

ness, but it does impose a Federal regulatory scheme on the States. It says that it wants to depend on State administrators to implement the law, but it knows that what it proposes stretches the limits of federalism and begs for sequel legislation establishing a Federal automobile insurance regulatory agency.

Mr. President, the issue of no-fault by itself is sufficiently fraught with constitutional questions to make it totally unwise and unwarranted to further burden no-fault legislation with grave constitutional impediments. This is what has been done in S. 354. I do not believe, Mr. President, that it would be responsible on the part of Congress to enact legislation which affects the daily lives of practically every individual in this country, and which contains so many unrelated constitutional problems.

AMENDMENT NO. 1132

Mr. MOSS. Mr. President, is the bill open to amendment at this time?

The PRESIDING OFFICER (Mr. HELMS). The bill is open to amendment.

Mr. MOSS. I call up amendment No. 1132. The principal sponsor of this amendment is the Senator from Washington (Mr. MAGNUSON), and I am a co-sponsor. The Senator from Washington has asked me to call it up at this time, and therefore I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment (No. 1132), which is as follows:

AMENDMENT NO. 1132

On page 91, line 6, delete "(2) and (3)" and insert in lieu thereof "(2), (3), and (4)".

On page 91, lines 14 and 15, delete "based upon a determination of fault".

On page 92, line 5, delete "(3)" and insert in lieu thereof "(4)".

On page 92, between lines 4 and 5, insert the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (1) (B) of this subsection, a State may grant a right of reimbursement among and between restoration obligors based upon a determination of fault, where such restoration obligors have paid or are obliged to pay benefits for loss arising out of an accident resulting in injury in which one or more of the motor vehicles involved has an unladen weight in excess of eight thousand pounds: *Provided*, That in such event such right of reimbursement may be granted only with respect to benefits paid for loss in excess of \$5,000."

Mr. MOSS. Mr. President, several of my colleagues have expressed concern over S. 354, the National No-Fault Motor Vehicle Insurance Act, because they fear that owners of heavy commercial vehicles will experience a substantial savings in their vehicle insurance premiums. They point out that these savings in their vehicle insurance premiums may very well surpass the savings of the ordinary passenger car owner and argue that such a savings constitute a "wind-fall."

The Senate Commerce Committee was aware of the possibility that owners of heavier commercial vehicles would experience substantial premium savings. Therefore, the committee provided a mechanism whereby a State could provide for the redistribution of the insurance

premium burden by allowing the insurers of passenger cars to be reimbursed by the insurers of passenger cars on some basis other than fault—on the basis of weight, for example.

Because some people have argued that loss shifting on the basis of weight would not be adopted by the States and that loss shifting on the basis of fault for heavy commercial vehicles would be more appropriate, I call up for the consideration of my colleagues on the Senate floor the following amendment to S. 354.

The amendment would permit reallocation of loss between heavy vehicles—over 8,000 pounds unladen weight—and other vehicles based upon fault if a State decided such reallocation was necessary to prevent a "windfall." This determination of fault would be at the insurer level, and would not affect the ability of the accident victim to recover timely compensation without regard to fault. In order to insure owners of heavy commercial vehicles some advantages under a no-fault system the amendment preserves a no-fault, even at the insurance company level, for the first \$5,000 of loss.

Mr. President, that is the thrust of this amendment. It makes a differentiation between large trucks and other passenger vehicles below 8,000 pounds in unladen weight. The amendment has been considered and discussed.

As the Senate will notice, of course, this places an option with the State as to whether it decides such reallocation is necessary to prevent windfalls. Since the thrust of this bill is to leave with the States the maximum degree of administrative function in the no-fault law, it is felt that this would be a proper amendment to the pending bill.

I offer this proposal for the consideration of the Senate. The amendment, I might note, was submitted on the first of April, and there has been plenty of time for consideration. So far as I know, there has been no opposition expressed to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATORS HARRY F. BYRD, JR., AND BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the distinguished Senator from Indiana (Mr. BAYH) be recognized each for not to exceed 15 minutes, and in that order.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that after the two orders for the recognition of Senators have been completed tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 12:45 p.m., with statements therein limited to 5 minutes each. I believe that the distinguished majority leader has already gotten consent that at 12:45 p.m. tomorrow the Senate will go into executive session.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I shall suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT OF WILD AND SCENIC RIVERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9492.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 9492) to amend the Wild and Scenic Rivers Act by designating the Chattooga River, North Carolina, South Carolina, and Georgia as a component of the National Wild and Scenic Rivers System, and for other purposes, which was, on page 2 of the Senate engrossed amendment, strike out all after line 8 over to and including line 4 on page 5, and insert:

(b) In section 4 delete subsection (a) and insert in lieu thereof the following:

"Sec. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or unsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would

render the rivers unsuitable for inclusion in the national wild and scenic rivers system. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

"Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document."

(2) In section 5 delete subsection (b) and reletter subsections (c) and (d) as (b) and (c), respectively.

(3) In section 7(b) (1) delete all after "Act" and insert in lieu thereof "or for three complete fiscal years following any Act of Congress designating any river for potential addition to the national wild and scenic river system, whichever is later, and".

(4) In section 7(b) (1) delete "which is recommended", insert in lieu thereof "the report for which is submitted", and delete "for inclusion in the national wild and scenic rivers system".

(c) In section 7 (b) (i) delete "five-year" and insert in lieu thereof "ten-year" and delete "publish" and insert in lieu thereof "notify the Committees on Interior and Insular Affairs of the United States Congress in writing, including a copy of the study upon which his determination was made, at least 180 days while Congress is in session, prior to publishing".

(d) In section 15(c) delete "for the purpose of protecting the scenic view from the river," and insert in lieu thereof "within the authorized boundaries of a component of the wild and scenic rivers system, including the protection of the natural qualities of a designated wild, scenic or recreational river area."

(e) Delete section 16 and insert in lieu thereof:

"Sec. 16. (a) There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers described in section 3(a) of this Act:

- Clearwater, Middle Fork, Idaho, \$2,909,800;
- Eleven Point, Missouri, \$4,906,500;
- Feather, Middle Fork, California, \$3,935,700;
- Rio Grande, New Mexico, \$253,000;
- Rogue, Oregon, \$12,447,200;
- St. Croix, Minnesota and Wisconsin, \$11,768,550;
- Salmon, Middle Fork, Idaho, \$1,237,100; and
- Wolf, Wisconsin, \$142,150.

"(b) The authority to make the appropriations authorized in this section shall expire on June 30, 1979."

Mr. JACKSON, Mr. President, the purpose of this measure is to include the Chattooga River in the Wild and Scenic Rivers System and also to make various general amendments to the Wild and

Scenic Rivers Act in order to strengthen the act in several respects.

H.R. 9492, which passed the House of Representatives on December 3, 1973, is virtually identical to S. 2385, introduced by Senators TALMADGE and NUNN. At the October 10, 1973, Public Lands Subcommittee hearing on S. 2385 and H.R. 9492, administration representatives, State officials, and public witnesses gave unanimous support to the designation of the Chattooga as a component of the Wild and Scenic River System. On the basis of that testimony on December 3, 1973, the full Committee on Interior and Insular Affairs unanimously agreed to report H.R. 9492 to the Senate. In addition, the committee agreed to add the provisions of S. 921—containing certain amendments to the original Wild and Scenic Rivers Act, 82 Stat. 906—which previously passed the Senate on September 24, 1973. The addition of this amendment was made necessary when the Senate was prevented from insisting on its language in S. 921 because the bill had been amended too many times to allow for a conference.

On March 22, 1974, the Senate passed H.R. 9492, as amended. In addition to designating the Chattooga River as a national wild and scenic river, the bill, as amended by the Senate, provided for five changes to the original act.

First, it would extend the moratorium on water resource projects for study rivers from 5 years from the date of enactment of the original Wild and Scenic Rivers Act to 10 years—thus shifting the moratorium deadline from October 2, 1973, to October 2, 1978.

Second, it would increase the funding authorization of \$17,000,000 in the original act by \$20,600,000 for a total authorization of \$37,600,000.

Third, it would remove the authority of either the Secretary of Agriculture, without reporting to Congress, at his discretion to terminate the study of and remove protection for any river which Congress has designated for a study. The amendment would provide a minimum 3-year period for Congress to review a river study report whether it is positive or negative.

Fourth, it would place a definite 3 fiscal year limit on the studies by the Secretaries for all rivers designated for study by Congress either in the original act or any subsection act.

Finally, it would require the President, rather than one of the Secretaries, to report to Congress on each river study.

I ask unanimous consent to insert in the Record at this point a more detailed discussion of these provisions which appeared in our committee report—report No. 93-738—on H.R. 9492.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

BACKGROUND AND ANALYSIS

Clause (b). The Wild and Scenic Rivers Act provided for the study of 27 rivers for possible inclusion in the national wild and scenic rivers system. A 10-year study period (until October 2, 1978) was established. However, under section 7(b) (1), the study areas were protected from water resources projects for only 5 years (until October 2, 1973). To date, only five river studies have

been transmitted to Congress. The Administration has discarded entirely its earlier schedule calling for completion of all 27 studies by the October 2, 1973, termination date of the protection period. A newer schedule prepared early last year called for completion of most of the studies by mid-summer 1974. However, this schedule is already outdated. The most recent schedule, prepared by the Bureau of Outdoor Recreation and the Forest Service at the request of Senators Haskell and McClure places the completion dates for a number of rivers three to five years from now. To insure the continued protection of these areas while the studies are being completed, clause (b) of H.R. 9492, as ordered reported, would extend the protection period for an additional five years so as to make it correspond to the study period (both periods concluding on October 2, 1978).

Clause (c). Section 16 of the original Act authorized the appropriation of not more than \$17,000,000 for the acquisition of the initial components of the national wild and scenic rivers system. Some \$16.9 million have been appropriated, but acquisitions have not been completed for seven of the eight original wild and scenic rivers. In testimony before the Subcommittee on Public Lands, Mr. James G. Watt, Director of the Bureau of Outdoor Recreation of the Department of the Interior, presented the breakdown of the estimated additional costs necessary to complete the acquisitions planned in each river area:

Clearwater, Middle Fork, Idaho	\$2,160,000
Eleven Point, Mo.	2,900,000
Feather, Middle Fork, Calif.	3,850,000
Rio Grande, N. Mex.	100,000
Rogue, Oreg.	9,040,000
Saint Croix, Minn. and Wis.	1,450,000
Salmon, Middle Fork, Idaho	1,100,000
Total	20,600,000

The Committee amendment would add the \$20.6 million sum to the original funding authorization, thus providing a new authorization total of \$37,600,000.

Clause (d). This clause would:

(1) put a definite time limit on the studies for all rivers designated for study by Congress in either the original Act or any subsequent Act;

(2) remove the authority of either Secretary, without ever reporting to Congress, at his discretion, to terminate a study of, and remove protection for, any river which Congress has designated for study; and

(3) provide that the President, rather than one of the Secretaries, report to Congress on each river study.

The original Act provided a ten-year time period for study of the 27 rivers designated for study in the Act. There was no provision similar to subsection (c) of section 3 of the Wilderness Act (78 Stat. 890) providing that "not less than one-third of the areas . . . (shall) be reviewed . . . within three years after enactment . . . , not less than two-thirds within seven years of enactment . . . , and the remainder within ten years of enactment . . ." As noted in the discussion of clause (b), only five studies have been transmitted to Congress and the most recent schedule suggests that three to five more years will be required for completion of some of the studies. It was pointed out at the Public Lands Subcommittee hearing that long delays in completing studies not only endanger system status for rivers threatened by development, but also leave property owners in the unfortunate position of not knowing for an extended period what will be the future of their property.

A ten-year study period was, of course, logical for the original Act which called for 27 studies. However, future additions to the study category will be done on a case-by-case basis usually by separate Acts of Con-

gress. This process insures the spacing of studies. In addition, as manifested in the recent schedule, studies or the original 27 rivers are now spaced as to degree of completion. As time requirements on staggered studies would not appear to be onerous, part (1) of clause (d) provides a three complete fiscal year time limit on all river studies. The time limit runs from the date of enactment of any Act, subsequent to the original Wild and Scenic Rivers Act, which mandates the study of additional rivers and from the date of enactment of H.R. 9492 for the 27 original study rivers. The period is based on fiscal years to insure three complete rounds of appropriations for each study.

Presently, the original Act allows the relevant Secretary to terminate a study of a river at any time and remove the protection of the river should be decided that the river should not be included in the national wild and scenic rivers system. (In fact, Congress has received notice that two study rivers do not meet the criteria for inclusion in the Wild and Scenic Rivers System. This notification was provided in the form of brief letters from the Secretary of the Interior. No study report justifying these decisions was submitted, thus placing Congress in the position of being unable to evaluate whether such decisions were justified.)

In contrast to this approach, the Wilderness Act requires that all studies be completed and reported to Congress whether or not the recommendations are favorable or unfavorable to inclusion of the relevant areas in the national wilderness preservation system. Protection cannot be removed from certain areas under subsection 3(b) of the Wilderness Act until the reports are completed and submitted and "until Congress has determined otherwise".

Clause (d) takes a compromise position. It does not call for the unlimited protection provided in the Wilderness Act, but it does require completion of the river studies and allows Congress the opportunity to review them before releasing the river areas from protection. Parts (1) and (4) of clause (d) provide for completion of all studies mandated by Congress. (As noted above, this clause would also provide a study deadline of three fiscal years from enactment of this bill for the 27 rivers included in the original Act and three fiscal years for each river added to the study category by Congress subsequent to the original Act.) The protection period for rivers under study would be extended to October 2, 1978 by clause (b). However, in addition, the protection would be provided by part (3) of clause (d) for the three full fiscal year study periods for any rivers added to the study category if such periods would extend beyond the October 1, 1978 deadline (which would be the case for all Acts of Congress enacted after October 1, 1975). (Clause (d) does not afford protection indefinitely beyond these periods until Congress acts as does the Wilderness Act, rather it preserves the language of the original Wild and Scenic Rivers Act (clause 7(b)(ii)) which extends the protection for not more than three years to allow Congress to consider the reports. The original language is amended by part (4) of clause (d) only to comply with the intent of clause (d) to insure that Congress receives and will have the three-year opportunity to deliberate on reports on all the rivers it has directed to be studied, not just those which the relevant Secretary finds worthy of addition to the system.

Finally, to better provide for timely completion of the river studies, part (1) of clause (d) transfers the responsibility for reporting to Congress on the studies from the Secretaries of the Interior and of Agriculture to the President. As Senator McClure pointed out in the Public Lands Subcommittee hearing, the Wilderness Act language which places the duty of reporting the wilderness

studies directly on the President was effectively evoked by Congress and the conservationists in their effort to expedite completion of the studies after early delays. It is expected that the provision of a similar responsibility for river studies will have a similar result.

Mr. JACKSON. Mr. President, the House, on April 10, 1974, agreed to the Senate amendment to H.R. 9492, and added an amendment of its own. H.R. 9492, as amended, which is before the Senate again today, preserves all of the provisions which were added in the Senate with one exception: The 3-year study limitation on any new rivers designated for study by the Congress is deleted. The House Interior Committee has informed our committee that it would prefer to place a time limitation for study in each bill which designates a new study river. This way the study period can be tailored at the time of passage of each bill to meet the unique circumstances concerning the particular river to be studied and the immediate capability of the relevant agency to conduct the study.

This appears eminently reasonable and my colleagues on the committee have informed me that they are perfectly agreeable to this approach.

The House amendment of April 10, 1974, made three additional changes in H.R. 9492. Two of these three changes were originally part of a separate House bill which was reported by the House Interior Committee, adopted by the House without opposition, and added to S. 921. The changes would: First, redefine the purpose for which scenic easements may be acquired within the river corridor to include not just the protection of the "view from the river" as the original act provides but rather the protection of the "natural qualities" of the river area; second, take the \$20.6 million new moneys authorized by H.R. 9492, as amended by the Senate, for acquisitions in the corridors of the wild and scenic rivers designated in the original act, and the \$17 million already expended on those rivers and divide the total into individual authorizations for each of those rivers; and third, establish a deadline of June 30, 1979, for expenditure of the authorized funds.

Mr. President, I believe the House amendment strengthens the Wild and Scenic Rivers Act and fully coincides with the purpose of the Senate language in H.R. 9492. There are, however, several technical changes which must be made before this bill can be sent to the President. I, therefore, send to the desk an amendment to make the necessary changes and move that the Senate concur in the amendment of the House to H.R. 9492, with an amendment.

Mr. ROBERT C. BYRD. Mr. President, now, on behalf of Senator JACKSON, I move that the Senate concur in the House action with an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

(a) In subsection (b):

(1) between "(b)" and "In" insert "(1)"; and

(2) delete paragraph (3) and insert in lieu thereof the following:

"(3) In section (7) (b) delete clause (1) and insert in lieu thereof the following:

"(1) during the ten year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least 180 days while Congress is in session prior to publishing notice to that effect in the Federal Register, and"

(b) Delete subsection (c) in its entirety.

(c) In subsection (d):

(1) delete "(d)" and insert in lieu thereof "(c)", and

(2) delete "including the protection of" and insert in lieu thereof "for the purpose of protecting".

(d) In subsection (e) delete "(e)" and insert in lieu thereof "(d)".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD).

The motion was agreed to.

#### NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident repair acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. MOSS. Mr. President, it is my understanding that further action on the Magnuson amendment is now to go over until tomorrow. Is that correct?

The PRESIDING OFFICER. Will the Senator from Utah restate his question?

Mr. MOSS. It is my understanding that inasmuch as we have proceeded to this point on the Magnuson amendment and are unable to complete it, it would go over until tomorrow. Or has there been any decision on that?

The PRESIDING OFFICER. There has been no agreement.

The Chair is advised by the Parliamentarian that both amendments cannot be pending at the same time. However, there can be a request for the Magnuson amendment to come up following the Abourezk amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOSS. I Yield.

Mr. ROBERT C. BYRD. The request has already been entered for the Abourezk amendment to be the pending question immediately after the Senate disposes of the nominations in executive session on tomorrow and returns to legislative session. That being the case, would not the Magnuson amendment, if it is not disposed of today, automatically be the pending question upon the disposition of the Abourezk amendment tomorrow?