megahertz and 1000 megahertz on a nationwide basis.

(b) EXISTING INCUMBENTS.—In allocating electromagnetic spectrum under subsection (a), the Commission shall ensure that existing incumbencies do not inhibit effective access to use of newly allocated spectrum to the detriment of the spectrum lease fee program.

(c) TIMEFRAME.—

(1) ALLOCATION.—The Commission shall allocate electromagnetic spectrum under subsection (a) within 6 months after the date of enactment of this Act.

(2) ACCESS.—The Commission shall take such reasonable action as may be necessary to ensure that initial access to electromagnetic spectrum allocated under subsection (a) commences not later than 12

months after the date of enactment of this Act.

SEC. 6. DELEGATION OF AUTHORITY.

Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by adding at the end thereof the following:

''(f) DELEGATION TO CERTIFIED FREQUENCY ADVISORY COMMITTEES.—

''(1) IN GENERAL.—The Commission may, by published rule or order, utilize the services of certified private land mobile frequency advisory committees to assist in the computation, assessment, collection, and processing of funds generated through the spectrum lease fee program under section 12 of this Act. Except as provided in paragraph (3), a decision or order made or taken pursuant to such delegation shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as decisions or orders of the Commission.

''(2) PROCESSING AND DEPOSITING OF FEES.—A frequency advisory committee shall deposit any spectrum lease fees collected by it under Commission authority with a banking agent designated by the Commission in the same manner as it deposits application filing fees collected under section 8 of this Act.

''(3) REVIEW OF ACTIONS.—A decision or order under paragraph (1) is subject to review in the same manner, and to the same extent, as decisions or orders under subsection (c)(1) are subject to review under paragraphs (4) through (7) of subsection (c).

SEC. 7. PROHIBITION OF USE OF COMPETITIVE BIDDING.

Section 309(j)(6) of the Communications Act of 1934 (47 U.S.C. 309(j)(6)) is amended—

(1) by striking ''or'' at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon and ''or''; and

(3) by adding at the end thereof the following:

''(I) preclude the Commission from considering the public interest benefits of private wireless communications systems (as defined in section 2(3) of the Spectrum Efficiency Reform Act of 1977) and making allocations in circumstances in which—

''(i) the pre-defined geographic market areas required for competitive bidding processes are incompatible with the needs of radio services for site-specific system deployment;

''(ii) the unique operating characteristics and requirements of Federal agency spectrum users demand, as a prerequisite for sharing of Federal spectrum, that nongovernment access to the spectrum be restricted to radio systems that are non subscriber-based;

''(iii) licensee concern for operational safety, security, and productivity are of paramount importance and, as a consequence, there is no incentive, interest, or intent to use the assigned frequency for producing subscriber-based revenue; or

''(iv) the Commission, in its discretion, deems competitive bidding processes to be incompatible with the public interest, convenience, and necessity.''.

SEC. 8. USE OF PROCEEDS FROM SPECTRUM LEASE FEES.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account for the spectrum license fees generated by the spectrum license fee system established under section 12 of the Communications Act of 1934 (47 U.S.C. 162). Except as provided in subsections (b) and (c), all proceeds from spectrum lease fees shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code, and credited to the account established by this subsection.

(b) ADMINISTRATIVE EXPENSES.—Out of amounts received from spectrum lease payments a fair and reasonable amount, as determined by the Commission, may be retained by a certified frequency advisory committee acting under section 5(f) of the Communications Act of 1934 (47 U.S.C. 155(f)) to cover costs incurred by it in administering the spectrum lease fee program.

SEC. 9. LEASING NOT TO AFFECT COMMISSION'S DUTY TO ALLOCATE.

The implementation of spectrum lease fees as a license administration mechanism is not a substitute for effective spectrum allocation procedures. The Commission shall continue to allocate spectrum to various services on the basis of fulfilling the needs of these services, and shall not use fees or auctions as an allocation mechanism.●

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 743. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Finance.

THE EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE ACT

Ms. SNOWE. Mr. President, nowhere is the middle ground in American politics harder to find than in the debate over abortion. It is clear that the apparent inability of pro-choice and pro-life members to find common ground is one of the most divisive issues we face today. In debate after debate, it often appears that there is no middle ground. Well, I am extremely pleased that my colleague from Nevada, Senator REID, is joining me today to introduce legislation that will prove this statement untrue.

Too often, pro-choice leaders do too little to convey that they are not pro-abortion. Likewise, abortion opponents too often fail to work constructively toward reducing the need for abortion. The failure of pro-choice and pro-life members to stake out common ground weakens our Nation immeasurably.

Today that's going to change. The cosponsors of this bill come from different parties, and have very different views on abortion. Our voting records are clear: I am firmly pro-choice; Senators REID is firmly pro-life. Yet, despite these fundamental differences, we agree that something can and must be done to reduce the rates of unintended pregnancy and abortion in this country. That is why we are joining forces and introducing bipartisan, landmark legislation to make contraceptives more affordable for Americans. And I am pleased that a number of my colleagues, including Senators WARNER, MIKULSKI, CHAFEE, DURBIN, COLLINS, MURRAY, and JEFFORDS are joining us as original cosponsors.

The need is clear. This year, there will be 3.6 million unintended pregnancies—over 56 percent of all pregnancies in America—and half will end in abortion. These are staggering statistics. But what's even more staggering is that it doesn't have to be this way. If prescription contraceptives were covered like other prescription drugs, a lot more Americans could afford to use safe, effective means to prevent unintended pregnancies.

The fact is, under many of today's health insurance plans, a woman can afford a prescription to alleviate allergy symptoms but not a prescription to prevent an unintended and life-altering pregnancy. It is simply not right that while the vast majority of insurers cover prescription drugs, half of large group plans exclude coverage of prescription contraceptives. And only one-third cover oral contraceptives—the most popular form of birth control.

Is it any wonder that women spend 68 percent more than men in out-of-pocket health care costs—68 percent. It does not make sense that, at a time when we want to reduce unintended pregnancies, so many otherwise insured woman can't afford access to the most effective contraceptives because of the disparity in coverage.

The lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescriptions drugs which are equally valuable to their lives are routinely covered. But until today, women could do little more than feel silent outrage at a practice that disadvantages both their health and their pocketbook.

Now, the Equity in Prescription Insurance and Contraceptive Coverage Act gives voice to that outrage. EPICC sends a message that we can no longer tolerate policies that disadvantage women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services. And America's unacceptably high rates of unintended pregnancies and abortions will be reduced in the process.

This EPICC approach is simple. It says that if insurers already cover prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. And it takes the commonsense approach of requiring health plans which already cover basic health care services to also cover medical and counseling services to promote the effective use of those contraceptives. The bill does not require insurance companies to cover prescription drugs—it simply says that if insurers cover prescription drugs, they cannot treat prescription contraceptives any differently. Similarly, it says that insurers which cover outpatient health care services cannot limit or exclude coverage of the medical and counseling services necessary for effective contraceptive use in order to prevent unintended pregnancies.

This bill is not only good policy, it also makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every

dollar invested in family planning, $4 to $14 is saved in health care and related costs. And we also know that by helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reducing rates of maternal complications, and low-birth weight.

Time and time again Americans have expressed the desire for their leaders to come together to work on the problems that face us. This bill exemplifies that spirit of cooperation. It crosses some very wide gulfs and makes some very meaningful changes in policy that will benefit countless Americans.

As someone who is pro-choice, I firmly believe that abortions should be safe, legal, and rare. Through this bill, I invite both my pro-choice and pro-life colleagues to join with me in emphasizing the rare. And I invite all who believe in sound public policy to join our alliance. Because we as a nation must be truly committed to reducing rates of unintended pregnancy and abortion. We must come together despite our differences. We must pass this EPICC bill into law.

Mr. REID. Mr. President, I am proud to introduce today, with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 1997. I have said time and time again that if men suffered from the same illnesses as women, the biomedical research community would be much closer to eliminating diseases that strike women. I believe this is a similar type of issue. If men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

The health industry has done a poor job of responding to women's health needs. Women spend 68 percent more in out-of-pocket costs for health care than men. Reproductive health care services account for much of this difference. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive method at all, and only 15 percent cover all five of the most common contraceptive methods. Women are forced to use disposable income to pay for family planning services not covered by their health insurance—the pill—one of the most common birth control methods, can cost cover $300 a year. Therefore, women who lack disposable income are forced to use less reliable methods of contraception and risk an unintended pregnancy.

The legislation we introduce today would require insurers, HMO's, and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and deductibles for prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

Each year approximately 3,600,000 pregnancies, or 60 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, 44 percent end in abortion. Reliable family planning methods must be made available if we wish to reduce this disturbing number. Further, a reduction in unintended pregnancies will also lead to a reduction in infant mortality, low-birth weight, and maternal morbidity. In fact, the National Commission to Prevent Infant Mortality determined that ''infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception.''

Ironically, abortion is routinely covered by 66 percent of indemnity plans, 67 percent of preferred provider organizations, and 70 percent of HMO's. Sterilization and tubal ligation are also routinely covered. It does not make sense financially for insurance companies to cover these more expensive services, rather than contraception. Studies indicate that for every dollar of public funds invested in family planning, $4 to $14 of public funds is saved in pregnancy and health care-related costs. According to one recent study in the American Journal of Public Health, by increasing the number of women who use oral contraceptives by 15 percent, health plans would accrue enough savings in pregnancy care costs to cover oral contraceptives for all users under the plan.

It is vitally important to the health of our country that quality contraception is not beyond the financial reach of women. Providing access to contraception will bring down the unintended pregnancy rate, insure good reproductive health for women, and reduce the number of abortions.

It is a significant step, in my opinion, to have support from both pro-life and pro-choice Senators for this bill. Prevention is the common ground on which we can all stand. Let's begin to attack the problem of unintended pregnancies at its root.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 744. A bill to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1997

● Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the Fall River Water Users District Rural Water System Act of 1997. This legislation is strongly supported by local project sponsors who have demonstrated that support by agreeing to substantial financial contributions from the local level. I am pleased to introduce this legislation today, along with my colleague from South Dakota, Senate Minority Leader TOM DASCHLE. Both Senator DASCHLE and I were sponsors of similar legislation in the 104th Congress, and we will work together to enact this necessary rural water legislation in the 105th Congress.

Like many parts of South Dakota, Fall River County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards. In addition to improving the health of residents in the region, I strongly believe that these rural drinking water delivery projects will help to stabilize the rural economy in both regions. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Fall River County area.

Past cycles of severe drought in the southeastern area of Fall River County have left local residents without a satisfactory water supply and during 1990, many homeowners and ranchers were forced to haul water to sustain their water needs.

Currently, many residents are either using bottled water for human consumption or they are using distillers due to the poor quality of the water supplies available. After conducting a feasibility study and preliminary engineering report, the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District consists of a Madison Aquifer well, three separate water storage reservoirs, three pumping stations, and approximately 200 miles of pipeline. The legislation I am introducing today authorizes the Bureau of Reclamation to construct a rural water system in Fall River County as described above. The Fall River system will serve rural residents, as well as the community of Oelrichs and the Angostura State Recreation Area.

Mr. President, South Dakota is plagued by water of exceedingly poor quality, and the Fall River County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of South Dakota. I am a strong believer in the role of the Federal Government to help in the delivery of rural water, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this legislation, and I look forward to working with my colleagues on the Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

Mr. President, I ask unanimous consent 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. 744

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 ''Fall River Water Users District Rural Water System Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term ''engineering report'' means the study entitled ''Supplemental Preliminary Engineering Report for Fall River Water Users District'' published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 80 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 20 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

ADDITIONAL COSPONSORS

S. 63

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 63, a bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful