however, a program that keeps policy holders from bankruptcy, insurers from insolvency, and taxpayers from paying the full cost of a catastrophic terrorist event. From this standpoint, it has been a success and it is essential that the program be extended for a determinant period of time.

An extension should meet the following principles:

It should extend the current program for a reasonable period of time;

It should hold retention levels at the current program limit;

It should provide a backstop for group life policies; and

It should require stakeholders to determine the nature of a public private partnership going forward (including, specifically, a study of how to deal with threats posed by nuclear, biological, chemical and radiological attacks).

We recognize that TRIA is not working perfectly for all stakeholders. For some insurers the retention levels require companies to underwrite as if the program does not exist, and any increase in retention levels will render the program useless. But we believe that TRIA has helped to stave off the economic dislocation that could have filled the vacuum left by drain of insurance industry capital post-9/11. In instances where states have granted exclusions, insurers who otherwise could have walked away from this type of risk have not because of TRIA. In states where no exclusion exists, or for those carriers who write worker compensation coverage, the backstop is insurance against insolvency.

Thank you for your attention to this important issue. Please do not hesitate to contact us if we may be of assistance on this or other issues.

Best regards,

STEVE BARTLETT,
President and CEO.

Also signed by 74 others.

COALITION TO INSURE AGAINST TERRORISM,
Washington, DC, April 26, 2005.

DEAR SENATOR REID: The Coalition to Insure Against Terrorism (CIAT), a broad-based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly supports S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by Senators Bennett and Dodd. As the principal consumers of this vital insurance coverage, CIAT urges you to cosponsor this important legislation.

With the Terrorism Risk Insurance Act (TRIA) set to expire at year-end, there is no evidence to suggest that insurance markets will be able to provide adequate insurance against catastrophic acts of terrorism without a federal reinsurance backstop. Based on recent testimony from senior Administration officials, the threat of terrorism within our homeland remains as high as it did on 9/11. Earlier this year, CIA Director Porter Goss said before the Senate Intelligence Committee: ''It may be only a matter of time before al-Qa'ida or another group attempts to use chemical, biological, radiological and nuclear weapons'', and ''al-Qa'ida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the Homeland.''

This stark reality, together with the unique factors that make the terrorist threat akin to the risk from war, continues to prevent insurers from effectively modeling and pricing the risk of future catastrophic terrorism attacks, thereby seriously hampering the development of any viable catastrophic reinsurance alternatives to TRIA.

To date, the terrorism reinsurance program established by TRIA has achieved the goals envisioned by President Bush and bipartisan leaders in Congress in 2002. First, it has helped keep the economy going in the face of continued terrorist threats by ensuring that businesses across America can secure this essential coverage, saving countless jobs in the process. Second, it serves as an important tool to minimize the severe economic disruption that almost certainly will occur should there be a future terrorist attack of catastrophic proportion.

S. 467 would extend the current TRIA program for a short period of time while also creating a group of insurance and risk management experts to work with the Presidential Working Group on Financial Markets to develop a longer-term solution. If enacted, this legislation will ensure that the nation's workers and businesses will be able to secure adequate and affordable insurance coverage against terrorism after year-end, and that the nation has a sound policy in place to enable the economy to quickly recover should another terrorist attack occur in the U.S.

CIAT believes that it is absolutely critical that Congress act quickly to extend the Terrorism Risk Insurance Act (TRIA) beyond December 31, 2005. Extending TRIA is an essential part of our nation's economic preparedness against terrorism, as well as an essential element of our nation's economic security. With only a few months left, American businesses and property owners face the threat of going without adequate and affordable terrorism insurance coverage next year. Without a federal terrorism risk reinsurance program in place, our economy will be needlessly disrupted and significant U.S. economic interests and jobs are likely to be exposed to the uninsured costs of a major terrorist event.

To this end, CIAT respectfully requests that you cosponsor S. 467.

Sincerely,

THE COALITION TO INSURE AGAINST TERRORISM.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Nelson (FL) (for Feingold) amendment No. 610 (to amendment No. 605) to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the Senator from Oklahoma and the Senator from Vermont or their designees prior to the vote on the motion to invoke cloture on the pending substitute amendment.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, those of us who are in the managing positions want to explain what it is about and why the cloture is very important. However, we do want to accommodate the Senator from Arizona, who is busy with a markup right now, and if there is no objection, I would recognize him for up to 8 minutes.

Mr. McCAIN. Mr. President, I thank the Senator from Oklahoma and the Senator from Missouri for their courtesy, and I will try to be brief in my statement.

Nearly 50 years ago, the Federal-Aid Highway Act of 1956 was enacted into law. As I mentioned during last year's debate, the 1956 act added up to a mere 29 pages—a tiny fraction of this year's highway bill. But what it accomplished truly changed this country. The act created programs that led to the construction of the Interstate Highway System, the largest civil works project ever undertaken by the United States. The 1956 act was the brainchild of President Eisenhower to establish the highway trust fund, financed by taxes on gasoline to fund this massive undertaking. The act required the construction of an interstate highway system using a uniform design that would be safer than most U.S. highways in existence at that time.

Mr. President, today we are all the beneficiaries of the foresight of President Eisenhower and of the Congress that helped to shepherd the legislation through to enactment. The Interstate System today is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstates, and the system has obtained a record of being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation that the Senate will consider shortly, I doubt that history will remember this as having helped improve on President Eisenhower's ''grand plan.'' We are no longer focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Instead, we are faced with legislation that redistributes funding to the States in an unfair manner.

Approximately every 6 years we reauthorize our Nation's multiyear highway, transit, and safety programs. We last reauthorized these programs in 1998 with the enactment of TEA–21 following extensive debate in the Senate. In the 108th Congress we did not reauthorize these programs, and, instead, Congress passed a series of short-term extensions of TEA–21, and this happened for good reason. The bill brought to the Senate floor in the last Congress would have increased overall funding to $318 billion, $100 billion over the TEA–21 enacted level.

I commend the chairman of the Environment and Public Works Committee for reducing the authorized number to match the President's fiscal 2006 budget proposal of $284 billion in the version of the bill reported by his committee. Reduction in the overall size of the bill was a significant improvement over the legislation presented to the Senate last year. Fiscal discipline is a key component of this debate. As Alan Greenspan warned some days ago, ''Under existing tax rates and reasonable assumptions about other spending, projections make clear that the Federal budget is on an unsustainable path in which large deficits result in rising interest rates and ever growing interest payments that augment deficits in future years.''

We need to control our spending. We must. And that is why the overall size of this bill should not be inflated. We are considering a substitute amendment to the bill that as proposed increases obligations by $11 billion, and I think that is wrong.

According to the Statement of Administration Policy regarding the highway bill, ''Should the obligation or net authorization levels that would result from the final bill exceed (that amount), the President's senior advisors will recommend that he veto the bill.''

Apparently, we are now going to test whether the President will veto the bill.

Fiscal prudence is crucial, but even if the conferees act sensibly and recognize the need for an agreement that would be acceptable to the President, that alone would not make the legislation adequate.

Equity is also crucial and, unfortunately, the highway bill that is before us retains unfair features of past bills. In some cases, it is even more unfair than last year's legislation. This year's highway bill perpetuates the historical discrepancy between donor States and donee States.

Remarkably, not only does the bill continue the disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased theoretically every State's rate of return to 95 percent in the final year of the bill, the substitute amendment before the Senate only promises a rate of 92 percent in 2009 for those States. Until then many States would linger at a rate of return of 90.5 in the first year and 91 percent thereafter while others receive more—in some cases much more than what they contribute to the highway trust fund. As if that were not enough, this year's bill would actually propose to create further disparities between States. Although ''equity'' is in the title of the legislation, the number of donor States would increase from 28 under current law to 31. Under the Environment and Public Works Committee's so-called formula, which is less a formula than it is a series of calculations consisting of arbitrary funding caps and floors, some States would actually receive a greater rate of return than they would have under last year's bill, despite the fact that this year's overall funding is less. That is remarkable.

My colleagues may wonder how this is possible, and they may question my facts. But as hard as this may be to believe, it is true. For example, the State of Missouri, which currently receives a rate of return of 91 percent, would have received an increased rate of return of 95 percent immediately and then throughout the reauthorization. Under the substitute amendment before us, Missouri will go from a rate of return of 91 percent to 99 percent immediately.

Despite Missouri's good fortune, five States would continue to linger at the bottom of the barrel for 4 years. In the fifth year, at least theoretically, these States would increase their rates of return to 92 percent, a modest increase of 1.5 percent over current law; 1.5 percent when other States enjoy a rate of return of over 200 percent, in one case almost 530 percent, in that final year. They say that beggars can't be choosers, but this legislation shouldn't be passed solely to prove that point. States like Arizona, California, and Texas should not be in the position of begging for their fair share of contributions to the highway trust fund.

I fully recognize that during the years when the Federal Government was building the interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the intestate system. But that era is over. Congress declared the construction of the interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States regardless of the already enormous transportation needs of donor States.

Let me be clear. Today, the need is in the highest growth States, which face some of this Nation's toughest transportation challenges. According to the most recent Census Bureau projections, Florida, Texas, and Arizona, all superdonor States receiving the minimum rate of return, will be among the five fastest-growing States over the next 25 years. Yet the donee States, many with shrinking populations, continue to receive growing subsidies from donor States. Meanwhile, States like Florida, Texas, and Arizona, and others including Colorado and Indiana, would be held for no apparent reason at the bottom. Other States, including Georgia, Illinois, Maryland, Minnesota, Nevada, New Jersey, North Carolina, South Carolina, and Virginia also would continue to get shortchanged. This is not the right approach, it is unfair, and we should do everything we can to ensure that any bill voted off this floor is more equitable for all States.

Now, I am sure we will hear about the great transportation needs of the States that receive more funds than they contribute. And I have no doubt that those States do, in fact, have significant needs. But how was it determined that California, for example, should have an average of $260 million per year of its funding redistributed as the EPW-reported bill would direct? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of a State like New York, for example, which is scheduled to receive a rate of return of 111 percent, or an average of over $140 million per year more than it contributes. This significant rate of return isn't the product of savvy investment. It is a guaranteed rate of return well above 100 percent that is built on the backs of donor States.

Why should a State like Alaska receive a rate of return in 2009 of almost 530 percent when it currently already receives a return of 500 percent? Why should Montana receive a rate of return of almost 228 percent, or Vermont a rate of over 212 percent? These figures defy any reasonable explanation other than the following: This bill is less about the integrity of our Nation's transportation system than it is about maximizing the amount of money going to some States at the expense of others.

I support a long-term reauthorization of our Nation's surface transportation programs and I understand the vital nature of this funding to our States. But before we take action on this bill, I urge my colleagues to start asking questions and to take seriously the consequences of increasing the size of this bill beyond the $284 billion level and of perpetuating the inequitable distribution of funds under this legislation.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Oklahoma.

AMENDMENT NO. 636 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order to call up Ensign amendment No. 636.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. ENSIGN, proposes an amendment numbered 636.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize the State of Nevada to continue construction of the US-95 Project in Las Vegas, Nevada)

On page 410, between lines 7 and 8, insert the following:

SEC. ____. US-95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified

as the preferred alternative in the document entitled ''US–95 Project in Las Vegas, Nevada'', as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

Mr. INHOFE. I ask unanimous consent that that amendment be set aside.

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

Mr. INHOFE. Mr. President, I have a couple of brief comments. I know how sincere the senior Senator from Arizona is concerning this bill, and it does demonstrate that it is very difficult when we are trying to be fair and we are trying to do a formula to make everybody happy. Probably every Senator is a little bit unhappy with it. That is what makes it, perhaps, a fair formula.

It is true—the Senator was accurate—as far as the history of the Interstate System back in the Eisenhower administration and the redistribution of funds. This is what we have to keep in mind, though: Yes, the Interstate System is complete, but it still must be maintained.

He talked about the State of Montana. Yes, it is true the State of Montana does not have the population to support the highways, and yet they have to have the highway system. That system, even though it may be complete, must be maintained.

In defense of the formula, there are two ways of doing this. One way, we could do what has been customary in the other body, and that is come out with a group of projects, take care of a certain number of people in the passed bill, and then walk away from it. That would be very easy.

I will tell my colleagues, what would be easy is to go ahead and distribute a bunch of funds to 60 Senators and then sit back and say: The rest of you guys, that is your problem. But we do not do it that way. Instead, in looking at the formula and the factors, it is an incredibly difficult thing we are dealing with. We have factors that have to do with the donor status of the State, the number of miles in the State, the age of the State, the passthrough provisions of the State, and the fatalities per capita of the State. My State of Oklahoma has a higher per capita fatality rate, and therefore one has to come to the conclusion that there is a reason for that. So all of these factors are a part of a very complicated formula.

It may be that people will look at it and say: You do not treat—it is kind of interesting. I will hear from people from the fast growing States who say, We do not get as high as we need to get in our donor status relief, and yet at the same time we hear from some of the Eastern States that are complaining because the floor is too low. So I would think that everyone should realize that there is not going to be a perfect formula that makes everybody happy.

It is a formula that is as fair as we can come up with. We have been working on this for 3 years. This is not something that just came out. When the Senator from Arizona says that last year's bill was guaranteed to raise the donor status floor to 95 percent, that is easy because we had the money to do it. This year, we do not have the money to do it. Even with the amendment that was passed, all that does is raise it from 90.5 percent to 92 percent. It is a very difficult thing.

I do not want to use up an inordinate amount of time, but I will talk about why we have to do this today. The only alternative to passing a bill is to have another extension. If we have another extension, we do not really get into the problem. We do not take care of the donor State rate of return. We do not have any of the new safety core programs. We have literally spent months putting this together. Of course, those provisions were in the Commerce Committee. We need to respond to the deaths on the highways. If we do not pass the bill, we are not going to have any kind of streamlining of environmental reviews. We are not going to have any increase in the ability to use the innovative financing systems which are included.

This bill contains the establishment of a national commission to explore how to fund transportation in the future. As the Senator from Arizona said, 50 years ago we started this system, back during the Eisenhower administration. He recognized there was a problem back when he was Major Eisenhower and he was trying to move goods and services around. He recognized there was a problem, but we have not changed the way we are funding highways for 50 years.

This bill establishes a commission to come up with more innovative ways and allows the States to participate. People are concerned about things such as Safe Routes to School. If we go on an extension instead of a bill, we are not going to have Safe Routes to School. There is uncertainty that is out there. I know my State of Oklahoma is not any different from the rest of the States. We are on our sixth extension now. If we are operating on an extension, it could be a 1-month extension, it could be a 1-year extension.

There is no certainty by which we can plan the construction and maintenance of highways and do something about the bridges. The bridges in Oklahoma are worse than any of the bridges in the Nation. It is a life-and-death situation. People are dying. We have had two deaths in Oklahoma just because of the condition of the bridges. So we are going to have to do something. If we operate on extensions, we are not going to be able to have any of those improvements.

As far as the border program, the States that are complaining about this program are actually border States. They are States that have the benefit of some of the provisions to take care of the borders. NAFTA has been passed, and there is increased road travel. We will not have a borders program if we do not pass a bill. It would just be an extension of the old program.

Lastly, the firewall protection—we need to make sure that people quit robbing the highway trust fund. I was in disagreement with the distinguished chairman of the Budget Committee, and I said the problem we have been having is people are taking money out of the trust fund and using it for purposes to establish and support policies that have nothing to do with transportation. These are the things that concern me.

We want to stay within our timeframe. Before turning to Senator BOND, I guess Senator JEFFORDS is not in the Chamber, so we will turn to Senator BAUCUS. After that, I ask unanimous consent that we stay on this course and first recognize Senator BAUCUS, and that after his completion we recognize Senator BOND for up to 10 minutes.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, it is quite clear, especially based upon the vote on the point of order yesterday where 76 Members of this body voted to waive that point of order indicating their support for this program, that there is not a lot of controversy remaining on this bill. There are important amendments, clearly, that will be offered by Members, but I believe all of us in this body know that this bill must be passed and must be passed quickly. It should be passed today, and it probably will be passed today, both because it is important and also to avoid the May 31 date when current law expires. Hopefully, we will get a conference that will bring back a conference report so we can pass this legislation and send it to the President's desk by that time.

There is one point I wish to make, though. There is some concern that this bill is not fair to every State. We hear this in the committee. We who are managing this bill hear that statement often from a lot of Senators. I understand it. Every Senator is doing what he or she should do, and that is to fight for his or her State. I compliment those Senators. It is our job as managers of the bill and also our job as a body to do the very best we can to be as fair as possible to all concerned and get this legislation passed.

I will say a word or two in defense of the Western States that are large in area but small in population as to why this national highway program is fair to us—I represent the State of Montana—and why it is also fair to some of the more populous States.

We do not have a lot of people in Montana. Our population density is about six people per square mile. There are not very many States with a population density lower than ours. We are

a huge State in area. In fact, the length across our State of Montana is as great as the distance from Washington, DC, to Chicago. It is that far to drive across Montana. In addition, if one were to overlay Montana over the New England States, the State of Montana would include New York and all the other New England States, and also include Pennsylvania. I think it would include about half of New Jersey. So it is a large area but very low in population density. The State of Arizona, for example, has 45 people per square mile. Montana, as I mentioned, has about six people per square mile.

This is a national program. We are trying to get all States included. New Jersey, I might add, has a population density of about 1,100 people per square mile. New York has about 401 people per square mile. Again, Montana has six people per square mile. This is a national highway program. We want Americans to be able to travel freely across all States, the more populated States and also the less populated States. We want our commerce to travel nationwide, for truckers to be able to drive their vehicles across the United States virtually unimpeded. We do not want a situation where some States have the resources to build nice new highways and other States, just because there aren't any people there, do not have the resources to build highways, so it would be an uneven system.

Clearly, not everybody is unhappy. We have done the best we can to make this as balanced as it could possibly be. I think the vote yesterday, while it is not a direct vote, is an indirect indication that most Senators are pretty satisfied. When 76 Senators vote to waive the point of order that was made yesterday, that is a vote in favor of the highway bill. I think that is a pretty good indication this is a fair and balanced bill.

Different States have different State gasoline taxes to help pay for the highways in their States, matching along with the Federal contributions. We in the State of Montana pay a lot also per capita in our contributions to State and Federal highway trust funds, a lot more than most other States. In our State of Montana we spend about $360 per person per year in contributions to the highways. The national average is about $250 per person per year. We in Montana spend $360 per person per year. I point out that the folks in Arizona are actually below the average. The contributions the people in Arizona pay to the highway trust fund, both to the State and Federal highway trust funds, is about $235 per Arizonan per year. That is below the national average.

That is fine. That is a decision in large part the people in Arizona are making because of their State gasoline taxes. But it is also a consequence of a lot of other factors in the formula for the States. The long and short of it is Arizonans pay less than the national average per capita in their contributions to Federal and State highway funds, whereas folks in other States pay much more. Montanans, as I mentioned, pay $360. South Dakotans pay a lot more for highways, more than the national average. People in South Dakota pay about $312 per person. It is interesting—New Yorkers actually are very low. New Yorkers pay only about $152 per person in their contributions to the highways in the State of New York. That is half what it is in some other States.

Everybody can bring out figures and statistics. But I do think, for the sake of equity and fairness, it makes sense to get a good bit of these statistics out in the open, on the record, so we all understand and realize it is not a perfect bill, but it is a bill that by and large accomplishes what it is intended to accomplish—that is provide the resources so we can build and maintain our highways, our mass transit, and some of the other programs affiliated with the highway program.

I thank the chairman, who is doing a great job managing this bill. I also very much thank Senator JEFFORDS, the ranking member of the Environment and Public Works Committee, for excellent leadership. Also I give special thanks to my colleague on the Finance Committee, Senator GRASSLEY. He and I have worked closely together to provide the revenue for this bill and it is basically through gasoline taxes and other excise taxes.

I remind my colleagues this legislation before us does not add to the Federal deficit, not at all. In fact, it reduces the Federal deficit. It reduces the Federal deficits; that is, our national debt, by about $14 billion over 10 years. We reduce the national debt—not by a lot, but we reduce it. We do not add to the debt. We reduce the debt by about $14 billion over 10 years.

Those who are concerned that this is a spending bill, that this bill adds to the national debt and deficit, that is not accurate. As a reminder, this bill does not add at all to Federal deficit, not one dime. It is all paid for.

I know a lot of proposals a lot of Senators have, either to lower taxes or spend money on something, are not paid for. This big highway program is all paid for. It is jobs for America. It is infrastructure for America so we Americans can live the life we want to lead, have the highways we want to have, and compete in the modern world and off in the future with a good highway system.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. INHOFE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Thirteen minutes. The Senator from Missouri.

Mr. BOND. Mr. President, my thanks to the chairman and also to my colleague on the Transportation Infrastructure Subcommittee, the Senator from Montana. As I say, it helps to have a cousin in the business. It helps to have a ranking member who is also ranking on Finance with Senator GRASSLEY. Senator BAUCUS and Senator GRASSLEY have done a great job. It is a pleasure to work with him, with Senator GRASSLEY, Senator JEFFORDS and, of course, our chairman, Senator INHOFE.

I hope everybody has been having as enjoyable a time as those of us who have been trying to lead this bill from the various committees—EPW, Commerce, Finance. I know this is a very pleasurable experience. But the time has come for it to end. It is time for us to invoke cloture. That is why we are asking our colleagues to put an end to this. All good things have to come to a close. If we are to get this bill done, we need to invoke cloture and give it a timeframe. We have already limited the number of amendments.

The simple fact is we have to get this bill to conference. We have to go to work with the House to come up with a very important surface transportation bill, known as SAFETEA, this year. The extension expires in May. We are operating on our sixth extension. The original bill, the last bill, ran out on September 30, 2003. We have had extensions. We have missed the deadline. We absolutely have to get this bill passed.

If the extension expires and we do not do anything, not only does the U.S. Department of Transportation shut down but States would not be able to issue new contracts for summer construction programs on Federal aid highways. We would have a significant economic blow to our country as well as a delay in the building of our necessary roads.

Cloture will enable us to get to conference. It is going to be a very different conference. The House has a measure that is essentially project oriented. As has been stated by my colleagues on both sides of the aisle here, we have attempted to achieve equity by a very complex formula. The Senator from Montana made a very important point. When we came to the floor, we added $11 billion. Why did we do this? The administration's own Department of Transportation puts out annually a conditions and performance report. Even with the $11 billion we added to the base number of $284 billion, according to the administration's own report, it still is not enough money even to maintain our current system. That is why money was added. That is why the Finance Committee was given the authority under the Talent-Stabenow amendment to add money. That is why we waived the point of order—because this money is important.

We heard my good friend, the Senator from Arizona, complaining about adding money, implying it was adding to the deficit. You have already heard that is pure nonsense. There is, as a matter of fact, a positive impact because the Finance Committee has not only added money to the highway trust

fund, but to make sure there was no shortfall in the general revenue sections, they added more general revenue. There is more general revenue coming in than before as a result of this amendment we adopted, and there is more money in the highway trust fund.

Regarding the point made by the Senator from Arizona, if the situation were not so serious, it would be funny. There is nothing like a good joke like having a Senator complaining he is not getting enough money and complaining we added money when adding that money brings the State of Arizona increase from last year's bill to 40.6 percent. They do fantastically well. They are one of the top three winners in the whole bill—top four, and he is complaining we added money.

You know the old story about the boy who kills his parents and when charged with murder he throws himself on the mercy of the court because he is an orphan. You can either complain about not getting enough money or you can complain about having more money added to the bill; you cannot do both at the same time. You have to pick one side of the fence or the other.

This bill does have very important aspects. First and foremost, the economic impact—47,500 jobs are created for every $1 billion spent. That is immediate economic impact. The longer term economic impact of a good transportation bill, as I have pointed out on the floor before—as a former Governor of my State, I know if you want to know where economic growth is going to occur, where jobs are going to grow, you take a look at the transportation system. You have to have good transportation to create good jobs and to have a strong economy.

There are also aspects of this bill, of course, that improve our environment, because we are reducing congestion. We are putting environmental planning at the start of the planning process so we can take care of environmental concerns sooner.

But the real name of this bill is the SAFETEA bill, and safety is probably the most important part of this bill as far as my State is concerned. I have told this body several times of the number of friends I have lost on highways in Missouri. You can travel many national highways, Federal aid highways in Missouri, that are two-lane roads with traffic that merits having four lanes. Do you know what happens when you have a slow-moving livestock truck or piece of equipment, construction equipment or farm equipment, on a narrow two-lane road? Traffic backs up and backs up and somebody—very often a stranger to the area—tries to pull out and pass, with tragic results. We see white crosses marking our highways where people have lost their lives. Unfortunately, the number of those white crosses grows.

The Senator from Arizona has complained about the criteria used in the formula for money going to States that have greater than 1 fatality per 100 million vehicle miles traveled. That is Missouri and it is 17 other States. Actually it is Arizona as well.

If this is a SAFETEA bill, shouldn't you consider safety? I certainly think so. Some of the border State people say we need more money because we are on the borders. I will have a chart this afternoon that shows an interesting point of information. Some of the heaviest traffic—some of the heaviest tie-ups, the bottlenecks—is in the middle of America where East and West, North and South, Southwest and Northeast traffic all come together. When you look at the traffic in trucks on our highways on a U.S. Department of Transportation map, there is a great big artery clog right in the heart of America, in Missouri, in Oklahoma, in Illinois. That is where the traffic is the heaviest. We need a crossroads factor in the formula.

It is not the border States alone that have needs. We in the middle of Nation need that formula. Missouri has the fifth worst roads in the Nation; 65 percent of its roads are in fair to poor condition, requiring immediate repair. Missouri also ranks fourth from the bottom in number of structurally deficient and functionally obsolete bridges.

I say that humbly, knowing that my colleague's—the chairman of the committee—home State of Oklahoma ranks below Missouri.

Yet for all the complaining about how well our States do, we grow at the average rate of 30.40 percent. We grow in that neighborhood. Yet we are at the bottom of the list of worst roads and worst bridges in dangerous condition.

That is why this bill is so important. I urge my colleagues to invoke cloture, and I reserve the remaining time on this side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Minnesota desires.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I salute the chairman and the ranking member for this excellent legislation. I will support a cloture motion.

It is very important we pass this legislation as expeditiously as possible for States such as Minnesota which have a short highway construction season.

I wish we had been able to put into place the Senate version a year ago. I salute Chairman INHOFE for his tireless efforts, working with his associates in the House and also the administration, in an effort to pass what would have been an excellent Senate bill a year ago.

This bill is as good as it could be, given some of the pressures. It is a mystery to me, knowing the serious state of disrepair of our highways in Minnesota and the lack of funding at the State and particularly the local level—it is hard to imagine how any other State could be so far advanced beyond Minnesota's highway construction situation that the money the Senate wanted a year ago, that would be providing for needs this year if not for certain pressures—and is beyond the realm of common sense not to have passed this. So be it.

I thank the chairman and the ranking member for, as I understand it, accepting an amendment I offered, along with Senator LUGAR, also cosponsored by my colleague from Minnesota, Senator COLEMAN, Senator HARKIN, Senator GRASSLEY, Senator DURBIN, Senator BROWNBACK, and Senator BINGAMAN. It is a simple amendment that calls for cars produced starting the model year of 2007 to have a sticker in two different locations indicating the presence of a flexible fuel engine that allows a car or other gasoline-consuming vehicle to use regular gasoline or up to 85-percent ethanol, which in Minnesota is called E–85 which is 85-percent ethanol, 15-percent regular unleaded and is used as a substitute for regular unleaded gasoline in vehicles that have these flexible fuel engines.

I have two cars, factory-produced Ford Explorers—one in Washington, DC, where unfortunately I cannot find the fuel, and one in Minnesota, where I can—which are as efficient as my previous vehicles using regular gasoline, and presently in Minnesota between 30 and 40 cents a gallon cheaper than regular unleaded.

Consumers will use this fuel as a lower cost alternative if they have cars or vehicles that can use it, which is why I have another amendment to offer to the Energy bill that requires vehicles produced starting model year 2007 or thereafter to all carry a flexible fuel engine so consumers have this lower cost option. At least those who buy these vehicles will be aware they have a flexible fuel engine and can take advantage of this much lower cost fuel.

This amendment is supported by the National Ethanol Vehicle Association, by the National Corn Growers Association, by the Governors Ethanol Coalition which Governor Pawlenty from Minnesota chairs, the Renewable Fuels Association, National Farmers Union. The automakers are neutral to it.

I thank the Chair and ranking member for accepting it and hope it will be enacted soon.

I ask unanimous consent Senator BROWNBACK be added as a cosponsor to the Lugar Dayton amendment.

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

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

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

AMENDMENTS NOS. 574, 598, 624 AS MODIFIED, 628, 634 AS MODIFIED, 643, 670 AS MODIFIED, 681 AS MODIFIED, 621, 622, 666 AS MODIFIED, 685, 694, 705 AS MODIFIED, 708 AS MODIFIED, 713 AS MODIFIED, 737, 725, 726 AS MODIFIED, AND 755 TO AMENDMENT NO. 725

Mr. INHOFE. Mr. President, I have a series of amendments that have been cleared on both sides. I ask unanimous consent the pending amendments be set aside provided, further, that the list of amendments I have sent to the desk, including modifications to some of those amendments, be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the amendments be printed in the RECORD.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 574

(Purpose: To allow States to own the entire interest of a real estate investment trust without tax consequences in order to assist the State in preserving its railroad infrastructure, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

AMENDMENT NO. 598

(Purpose: To provide a 90 percent Federal match for bridge projects on the Interstate Highway System)

In section 120(a)(1) of title 23, United States Code (as amended by section 1301), insert ''a bridge project or'' before ''a project to add''.

In section 144 of title 23, United States Code (as amended by section 1807(a)(9)), strike subsection (r) and insert the following:

''(r) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under section 120(d).

''(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).''.

AMENDMENT NO. 624, AS MODIFIED

At the end of subtitle H of title I, add the following:

SEC. 18___. ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Highway Administration.

(2) CITY.—The term ''City'' means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term ''earthquake'' means the Nisqually earthquake of 2001.

(4) FUND.—The term ''Fund'' means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term ''State'' means the Washington State Department of Transportation.

(6) VIADUCT.—The term ''Viaduct'' means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

AMENDMENT NO. 628

(Purpose: To reestablish the University of Buffalo as an appropriate research center for research on the impact of seismic activity on the Federal-aid highway system)

On page 439, line 3, insert ''and the National Center for Earthquake Engineering Research at the University of Buffalo,'' after ''Reno,''.

AMENDMENT NO. 634, AS MODIFIED

After Sec. 7260 of title VII:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

''(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

''(1) a permanent label inside the automobile's fuel door compartment that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

''(2) a temporary label to the window or windshield of the automobile that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) identifies the automobile as capable of operating on such alternative fuel.''.

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term ''model year'' shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting ''or (e)'' after ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting ''32908(e),'' after ''32908(b),''.

AMENDMENT NO. 643

(Purpose: To establish the Federal share of the cost of constructing a bridge in the State of North Dakota)

On page 410, between lines 7 and 8, insert the following:

SEC. ____. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

AMENDMENT NO. 670, AS MODIFIED

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, CNG, LNG, LPG and hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

AMENDMENT NO. 681, AS MODIFIED

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

AMENDMENT NO. 621

(Purpose: To provide for the conduct of a community enhancement study)

At the end of subtitle H of title I, add the following:

SEC. 18 ___. COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) CONTENTS.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) ADMINISTRATION.—

(1) IN GENERAL.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) FEDERAL SHARE.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) REPORT.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) AUTHORIZATION.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

AMENDMENT NO. 622

(Purpose: To provide for the development of a comprehensive coastal evacuation plan)

At the end of subtitle H of title I, add the following:

SEC. ___. COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the ''Secretaries'') shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) CONSULTATION.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) CONTENTS.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) REPORT AND UPDATES.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

AMENDMENT NO. 666, AS MODIFIED

(Purpose: To improve the high-speed magnetic levitation system deployment program)

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) and the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

AMENDMENT NO. 685

(Purpose: To increase an amount made available for the Alaska Highway System)

On page 50, strike lines 16 through 18, and insert the following:

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''$18,800,000 for each of fiscal years 1998 through 2002'' and inserting ''$30,000,000 for each of fiscal years 2005 through 2009''.

AMENDMENT NO. 694

(Purpose: To provide for an off-system bridges pilot program)

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

''(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, _____, and _____, for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.'';

AMENDMENT NO. 705, AS MODIFIED

On page 270, after line 15, add the following:

(d) In addition to other eligible uses, the State of Maine may use funds apportioned under section 104(b)(2) to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

AMENDMENT NO. 708, AS MODIFIED

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term ''eligible funds'' means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term ''eligible funds'' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term ''excess funds'' means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term ''inactive funds'' means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

AMENDMENT NO. 713, AS MODIFIED

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

AMENDMENT NO. 737

(Purpose: To improve the bill)

On page 38, line 8, strike ''$9,386,289'' and insert ''$8,386,289''.

On page 327, line 18, strike ''under section 204''.

On page 417, line 24, strike ''209'' and insert ''2009''.

On page 418, line 13, strike ''$2,000,000'' and insert ''$3,000,000''.

On page 558, line 17, insert ''and Boating'' before ''Trust''.

On page 558, line 23, strike ''2004'' and insert ''2005''.

On page 633, line 15, strike ''by all States''.

On page 652, line 23, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

''(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.''.

On page 900, line 18, strike ''and''.

On page 900, line 22, strike the period and insert ''; and''.

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

''(1) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.''.

On page 944, after line 21, insert the following:

SEC.___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC.___. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

''(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

''(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

''(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.''.

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.

(2) For fiscal year 2006, $8,900,000,000.

(3) For fiscal year 2007, $9,267,464,000.

(4) For fiscal year 2008, $10,050,700,000.

(5) For fiscal year 2009, $10,686,500,000.

AMENDMENT NO. 725

(Purpose: To provide for the construction of improvements to streets and roads providing access to State Route 28 in the State of Pennsylvania)

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting '', and improvements to streets and roads providing access to,'' after ''along''.

AMENDMENT NO. 726, AS MODIFIED

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term ''clean school bus'' means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''eligible recipient'' means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term ''retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

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

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses;

(ii) to install retrofit technologies; and

(iii) to purchase and use alternative fuel.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

AMENDMENT NO. 755 TO AMENDMENT NO. 725

(Purpose: To reprogram funds made available for Interstate Route 75 and North Down River Road, Michigan)

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

AMENDMENT NO. 670, AS MODIFIED

Mr. OBAMA. Mr. President, we have all heard from folks back home about the high price of gasoline. When you pull into a gas station to fill up your tank, you're now paying some of the highest prices of all time.

This amendment is designed to do something about that—by promoting a choice at the pump that will allow consumers to choose a fuel that today is 50 cents per gallon cheaper than regular gasoline.

That's why I would like to thank the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member of the Committee, Senator BAUCUS, for their advocacy of this amendment. I also want to thank the manager of the transportation bill, Chairman INHOFE, for working with us on this proposal. These Senate leaders are all committed to addressing high gas prices, and their work on this amendment is an example of that commitment.

I would like to thank my fellow authors of this amendment, Senator TALENT, as well as my distinguished colleague from Illinois, Senator DURBIN, for their hard work in getting this provision passed. And I thank the cosponsors of this amendment, also longtime supporters of ethanol, Senators LUGAR,

HARKIN, BAYH, COLEMAN, SALAZAR, DAYTON, and NELSON of Nebraska.

And of course, I would like to thank the excellent staff work of Elizabeth Paris, Matt Jones, and Russ Sullivan on behalf of this provision.

I am sure many of us in this Chamber, and many watching these proceedings, would jump at the chance to fill our cars and trucks with fuel that is 50 cents cheaper than current prices. What many consumers may not know is that that option is available today. It is known as E–85, a fuel comprised of 85 percent ethanol. And I suspect most Americans would agree that a fuel made of 85 percent Midwestern corn is a lot more desirable than one made from 100 percent Middle Eastern oil.

Right now, there are millions of cars and trucks that can run on E–85. They are known as ''flexible fuel vehicles,'' and the auto industry is turning out hundreds of thousands of them every year. These cars and trucks aren't more expensive to operate than regular cars—in fact, for just a one-hundred-dollar adjustment, even regular cars could run on E–85. And if E–85 is good enough for the Indianapolis 500—which just announced their cars will run on this fuel—then you can be sure that E–85 will work great in a flexible fuel vehicle.

The only problem now is our short supply of E–85 fuel stations. While there are more than 180,000 gas stations all over America, only about 400 offer E–85.

The amendment adopted by the Senate today addresses this problem by providing a tax credit to encourage the installation of more E–85 fuel pumps at your local gas station. Its enactment will not only give motorists another option at the pump, it will also send a clear message that the U.S. Senate is serious about reducing our country's dangerous dependence on imported oil.

Again, I thank my colleagues who have worked to adopt this amendment to help make America energy independent.

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

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

Mr. INHOFE. I ask unanimous consent the two live quorums be waived.

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

Mr. INHOFE. All time is yielded back.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, J.M. Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thane, Bob Bennett, George Allen, Mitch McConnell.

The PRESIDING OFFICER. The mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 605 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRASSLEY. Mr. President, I want to respond to the distinguished Chairman of the Budget Committee. Yesterday afternoon, my colleague responded to my defense of the merits of the Finance Committee title in Chairman INHOFE's substitute.

Since Chairman GREGG's response came shortly before the session ended last night, I am responding this morning.

I respect Chairman GREGG's efforts in his initial year as chairman of the Budget Committee. I congratulate him now as I have in the past on his victory in achieving a budget resolution. I was proud to support him in committee, on the floor, and in conference on the resolution.

As a senior member of the Budget Committee, I take its role seriously. I respect the Budget Act and the importance of the tools of fiscal discipline that points of order and other enforcement devices bring to the legislative process. I also respect the key role of the Budget Committee chairman and his staff under the Budget Act.

A careful and fair review of my statement will show that it is consistent with these long-held views. My statement did not claim that there was no valid Budget Act point of order against the Finance title of the Inhofe substitute. My statement did not question the authority of the Budget Committee chairman in raising the point order.

My statement responded to several very specific assertions against the Finance Committee title. One assertion, made quite passionately by Chairman GREGG, was that the Finance Committee amendment was a product of accounting gimmicks. Another assertion was that the amendment was not offset. I responded to the two main assertions ad relied on the Congress' official tax policy scorekeepter, the Joint Committee on Taxation. Chairman GREGG is right that, under the Budget Act, it is the Chairman Budget Committee chairman that the Senate parliamentarian looks to determine whether a point of order is well-founded. The Joint Committee on Taxation, however, determines the scoring of revenue measures.

I will not go into the other points of disagreement in our statements because the statements speak for themselves.

In sum and substance, my statement defended the Finance Committee title on its scoring by the Joint Committee. My statement did not dispute that the amendment spending level was above those contemplated by the Budget Resolution or the spending level agreed to by the administration and congressional Republican leadership. Of course, Finance Committee jurisdiction extends only to the cash flow of the Highway Trust Fund. The Finance Committee title added additional cash inflow, trust fund receipts, and additional cash outflow, trust fund outlays. The Finance Committee title balances additional trust fund receipts and outlays. That was the job we were asked to do and we did it in a fiscally responsible manner.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 92, nays 7, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—92

Akaka	DeWine	Lugar
Alexander	Dodd	McConnell
Allard	Dole	Mikulski
Allen	Domenici	Murkowski
Baucus	Dorgan	Murray
Bayh	Durbin	Nelson (FL)
Bennett	Ensign	Nelson (NE)
Biden	Enzi	Obama
Bingaman	Feingold	Pryor
Bond	Feinstein	Reed
Boxer	Frist	Reid
Brownback	Graham	Roberts
Bunning	Grassley	Rockefeller
Burns	Hagel	Salazar
Burr	Harkin	Sarbanes
Byrd	Hatch	Schumer
Cantwell	Inhofe	Sessions
Carper	Inouye	Shelby
Chafee	Isakson	Smith
Chambliss	Jeffords	Snowe
Clinton	Johnson	Specter
Coburn	Kennedy	Stabenow
Cochran	Kerry	Stevens
Coleman	Kohl	Talent
Collins	Landrieu	Thomas
Conrad	Lautenberg	Thune
Corzine	Leahy	Vitter
Craig	Levin	Voinovich
Crapo	Lieberman	Warner
Dayton	Lincoln	Wyden
DeMint	Lott	

NAYS—7

Cornyn	Kyl	Sununu
Gregg	Martinez	
Hutchison	McCain	

NOT VOTING—1

Santorum

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank those who voted the right way to come to a conclusion on this bill. This is likely the most important bill we will deal with this entire year. Right now we have a distressingly large number of

amendments out there that are germane that people could come and offer. We are not going to have enough time to do it. As is usually the case, there are many out there who are not serious about their amendments. It is currently being hotlined to try to find out who is serious and who is not. I am going to be talking to individuals, but I would say, if you are serious about your amendment, and you want it considered, bring it to the floor. I am sure I speak on behalf of Senator JEFFORDS as well. We want these amendments brought to the floor, and we also want to know how many are out there that may not be serious amendments.

Mr. JEFFORDS. Mr. President, I agree with the Senator. Please, everyone, expedite.

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

Mr. INHOFE. I yield.

Mr. BYRD. I have an amendment. I would like to offer it at a time when it would be mutually agreeable to the managers.

Mr. INHOFE. I suggest that it is mutually agreeable to send it to the desk and that it be considered.

Mr. BYRD. Very well. I will get my amendment, if the two managers will consent that I be recognized to offer it.

Mr. INHOFE. Yes.

Mr. BYRD. Mr. President, I will very shortly. In the meantime, might 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. 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.

Mr. BYRD. Mr. President, I will shortly call up an amendment. Before doing so, I would like to recall a statement by the late Reverend Peter Marshall, possibly, even probably, the most famous and well known of the Senate chaplains, who offered this prayer at the opening of the second session of the 80th Congress:

> Let us not be content to wait and see what will happen, but give us the determination to make the right things happen.

Sometimes we can do that, sometimes we can't, but at least we can try. For too many months now, the Congress and the administration have taken a ''wait and see'' approach when it comes to today's life-altering price of gasoline.

The administration has pinned its rhetoric to an energy plan, waiting and hoping to tout a reduced dependence on foreign oil, while conceding that no energy plan will provide immediate relief to high prices at the pump.

The American people have waited and have waited and have waited for the United States to get tough on OPEC and other nations responsible for the recent spike in gasoline prices. Their elected leaders offer explanations and more explanations and still more explanations and equivocations about why such action has not reduced prices at the pump.

The American people are out there listening and they are watching; they see what is going on here on the Senate floor. They watch us through those electronic lenses behind the Chair, the Presiding Officer. The American people waited anxiously for the President's prime-time news conference, hoping to see at last that somebody would proffer some kind of relief from high gas prices. My, how they do hurt. How they do pinch, don't they? Yes. Ultimately, the American people were disappointed as their pleas for relief were again rebuffed. The people have waited, they have waited, they have waited, and they are still waiting. They waited while gas prices have gone up and up and up. The patience of the American people is running out. When will it end?

The American people watched incredulously as the House of Representatives passed an energy bill last month, including $8 billion of energy tax cuts. These are tax cuts for many of the corporate conglomerates who are enjoying record-breaking profits from today's oil prices. Yet the Congress declines—it declines, it declines, and it declines again and again—to provide relief to the workers who must bear the brunt of these price spikes at the pump. I am talking about the working people of America, people whose hands are soiled with honest toil, the working people in America. They are in South Carolina, North Carolina, and West Virginia.

While the big oil companies are making big money, hand over fist, from high gas prices, the only relief the Congress has seen fit to provide is to the very oil companies—not the people—making all the money. They are making all the money.

The irony is incredible, but not only is it incredible, it is contemptible. It is the little guy who is getting the shaft because we refuse to stand up for him or her. Well, the time has come to take a stand. This Congress continues to ignore the working man and the single mother. There are lots of them out there and they have to go through this every day when they drive up to the pumps. Think of them. Who is here to take a stand for them—the little guys? There are lots of them out there. The little guy is getting the shaft because we refuse to stand up for him. Again, this Congress continues to ignore the working man and the single mother. This administration continues to ignore the working man and the single mother, and it continues to ignore the outdoorsman who can no longer afford to fill up his pickup truck or SUV for a weekend of work—yes, they even work on the Sabbath; they have to sometimes—or for a weekend of hunting and fishing.

If the Congress cannot wave a magic wand to lower prices at the pump—and it cannot—at least we can provide short-term relief to compensate workers, and that relief ought not be delayed. We have those workers in Texas, we have them in Oklahoma, and we have them in West Virginia. I talk with them every day. The time has come; the clock is moving. Relief ought not be delayed. The time has come for the Congress to take action. We must take action. We have heard that television statement: Do it now, do it here.

I addressed the Senate last month about this issue, highlighting the impact that high gas prices have had on rural States such as mine, rural States such as New Hampshire. Yes, there are rural areas all over this country.

When gas prices soar, the impact on rural families can be devastating and can be cruel. In my State of West Virginia, the impact has been brutal. It saps the economic strength of the State. It squeezes anybody who owns a vehicle, and it chips away at the income of workers who must commute. They have to commute, there is no way around it. Think of those mountains, those stately, majestic mountains in New Hampshire, West Virginia, and Tennessee. It chips away at the income of workers who have to commute to and from and across and in between those mountains. Households must curtail essentials, and families must do without other things. They have to get that gasoline, they have to get to work, they have to get that bread and butter on the table. Businesses lose customers. Think about that. I was once in a small business. I was once a small, small businessman. I know what it is. You have to meet a one or two or three-person payroll. And business includes customers. As the pocketbook strings tighten more and more, profits decrease, operating expenses sore, workers' paychecks suffer more and more.

Residents of rural States must drive longer distances to and from work, inflicting burdensome costs on commuters. I am talking about the States of Virginia, Georgia, New Hampshire, as well as West Virginia—not just West Virginia.

Rural States have less access to public transportation. What does that mean? That means subways and buses and car pooling are not usually available to rural commuters. I am talking about the States of South Carolina; Kansas; Iowa, where the tall corn grows; Oklahoma, as well as West Virginia. Not just West Virginia. Hear me now, it is not just West Virginia. In Appalachia—13 States are in Appalachia. West Virginia is the only one wholly in Appalachia.

In Appalachia, rural roads, twisting and winding and bending around the hills and mountains, exacerbate the financial pain. I am talking about the States of Tennessee, Kentucky, Mississippi, yes, as well as West Virginia. Not just West Virginia; other States as well.

When gas prices spike, rural commuters often have no disposable income to absorb the price flux. What

does this do? It forces painful cuts in essential expenditures. I am talking about the States of Idaho, North Carolina—where I was born—Ohio, South Dakota, as well as West Virginia. So it is not just West Virginia.

The people of these States and all across America, all across the Great Plains and the prairies, the mountains, the Ozarks, the Rocky Mountains, all throughout the land, people in these States are crying out for action by Congress. So today I offer an amendment to answer that call. We hear you, we should say. Yes, we hear you. So I have an amendment that says we hear you.

My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week to and from work. Isn't that a reasonable approach, a temporary $500 tax credit for commuters who travel 250 miles per week, and many of them travel more than that? Oh, yes. But we put a limit on it, for commuters who travel 250 miles. If you travel 240 miles, that is not enough. So we try to be very reasonable.

Why shouldn't a man or woman who travels 240 miles a week be helped, too? We know how difficult it is to move legislatively. I have only been in this Chamber 47 years, 47 years looking around these walls. ''Novus ordo seclorum,'' it says on that wall, ''a new order for the ages.'' And ''in God we trust.'' ''In God we trust.'' I have seen these walls for 47 years. Yes, I came over from the other body where I used to say: Thank God for the Senate. I never thought of coming over here to change the Senate rules to make us another House of Representatives. No, I said thank God for the Senate.

Here we are. My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week. What does that amount to per day? Mr. President, $50 for a 5-day week; is that what it is? It is $50 a day for a 5-day week. The credit would be available in rural, low-income States where public transportation is not readily available. Go down to Welch, WV. Travel into the hills and mountains of New Hampshire. The credit would be available in rural, low-income States where public transportation is not readily available. The credit would be limited to the tax year 2005, 1 year, and it fits within the congressional budget so as not to worsen projected deficits. That is reasonable, isn't it? This is not a complicated proposal. The arguments in favor of providing relief to workers is obvious, having been made by Members of Congress and the administration for many months now. So we put off action day to day, month to month, year to year, waiting for supposed long-term solutions to take effect while we are recreant, while we refuse to provide relief for the immediate hardship.

Let us not delay any longer. Let us not equivocate about economic theories that clearly are working to the detriment of the American workers. Now is the time, and it may be the only time, to vote to provide relief from high gas prices. Now is the time to vote to recognize the plight of workers at the gas pump.

Oh, they say, well, this amendment may not be germane. Oh, this would set a precedent. What is wrong with that? How are precedents set? What is a precedent, if it isn't something new, if it isn't something that goes against the grain of something that has gone before? That is how we get precedents. I have seen many precedents set in this Senate, so do not come here with that argument. I do not know, the Chair may rule this amendment is not germane. I suppose someone might even ask the Chair.

Now is the time to provide relief, a vote to forgo a policy of wait and see. It is time to show determination in making the right things happen.

AMENDMENT NO. 635 TO AMENDMENT NO. 605

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit for rural commuters)

Mr. BYRD. Mr. President, I call up my amendment No. 635 and ask that the clerk read the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. BYRD. I make that consent request, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 635:

At the appropriate place, insert the following:

SEC. ___. TAX CREDIT FOR RURAL COMMUTERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

''SEC. 25C. RURAL COMMUTER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

''(b) ELIGIBLE COMMUTER.—For purposes of this section:

''(1) IN GENERAL.—The term 'eligible commuter' means an individual who, during the taxable year—

''(A) resides in an eligible State,

''(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

''(C) has an adjusted gross income of less than—

''(i) in the case of a joint return, $100,000,

''(ii) in the case of a head of household return, $75,000, and

''(iii) in any other case, $50,000.

''(2) ELIGIBLE STATE.—

''(A) IN GENERAL.—The term 'eligible State' means any State with respect to which—

''(i) the percentage of the population residing in urban areas is less than the national average,

''(ii) the disposable personal income per capita is less than 114 percent of the national average, and

''(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

''(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

''(3) STATE.—The term 'State' means the 50 States of the United States.

''(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Rural commuter credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I commend the Senator from West Virginia for what he is attempting to do for rural America. That happens to be me, rural America. I am certainly in sympathy with this issue. The problem I think is going to be the cost. The cost is somewhere around $5 billion. Since this affects the finance title of the bill, I am looking to see if Senator BAUCUS and Senator GRASSLEY can come by and visit a little bit. If the Senator would like to continue explaining his amendment, or we could try to get hold of the two Senators from the Finance Committee.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. INHOFE. Yes.

Mr. BYRD. I will yield to the good judgment of the managers of the bill. If you would like to wait until the arrival of those two Senators, that is fine for me. May I take this moment to congratulate him and congratulate his comanager sitting by my side, the very distinguished Senator from New Hampshire. Mr. President, you are doing your duty, I say, speaking in the second person, which I am not supposed to do in the Senate. I hope they will come to the floor and make themselves heard.

Mr. INHOFE. Mr. President, I appreciate that and will wait until we have an opportunity to speak to those managing the finance title of the bill. That being the case, let me renew our invitation for people to bring their amendments to the floor. Right now we have hotlined trying to determine who is serious about his or her amendment. We have a lot to get done. The sooner anyone who has an amendment gets down here for the consideration of that amendment, it will be very helpful.

Mr. BYRD. Will the Senator yield for a correction?

Mr. INHOFE. Yes.

Mr. BYRD. I have done what Senators sometimes do. They make a mistake. They have done it to me, too, in referring to a Senator's State as a wrong State. Sometimes they say I am from the State of Virginia. I count that as a great compliment, but I am from the great State of West Virginia.

In this case, I have mistakenly referred to the distinguished Senator from Vermont as the Senator from New Hampshire, both great States. I am talking about the Senator from Vermont. I believe I referred to him as the Senator from New Hampshire. OK, the Senator from Vermont. I correct the RECORD.

Mr. INHOFE. Mr. President, I will just observe that they have covered bridges in both New Hampshire and Vermont.

Mr. BYRD. And West Virginia.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, can I have the attention of the Senator from West Virginia, please. The Senator from West Virginia does not need to respond to this, but I just want to make sure. First, I rise because about 6 o'clock yesterday afternoon, I promised the Senator from West Virginia that I would get back with him and hopefully have Senator BAUCUS with me to discuss whether we could go along with his amendment.

I got the amendment over to my staff, as I promised I would, about that time, but it was 9:30 this morning before I was able to get the two staffs together. I never did get together with Senator BAUCUS so I could come over and visit with the Senator personally about it.

We have found a cost argument, not an argument against the Senator's point of view on the substance of his amendment, but it is my responsibility as chairman of the Senate Finance Committee to find offset. Now, I do not say this to denigrate the Senator's efforts—the Senator does not have to worry about offsets; that is my job—but if I were going to go along with the amendment of the Senator, I would have the responsibility to find an offset.

So I apologize, first, for not getting back to the Senator as I promised I would last night. But based upon some of the arguments that Mr. INHOFE gave but more importantly related to the work of my committee—and I cannot speak for Senator BAUCUS, but I think there is an agreement among our staff, and I do not want to put a figure on it without having the Joint Tax Committee actually score something, but this is a tremendously expensive amendment, not that it is not justified.

I would have to come up with a fairly large figure that my staff tells me would be close to what we have already raised to bring more money into the transportation fund so that we can get more money for the Senator's State and my State, and more money even for the transit that is a basis for the Senator's argument because he does not have the mass transit—and we do not have the mass transit in Iowa as well, so Iowans would benefit from the Senator's amendment. But I just cannot find that money, and it would detract from all the money we previously had raised.

I do not know what the course of action is, but I would have to take the position of advising people not to vote for the Senator's amendment.

Mr. BYRD. Mr. President, would the Senator yield?

Mr. GRASSLEY. Yes.

Mr. BYRD. Mr. President, I respect the very able Senator for the position he has taken. I can understand that position, and I appreciate it. I have discussed this with the Senator. I do not have a suggestion for an offset. I commend the Senator and Senator BAUCUS on what they have jointly done to advance this bill and what they have jointly done to increase the amounts of money available. I understand completely the Senator's position. I do not blame him for it. He states it correctly, but I will say that the amendment does not worsen projected deficits. The amendment fits within the congressional budget. That is why it is not subject to any budget points of order. Deficit projections within the congressional budget will not worsen if this amendment passes.

I do respect the Senator. I know we are both in sympathy with what the people in the mountains, the prairies, the plains, and valleys of this great country have to deal with. I am sorry that the amendment is not germane. I understand that. At least I do not think it is. Perhaps the Senator would like to have a ruling from the Chair. I would hope the Chair would say that the amendment would be germane.

I thank the Senator.

Mr. GRASSLEY. Mr. President, I am not going to raise any more issues. I have expressed why I cannot support the amendment, and I will reserve any other action at the time we vote. I thank the Senator from West Virginia for being understanding of why I did not get back to him.

Mr. BYRD. I thank the Senator.

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

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

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, I once again want to persuade my Republican colleagues that the so-called nuclear option to break the Senate rules regarding judicial nominations is unnecessary and unwise. Earlier this week, I came to the floor of the Senate and offered to enter into a unanimous consent agreement that will allow an up-or-down vote on controversial nominee Thomas Griffith to the DC Court of Appeals.

We have confirmed 208 of President Bush's nominations to the Federal court, but this record near 100 percent is enough, and the Republican leaders have brought us to the brink of a nuclear showdown. There will be a lot of nuclear fallout if this happens, which would be bad for the Senate and bad for the country.

As I said on the Senate floor earlier this week, Democrats understand the meaning of checks and balances and our constitutional role in ensuring a fair and independent judiciary. We know the difference between opposing nominees and blocking nominees. We will oppose bad nominees, but we will only block unacceptable nominees. Unfortunately, my effort to demonstrate good faith to this point has been rejected.

My statement earlier this week was immediately rejected. The distinguished majority leader, my friend, has indicated that the Senate would not be allowed to vote on Griffith unless Senate Democrats agree to an up-or-down vote on all judicial nominees. What that means is the majority leader will not compromise unless Democrats agree to give up the last check in Washington against abuse of power: the right for extended debate. This is not about seven radical judges. In some people's minds, it is paving the way to the Supreme Court.

Our position is clear: Let us find common ground and confirm judges. Their position appears to be: Let us threaten to break the rules until we get everything we want.

Let us find common ground to confirm judges. That does not mean everybody. If we cannot find compromise, as I said 2 days ago, then we have to vote. We will fight to protect the Nation's constitutional system of checks and balances and depend on Republicans of good will who serve in the Senate who do not want to break the rules to change the rules. That is what the people sent us to do, and we will live up to our responsibility to the American people.

Today, I want to try to do what my Republican colleagues say they want to do, and that is confirm Federal judges. Today, I am prepared to enter into an agreement that would be in respect to two and possibly three nominees to the Sixth Circuit Court of Appeals, which has had tremendous problems for going on 13 years. David McKeague, Robert Griffin, and likely Susan Neilson, Sixth Circuit nominees from Michigan, have been caught up in a dispute that began when the Republican Senate failed to vote on either of the two eminently qualified women President Clinton had nominated to the Michigan seats on that court: Helene White and Kathleen McCree Lewis.

Helene White is a distinguished judge on the Michigan Court of Appeals. Her nomination was pending in the Senate Judiciary Committee for more than 4 years—I repeat, more than 4 years. Kathleen McCree Lewis is a highly regarded appellate litigator at a prominent Detroit law firm. Her nomination was pending for more than a year.

Despite their outstanding qualifications, both of these nominees, along

with over 60 other Clinton nominees, were buried in the Republican-controlled Judiciary Committee. They were never given the courtesy of consideration by the Judiciary Committee, not even a hearing, much less the courtesy of an up-or-down vote by the full Senate.

It seems as if each day a Republican Senator comes to the floor and says that every judicial nominee is entitled to an up-or-down vote on the Senate floor. I challenge these Senators to explain why Helene White, Kathleen Lewis, and 67 others were denied up-or-down votes on the Senate floor.

I have said that what was done in the last 12 years let us put behind us. The 69 Clinton nominees and the 10 Bush nominees, let us put them behind us and go forward. We have a new Congress. We have new leaders, at least two new leaders, Senator DURBIN and I, and we have a number of new Senators. Let us move forward on a new note.

The failure of the Senate to confirm these two outstanding Clinton nominees meant that there were vacancies on the Sixth Circuit when President Bush took office more than 4 years ago. President Bush nominated candidates to fill those unjustified vacancies, and as other judges have left the court, the President has eventually sent four Sixth Circuit nominees to the Senate. In light of the shameful treatment of President Clinton's Sixth Circuit nominees, Senators LEVIN and STABENOW objected to the Bush nominees to this court, and three of them were filibustered in the last Congress. They were determined that the GOP tactic of denying hearings and votes to qualified nominees should not succeed.

I have talked about these on the Senate floor earlier. These were procedural objections. It had nothing to do with the qualifications of two of these Sixth Circuit nominees.

I supported the two Senators from Michigan. They have been fighting a grave injustice that has been perpetrated on White and Lewis. They have been fighting for the principle of fair treatment. I and all Democrats have been proud to stand with them in that fight.

Now with the Senate facing the threat of a nuclear option, we have to remember why we are here. We are here to govern, not endlessly engage in political bickering that brings us to the brink of a Republican shutdown. The American people face great challenges each and every day: escalating health care costs; record high gas prices; skyrocketing tuition; as we learned today on the national news, pensions that are being thrown out the windows of major companies that have tens of thousands of employees; mounting debts that will be handed down to our children and our grandchildren. Under President Bush's leadership, middle-class Americans have gone backward, not forward. Instead of helping them, we are bickering over seven judges and, in my estimation, many radical judges.

For the sake of the American people and the dignity of the Senate, Democrats have been and will be reasonable. We believe too much is at stake. Our very system of constitutional checks and balances is at stake in this dispute. In granting an up-or-down vote on two and likely three of these circuit court judges—and let me say, the nominee I have talked about, Susan Neilson, from everything we know, is a fine woman. She was just grievously ill, and therefore she was not able to have the hearing before the Judiciary Committee. We are confident that will take place quickly. Once that is done and the two Senators from Michigan have had a chance to vet her, that will take care of our being able to move forward on three, not just two.

Henry Saad would have been filibustered anyway. He is one of those nominees. All one needs to do is have a Member go upstairs and look at his confidential report from the FBI, and I think we would all agree that there is a problem there.

The other two nominees, Griffin and McKeague, would not have been filibustered but for the treatment of the Clinton nominees.

Accordingly, I want the majority leader to be aware that Democrats are prepared to enter into the following unanimous consent agreement: If the nominations of Griffin, McKeague, and Neilson are reported from the Judiciary Committee, we agree to limit floor debate on all three nominations to a total of 6 hours equally divided. Following the use or yielding back of that time, there would be a vote on each of these three nominations. Once again, I say to my Republican colleagues, do they want to confirm judges or do they just want to provoke a fight?

We have confirmed all but four of the judicial nominees the majority leader has brought to the Senate floor this year. We are prepared to vote on the nomination of Griffith to the DC Circuit. We are prepared to vote on two and likely three of the nominees to the Sixth Circuit. Why are we being denied the opportunity to confirm these judges? We have already confirmed 208 of President Bush's judicial nominations. If the majority leader will accept our offer to vote on Griffith and these Sixth Circuit nominees, we would have confirmed 212 of President Bush's nominees and rejected only 5. Is the majority leader prepared to break the rules and violate 217 years of Senate tradition, all for five extreme judges? I hope not.

I have great admiration and respect for my Republican counterpart, and I am hopeful and confident that somehow we can work our way through this morass.

In a New York Times op-ed 2 days ago, former Senator George Mitchell, who was the majority leader in this body, quoted from a famous speech delivered by one of his predecessors, former Senator Margaret Chase Smith, whom I did not have the opportunity to meet, but I wish I could have. In her famous ''Declaration of Conscience'' speech against the terrible McCarthyism then practiced by members of her own party, she said:

> I don't believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans aren't that desperate for victory. While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

Today, the Senate is not plagued by McCarthyism but by what some believe is an abuse of power.

Lord Acton, whom we studied in college—I thought it was just something the teacher had me think about that had no practical application to my life's work, but it has. Lord Acton: ''Power tends to corrupt.'' Lord Acton: ''Absolute power tends to corrupt absolutely.''

We have now a legislative body that is controlled by the Republicans in the Senate by a significant majority, by a significant majority in the House of Representatives, seven of the Supreme Court Justices across the street are Republican appointees, the White House is Republican. Let's not have Lord Acton's theory come to be.

Today, the Senate is not plagued by McCarthyism but by what some believe is abuse of power. Still, Senator Margaret Chase Smith, this great Republican Senator, her words ring true. I hope there are enough modern-day Senator Margaret Chase Smiths who will be guided by the interests of the Nation, not partisan politics.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The majority leader.

Mr. FRIST. Mr. President, I will be brief. I was just talking to my staff and to the Democratic leader to see exactly what offer was made. I did not know exactly what offer had been made, but he reviewed it with me.

Let me make a statement because it is important for people to know the Democratic leader and I are in constant conversation about what is a very important issue to this institution, to the culture of this institution, to the past and traditions which are important, but ultimately it is what we do in the future because that is what we can control today. It is our responsibility to do so.

As we walk the Halls, people come up all the time and say there are outside groups putting pressure on people to behave in certain ways, or to vote in certain ways in terms of this important issue. I have told them, all day and each and every day, ultimately how we handle judges in these judicial nominees is determined, as set out in the Constitution, by the 100 Senators who are here today. That is what we are working with and discussions are ongoing.

Having not heard the specifics of the proposal, the Democratic leader and I

will continue conversations on the proposal that he has put forth. But I do want to draw back and say that the more and more I listen to all the recent discussions about the President's judicial nominees, the more disturbed I become and the more upset I have become. Indeed, as I think about it now, it angers me to think about it, much of it, because quite frankly a real injustice, a real injustice is being done to our Nation's system of justice.

The reputation and the records of some of America's finest jurists, seven of them we talked about in the last Congress and over the last several weeks—in fact, for months now in morning business we have talked about how outstanding many of these jurists are—those reputations are being sullied and they are being smeared and we have talked among ourselves, not necessarily on the Senate floor but in private as we do on both sides of the aisle.

This has an impact on individuals, on their lives. Yes, their careers, but their lives, their personal lives, their lives with family members. And it is inexcusable, I believe.

It is time, in fact, I think it is long past time, for the majority of this Senate to come to their defense and to be able to express that on the floor of the Senate. I believe it betrays the great heritage of this country to drag a person's good name through the mud using the media and the coverage of that, and then deny them the right to be defended on the floor of the Senate and voted on on the floor of the Senate.

We look at the individuals. I use the word ''smeared'' because I believe that is the level that much of the discussion has risen to in this body. It disturbs me. It is time for us to address this, and that is why, once we finish the highway bill, we have to work together and address this much larger issue, larger than much of the legislation that is brought to this floor in the course of our daily operations. This betrayal of the country's heritage is not the way we are supposed to do things in this body, in the Senate. It is not the way we are supposed to do things in America. It is not the idea of fairness—I am going to use that word, ''fairness''—that I was accustomed to before coming to this body in the Senate.

It is not the level of fairness that you expect in a doctor-patient relationship, and thus America doesn't understand it, why we cannot bring somebody to the floor and vote on them—fair vote, up or down. It is our responsibility.

We hear again and again about minority rights. The Constitution was written to ensure the rights of the minority. We respect that. Both sides of the aisle respect that. It is much of the tradition of this body. But the Constitution was written—I guess it was neither written, nor has it operated in 214 years, in a manner that denies the majority of people in this body the right to hold a vote, yes or no, confirm or reject—confirm or deny—up or down—on a President's most important nominations. These are the most important nominations of a President of the United States. These are the nominations to our Nation's highest judicial offices.

Yes, justice must be independent. Yes, justice must be blind. But I cannot and I do not think we as a body can turn a blind eye to the continued attacks on innocent people who are willing to dedicate their lives. Let's have that debate on the floor of the Senate, bring them up in a regular order, have as much time as it justifies, listen to both sides, see if the smears and the accusations are real, and then have a vote. And however the vote falls, we are willing to accept that. Confirm them or reject them, we will accept the vote. That is the way this body expresses itself.

The Democratic leader and I will continue our discussions. Again, it is one of the great pleasures to be able to talk back and forth. But I, based on whether it is individual proposals or the larger discussion of what to do with the seven judicial nominees, or as we look ahead—what I propose we do is roughly the following: If Members of the minority want to make their case—I will tell you a lot of times we hear the case of extremist, out of the mainstream—if they want to make their case that the American Bar Association is wrong in the recommendations they have given, or in one instance in California 76 percent of the California voters are wrong, let them do so and we will do them nominee by nominee and have the courage to do so on the floor of the Senate, with plenty of time for debate—we can agree on how much time for debate on each one—and then have a vote.

America understands having a vote, having heard the case made by both sides. America does not understand how we cannot, how we can deny them that vote.

For our part, you will hear us defend the President's nominees. We will rebut and refute the attacks. Sometimes we believe, and I think America believes when they hear them, they are scurrilous attacks. We will do it point by point. Then, after we do that, we will have that vote. All 100 people in here will be able to vote yes or no, and then we will move to the next nominee in an orderly, systematic way, the ones who are on this Executive Calendar who have been considered by the Judiciary Committee, and then we will start bringing them out. I am confident, if we do that—I am very confident we will be able to judge those nominees on their merits—not because they are the President's nominees; not because people voted a certain way, even in the last Congress when things were very partisan, when a lot of it was in the heat of those elections, but in an environment of renewed civility, of being able to work together the way the Democratic leader and I are in our conversations every day—every day we sit down and discuss how to address this problem. I think that is the same civility colleagues on both sides of the aisle feel deep inside.

They do not want things to come to a head. We all know the partisanship, as the other distinguished Senator from Nevada said, Mr. ENZI described it—well, the partisanship started and other people 3 years ago didn't even think about filibusters. I don't think they thought about filibustering Supreme Court nominees or circuit court nominees. It didn't enter their head. Things have gotten so difficult and so challenging and so partisan and so locked down that it has been elevated up to where, on a routine basis—a routine basis, one out of three to one out of four of the circuit court nominees that came from the President were filibustered, were blocked, were denied an up-or-down vote.

I think everybody agrees that was excessive. I will not go into the past because I think we need to project to the future, but now is the time to get through that and to get over that. I think anything less than that at this point of allowing people to come to the floor, debate them fully, and have them voted on—and I think the American people will recognize—is a sham. I am not saying we should not come to an agreement of exactly how we should do it, but the American people understand at this juncture—they may not understand the filibuster, or rules of the Senate, and many have not gone back and read the Constitution, but what they do understand is full debate and a vote for people who have been nominated by the President of the United States to the highest courts in this country is fair and it is the right thing to do. Anything less than that is a sham. It involves hypocrisy. Hypocrisy must, in this Senate, come to an end.

If it comes to an end—on both sides in terms of the hypocrisy—if it comes to an end, we have a great year and a half to address immigration, to address energy, to address the health care issues that mean so much to me with 40 million people uninsured out there; we have been able to do class action, bankruptcy and the fifth fastest budget on time and the supplemental supporting our troops overseas and we are working on asbestos in committee and we are making great progress. It is time to move beyond this.

The hypocrisy must and will end. Each nominee is entitled to and must receive a full and just consideration of his or her candidacy and then a fair up-or-down vote.

Again, I was not in the Senate, and I did not realize the Democrat leader would make the specific offer. We have talked about much of what he said. I came over as soon as he began to talk, and I appreciate his offer for Senate debate and votes on some of the President's judicial nominees, but say once again that it is that principle of an up-or-down vote that is going to govern this side of the aisle. I believe it is what the American people expect.

With that, I am happy to turn back to the Democratic leader. Again, I look forward to our further discussions on addressing the issue that both he and I understand have to be addressed right now so we can move forward and address the many other issues. Doing that in a mutually acceptable way earns the respect of the American people and this great institution we serve.

The PRESIDING OFFICER. The minority leader.

Mr. REID. I, frankly, wish I could spend more time on the most important highway bill. I was chairman of the full committee on two separate occasions, and I am interested in the jurisdiction of the highway bill. I am sorry my attention is diverted from all we are doing on judges.

Let me say this to my distinguished counterpart, the Republican leader, the senior Senator from the State of Tennessee, I have said in the Senate on a number of occasions, I cannot justify what went on during the 8 years Clinton was President. I am not here to go into a dissertation of what happened the last 4 years during the Bush years.

But I say this: We never got into any problem with filibusters during the Clinton years because these people never got any kind of attention. They were buried in the committee. I hope the American public understand that 69 people were nominated by a President of the United States, nominations came to the Hill and were lost. Some of them waited years and years, almost 5 years. We are not here to debate every 1 of the 10. We have narrowed it down to a fairly small number.

We have to go forward. I don't know if the distinguished Republican leader and I can come up with a formula that satisfies our two caucuses. We realize the time is of the essence. Not only has the country had enough of the judicial problem we call the nuclear option, but the Senator from Tennessee and the Senator from Nevada have had enough. We have to move on. We have work we have to do in this Senate. The Republican leader has mentioned the things we have been able to accomplish so far. It hasn't been easy what we have been able to do but we put the record of our accomplishments this quarter about as far as one could go in saying we have done a pretty good job.

We have a lot of other things to do. He has mentioned a few things. But whether or not we can get things done in this Senate means we have to move beyond this problem.

Some have said that the Senate will stop. The Senate is not going to stop. It is a body that has lots and lots of rules and procedures and things are going to slow down. It will make it very hard to get things done.

We are now approaching June. After we finish 2 more weeks of work, we have 7 weeks remaining until the August recess—7 weeks to do all the things we need to do. Then we come back, and it is time to finish our appropriations bills. We have so, so much to do.

This is not to make me look good or the Senator from Tennessee look good. We have the people's business to do. We are chosen, as indicated by the vision of our Founding Fathers, to represent States. The State of Nevada has about 2.5 million people. The State of New York has 19 million. The State of California has 35 million. In the little State of Nevada, I have as much power as Senators from heavily populated states.

I hope that Senator FRIST and Senator REID can work a way out of this. I don't know if we can. We have met on this. Our conversations, I am sorry to say, are completely filled with discussion of this. We have talked about every possible avenue we think is a way to get my caucus and his caucus out of this.

I have come to one conclusion: If we work out a deal, there are not going to be many happy people around here. We will have to work something out that is a good compromise. As I have said in the Senate before, what does that mean? Both sides are unhappy.

I hope we do not have to come here and I have to look to six Republicans to stop a change of the Senate as we have known it. I hope we do not get to that point.

I have said, with the majority leader off the floor and I say it when he is in the Senate right here, I have the greatest respect and admiration for this man.

I have said it in my private conversations with others, I have said it in the Senate again today. He chose public service for the right reason. Senator FRIST is an accomplished surgeon, in a specialty, transplant surgeon. He is a man of means. He does not have to come here. He did it because he wanted public service. I have admiration for him. I wish we could move past this and move on with the business at hand.

I, again, say I cannot justify what went on during the Clinton years. It was bad. As the distinguished Senator mentioned, people's lives were disrupted and changed. They quit jobs and then they had no job. They waited in limbo for years. It affected people's lives. He and I have discussed how it affected individual human beings to their detriment.

I know for the people we are talking about, the Republicans—I am sorry, the people nominated—I don't know if they are Republicans; I assume they are—by President Bush, this has had an adverse effect on some of their lives, not all of them but some of them. So we have to move on. When we move on, we have to have the Senate we have always known.

We need the partisanship to continue. There is nothing wrong with partisanship. We are the envy of the rest of the world because of our two-party system. We are not like the parliamentary system in Great Britain where they have three parties, and Blair, with his party, barely got a majority. We are not like India or Great Britain.

Mr. President, what a wonderful country this is. President Bush was elected with fewer votes than the person he beat. His case was decided in the Supreme Court of the United States. I did not like the decision they made, but I felt like the rest of Americans—it was all over with. There was not a car burned, no fire started. There were no demonstrations. He became our President the minute that decision was made.

But the fact that we are partisans in protecting this great two-party system we have does not mean we should not work together on issues for this country. We need to do that. I hope we can do that. As the distinguished majority leader said, we are coming down to where the rubber hits the road. I would think next week there will be a decision made on this one way or the other. I hope it is something that is good for the American people. I am going to do my level best to work with my 44 Senators to see that is the case. I know he will work with his 54 Senators to see that is the case. And history will determine how the Senator from Nevada and the Senator from Tennessee fared on this issue, whether we were able to come through on an issue of tremendous importance, because the microscope is on the Senate of the United States as we speak.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we are on the highway bill. Senator BYRD is about to speak. So I think at least from my standpoint we will continue our discussions. As you can see, we both feel passionately about this issue, understanding it is our responsibility as leaders to lead on an issue that affects this country in a very dramatic way. It affects the future of this institution in a dramatic way.

Just to clarify, I believe we both agreed that we are going to all keep working together to address this, but we do need to bring some sort of closure to this. Therefore, after the highway bill, at the appropriate time, we will spend—it is going to probably take a week, or I don't know exactly what it is going to take, but next week—and I would hope we would engage in regular order and that we have people on the Executive Calendar and we can do what we have always done, bring them up. And as to which one, and how we go about it, would be in discussion.

But you can tell from my remarks, I believe what the American people expect is we will have full debate and expect an up-or-down vote on those, go through the normal course of business. People will be able to judge. And I hope and pray people will be able to express themselves through a vote on the floor here in the Senate.

Thank you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted

to address a question to the distinguished minority leader without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask my minority leader, what was his proposition that he recommended?

Mr. REID. This was only a minor issue. What we have done, I say to my distinguished friend through the Chair, and my former leader, is that we have three judges, one for the DC Court of Appeals and two for Michigan, probably three for Michigan, who we said we have no objection—they are all circuit court judges—to move forward on. What Senator FRIST has said in reply is that he wants to have all the judge issues resolved before we move to any of these circuit court judges. That is what he said and that is what I said.

Mr. BYRD. Mr. President, may I address a question to the distinguished Republican leader without losing my right to the floor?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. Leader, what is wrong with that? What is wrong with the proposition that the minority leader has suggested?

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, we will continue the discussion. I would prefer to, as leader, take the Executive Calendar and take the people on the Executive Calendar, who have gone through the Judiciary Committee, who have been debated—it is the way we have always done business or should do business—go through committee and have them voted on. If they are voted on, they come to the calendar. At that point in time, you would look at that list, and you would bring them to the floor, and you would have the debate, and you would vote. That is what I would much prefer.

The specifics, just like you asked, I have heard, and we will consider that. But why not take Priscilla Owen for the Fifth Circuit, who is on this calendar, who has waited 4 years, rather than other judges, if we are going to be addressing judges? Or Janice Rogers Brown, who is a sharecropper's daughter, who is at the Supreme Court of California, with 76 percent approval, who is on the Executive Calendar? All she is waiting for—all she is waiting for—is a vote. Why can't we address Janice Rogers Brown?

William Pryor—we had a recess appointment; he has done an outstanding job; I was just talking to our distinguished Senators from Alabama—was marked out of the Judiciary Committee today.

So what I would like to do—again, I am not going to rule out anything. And I understand the Michigan judges in this Congress may be viewed a little differently than last Congress, and I appreciate that. I think once we can discuss how we are going to deal with those on the Executive Calendar—bring them to the floor—that we will be able to move very quickly on all of these, I am hopeful.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to this discussion with considerable dismay. I hope that both leaders will not leave the floor.

I cannot understand why we can't proceed a little at a time. If we are seeking to—

Mr. REID. Mr. President, may I respond to my distinguished friend?

Mr. BYRD. Yes. May I retain my right to the floor?

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

Mr. REID. Mr. President, the majority leader and I have had, as I have indicated, many conversations. I think we should proceed one by one. The distinguished majority leader wants to resolve this issue once and for all. So I accept him at what he wants to do. I am going to work with him over the next several days—hopefully, it doesn't take that long—to see if we can resolve this in some manner. If not, we both agreed that this matter is going to end sometime next week anyway. We would hope that in the meantime we can resolve this. We are on the highway bill. We have a lot of work to do on that. In the interim, I would hope that we can work something out. If we can't, next week we will have a showdown.

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

Mr. BYRD. Mr. President, I would like to avert a showdown, if we can do it. Why do we have to have a showdown?

Mr. REID. Senator BYRD, if I could be rude and interrupt, through the Chair, without the Senator losing his right to the floor.

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

Mr. REID. Senator BYRD, I feel this very way, very strongly. I say, respectfully, to a man who is the dean of the Senate today, has been in the Senate almost 50 years, who I have the widest respect for, we are not going to resolve this issue right now. We are trying to do that. We are going to have some private conversations. What I am saying to my distinguished leader, give us a little bit of time.

Mr. BYRD. Well, Mr. President, I have no quarrel with giving the Senators time. But I hope we will attempt, in every way possible, to avoid that showdown the distinguished minority leader has referred to.

This matter—

Mr. FRIST. Mr. President, let me just interrupt. The majority leader did not say anything about a showdown.

Mr. BYRD. Well, Mr. President, I know of nothing in my 47 years in this body, in my 53 years in this Congress, that has pained me more than this issue. I am pained, pained by the political partisanship. What this country needs is not partisanship but statesmanship. I have great faith in the Senate. I have great faith in the two leaders. The minority leader has made a suggestion. Why don't we proceed with it?

I am sorrowful we have come to the point where we seemingly forget the American people. We talk about the feelings of those nominees who have not been given an up-or-down vote. I am sorry about their feelings. But Senators have a right to speak, have a right to object.

And the distinguished Republican leader talks about the need for an up-or-down vote, an up-or-down vote, an up-or-down vote. I have heard the President say something about that.

Mr. President, here is my guide, the Constitution of the United States. What does it say? Does it say that each nominee shall have an up-or-down vote? Does it say that? I ask the Senator from Tennessee, I ask any Senator to respond to that question. Does this Constitution accord to each nominee an up-or-down vote on the Senate floor?

Mr. FRIST. Mr. President, I would be happy to respond to the question that has been directed to me.

Mr. BYRD. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. FRIST. To the question, does the Constitution say that every nominee of the President deserves an up-or-down vote, the answer is, no, the language is not there. Up-or-down vote, that is the language we use to signify that when the President of the United States sends a nominee to the highest court in the land, which is his or her responsibility, which is in the Constitution, they send it to this body for advice and consent. It is common sense to me, it is fairness to me that when they come over to give advice and consent, we go through the Judiciary Committee. If they make it out of the Judiciary Committee, the way we give advice and consent on this floor is a vote. That is what we are elected to do. Or vote no. I don't mean you have to vote yes on them, but advice and consent.

To the American people who are listening now, when they elect us here, what is fair, what is our responsibility, what is our duty is to vote. That is how we give voice. You can't cut these nominees in half; you can't reshape them; you can't amend them; you can't send them to conference—all of those things. That is why I am a tremendous advocate for the filibuster for legislative matters. But when you have a nominee that comes over, all you can do is shine the light. You examine them. You debate it, unlimited debate—unlimited debate—and then to give advice and consent, which is in that Constitution, the advice and consent is right there. How do you do it? Vote yes, vote no. Confirm, reject. We

accept it. One hundred people have spoken, and then we move on to the next nominee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this says that he, the President, shall have the power to nominate and, by and with the consent of the United States Senate, shall appoint. To give consent, we may vote. But to deny consent doesn't require a vote. It does not require a vote and the record shows that. The record shows that Republicans and Democrats have, from time to time, the leadership has denied a vote to a nominee simply by bottling up that nominee in the committee. That denies the nominee a vote. The Senate speaks, as it were, and refuses to give its consent by just saying nothing; thus, keeping those nominees in the committee. That has been done from time immemorial and more recently in increasing measure.

Many nominees under the Clinton administration were not given an up-or-down vote. They were sent up here by the President of the United States. They were not given an up-or-down vote. They were kept in committee.

Mr. FRIST. Will the Senator yield for a question?

Mr. BYRD. Let me finish. I will be happy to yield. They were not given an up-or-down vote. So the Senate did not give its consent. That is all right. That is within the Constitution. The Senate did not give its consent. So what is the difference, if the Senate, through its committee system, decides not to give a presidential nominee an up-or-down vote in the committee, then? The Senate may decide not to indicate its confirmation by an up-or-down vote, just simply be silent. It has not confirmed, has it? It has not given its consent, has it? So what is the difference?

If a nominee is not given confirmation by a committee, what is the difference? You are not giving consent there. If you are not given an up-or-down vote on the committee, what is the difference? I am unable to understand the difference.

Let's do what the Constitution says. Let's do what the Constitution says. When we talk about what these nominees deserve, what do the American people deserve? That should matter. What do the American people deserve? They deserve to move on. Look at the problems that confront this country.

Mr. FRIST addressed the Chair.

Mr. BYRD. Mr. President, if the Senator wishes me to yield, I would be glad to. I have the floor.

Mr. FRIST. Yes, sir.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished majority leader for a statement without losing my right to the floor.

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

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, why does Priscilla Owen—through advice and consent, who has gone through Judiciary Committee—not deserve the fairness—yes, the fairness—of an up-or-down vote, where every Senator can speak for or against on the floor of the Senate? Why does Priscilla Owen not deserve—she has waited 4 years—an up-or-down vote? How can you explain to the American people at this juncture, after what I would call an unprecedented number of filibusters in the last Congress, that Priscilla Owen does not deserve a vote? It is our responsibility to give advice and consent. How does she not deserve a vote in the Senate next week or the following week?

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

Mr. BYRD. Mr. President, what does the Constitution say? By and with the consent, the President shall have the power, and by and with the consent of the United States Senate, shall appoint. Now, we can wrangle until the crack of doom about why so and so and so and so were not given an up-or-down vote in the Senate. One could ask that question ad infinitum about those many nominees that were sent to the Senate by President Clinton. They never got up-or-down votes. I didn't take the floor and urge that they deserved this or that.

The Senate should be guided by this Constitution. If it elects not to confirm by simply withholding its voice, it can do so. I commend both leaders for their efforts. But I am telling you, the American people deserve something. That is what we should think about. The American people deserve action by the Senate to get on with the business of the people. Look at these high gas prices. We can talk about immigration policy. We can talk about access to health facilities. The American people deserve action on the part of the Senate, and here we are wrangling over a half-dozen nominations for judgeships. That is just a shirttail full of nominations, and they have been sent to the Senate already. In the first administration, if the Senate saw fit not to give its confirmation to them, why should the President send the same nominations back up to the Senate? There are plenty of people in this country who are able—many lawyers and judges who are able. There are plenty of people the President could nominate that would not have a problem getting confirmation in the Senate. Why do we have to send the same ones back here? That is up to the President. If he wants to send the same ones, he can.

I am saddened by this threat to use the so-called nuclear option. The distinguished majority leader prefers to call it the ''constitutional option.''

Mr. INHOFE. Will the Senator yield for a point of order?

Mr. BYRD. Not yet. I have not said much on this question, but I want to say a few things today. The Republican leader refers to it as the ''constitutional option.'' I refer to it as ''constitutional folly.'' We talk about freedom of speech in the Senate. Roots run deep with respect to freedom of speech. When the distinguished Republican leader first became leader, and even before he became leader, he visited my office and we had a good conversation. I believe he asked my thoughts on whether he might be a good leader of the Senate. I said give the Senate the opportunity to debate and to amend. That is what we are talking about here—the right to amend, the right to debate. Yet they are talking about the nuclear option.

Don't kill freedom of speech in the Senate. That great compromise that was entered into on July 16, 1787, is why we are here today. If it hadn't been for that compromise, the Senator who sits in the chair would not be sitting there. The distinguished Democratic leader would not be the leader in this body. There would be no Senate, and there probably would not be a Republic. The great compromise said there shall be two Houses, and the membership number of one shall be determined on the basis of population; the other will be a forum of the States in which each State is equal to every other State and each Senator is equal to every other Senator.

We talk a lot about tradition. I say to my good friend—and he is my friend—the distinguished Senator from Tennessee, I have heard a good many Senators on the floor talking about tradition. Well, tradition in the Senate means freedom of debate going back to the beginning of this Republic; and the Articles of Confederation, the first Constitution of the United States—going back to the Articles of Confederation, back to the House of Commons, the people of England who were in this country, especially those who decided on this Constitution, were British subjects.

So the roots of freedom of speech are deep. They go back to 1689, to the time when the English offered to William III, of Orange, and Mary the opportunity to be joint sovereigns. The proposition was that there must be freedom of speech in the Senate. Those two sovereigns—that was one of the items that was to be agreed to, freedom of speech in the House of Commons. That was on, I believe, February 13, 1689. On December 16 of that year, a statute was passed incorporating those rights into a statute. That was the Bill of Rights of our English forebears. As I say, that common thread of freedom of speech runs deep, deep in the House of Commons, and we ought to honor it here.

We are talking about cutting off the rights of Senators and about what the nominees deserve. What do the American people deserve? Well, let's adhere to tradition. There wasn't any limitation on speech until 1917 in the Senate. First, they had the previous question. Aaron Burr said in 1805, when he made his departing speech from the Senate—I am just hoping I might have the attention of Senators. I have not had much to say on this question, although it has kept me awake many nights. I

have spent sleepless hours worrying about this thing of killing debate, freedom of speech in the Senate. Who wishes, Mr. Leader, to have that kind of a legacy to confront him—to help to kill freedom of speech in the Senate? You don't want that legacy. I don't want to see you have that legacy—freedom of speech in the Senate killed.

Aaron Burr urged the Senate to do away with the previous question. They still have the previous question in the House of Representatives and in the House of Commons in England. The previous question had been on the books for a few years, but it hadn't been used, so Aaron Burr, in 1805, urged the Senate to do away with the previous question by which they could shut off debate. In 1806, in that first revision of the Senate rules, it was left out. No more could a Senator move the previous question in this body.

That was the end of it until 1917. Then, when President Wilson sought to arm merchant ships, there was a filibuster by a few Senators. Thank God. I came over here from the House like a lot of Senators have. Some want to make the Senate another House of Representatives.

The Founding Fathers did not want to do that. But when I came to the House, I did not come over here chewing at the bit to change the Senate rules and make this a second House of Representatives, only smaller. I said thank God for the U.S. Senate many times when I was in that other body. Thank God for the U.S. Senate.

Why did I do that? Because over here, a man or woman may stand on his or her feet so long as their lungs, their brass lungs, will carry their voice, and they can object.

And may I say to the distinguished majority leader, he made mention of the late Senator SMITH from Maine. I was here when she was here. What a grand woman that one, a great Senator, Margaret Chase Smith. I wish she were here today, Margaret Chase Smith. I wish those Senators of that day were here. They would not stand still for a minute to throttling freedom of speech in the U.S. Senate.

May I say to the distinguished Senator from Tennessee, please think about this. Think about this. Don't leave this as your legacy. No, try to find a way around this freedom of speech in the United States Senate. Let's don't throttle it. We have come to a time, we say we are going to try to work this out. This ought not be all that difficult to work out. As I said to the President of the United States in the presence of the distinguished Senator from Tennessee: Mr. President, tell your leadership up there not to push this, not to push this on the American people. It is their freedom. The day may come when—and it has been in the past—the day may come when the Senator from Tennessee wishes to stand and use that filibuster.

The filibuster is not a very popular thing out there in the country maybe.

Mr. FRIST. Mr. President, will the Senator yield?

Mr. BYRD. Not yet, if I may respectfully decline. I will shortly. The Senator from Tennessee may wish to stand on his feet and defend the beliefs, the opinions, the rights of the people of Tennessee from a majority. Over there is the majoritarian body, the House of Representatives. There is where majority rules. This is the forum of the States. It is a forum for minorities, where we can have dissent on the part of a minority. The majority is not always right. The majority has been wrong before. And so I say, let's protect the rights of the minority to filibuster, if I may use that word.

Yes, we have engaged in filibusters on judicial matters before. I was here when the President of the United States wanted to make Abe Fortas the Chief Justice. I voted on that. That was a filibuster.

Mr. FRIST. Mr. President, will the Senator yield just for a quick question?

Mr. BYRD. Mr. President, yes, I yield. I ask unanimous consent that I can yield under the rules for a question, without losing my right to the floor.

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

Mr. FRIST. Mr. President, I have a very brief question. The Senator from West Virginia mentioned what he said in my presence and the presence of other Senators yesterday. We were at the White House talking about important issues—foreign affairs—but he, I think very appropriately, brought up this issue. The Senator from West Virginia did make the point that he just made about the importance of not leaving a legacy, as you described it. My legacy would be very different because of the principle of a fair, up-or-down vote, after freedom of speech, extended debate for as long as is reasonable in terms of getting all the issues out there. That is what the American people want. They want a nominee to come over, be fully debated, everything about them, counter, debate, back and forth, freedom of speech.

The Constitution, the wonderful history you just gave us——

Mr. BYRD. Praise God. Here it is, freedom of speech.

Mr. FRIST. Freedom of speech. Let's see it next week. Take someone who is on the Executive Calendar now. Take them to the floor, and let's have freedom of speech—somebody who has waited 4 years for the appropriate freedom of speech coming to the floor—and then do—this is my question. I do not want to go into a long speech because I know we all have other engagements we need to get to. Let me ask the question. Didn't you also say, as the other part of that statement to the President of the United States, being critical of the potential legacy I might leave in order to stand up for fairness and principle, didn't you also say you would give all of these nominees an up-or-down vote on the floor of the U.S. Senate?

Mr. BYRD. I am willing to give nominees, if there is a handful of them—

Mr. FRIST. An up-or-down vote on the floor of the U.S. Senate. Isn't that what you said yesterday to the President of the United States?

Mr. BYRD. I said I am willing to give them an up-or-down vote, just a handful.

Mr. FRIST. Thank you.

Mr. BYRD. I don't mean six of them, five of them, or four of them or three of them. I have never attacked the Senator's desire to be looked upon as a leader who was fair. I have never attacked him.

Mr. FRIST. Mr. President, another quick question, reserving the Senator's right to the floor. Yesterday, in the Senator's statement to the President of United States, it was to the seven nominees he delivered to us about whom the distinguished Senator from West Virginia said: I want them, or I am willing to have—I don't know if the Senator wants or is willing to have an up-or-down vote on the seven nominees—didn't the distinguished Senator from West Virginia tell the President of the United States and other Senators that at the same time he addressed my legacy?

Mr. BYRD. Just as the Senator has had a little difficulty in recalling whether I said this or that, I didn't have a written text before me when I spoke to the President. I don't remember if I said a few or all or three or four. I don't remember. I am willing to have some votes up or down.

Let's get around this Damocles sword that hangs over the Senate of the United States and act as reasonable men and women and vote some of them up or down. Whatever the leader decides is fine. Let's don't talk about this nuclear option. Let's don't bring that down at this time. I am not referring to the legacy of the distinguished Senator in a disparaging way. I am not doing that at all. The leader——

Mr. FRIST. One more brief question.

Mr. BYRD. Yes, but let me finish my sentence.

Mr. FRIST. Yes, through the Chair.

Mr. BYRD. The leader has it within his power to go forward on all seven or six or five or four, whatever it is, or he has the power to do it on less than that number. It seems to me that a reasonable compromise could be reached among Senators. I am interested in helping to effectuate such a compromise. If it means an up-or-down vote on one or two or three or four, whatever, it seems to me to be reasonable if we can give and take—that is what we are expected to do, give a little here, give a little there—and let's get out of this morass, this terrible threat to the freedom of speech in the Senate of Senators. That means freedom of speech on the part of my people back home who expect me to speak for them.

I hope the leader will think about that. My goodness, they have a shirt

tail full of nominees, and we are going to wreck traditions? Talking about traditions, the tradition of the Senate is freedom of speech, freedom of debate, freedom to dissent.

Mr. President, this reminds me very much of a book in the Bible, a book that is titled Esther, the Book of Esther. I think it would be especially good for the distinguished majority leader to be reminded of the Book of Esther in the Bible.

I won't go into it all here, but Esther was a Jew. She had a cousin who sat at the king's gate every day. He was a Jew. His name was Mordecai. The word went out that a man who had been favored by the king, a man named Haman—H-A-M-A-N, I believe it is. Here is my Bible. This is the King James version of the Bible. I don't read any other version of the Bible except the King James version. I speak as a born-again Christian. We hear that thrown around a lot around here. I am a born-again Christian and have been since 1946.

My wife and I will soon be married, the Lord willing, in about 16 or 17 more days, 68 years. We were both put under the water in that old churchyard pool under the apple orchard in West Virginia, the old Missionary Baptist Church there. Both Erma and I went under the water. So I speak as a born-again Christian. You hear that term thrown around. I have never made a big whoop-de-do about being a born-again Christian, but I speak as a born-again Christian. Hear me all you evangelicals out there, hear me.

So here we were, we were baptized. But getting back to Esther, her cousin, Mordecai, sat at the king's gate day after day, and he refused to do homage to the king. The king was Ahasuerus, and his wife's name was Vashti. The king asked Vashti to come in before all the big shots in the kingdom, and she refused to come. So his advisers advised him to put her away and get a new queen. So they brought in all the beautiful virgins—perhaps not all of them, but they brought enough to dazzle the king's eyes—and they chose Hadassah, that is Esther, after whom the book is titled.

She was the king's new queen and she got word from Mordecai that word was going out from the king's top man named Haman that all the Jews were to be killed on a certain day. So Mordecai told her that, and she told the king and the king said: Who did this? Who said that?

So the finger was put upon Haman. Haman was the chief leader there of King Ahasuerus. Well, time went on and old Haman was advised by his people to build a gallows and hang on those gallows Mordecai, and on that same day to kill all the Jews throughout the 127 provinces of Persia.

I will go to the point of the story quickly. It ended with Haman, the man who built the gallows on which to hang Mordecai, himself being hanged on those gallows. It did not stop there. The ten sons of Haman were executed on those gallows, also.

I say this to the distinguished Senator, hear me, hear me. I am willing to give some up-and-down votes on some judges. That is a little thing. But it is a big thing if it is carried too far. Judges do not have to go before the people to be voted on like the Senator from Tennessee, the Senator from Nevada, and I have to do. They are appointed for life, and this is the only place where they can be scrutinized.

Well, in the case of Haman, he was executed on his own gallows. I say to the leader of the Republican Party in this Senate, the worm turns and there will come a day when the majority leader of the Senate will be on this side of the aisle. I have seen it happen back and forth time and again. It can happen again. That worm will turn.

I say to the leader, please do not ''Hamanize,'' if I may coin a word, the Senate. Remember Haman. The leader and his party may someday be on the same gallows that we in the minority find ourselves on today, ''Hamanized.'' Do not travel that path because the leader and his party may someday be executed on the same gallows. Think about it. Do not ''Hamanize'' the Senate of the United States.

I thank the distinguished leaders for listening. I hope my words will not have been in vain. I plead with them, please do not ''Hamanize'' the Senate of the United States. Take us out of that straitjacket. I know both leaders have been working but work some more. If I can help, let me in, count me in. I want to help.

Talking about the American people, they are the ones who are suffering from this delay. We could be doing something about matters that confront most people every day. I appeal to both leaders to let reason reign for a while. Let us reach a judgment to get on with the business of the Senate, but for Heavens' sake do not kill freedom of speech in the Senate.

Do I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I say, finally, my apologies to the Republican leader and to the minority leader, and thank them for listening. But how much land does a man need? How much land does a man need? Tolstoy wrote a great story. How much land does a man need?

The PRESIDING OFFICER. Senators should be advised that the Senator's hour of postcloture time has expired.

Mr. REID. I yield the Senator another hour.

Mr. BYRD. I thank the distinguished leader. I have the floor. Thank God for the Senate, I said, when I was in that body over there.

Finally, I say to my good leader, I will pose a rhetorical question. How much land does a man need? Leo Tolstoy wrote a story about a man named Pahom, I believe it was, but regardless of the man's name, this man had orchards and fields of grain and lands, but he had land hunger. He wanted more land. He kept getting more land, but he always wanted more land. The upshot of it was there appeared before him one day a stranger who offered him all the land that he could cover in a day, like that Tennessee land.

Mr. FRIST. Good land.

Mr. BYRD. He offered him all the land he could cover in a day for a thousand rubles.

He thought, this is my chance. So he took off on an early morning and he had never seen land so rich as this was. So he decided he would walk 3 miles. He left his servant there with the stranger. The 64-dollar catchword was, he had to be back at the starting point before the sun went down or he would lose his thousand rubles.

So he started out and he decided he would walk 3 miles. After he walked the 3 miles, it looked so good he thought he would walk 3 more miles, and he walked 3 more miles until he had covered 27 miles before he turned up on the second side. He covered the second side, and he sat down and he ate from the humble bag of provisions that his good wife had prepared for him, a little cheese and bread, and then he launched out on the third side of the square and he covered the third side. But as the long afternoon wore on, the land became less hilly, more rocky. So he struggled to reach the end, to reach the starting point before the sun went down because otherwise he would lose all. He would lose his thousand rubles, and he would lose the land that he covered.

Mr. President, I see the leader has left. He left me all alone here. What about this? Hey, where is my adversary? Where is my worthy adversary? Come on now. Where is the leader? Am I to be left here alone to be gored by the horns of those—where is my adversary? He is not to be found.

Anyhow, let me bring this long story to an end. In the end, the man was crawling on his hands and knees. The sun was going down. He looked ahead of him and he saw the starting point. He saw the dim face of the stranger waiting on him at the starting point, the stranger who had offered him all the land that he could cover in a day for a thousand rubles. He saw a grim smile on the face of that stranger. So, painfully, he inched himself forward little by little. His arms were bleeding from the rocks and the briers and the sticks that had gone through his skin. He reached the starting point just as the Sun went down, but he fell dead on the spot.

The stranger said: I promised him all the land he could cover. You see how much it is: 6 feet long and 2 feet wide. The stranger, called Death, said: I have kept my pledge.

So, Tolstoy asked, How much more do you want? How many nominees have we confirmed in this Senate? How many? May I ask the question without losing my right to the floor.

Mr. REID. It is 208.

Mr. BYRD. And how many have not been confirmed?

Mr. REID. Ten.

Mr. BYRD. And 7 of those are back before the Senate, out of 218? My, how much land does a man need? How many nominees do they want? Mr. President, just send up some new nominees; it is that simple.

Mr. President, I thank all Senators. I am ready to proceed on the amendment, if the Senator would like.

Mr. INHOFE. I thank the Senator from West Virginia.

I inquire of the Chair, are we still on the Byrd amendment?

The PRESIDING OFFICER. We are.

Mr. INHOFE. Let me just make one answer on the question you had, How much more land? I refer to Jabez, you are familiar, in the First Chronicles. They say: ''Expand my territory.'' So we want more.

I make a point of order the pending Byrd amendment is not germane.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for 1 minute.

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

Mr. BYRD. Mr. President, I made my case. I think it is a good case. I do recognize that some amendments that are offered are not germane. It was my hope that, by presenting the amendment, the Chair will rule it is germane. I will accept the ruling of the Chair. I will not attempt to override the Chair's ruling if he rules against my point, but I have made my case. I thank the distinguished Senator, and also I thank Senator BAUCUS, the manager on this side, for the consideration they have given. I will abide by the decision of the Chair.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane. The point of order is well taken, and the amendment falls.

Mr. INHOFE. Mr. President, I don't know if we have people on the floor with amendments. I am hoping that we do. While all these subjects we are addressing are important, we are operating under some real time constraints. We have been on this bill now almost 2 weeks. We have worked on the bill for 3 years. This is probably the most significant piece of legislation we will be handling, and I encourage my colleagues to confine their interests to this bill and encourage as many of them as have amendments that they seriously want to be considered that they bring those amendments to the floor. We have the list now down to about 140 amendments. I know from past experience just a fraction of those will want to have serious consideration.

I make that request and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, with all due respect to my friend from Oklahoma, several days ago Senator HATCH and I were told that we could speak on the floor at 2:15. So I ask unanimous consent that I can speak as in morning business, that I will be followed by Senator HATCH, and in deference to our friend from Oklahoma, who makes a very good point, that this time be charged postcloture.

Mr. INHOFE. Reserving the right to object, I inquire of my friend from Oregon how much time he is requesting as in morning business.

Mr. WYDEN. As I said or touched on in my earlier comment, Senator HATCH and I had talked several days ago with the cloakrooms on both sides. We do want to be sensitive to our colleague. His point is valid. I think both of us could finish our remarks in about 10 minutes each, or thereabouts.

Mr. INHOFE. That is 10 minutes for each of you?

Mr. WYDEN. Yes.

Mr. INHOFE. Mr. President, I will not object. Let me propound a unanimous consent request; that is, the combined remarks of the Senator from Oregon and the Senator from Utah not extend beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon is recognized.

CITIZENS' HEALTH CARE WORKING GROUP

Mr. WYDEN. Mr. President, Senator HATCH and I are taking this time to prepare our colleagues in the Senate and the public for a health care revolution that is long overdue. Right now, just over the river in Arlington, a group of dedicated citizens from every corner of the country is preparing to do something that has never been done before, and that is to tell the American people the hard truths about where nearly $2 trillion in health care goes each year and then to walk the public through the tough choices that must be made to create a health care system that works for all Americans.

The Citizens' Health Care Working Group was created by a law that I wrote with Senator HATCH. That law is just now beginning to be implemented. Beginning this week, the American people will have a place to go to find out more about the working group. I encourage them to take the opportunity to go to this Web site and learn about a very fresh approach to delivering health care for all of our citizens.

For 60 years, our country has tried the same thing. Literally from Harry Truman in 1945, in the 81st Congress, through 1993 and 1994 in the Clinton administration, the effort was to write legislation in Washington, DC. Then the American people would find it hard to understand, various interest groups would attack the legislation and each other, and everything would die.

Under the law I have written with Senator HATCH, this approach is turned on its head. Instead of starting in Washington, DC, the Health Care That Works for All Americans law begins outside the beltway. I would say to the Senate, I think health care reform has been like getting dressed in the dark for both the public and for policymakers. The American people have never been told where the money is going, so how can they, in a thoughtful way, offer suggestions on what needs to be done to improve the system? Without this essential information from the American public, how then can policymakers write legislation that thoughtfully addresses the public's concerns and garners the public's support?

This time, beginning in the fall, that is going to change. In senior centers and libraries, at business organizations, online and offline, a Health Care Report to the American People will lay out the facts for the first time. The public is going to be told in understandable language the facts as to where the $1.8 trillion spent each year on health care goes. Then the American people will have the opportunity—again offline and online—to give their ideas about how to create a health care system that works for everyone. For the first time, public involvement will be followed by political accountability.

Under the law, once Americans learn where the health care dollar is going and they have the chance to talk about how they would rather spend those dollars, Congress must follow up. All the committees of jurisdiction have to hold hearings within 60 days of the recommendations coming from the citizens of our country.

Once there is a clear citizens' roadmap to health care that works for all Americans, it will be hard for Congress to reject the citizens' health care needs. Congress can continue to ignore what the citizens are calling for, but with genuine public momentum behind this effort, Congress will ignore the citizens at its peril.

For the first time, with this approach, there is the potential to create a true juggernaut to get a bill a President of either political party can sign. It is about time.

If Americans do not have their health, we all understand nothing else matters. Before I had the honor of coming to the Congress, I served as director of the Oregon Gray Panthers. I saw then how important it was that a fresh, innovative approach be taken in this area.

Two weeks ago, the chairman of Starbucks sat in my office. This is a company that gets it when it comes to health care. They are doing something that is hard for any company to do, providing health insurance not only to their full-time employees but to their part-time workers. They have done this because their founder, Howard Schultz, remembers what it was like to grow up in a family at risk because they did not have health care. He believes a secure, covered workforce contributes to his company's great business success. But Howard Schultz will tell us, just as other concerned business leaders will tell us, they may not be able to keep that commitment if costs continue to grow exponentially.

What I appreciate about what Starbucks is saying is they are not

waiting for the bottom to fall out. Mr. Schultz has come to Washington to ask that the Congress and the executive branch partner with businesses that want to do the right thing and to cover their employees. He does not have all the answers, but he told me and Senator HATCH as part of this bipartisan law that makes a break with 60 years of failure in this area, he wants to try fresh approaches. Since millions of Americans come in contact with Starbucks each week, that is a pretty darned big contribution and an indication of what the business community is willing to do as we take a fresh look at coming up with health care that works for all Americans.

Frankly, what we have heard from Starbucks and others is exactly the kind of teamwork we wanted when we wrote the law. We are talking about a unique approach where the public has the facts, where the public gets a chance to weigh in, where Congress then has to act. This kind of approach, where you rewrite the book with respect to health care reform, is long overdue. There are going to be tough choices. Senator HATCH and I have acknowledged that at the very beginning. Certainly end-of-life issues present us with some very difficult, gut-wrenching concerns but establishing this kind of process is, in the view of myself and Senator HATCH, absolutely critical if our country is to move and to move quickly to deal with the health care challenge in the days ahead.

This health care wrecking ball is not going to hit in 2040 or 2050, colleagues. We are going to get clobbered on New Year's Day 2007 when 70 million baby boomers start retiring.

I see my friend Senator HATCH is here and Senator INHOFE has been so kind to give this time so I will wrap up. I encourage each Senator to urge their citizens at home to get involved with the Citizens' Health Care Working Group. They are going to be getting out into the communities across the country, making their information available online. This is their Web site. I encourage Senators to have folks at home ready to pitch in.

I thank my partner in this effort, Senator HATCH. If we look at the important health care legislation in the last few years, Senator HATCH's name is virtually always on it, whether it is programs for kids or how to address issues relating to pharmaceuticals. I could not have a better partner in the Senate as we try to break new ground in health care.

I yield now so Senator HATCH can have the time. I do it with my thanks.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator has just over 10 minutes.

Mr. HATCH. I will not take all that. I apologize to the managers of the bill for taking this time.

For over 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of this bill is that instead of relying on Washington for answers, we rely on the people.

I compliment my colleague from Oregon for coming up with this idea. I am very happy to sign on and help him with it, the Health Care That Works For All Americans: Citizens' Health Care Working Group legislation. It was created in order to hear what people like and do not like about the current health care system.

It is our hope this working group of citizens will have at least one townhall meeting in every State in the Union, pick the brains of all Americans, and see if we can come up with answers to our health care problems. We provide a mechanism once they do for the Congress to at least consider it and see what we can do to go from there.

This is one of the biggest issues we all have to face.

Mr. HATCH. Mr. President, everywhere I go in Utah, people tell me how concerned they are about health care. They are worried about the lack of health insurance, skyrocketing premiums, and unaffordable prescription drugs. They are worried that if they are diagnosed with a serious disease like cancer, they will be wiped out financially, even if they have health insurance. They are worried about losing their family doctor because he or she can no longer afford medical liability premiums.

There is no question there are problems with America's health care delivery system. And we have even more problems when the Government tries to impose a one-size-fits-all program on country. That's why Senator WYDEN and I reached across the aisle to start a meaningful national discussion with every day people.

A few years ago, Senator WYDEN came to my office and told me he had a ''terrific idea'' and that he wanted me to be a part of it. I am glad he did. I came to learn that we both have a strong desire to get past the partisan bickering and forge a consensus that would address the problems plaguing our health care system. We both decided to take this problem right to the American people. We want those who deal with these issues day in and day out to have their say. And, hopefully, when the process is finished, we will have a national consensus on how best to improve our health care system.

The Health Care That Works For All Americans: Citizens Health Care Working Group legislation was created in order to hear what people like and don't like about the current health care system. It is our hope that there will be at least one town hall meeting in each State. The working group members will hear from the full range of people within our health care system—including health care consumers, health care providers, and others who are impacted by health care.

For nearly 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of the Wyden-Hatch bill is that instead of relying on Washington for answers, the working group should hear from people outside of Washington regarding our health care system. The voices of all Americans, insured and uninsured, must be heard and that this issue needs to be addressed.

Today, 45 million Americans are uninsured and 8 million of the uninsured are children. We cannot allow these individuals to go without health care coverage. That is why I sponsored the CHIP legislation in 1997 to address this serious matter for children.

To me, the most appealing aspect of this Citizens Working Group is that it is unique from other previous commissions that were run by Washington insiders. This working group is composed of individuals from all over the country who have had experience with the current health care system. These are people who have had dealings with different facets of our health care system, and they want to make it better. They will talk to people from all over the country about what is working and what isn't working. And then they will put together recommendations, based on what they heard from their fellow citizens, for Congress and the administration to consider. Again, let me emphasize that the recommendations will come from the bottom-up, rather than being imposed from Washington. This is crucial because one of the first tasks of the working group is not only to get the views from the public but also to help them better understand our health care system. And once these recommendations are issued, Congress will hold hearings to address them.

This week, the Citizens' Health Care Working Group members are being briefed on various issues related to our health care system including an overview of the health care system, public health insurance programs such as Medicare, Medicaid, and the State Children's Health Insurance Program, the private health insurance market, the uninsured, and drivers of health care costs. In addition, the working group will be discussing the future field hearings, the required report to the American people, and begin consideration of approaches for conducting the community meeting.

Again, I am very hopeful about the innovative health care proposals that will be produced by the citizens' working group and want to encourage my colleagues to familiarize themselves with this important effort.

Mr. INHOFE. Mr. President, I thank the Senator from Oregon and the Senator from Utah. They have a great deal of passion on their subject and they have worked long hours. I appreciate the fact they recognize we are considering what many people consider to be the most significant bill this year.

Again, we will renew our request for Members to come down with their amendments. We have hotlined it

twice. I want to make sure I say that enough times for Members. Senator JEFFORDS joins me in this. They have hotlined it on their side. If Members want their amendments considered, if Members want floor time, if Members want a vote, come down, bring it down. I am waiting for that to happen. We are open for business. We encourage Members to come.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. JEFFORDS. I agree with the Senator's statement and call upon Senators to be here so we can get this work done.

Mr. INHOFE. It is urgent. Let me state why it is urgent. We have a deadline. We are on not our fourth, fifth, but our sixth extension right now. When you operate on extensions, as we have said over and over again, you cannot get anything done, you cannot have any of the reforms, you cannot take care of donor States, you cannot have innovative methods of financing. That is all in the bill. Core safety provisions are in the bill. None of that will be a reality if we do not get this bill.

Why is it such a rush? This extension expires on the 31st of May. That is 19 days from now. We have to get this done. If we get this bill finished tonight, we will have time to have it over into conference and start working on it in conference in time to get the conference report back to the House and back to the Senate and to the President's desk prior to the expiration of this extension on May 31.

Mr. JEFFORDS. Mr. President, I emphasize we are running out of time. We cannot keep going this way without getting anything done. We have a responsibility to do so. I urge Members who have issues they want to raise, please come now.

Close to 50 years ago, Congress passed and President Dwight D. Eisenhower signed into law the Federal Aid Highway Act of 1956.

As Chairman INHOFE has pointed out a number of times during the debate on this bill, that legislation is one of the greatest public works projects in history and is credited with the creation of one of the biggest transportation systems in the world.

President Eisenhower was a thoughtful man, but his first realization of the value of good highways was noted in 1919, when he participated in the U.S. Army's first transcontinental motor convoy from Washington, DC, to San Francisco.

When Eisenhower and a friend heard about the convoy, they volunteered to go along as observers ''partly for a lark and partly to learn,'' Eisenhower later recalled. On the way West, the convoy experienced all the woes known to motorists, and then some: an endless series of mechanical difficulties; vehicles stuck in the mud or sand; trucks and other equipment crashing through wooden bridges; roads as slippery as ice or dusty or the consistency of ''gumbo''; extremes of weather, from desert heat to Rocky Mountain freezing; and, for the soldiers, worst of all, speeches and speeches and more speeches in every town along the way. On September 15, 1919, after 62 days on the road, the convoy reached San Francisco, where it was greeted with medals, a parade, and more speeches.

During World War II, General Eisenhower saw the advantages Germany enjoyed because of the autobahn network. He also noted the enhanced mobility of the Allies when they fought their way into Germany.

These experiences shaped Eisenhower's views on highways. ''The old convoy,'' he said, ''had started me thinking about good, two-lane highways, but Germany had made me see the wisdom of broader ribbons across the land.''

Thankfully, these experiences helped guide President Eisenhower as he developed and pushed for the creation of the Federal-Aid Highway Act. In 1955, President Eisenhower said:

> Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear—United States.
>
> Without them, we would be a mere alliance of many separate parts.

We stand here now on this Senate floor, 50 years later, trying to improve and maintain the roads and highways created by the legislation inspired by President Eisenhower.

The bill before us makes great strides in State efforts to reduce traffic congestion and make our roads and bridges safer. It will help maintain and expand our mass transit systems, and it creates jobs and helps our economy. This bill will improve transportation in every State and have an impact on every American in one way or another.

Once again, I thank Chairman INHOFE and Senators BOND and BAUCUS for their efforts in moving this bill forward. We have made good progress this week, and I know the momentum will continue today, and hopefully it will start soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for an excellent statement. That historic perspective is important for a number of reasons. The whole highway system under Eisenhower came as a result of a quest for national security. That was almost 50 years ago, and we have been funding highways the same way we did 50 years ago. We have not changed at all.

We have this excise tax. In the bill we are to pass—and hopefully it will get passed today and sent on to conference—we have new and innovative ways of financing. We allow the States to use their ways. We give them more latitude toward their methods of financing highways. We also appoint a national commission to study how we could do this in the future so we will not be standing up here 6 years from now talking about the same problems we have today.

If we operate on an extension, that is not going to happen. I made a list of all these things that are not going to happen if we have just another extension. We are on the sixth extension right now.

Let me, first of all, encourage anyone who is going to offer an amendment to come down and do so.

JUDICIAL NOMINATIONS

But while we are waiting, Mr. President, let me respond to one of the statements that was made about an hour ago—or was it 2 hours ago—when they were talking about a floor vote.

Regardless of how you interpret the Constitution on advice and consent, sometimes I say I am a very fortunate person in this body because I am one of the few Members of the Senate who is not a lawyer. So when I read the Constitution, I know what it says. It says we are supposed to advise and consent. It means a majority of us are going to have to determine whether a nominee who is presented by the President of the United States is one who is, in fact, acceptable.

What we have been asking for, as our leader articulated many times—and apparently the senior Senator from West Virginia agreed with the President yesterday—is just an up-or-down vote. That is all we want, an up-or-down vote.

Now, is this so outrageous? I will go back and quote some of my good friends on the Democrat side who are opposed to an up-or-down vote.

Senator BIDEN, on March 19, 1997, said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . .

Senator BOXER said, on May 14, 1997:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Senator DURBIN, who has been very outspoken, said, on September 28, 1998:

> Vote the person up or down. They are qualified or they are not.

Mrs. FEINSTEIN, one of our fine colleagues, the senior Senator from California, on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down. . . .

Now, apparently, their interpretation of the Constitution is what mine is.

Senator KENNEDY, on January 28, 1998, said:

> But we should resolve these disagreements by voting on these nominees—yes or no.

I agree with Senator KENNEDY.

Senator KOHL, on August 21, 1999, said:

> These nominees, who have to put their lives on hold waiting for us to act, deserve an ''up or down'' vote.

Senator LEAHY, on October 22, 1997, said:

> I hope we might reach a point where we as a Senate will accept our responsibility—

That is us.

and vote people up or vote them down.

Senator SCHUMER, on March 7, 2000, said:

I also plead with my colleagues to move judges with alacrity—vote them up or down.

So I am saying that I agree with all of my good Democrat colleagues that we should give them an up-or-down vote, and I have no question but that the American people feel the same way. You see different polling data, but when they are asked the question, Should these people be entitled to a vote up or down? they overwhelmingly believe they should.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Mississippi.

Mr. LOTT. Mr. President, I actually came over to have a little discussion with the distinguished chairman of the full committee who has brought this legislation forth, Senator INHOFE. I thank him for the work he has been doing. We had an issue we have been discussing, and I think we have something identified to be helpful.

I came to talk about the highway bill, and I will do it to this extent: We need a bill. It is an overdue bill. It is important to our country. It is important to have infrastructure. It is important for job creation. It is important for economic development. And it is important for safety.

We ought to do this bill. I just cannot understand why the Senate still heaves away from getting this extremely popular, overdue, and highly necessary piece of legislation passed.

I urge my colleagues, if they have good amendments, let's do them. If we can't get it completed this afternoon, let's do it as soon as possible. It is critical for our country.

We are speaking on time on the highway bill, but actually other subjects have been introduced. I would like to comment on that.

Mr. INHOFE. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. INHOFE. Mr. President, we have been pleading with our colleagues to bring amendments down. Will the Senator, in the event an amendment comes to the floor, then yield for consideration of that amendment?

JUDICIAL NOMINATIONS

Mr. LOTT. I want this legislation so bad, I would even stop talking myself. That would be a major sacrifice, but yes, I would be glad to yield. But since the opportunity presents itself and I missed the opportunity to engage in the discussion an hour or so ago—not that it was needed—I have had very little to say on the floor of the Senate about the discussion about judges. There are a lot of different viewpoints. I am not going to refer to what others have said and I am not going to suggest I am a great constitutional scholar or that I am so steeped in all of the rules and traditions of the Senate. But I have studied this issue.

I have been in the Congress for now going on 33 years. I have read the Constitution over and over again, particularly on this subject, article II, section 2. I am somewhat familiar with the traditions and rules of the Senate. I am chairman of the Rules Committee. I have been in leadership roles. I must say that while we have had our disagreements and while I have seen us make mistakes and while I have seen injustices heaped on each other, on the people who are affected by issues we deal with, I don't believe I have ever seen anything as unfair and wrong as what I have seen happening to these circuit court nominees over the past 4 years. This has been going on for 4 years.

I was stunned when it started happening with Judge Charles Pickering of Mississippi and Justice Priscilla Owen of Texas. I thought maybe that was something aimed at me or maybe it was aimed at the Fifth Circuit Court of Appeals, or maybe it was a fit of anger about some of the nominees from President Clinton who didn't get out of the Judiciary Committee, but it would be a passing break from tradition. But no, this has continued right on through the 108th. We need to find a resolution that is fair to all concerned.

I wanted to correct a couple misimpressions, perpetuated primarily by the media. The proposal to put the tradition back in place that we don't filibuster Federal judicial nominees is not an end of the filibuster. Some of the media—accidentally, I am sure—suggested this is a debate over whether to have the filibuster. No, it is limited to the Federal judiciary. It won't affect our ability to continue to filibuster legislation or other executive branch nominations, although I have to confess, I think there should be some reasonable limits on that also. I am not a guy who gets so caught up in the institutional rights that I forget considering the rights of people and right and wrong. Does that have a place here in the Senate?

These good men and women and minorities have been maligned, mistreated, have had their lives disrupted, some of them for 4 years. Some of the best possible nominees such as Miguel Estrada said: Well, I have to go on with my life. And he withdrew.

There has been a misimpression given about how this would limit the filibuster. It would only apply to these judicial nominees.

The other thing is, Senator FRIST and the Republicans are considering changing the rules. Actually what we are considering doing is putting tradition back in place. The tradition has not been to filibuster Federal nominees. The tradition has not been to filibuster appellate court nominees. Not one time during the 6 years or so I served as leader did we have a filibuster. We are trying to go back to where we were. You can argue over this example or that example or we should retain that right. No, that has not been the right. That has not been the tradition. What has happened is wrong.

I saw somebody last night on one of the talk shows saying everything that happens in Washington is about something else. This lady suggested this whole debate is about the next Supreme Court nomination. Maybe that is true. Maybe there are a couple other things it is about, but in the meantime, innocent and qualified, good people are having their lives disrupted and smeared by this process.

I acknowledge this sort of thing has been going on ever since I have been in the Senate. Every time we have a filibuster or kill somebody or embarrass somebody in our process, whether it is Senator John Tower to be Secretary of Defense or Clarence Thomas to be on the Supreme Court, Judge Bork as a nominee, every time we seem to drop down another level. Sure, a lot of the Clinton nominees were held up in the Judiciary Committee. Maybe this is retaliation for that. What is going to be the next retaliation? How low can we go before we stop this tit for tat?

Now is the time to end it and go back toward greater comity between the parties and the people involved in these discussions. I haven't been sitting on the sideline saying: Let's impose this rule. Let's comply with the Constitution, which I think we should do. I want to make that perfectly clear. I have one goal and only one goal, ultimately, in this area, and that is to stop filibusters of these Federal judges. I don't particularly care how we get there, but that is the right thing to do. I am determined to get there.

As chairman of the Rules Committee, we had hearings on and moved legislation 2 years ago, sponsored by Senator FRIST and Senator Zell Miller, to try to come to a fair conclusion about how these judges would be handled. It was a process that said the first vote on cloture would require 60 votes, then 57, then 55, but ultimately get to an up-or-down vote, a majority, but an elongated process to make sure everything that needed to be said could be said. It could be fully scrubbed, and at some point you get to conclusion. A filibuster, the way it is being used, is guaranteeing we never get to conclusion. It goes on and on from one Congress to the next.

We reported out a bill. That apparently wasn't acceptable to the minority, the Democrats. So I started looking for other solutions. I did talk to Senator BEN NELSON and others: Is there some way we can address some of these concerns; is there some way we can guarantee that these nominees are not unfairly held permanently in the Judiciary Committee?

We came up with a process that said after 90 days, if the appropriate blue slips have been returned by the Senators from the State of the nominee affected, then they would come to the floor. They could not be held in committee indefinitely, but if there was a problem that came up and they needed

an additional 90 days, agreed to by the chairman and ranking member, then it could be extended. Ultimately, they would have to come out of committee and be considered by the full Senate. That would address one of the concerns that has been pointed out by Senator REID and Senator LEAHY and other Democrats. There is some merit to what they are saying. Let's fix that.

The second problem was freedom of speech, the great tradition in the Senate of endless debate. Give me a break. At any rate, to say the majority leader could not even file cloture for at least 24 hours after a nomination was called up—it could be longer—and then he could file cloture, and after 2 days we would eventually get to an up-or-down vote, but have a week for debate. By the way, Senator FRIST subsequently suggested that be moved even further. Every Senator would get an hour if he wanted it, full debate. I hate the thought of that, too, having to listen to 99 other speakers on a judge. Think about the sacrifice the majority leader has to make. When the majority leader has to give 100 hours to anything, how many judges could do you that on? It would be another impediment. But we would have full debate and then a vote. That was the key. Fairness on the committee, full debate on the floor, but ultimately a vote. That was rejected.

A lot of different ideas have been explored. A lot of Senators would like to find a way to stop the way we have been doing business but doing it where everybody could have some degree of comfort. I think time is running out. I think we have to make a decision on this and move on. Some people would say: Oh, my goodness, the Senate will be stopped, slowed down, with different agendas offered. How will we get anything done? The last time I checked, we have done four bills this year. We are not exactly burning up the woods. How do you slow down from almost a dead stop? So there is a little bit of a temerity—I will not use names to describe what the Senate is doing.

I think we need to work together. We have done it many times across the aisle. We have worked with Senator BAUCUS of Montana on issue after issue. Senator GRASSLEY won't have it any other way, to his credit. We ought to find more ways to do it. We ought to find a way to do it on Social Security. We have done it before. It took courage. We have done it on trade and we are going to do it again. It will take courage, sacrifice, and we are going to have to work to find a solution. We can do that here.

But I guess the thing that really gets me the most is when we put our description of tradition and the great institution ahead of human beings. When we have this debate, I see faces, people; I see Janice Rogers Brown, from California, who has an incredible story to tell. She is being maligned. Is she a conservative African-American woman? Yes. Is that disqualifying? It should not be. You may not agree with her opinion of Franklin Roosevelt, but isn't she entitled to an opinion? All the while, perhaps, she is ruling very fairly or even ruling against her personal beliefs, if that is what the court precedent calls for.

Mr. President, I don't necessarily mean this as critical of the institution or any one individual, but I think there is an awful lot of pontificating that has gone on too long here. Priscilla Owen, a supreme court justice in Texas, deserves a vote. She deserves to be confirmed. Somebody said she is too pro-business, she has a conservative viewpoint. Is that now disqualifying? I don't think so.

I have voted for judges I didn't agree with, perhaps on labor law. I point out over and over again that I voted to confirm Justice Ruth Bader Ginsburg. Certainly, she would not have been my pick, but she was qualified, experienced, and had proper decorum, and she was ethical. President Clinton won the election and so, based on that, I voted for her.

Surely, we can find a way to work this out. I think it has gone on long enough. I have tried not once, twice, but three times to find a way that we can get the right result, which is an up-or-down vote on these judges, and I have not been able to be successful yet. A lot of people have tried, and I think they deserve recognition. Those of us who have worked to try to find compromise have not been working against the interests of our leadership. We told them what we were trying to do. That is in one of the finer traditions of the Senate. But I cannot find a solution that I think is fair, other than to make it clear that these nominees deserve an up-or-down vote.

The Senate should vote. Some of them won't be confirmed, I predict. One or two of the seven—the magnificent seven—that have been renominated may not be confirmed. I would not be surprised to see that. I have voted for judges and against judges, but all of a sudden we don't want to do that.

Let the Senate do what it is supposed to do. Let's ante up and kick in. Let's vote and solve this issue, get it done, and let's move on and legislate for the best interests of our children and grandchildren.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for his remarks. This bill is urgent. We have been, as I said, hotlining it. We have done it twice on our side. I am waiting for responses to see what kind of progress they are having on the other side of the aisle.

I want to get on record here so that Members can all be aware it appears we are down to about 10 amendments right now on this side of the aisle. I think it would be very wise to continue to talk about this because we will be getting to a point where we are going to have to draw this to a conclusion, and now it seems like it may be some workable number.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE FILIBUSTER

Mr. INOUYE. Mr. President, on January 31, 1963, I gave my maiden speech in the Senate. That is over 40 years ago—42 years ago. At that moment, the Senate was embroiled in a very heated debate on civil rights. The question before the Senate was the filibuster because many of my colleagues, especially those who were designated as liberals, looked upon the filibuster as the major obstacle to the granting of civil rights to the oppressed minority of this Nation. On that day, I was given the right to the floor and I gave a short speech. I think it is quite relevant at this moment. If I may, these are the words of 31 January 1963:

> Mr. President, I fully understand the respected custom of this body which advises a new member to sit in his chair, to listen quietly and learn before he rises to speak to the Senate himself.
>
> There is wisdom in that custom, as there is in most customs which last through years of trial and experience. I would not willingly break that honored silence, but because this debate calls to question the place of the minority in a democratic political system, I feel I must say these few words in deep but passionate humility, for I am a member of a minority in a sense few other Senators have ever been.
>
> I understand the hopelessness that a man of unusual color or feature experiences in the face of constant human injustice.
>
> I understand the despair of a human heart crying for comfort to a world it cannot become a part of and to a family of man that has disinherited him.
>
> For this reason, I have done and will continue to do all that one man can do to secure for these people the opportunity and the justice that they do not now have. But if any lesson of history is clear, it is that minorities change, new minorities take their place, and old minorities grow into the majority.
>
> One can discern this course in our own history by observing the decisions of the Supreme Court, where the growth of the Nation's law so often takes the form of adopting as the opinion of the Court the dissenting view of the earlier decision.
>
> From this fact, we discern the simple example of a vital democratic principle. I have heard so often in the past few weeks eloquent and good men plead for the chance to let the majority rule. That is, they say, the essence of democracy. I disagree, for to me it is equally clear that democracy does not necessarily result from majority rule but rather from the forged compromise of the majority with the minority.
>
> The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but is also to set out limitation after limitation upon that power.
>
> Freedom of speech, freedom of the press, freedom of religion: What are these but the

recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law.

This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

In this day of the mass mind and the lonely crowd, the right to exercise this power and the courage to express it has become less and less apparent. One of the few places where this power remains a living force is in the United States Senate.

Let us face the decision before us directly. It is not free speech, for that has never been recognized as a legally unlimited right. It is not the Senate's inability to act at all, for I cannot believe that a majority truly determined in their course could fail eventually to approach their ends. It is instead the power of the minority to reflect a proportional share of their view upon the legislative result that is at stake in this debate.

To those who wish to alter radically the balance of power between a majority in the Senate and a minority, I say, you sow the wind, for minorities change and the time will surely come when you will feel the hot breath of a righteous majority at the back of your own neck. Only then perhaps you will realize what you have destroyed.

As Alexis de Tocqueville said about America in 1835: ''A democracy can obtain truth only as the result of experience; and many nations may perish while they are awaiting the consequences of their errors.''

The fight to destroy the power of the minority is made here, strangely enough, in the name of another minority. I share the desire of those Senators who wish to help the repressed people of our Nation, and in time, God willing, we shall effectively accomplish this task. But I say to these Senators, we cannot achieve these ends by destroying the very principle of minority protection that remains here in the Senate.

For as de Tocqueville also commented: ''If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority.''

I thank the Chair.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. INOUYE. I will be happy to yield.

Mr. REID. That speech was given 41 or 42 years ago?

Mr. INOUYE. Forty-two years ago.

Mr. REID. I say to my distinguished friend, we have heard a lot of speeches in the last several months on this subject, but I have to say candidly that this is the best speech we have heard. This is outstanding, especially coming on the footsteps of the great Senator ROBERT BYRD who made a statement about the right to free speech.

As I look back at a very young Senator from a very small State taking on people who had been here a long time, going against a majority of his party, in a sense, certainly a lot, as a young Senator, shows why 20 years prior to giving this speech he was a hero on the battlefield for America and why he has been a hero on the battlefields of the Senate for all these many years.

Mr. INOUYE. Mr. President, I thank the Senator.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. INOUYE. Yes.

Mr. JEFFORDS. I echo the comments of my good friend. The Senator from Hawaii has given us an opportunity to listen to the goodness he has given us in many speeches. I thank the Senator for what he has done today.

Mr. INOUYE. The Senator from Vermont is very kind. I should point out, I was very proud of my speech, but the consequences are rather sad because my so-called liberal friends avoided me for a few weeks after that.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, before I suggest the absence of a quorum, let me also echo my good friend. One of the real thrills I have had since I came from the other body was when Bob Dole was here with the Senator from Hawaii, and the two of them made such a spectacular image of everything that is good about this country and how good we feel. Every time I look at the Senator from Hawaii, I see a true American hero.

Mr. INOUYE. Mr. President, I thank the Senator from Oklahoma very much.

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Vermont.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1011 are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

Mr. INHOFE. Mr. President, I renew our plea for Members to bring their amendments down. We are making progress in terms of shortening the list. I would like to announce on our side we have hotlined it twice and we are down to 11 amendments by 9 different authors, different Senators. I encourage those nine to come to the floor while we have ample time. It is my understanding that after a couple of hotlines on the other side of the aisle, they only have about six amendments. That being the case, we could actually move the bill, if we can get these people down and get them to offer their amendments.

Mr. JEFFORDS. That is correct. We have only six we know of.

Mr. INHOFE. We have made progress, anyway, looking at who is serious about their amendments. I hope any staff or Members watching now would be encouraged to bring their amendments down.

I yield the floor to the senior Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, America has come a long way since the first State safety belt laws were passed two decades ago. I am speaking today not just as a proponent of reauthorizing the highway bill, but also to express my strong support for provisions in this bill designed to promote primary safety belt laws in the States. These laws help prevent fatalities and crippling, disabling injuries when auto accidents occur.

As many of you know, primary safety belt laws allow police officers to stop and issue citations to motorists they observe who are not buckled up. Secondary safety belt laws, on the other hand, require a motorist be pulled over for another offense before he or she can be issued a ticket for failing to wear a safety belt.

Today, 21 States, the District of Columbia, and Puerto Rico have primary belt laws and we know these laws are working. I am proud that in my home State of North Carolina—our home State, Mr. President—which enacted a seatbelt law in 1985, belt use rose to 86 percent in 2004.

Let me review a little history. It was in July 1984, during my first full year as Secretary of Transportation under President Reagan, that we issued rule 208, resulting in the installation of airbags in passenger vehicles and the enactment of safety belt laws across the country. Rule 208 was designed to save as many lives as possible as quickly as possible. It successfully resolved a 17-year dispute that spanned four administrations.

The rule recognized the role of the States in automotive safety. Not a single State at the time had passed a safety belt law. Usage was at only 13 percent, and airbags were virtually nonexistent. In fact, I remember having to search high and low to find an airbag-equipped car so I could put it on the White House lawn for President Reagan and the Cabinet to go out and examine.

There was very little consumer acceptance at the time. Many folks feared when they crossed the railroad tracks that the airbag would go off. Today, motorists regard automotive safety quite differently. Most of us get in a car and we barely notice that the vehicle has an airbag. And most of us innately fasten our safety belts.

Statistics prove we have made great progress increasing safety belt usage and saving lives on our Nation's roads since those first State safety belt laws were enacted.

Now, over 20 years later, we need to urge more States to take their laws to the next level by enacting primary safety belt laws. The National Highway Traffic Safety Administration estimates if all States enacted primary safety belt laws, more than 1,200 deaths and 17,000 injuries would be prevented annually.

I take this opportunity to thank the folks at NHTSA, and especially Administrator Dr. Jeffrey Runge, for their continued hard work and leadership to increase safety belt usage throughout our country. According to NHTSA estimates, in this year alone, 15,000 lives will be saved—15,000—by wearing safety belts. The economic costs associated with belt usage are significant as well. NHTSA estimates safety belt usage

saves America $50 billion in medical care, lost productivity, and other injury-related costs. By contrast, fatalities and injuries resulting from not wearing a safety belt generate $26 billion in economic costs annually. These costs include higher taxes and higher health care and insurance costs.

The fact is safety belts reduce the risk of death in a severe crash by 50 percent. We must urge folks to use their safety belts. Increased usage rates and primary belt laws have a proven track record of doing just that.

With this legislation, States that chose to adopt primary safety belt laws would receive a one-time grant equal to 500 percent of the highway safety money they received in 2003. States that already have primary safety belt laws would receive 250 percent of the 2003 level in highway safety money. At the end of the bill's reauthorization in 2009, any leftover safety funds will be distributed to States that have enacted primary belt laws.

With this increased funding, States can spend more on highway safety improvements and make our roads even safer. NHTSA Administrator Runge best described the importance of safety belt usage in April of this year, when he told the Senate Commerce, Science and Transportation Committee:

> Unlike a number of complex issues facing the Nation today, we have at least one highly effective and simple remedy to combat highway deaths and fatalities. Wearing safety belts is the single most effective step individuals can take to save their lives. Buckling up is not a complex vaccine, doesn't have unwanted side effects, and doesn't cost any money. It is simple, it works, and it is lifesaving.

I could not agree more. After two successful decades of State-implemented belt laws, it is now time for this Nation to further improve safety on our Nation's roads. We have accomplished many things to advance automobile and road safety over the last 20 years, and now we must act on this opportunity to do even more.

I ask unanimous consent that NHTSA Administrator Runge's letter to me on this matter be printed in the RECORD, and I yield the floor.

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

U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, DC, May 11, 2005.

Hon. ELIZABETH DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to bring to your attention my strong support for the safety belt State incentive grants contained in S. 732, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA).

The Bush Administration, along with the National SAFE KIDS Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Traffic Safety, the National Safety Council, the American Insurance Association, Advocates for Highway and Auto Safety, the Automotive Occupant Restraints Council, the American College of Emergency Physicians, the Alliance of Automobile Manufacturers, and the National Automobile Dealers Association all support this provision. They support it because it will save more lives, and do it faster and cheaper than any other proposal the Senate will consider this Congress, and perhaps this decade. If all States adopted a primary enforcement safety belt law, 1,275 deaths and 17,000 serious injuries would be prevented every year. No other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.

While deaths per vehicle mile traveled are at an all-time low, the carnage on our highways is still too high. In 2003, 42,463 people died and 2.9 million were injured due to motor vehicle crashes. The cost to our economy was over $230 billion.

With the number of vehicle miles traveled increasing each year, if we as a Nation are going to reduce the fatalities on our streets and highways, safety belt use must also increase. No vehicle mandate, no complex rulemaking, no public education campaign will save as many lives as a meaningful incentive to pass primary safety belt laws. Congress has the power to grant the incentives and that power will save lives.

I urge you to support the safety belt incentive grants in S. 732 and reject any amendments. Thank you for your consideration.

Sincerely yours,

JEFFREY W. RUNGE, M.D.

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

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

Mr. DEWINE. Mr. President, the SAFETEA bill in the Senate today is a good bill. I strongly support its passage.

I thank Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS for their good leadership and their good work, particularly on the Environment and Public Works title of this bill. The roadway safety and funding provisions they have crafted are vitally important.

Let me also thank Senators STEVENS, LOTT, INOUYE, and MCCAIN for their hard work on the Commerce Committee vehicle and behavioral safety title.

Finally, let me thank Senator ROCKEFELLER for his support as the lead cosponsor of the safety provisions I have authored that are part of this bill.

Staff on both the Commerce Committee and the EPW Committee also deserve praise and thanks for their hard work on this bill. In particular, I thank Ruth Van Mark, Chris Bertram, David Strickland, and James O'Keeffe and JC Sandberg for their willingness to work with my office on portions of the bill I wanted included. These are portions of the bill I will describe in a minute that have to do with highway safety, provisions that I believe truly will save lives. I thank them for their very good and diligent work.

I also thank Kevin King of my staff for his hard work on these safety provisions in the bill.

While certainly we would like to include more funding for highway and transit projects, I commend my colleagues for doing an excellent job in stretching the funding that is available as far as it can go.

The language Senators GRASSLEY and BAUCUS have drafted adding additional funding helps. I am a strong supporter of their efforts. We need the funding that the managers' package provides to improve the rate of return for donor States, such as my home State of Ohio, to get those levels up as high as possible.

Additionally, the managers' package contains the Commerce Committee title of the bill relating to safety programs. This title is comprehensive and deserves the full support of the Senate.

I will take a few minutes now to talk about the safety provisions I have asked to be included in the bill. First, I will say something about Senator LOTT's provisions on the Primary Safety Belt Incentive Grant Program.

I thank Senator LOTT. I congratulate him for including this provision, a provision that will clearly save lives. Senator LOTT came to the Senate floor earlier and spoke about the importance of this provision. I must say what Senator LOTT said is absolutely correct. This provision must be kept in the Senate bill. It must be kept through conference. Efforts to modify or remove primary safety belt incentive grants will undermine the national goal of reaching 90 percent safety belt usage. Encouraging States to aim low when it comes to saving lives makes no sense. Such efforts to change this language in the bill must be opposed.

Some States already have primary enforcement laws. Those laws are the single cheapest and most effective means for saving lives on our Nation's roads. Those States that have already enacted primary seatbelt laws have seen lives saved. Other States, such as my home State of Ohio, do not have primary seatbelt laws. These States would benefit tremendously in terms of lives saved and financial bonuses under Senator LOTT's program. The incentive program may be the only way to get some States to adopt primary laws.

In Ohio alone, it is estimated we could save nearly 100 lives per year if we added primary belt laws. If we maintain this provision, countless lives will, in fact, be saved. The highway experts, the people who study this issue, who understand it, tell us this is the simplest, cheapest, easiest way to save lives. It is the one thing we could do to save lives in this country the easiest way.

So I thank Senator LOTT and commend his efforts and urge my colleagues, if there is an amendment offered to take this provision out, that they oppose that amendment.

Let me say a few things about the provisions in the bill that I have been working on and I have asked to have included and that have, in fact, been included. First, Senator ROCKEFELLER

is the lead cosponsor on our provision that we call Stars on Cars. While the name is kind of cute, its focus is quite serious.

Today, when you go to buy a new car, we all know there is a large label on that car, a large label on the window telling the price, the features, and other information about the vehicle. Most of the content on the sticker is actually mandated by the Federal Government. The sticker has to tell you whether the vehicle has a stereo, the car's mileage, how many miles per gallon, and so on. But one piece of vital information, amazingly, is not there, and that is the safety ratings. How safe is that car? That piece of information is not on the sticker.

Citizens have a right to know this information, and our provision would provide, for the first time, that information would be available right on that car, right in the showroom when you walk in to buy the car. Taxpayers have already paid to have the National Highway Traffic Safety Administration, NHTSA, test cars for this information. We have already paid for the information. In fact, NHTSA has put this information up on the Internet. It is available on the Internet now. But, nonetheless, this information is not available to the American consumer in the one place where it would be most helpful, the one place where it would truly make a difference: where you buy the car, on the face of the car when you buy it at the dealership.

Our provision would add a new section to the label that would clearly lay out information from each of the crash tests. You would have the information about frontal crash impact, side impact, and rollover resistance. It would show the test results as star ratings on the label, just like many automakers already do in their commercials. This is a commonsense provision, and it is one that will allow consumers the opportunity to make more informed decisions for themselves and their families.

We have found over the last few years that consumers are much more conscious about the safety of the cars they buy, wanting to put their families in safe cars. This is a proconsumer, prosafety provision that makes good common sense. I congratulate the committee for including it in this bill.

Another provision in this package that Senator ROCKEFELLER has cosponsored with me is what we call the Safe Kids and Cars Act. Now, according to NHTSA, automobile crashes are the leading cause of death for those ages 4 to 34. More than cancer, more than fire, more than anything else, auto accidents are the source of child fatalities. We all know that.

The focus of the child safety initiative we have incorporated in this bill is on an emerging danger for small children that is often overlooked. It is referred to as ''nontraffic, noncrash'' accidents. What are those? Well, these are incidents in which there is an interaction between an automobile and a child which leads to injury or death when the vehicle is not on the road or there is no actual crash which has occurred. Instead, these are accidents that happen inside parked cars, in driveways, or other common, potentially deadly situations.

We provide two different things in this title. The title includes two very different sections relating to the Safe Kids and Cars initiative. The first one directs NHTSA, for the very first time, to perform regular collection of data on nontraffic, noncrash injuries and deaths. We need that information. We need that as a matter of public policy. If we are going to prevent them, we have to understand them. We are not collecting the data today. We do not fully understand it.

Further, we have another section that deals with the so-called back-over deaths and requires NHTSA to investigate this issue and the technologies that might help prevent such accidents in the future. These back-over deaths occur in driveways, people's homes. Quite often, every year, a child is backed over and killed. They are becoming more frequent, as people have vans where you cannot see out of the back of the van very well.

We need to better understand the cause of these accidents. We need to have better information. NHTSA needs to investigate this issue and needs to look at the technologies that might help prevent such accidents.

Another provision we have included in this bill we call dangerous roads and intersections. Senator ROCKEFELLER and I have worked on this provision. Every State in the Union, of course, has dangerous roads, dangerous intersections. Most States, fortunately, rank these. Most States come up with a list of what are the dangerous roads, the most dangerous places in the State. They keep a list of them. But, amazingly, there are many States that keep this information secret and never tell the public.

Citizens have a right to know this information. What would you do with the information? Well, if you are a parent, you might tell your child to avoid a certain road: Don't go that way to the movie. Don't go that way to the restaurant. Don't go that way on a date. Go a different way. You have a right to know that information. Or if the public knew about a road that was statistically very dangerous or the State knew that it was dangerous, maybe the public would demand that road be fixed. That is the type of vital information the public has every right to know.

Our provision requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program, the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to identify their danger spots, rank them according to severity, and then disclose them to the public. It is pretty simple. Most States are already doing it; they just have to disclose it. This is another commonsense provision that truly is going to save lives. I am pleased it has been incorporated into this highway bill.

The fourth issue covered by language in the bill that I included, along with Senator ROCKEFELLER, has to do with driver education and licensing. Teen driving is an area where the fatality rates are very high. Unfortunately, current programs are many times not getting the job done. Higher crash and fatality rates for teenage drivers can be reduced if we work at it. The Federal Government can't run driver education. It is a State responsibility to set standards. But the Federal Government can play a small yet significant role and a productive role. Revitalized driver education needs to be data driven. We can help teenage drivers avoid high-risk situations, particularly in the first 6 months behind the wheel. Integration of driver education with graduated licensing must also be addressed.

The language we have included in the bill creates a driver education and licensing research program within NHTSA. This program will go out and test what works and what doesn't and come up with a ''best practices'' model that States can implement. The time has come to take serious action on driver education and licensing. This program is a solid first step. We need to have scientific data, and the Federal Government is in a good position to come up with this data to assist States as they develop good criteria.

Finally, I have worked with Senator LAUTENBERG to include a provision in the highway bill to reduce the number of drinking and driving deaths and injuries each year. Statistics are staggering. In 2003, 17,013 Americans died in what we believe were alcohol-related incidents. NHTSA projects this number dropped to 16,654 in 2004, a 2.1-percent reduction. While this is good news, it certainly is still too high. We do want to see the trend continue. To help accomplish that, the language we have supported requires NHTSA to work with the States to conduct combined media-law enforcement campaigns aimed at reducing drunk driving fatalities.

Specifically, the law enforcement portion of this bill consists of sobriety checkpoints in the 39 States that allow them. In the States that don't allow them, it provides for saturation patrols. The Centers for Disease Control estimates the sobriety checkpoints may reduce alcohol-related crashes by as much as 20 percent. That is a significant amount. We should do all we can to help States reduce drinking and driving. This provision will do that.

In conclusion, the fact is that auto fatalities represent the No. 1 killer in this country of those between the ages of 4 and 34. In 2004, NHTSA projects that almost 43,000 people were killed on our Nation's roads. In 2003, the number

was 42,643. In fact, in the next 12 minutes, at least one person will be killed in an automobile accident, while nearly 6 people will be injured in the next 60 seconds. This is a tragedy we as a society are much too willing to tolerate. It is so common we kind of shrug it off and put up with it. These auto fatalities occur every day, every hour. And yet somehow we all have become immune to it. This year's highway bill takes some positive steps toward reducing those deaths.

I thank the sponsors for working with me on these safety measures that truly will save lives. I commend them for their efforts and for including these provisions in the bill. I urge my colleagues, once this bill goes to conference, to continue to include these provisions in conference.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, I was able to listen to the Senator from Ohio, Mr. DEWINE. He has always led this body in the concern for safety. He points out the critical need to finish this bill. Hopefully, today we will finish this bill because we have the longest, most comprehensive safety core section, title, in this bill that has ever been offered in any reauthorization since Eisenhower. That is why we say, as I think Senator DEWINE was pointing out, lives can be saved or lives can be lost, depending on whether we pass this bill.

We will not have the safety core programs if we merely have an extension. Right now we are on our sixth extension. An extension is nothing but a defeat, an admission that we are not able to get a bill through so let's have what we had before. That's actually an extension of what we passed 7 years ago. It doesn't have any of these things in it. If we have an extension, none of the safety core programs Senator DEWINE was talking about would be included.

I can tell you—and I think everyone knows—statistically, it is an absolute that people will die; not just adults driving, but one of the things in this bill is the Safe Routes to School provision which would save young lives—kids going to school. So it is a life-or-death matter that we pass this bill and pass it very soon.

When I say ''very soon,'' we ought to pass it today because the extension, this sixth extension I refer to, is going to expire on May 31. If that happens, that means we will be forced to do another extension. What happens when you do extensions? Back in the States, they do not have any certainty in planning. It is not as if you can say: We know now that we have an extension for 6 months, we can spend X dollars for 6 months. You can't do it that way, and everyone knows that. You have to plan way in advance because you have to get the labor pool together, get the contractors together, you have to get the bids out. In this bill, we do have a provision that would have some projects that are ready to go, so the second this is signed into law we are going to start construction.

People will use this and say this is, in fact, a jobs bill—and it is. It is probably the biggest jobs bill we have had at one time since the WPA. For every $1 billion of road construction, that translates into 47,500 jobs, new jobs, good-paying jobs. Without this bill, of course, that is not going to happen.

We have a lot of people who are concerned, as I am, about donor State status. I can remember when we only had written into the law that each State would get back 75 percent of what they actually collected in their State. Slowly, over the years, I have watched it get increased. It has gotten up to the point where it is today, and this was passed 7 years ago. This was 90.5 percent; that is to say, every donor State will get back at least 90.5 percent of what they pay in.

The bill we had last year was enhanced up to $318 billion. That would provide every State got back a minimum of 95 percent. As it is now, with the smaller number, even with the enhanced number from yesterday's amendment, that brought it up by $11 billion to $295 billion. That still only brings the donor status to 92 percent. But that is better than 90.5 percent, where we are today.

If we have an extension, it will be 90.5 percent. There will not be any change.

The streamlining provisions of this bill will allow us to actually pave, construct a fairly decent percentage more highways and bridges than we would otherwise be able to do. Without this, and if we have an extension, we will not have this, and none of the environmental streamlining provisions will be there.

There are two different sections of the bill that relate to the financing. We have not changed our method of financing roads in 50 years. Since the Eisenhower administration it has been the same. We know there are better ways of doing it where you can have partnership types of arrangements, something that would be very good for our system. Without a new bill, that is not going to happen.

A lot of the States are on the border. We have a border program, a recognition that since NAFTA we have a lot of traffic through no fault of the States. You have to improve the NAFTA corridors we are talking about in this bill. Without this bill, we will not have that.

The chokepoints are not currently corrected. That is why we call this an intermodal bill. It is not a highway bill, not just a transportation bill, it is an intermodal bill because it is all types of transportation and the chokepoints in between. A lot of our problems are because of the chokepoints.

Last, we have firewall protection in this bill. The firewall protection provides if you pay money into the trust fund when you are getting 1 gallon of gas, that money is ensured to go toward building new roads. There are many in this body who do not think that is necessary. Many think we can go ahead and fund any kind of programs not relating to transportation out of the trust fund, and they have been doing it.

In fact, one of the Senators the other day was saying how offended he was that we are taking some of the fix that is there that is not in use; in other words, there is about a 5-cent credit that goes in and comes out of the highway trust fund. That has nothing to do with transportation. If you are going to establish a policy, pay for the policy but do not pay for it out of the highway trust fund.

I have often said this is a moral issue. There may be loopholes that allow politics to steal money out of the trust fund, but it is still a moral issue.

This bill has the firewall protection to make sure, for the first time, people cannot raid the highway trust fund. All these things are in the bill. If we do not pass the bill, we will have an extension, and none of these things are in the bill.

This is necessary to get this done, to pass this legislation, and not just go for another extension.

AMENDMENTS NOS. 569, AS MODIFIED, AND 602, AS MODIFIED, EN BLOC

Mr. President, I ask unanimous consent the Chambliss amendment numbered 569 and the Cornyn amendment numbered 662 be modified with changes at the desk and agreed to, that the motions to reconsider be laid upon the table en bloc.

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

The amendments as modified en bloc are as follows:

AMENDMENT NO. 569, AS MODIFIED

On page 217 after the matter preceding line 1, insert the following:

SEC. . 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a

route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (Formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesville, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

AMENDMENT NO. 662, AS MODIFIED

Strike section 1802(c).

Mr. INHOFE. I have left instructions if Senators arrive, interrupt us. We want to consider amendments. I am hoping I did not chase away anyone who is offering an amendment. We have about 10 amendments on the Republican side and about 10 amendments on the Democrat side. That is much better than yesterday with 173 amendments out there. We have made progress.

We agreed to two of these. If we can get the Members who are serious about their amendments to bring them down, this is the time to do it. I anticipate, as is normally the case, at the last minute Members will come down and say: I have to have time to present my amendment, and it will be too late. Now it is not too late. There is time to consider any amendment that is a germane amendment that is on the list.

What we have done is very difficult. We have worked on this bill for 3 years. We had this bill passed out of this Chamber and to conference a year ago this month. In conference, they dropped the ball, and we were unable to get it through.

This time, the conferees have learned we will be able to get it back to the House and back to the Senate, get it passed in both Houses, and have it signed by the President in time for the current extension that expires May 31. That is ambitious, but it can be done. We try to figure this out day by day and what can be done each day. I believe that will happen.

The reason this bill is better than most bills is historically we have not gone with formulas; we have gone with political projects. Some people call them pork. I don't call building a road pork.

What we could have done—we need to have 60 Senators to agree to this—we could have gone to 60 Senators and said, all right, we have a pot of money, and we will take care of your problem in Louisiana, your problem in Oklahoma, your problem in Arkansas, and get up to 60 Members, 30 States, and we will pass the bill and forget about the other Members. That is not fair. Historically, that has been done.

We tried to take every conceivable thing into consideration. The Presiding Officer represents a small northern State. We have provisions for the colder States, provisions for States out West, many of which, like my State of Oklahoma, are donor States. These are factors in the bill, in the formulas.

The formula for allocation also has such things in it as per capita fatality. My State of Oklahoma has a high fatality rate. What does that tell you? It tells you we have a problem with bridges and roads. That is a factor in how much money is distributed to the States.

The number of interstate lane miles is a consideration. The weighted nonattainment and maintenance area population is considered. The nonhighway recreation is a consideration. Regarding low-income States, mine is below the average in the State of Oklahoma. Low-population States—Senator BAUCUS has been very helpful in this bill. He is from Montana. Montana has less than a million people, but they have to have roads to connect all the interstate roads. Consequently, they will be in a position where it has to be a consideration that a low-population or low-density population State is going to be able to be treated fairly.

There are about 20 different considerations, but the bottom line is, you are never going to come up with a formula where everyone says this is perfect, this is just what we want, my State is being treated fairly. There are many things in the formula I do not like as chairman of the Environment and Public Works Committee, this Senator from Oklahoma. Nonetheless, I know everyone cannot be satisfied.

We have a good bill before the Senate. Members should realize how significant it is that we pass this bill and not just go to another extension.

Let me renew my request, as we will be doing every 15 minutes, for Members to bring their amendments. I know Members are out there and hiding. We will find you. We are open for business. We want you to come down and offer your amendment. We will have plenty of time to do it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I cannot commend the chairman of the Environment and Public Works Committee enough. He has worked extremely hard on this legislation. He is exactly right, if we are going to finish this bill, it is incumbent upon Senators to bring their amendments to the floor. It is the only way we are going to finish this bill.

As Mr. INHOFE, the Senator from Oklahoma, is imploring Senators to come down, I very much hope they heed his words. I thank him for those words because it is so important to get this legislation done now. It is Thursday afternoon, and it seems to me there is a lot of time to get most of this bill done today.

RULES OF THE ROAD ON JUDICIAL NOMINATIONS

Mr. President, this Nation's fast transportation system works. Why does it work? Because every day millions of individuals choose to abide by the rules of the road. On our Nation's highways, millions of people safely move great distances, at great speeds, in no small part because drivers respect other drivers and abide by the rules that oblige them to stay within the white and yellow lines painted on concrete and asphalt.

When you stop to think about it, it is incredible. Here are thousands of pounds in one car and another car hurtling toward each other, at high speeds, yet they do not hit each other. They miss because the drivers know they must stay, in America, on the right side of the road, in their lane, which prevents a catastrophe. It is amazing when you stop to think about it.

When drivers come to an intersection with a red and white stop sign, what happens? Drivers stop. Those of us on a cross street depend on drivers stopping. The other cars at a stop sign on other streets of the intersection also depend on that.

When folks come to a red light, they stop. They wait for a green light. They let the cars come through from the other direction. Few things create more danger in traffic than running a red light.

Mr. President, the Senate works much the same way. The Senate gets things done because day in and day out Senators choose to abide by the Senate's rules. The Senate has rules. We abide by them, and that enables us to get things done.

Every year, the Senate confirms hundreds of nominations, addresses hundreds of amendments, and enacts hundreds of laws because Senators respect other Senators and abide by the rules of the road.

In the 108th Congress alone, the Senate confirmed nearly 1,800 nominations, agreed or disagreed to nearly 1,800 amendments, and enacted nearly 500 laws. Yet in the 108th Congress, the Senate conducted just 675 rollcall votes.

So what does that mean? That means in the 108th Congress alone, the Senate made more than 4,000 decisions with fewer than 700 rollcall votes. In the 108th Congress, the Senate made more than 3,300 decisions by voice vote or by unanimous consent.

These numbers demonstrate what most Senators know in their bones: Five times out of six the Senate gets things done not by confrontation but by Senators abiding by the rules of the road and cooperating with other Senators.

That is why it is so troubling that some in this Senate now threaten to try to change the Senate rules by breaking the rules. They plan to disregard the rules and disregard the precedents. They want to run the red light.

The Constitution gives the Senate the power to set its own rules. Article I, section 5, of the Constitution says:

Each House may determine the Rules of its Proceedings. . . .

The Senate has determined its rules through adopting the standing rules of

the Senate. The Senate has readopted or made general revisions of its rules only seven times since 1789. The most recent general revision was in 1979.

The standing rules of the Senate continue from Congress to Congress. As Senate rule V says:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Rule V: ''The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

Now, Senators have the right to debate changes to the rules. Standing rule VIII spells out that, even under circumstances where Senators may not normally debate:

> motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.

Standing rule XXII provides the procedure for bringing debate to a close on:

> any measure, motion, [or] other matter pending before the Senate.

Senate rule XXII provides that ''any . . . matter'' includes nominations. That is how it is that Senators can debate at length any nomination that comes before the Senate, unless 60 Senators vote to bring that debate to a close.

And ''any measure . . . [or] matter'' within the meaning of rule XXII on debate also includes a proposal to change the standing rules of the Senate because rule XXII of the Senate's standing rules spells out the procedure for changing the standing rules. When it addresses bringing debate to a close through cloture, rule XXII says:

> [O]n a measure or motion to amend the Senate rules . . . the necessary affirmative vote shall be two-thirds of the Senators present and voting.

That is rule XXII. That is in the Senate rules, which continue over from Senate to Senate.

The Senate's rules, thus, provide a procedure for changing the rules. That procedure involves the regular legislative process. That procedure involves fair and potentially extended debate. And that procedure requires, if it comes to extended debate, ''the . . . affirmative vote . . . [of] two-thirds of the Senators present and voting.''

That is the way Senators can change the rules, if they choose to respect other Senators, if they choose to abide by the rules of the road, if they choose not to run that red light.

But what some are talking about is very different. What some are talking about is using brute force to change the rules. What some are talking about is running the red light.

Here is what they would do. They would use the raw power of the Vice President to sit in the chair of the Presiding Officer. They would have the Vice President make a ruling that bypassed the Senate's rules for amending the Senate's rules. They would have the Vice President make a ruling that bypassed the Senate rules for how long Senators could debate. They would have the Vice President make a ruling that broke the Senate's rules.

Now, article I, section 3, of the Constitution provides:

> The Vice President of the United States shall be President of the Senate. . . .

But that does not mean that the Vice President can make up the Senate's rules anew every day. The Vice President, just like any Senator, must abide by article I, section 5, of the Constitution, when it says:

> Each House may determine the Rules of its Proceedings. . . .

And when the Vice President acts as President of the Senate, the Vice President, just like any Senator, must abide by the standing rules of the Senate. To do otherwise, would be an abuse of power.

Mr. President, I urge my colleagues to resist those who would break the rules to change the rules.

Sir Thomas More, the British statesman and Lord Chancellor, resisted King Henry VIII when More felt that Henry had broken the law. In Robert Bolt's great play about More called ''A Man for All Seasons,'' More speaks about the importance of abiding by the law.

The character William Roper asks More:

So now you'd give the Devil benefit of law?

More counters:

Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper replies:

I'd cut down every law in England to do that!

More responds:

Oh? And when the last law was down, and the Devil turned round on you where would you hide . . . , the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

The Senate's rules protect us all. They protect the ability of the Senate to get things done through working together, not through majorities that cut down all the opposition.

For two centuries, the Senate's rules have protected the rights of the minority party, for Democrats and Republicans alike. After two centuries, it would be a mistake to cut down those rules.

At the center of that forest of Senate rules are two mighty oaks. But don't take my word for it. Let me quote the Senate majority leader.

In a forward that the senior Senator from Tennessee, the majority leader, wrote to a book published last year entitled ''Senate Procedure and Practice,'' the majority leader wrote:

> [A]bove all, together the Senate's rules and practices form a whole. It is a whole that faithfully reflects the Framer's design and ambition for the body. It is a whole that remains true to the Senate's two paramount values: unlimited debate and minority rights.

''[U]nlimited debate and minority rights.''

''[U]nlimited debate'' allows Senators to protect ''minority rights.'' The Senate's rules thus help to protect personal rights and liberties. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Framers' conception of checks and balances.

Even law school dean and former judge and special prosecutor Kenneth Starr told CBS News that changing unlimited debate might damage the Senate. He said:

> It may prove to have the kind of long-term boomerang effect, damage on the institution of the Senate that thoughtful Senators may come to regret.

The Senate's right of unlimited debate is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Senate's involvement in the confirmation of judges has helped to ensure that nominees have had the support of a broad political consensus. The Senate's involvement has helped to ensure that the President could not appoint extreme nominees. The Senate's involvement has helped to ensure that judges have been freer of partisanship and more independent.

The Framers wanted the courts to be an independent branch of government, helping to create the Constitution's intricate forest of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of personal rights and liberties from the winds of temporary majorities.

It is easy to push down the accelerator and cross that white line of paint, running across the concrete or asphalt. It is easy to push down the accelerator to run through that stop sign. It is easy to push down the accelerator and run through that red light.

But once one has been hit by a car running a red light, can one ever look at an intersection the same way?

The Senate works because, day in and day out, Senators choose to respect other Senators and abide by the Senate's rules of the road. If and when the Vice President and Senators start breaking those rules to change the rules, the Senate will never be the same. Once they run that red light, the rule of the road can never be the same.

I urge my colleagues to slow down, take their foot off the accelerator, and stop, before it's too late.

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

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

The legislative clerk proceeded to call the roll.

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

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

ISRAELI INDEPENDENCE

Mr. DEWINE. Mr. President, one of the most gratifying aspects of serving in the U.S. Senate is the opportunity to come to this Chamber and talk about and celebrate the great events in American and world history. One such event occurred 57 years ago today, and that is the creation of the nation of Israel, the only democracy in the Middle East and the eternal homeland for all Jews around the world. Israel, our enduring friend and everlasting ally, was reborn from its biblical birthright on this day in 1948.

Two years ago on the 58th anniversary of the end of World War II in Europe and again this week on its 60th anniversary, I spoke about how American soldiers successfully fought both the fascism in Europe that spread like a cancer across that continent and Adolf Hitler's efforts to eradicate the Jewish race.

Last week, we honored the souls of those murdered in the holocaust on Yom Ha-shoa—the Day of Remembrance. And today we celebrate the result of all of this history which is Israel's independence.

My father, Richard DeWine, when he was serving in World War II in K Company, which was part of the Army's 103rd Infantry Division, went into one of the Nazi concentration camps—Dachau—after it had been liberated. Although K company did not participate in the liberation of Dachau, the 411th Regiment of their 103rd Division did liberate the camp at Landsburg, Germany.

When my father was at Dachau, a camp where over 28,000 Jews had perished, the prisoners had already left the camp. He has a vivid recollection, though, of seeing the ovens that the Nazis used to burn the bodies of so many of the prisoners.

He can still picture in his mind the devices they used to slide the bodies into the ovens and the many urns that contained the prisoners' ashes. He remembers going into a room next to the ovens and seeing fixtures on the walls that looked like showerheads. Those at the camp told him the prisoners were taken into these rooms and the prisoners were told they were going to take showers, but instead of water coming out of the nozzles, poisonous gas was emitted, killing them.

My dad remembers walking down the road near the camp and encountering a very weak, emaciated man who had, a short time before that, been a prisoner. My dad and his buddies talked to the man and gave him food and cigarettes. They asked the man, who a short time before had been a prisoner, if they could take his picture. He said, yes, as long as it is with an American soldier. So they did. My dad still has that picture today.

Carl Greene, who was also a member of K Company, remembers their visit to Dachau. He says some of the former prisoners in the camp still wearing those unforgettable striped uniforms actually served as their guides to show them around the camp, showing them the gas chambers and the crematorium and the area in the camp where the Nazis would shoot prisoners in the back of their heads.

K Company member Al Eucare, Sr., who was 18 years old at the time, remembers what he describes as one-man pillboxes that stood outside the gates of Dachau. These were cylindrical pipes that stood upright, just big enough for a man to fit inside. They were something of a sentry post. Each of these concrete tubes contained an open slat at the top and the bottom, where guns were placed to shoot at prisoners if there was a disorder as the prisoners went in and out of the gates.

Like my dad, Al also remembers the ovens at Dachau. He said when he was there, even though it was after the camp was liberated and the war had ended, there were still ashes and skeletal remains inside those horrible ovens.

Al also remembers seeing hooks—something akin to meat hooks—that the Nazis would hook dead bodies on like cattle, to move them more easily. He said they would put the bodies on by hooking them right underneath the jaw. He had heard stories that sometimes live Jews were placed on the hooks and left until they died.

General Dwight Eisenhower visited some of the death camps and reported back what he saw. In one of his reports, this is what the general described:

> On April 12, 1945, I saw my first horror camp. It was near the town of Gotha. I have never felt able to describe my emotional reactions when I first came face to face with indisputable evidence of Nazi brutality and ruthless disregard of every shred of decency. Up to that time, I had known about it only generally or through secondary sources. I am certain, however, that I have never at any other time experienced an equal sense of shock.
>
> I visited every nook and cranny of the camp because I felt it my duty to be in a position from then on to testify at firsthand about these things in case there ever grew up at home the belief or assumption that ''the stories of Nazi brutality were just propaganda.'' Some members of the visiting party were unable to go through the ordeal.
>
> I not only did so, but as soon as I returned to Patton's headquarters that evening, I sent communications to both Washington and London, urging the two governments to send instantly to Germany a random group of newspaper editors and representative groups from the national legislatures. I felt that the evidence should be immediately placed before the American and British publics in a fashion that would leave no room for cynical doubt.

That was Dwight David Eisenhower.

To think about it now, it defies credulity to consider that these atrocities were occurring and there were those who questioned their reality or those who today even question their reality. My father said that was one of the things that struck him when he visited Dachau 60 years ago—the idea that there were townspeople right there who would never admit the death camp was out there. He talked to people and they would not admit it. They said they didn't know anything about it. They didn't know what was going on so close. They acted as though it didn't exist.

Fortunately, the world came to reveal what was happening. The world knew, and although the rebirth of Israel came upon the heels of the modern tragedy of the Nazi death camps, it is important to remember that the Jewish people have struggled to regain their homeland ever since biblical times. The year 1948 marked the culmination of those efforts. After 6 million Jews were murdered in World War II, surviving Jews from across Europe and Asia made the trek to the holy land. They sought their homeland and peace. They obtained the former but not the latter.

One such man seeking a homeland and peace was Mark Steinbuch, the late father of one of my Judiciary staffers, Robert Steinbuch. Born in Poland, Mark and his family lived under Nazi occupation, relocated to Siberia shortly after the start of World War II, and then traveled for 2 weeks by cattle car to live in Soviet Kazakhstan.

Mark's extended family faced some horrific challenges. Many were killed by the Nazis. His cousins, the Hershenfis family, were forced into labor in the Pionki ghetto in Poland. In 1941, the family was shipped off to Auschwitz. Hanna and her brother Harry were separated from each other and from their parents Fay and Harvey. Fay and Harvey never made it out of the death camp. Hanna, tattooed with the number A14699, was shipped to an intermediate camp and then Bergen-Belsen. Harry—B416 to the Nazis—worked hard labor in Auschwitz for 4 years, and then, in 1944, was sent to another camp called Mauthausen.

On May 3, 1945, the Nazis fled the camp. That night, the skies opened and sent down a rainfall as if the world were being cleansed from the horrors it had seen. The next morning, the Americans arrived and the 11th Armored Division liberated the camp. Three days later, Harry turned 26.

After 5 weeks in an American hospital, Harry spent the next 3 years in a displaced persons camp in Austria. In 1949, Harry's wishes were answered, and he set off for America. Four years later, when Hanna also came to the United States, the siblings were reunited for the first time since they were shipped off to Auschwitz 13 years prior. Harry is 86 now and Hanna is a few years younger. Both are alive and well. Harry's sense of humor is strong, and he plays down the difficulties he faced. But we all know better.

Upon the defeat of the Nazis, Mark Steinbuch's immediate family went to Germany because, as Mark described it, ''that is where the Americans were

and, if you wanted to live, you went to the Americans.'' From there, Mark joined the Zionist youth movement and set off for Israel.

That, however, was no easy task. Traveling across Europe, often on foot to a southern port, he, his brother, and many others like them boarded an overloaded freighter renamed the ''Theodore Hertzl,'' after the founder of the Zionist movement. Upon the ship's arrival in Israel, the British quickly arrested its passengers and sent them to a holding camp in Cypress. Months later, Mark and the others were allowed to enter Israel.

Upon the joyous declaration of independence, seven Arab nations invaded Israel, and Mark quickly joined the army. Underage and flatfooted, he fought for the independence of this new democracy.

Mark's story is by no means unique. It not only represented the goals and desires of the Jews of postwar Europe but the dreams of a nation of people dispersed from their homeland for millennia.

Mark's dreams were realized a year later when armistice was struck. Israel survived its first challenge. It, like the Jewish people after the Holocaust, was still alive.

Since then, Israel's existence has been continuously challenged. Israel defended itself from foreign aggression during the Suez Canal crisis, the Six Day War, the War of Attrition, the Yom Kippur War, the war in Lebanon, and periods of extreme terrorism. Israel survived it all. OPEC blackmailed the world by withholding oil from the West because of their support for Israel. Israel's Olympic athletes were murdered by terrorists. And the United Nations equated Zionism with fascism. Israel survived it all and much more.

Israel is a survivor, but it is also so much more. The people of Israel have forested the desert, revived their language, built cities, and established a vigorous and ever-growing community.

We support Israel because it is a democracy, because it shares our values and ideals, because it has been willing to suffer attacks at our request, and because simply it is our friend. We welcome other nations to choose to be the same, and for the many that have, we share the same relationship.

America is a nation of justice, fairness, and principles. So is Israel. And on this day, we wish our friend a happy and joyous anniversary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

RETIREMENT SECURITY

Mr. DURBIN. Mr. President, I rise this afternoon to speak to the Senate and those following this debate about a dramatic change that is taking place in America, even as we meet and discuss so many other important issues. One of the pillars of family security in America is crumbling. Retirement security in this country is in a crisis. The defined benefit plan, the kind of pension plan that guarantees a retirement amount to a worker who gives a lifetime of loyalty to his company or his employer, is becoming an endangered species.

The number of employees covered by employer-paid defined benefit plans has fallen from 30 million to 22 million in the last 20 years. By contrast, the number of people in defined contribution plans, into which both worker and employer pay with no guaranteed payout, has grown to about 55 million from 19 million.

This trend, along with the steep losses that people with defined contribution plans, such as 401(k)s, have experienced in the last few years, and President Bush's plan to shift part of the Social Security guarantee into private accounts, frankly, means that we are going to put at risk retirement security in America, more than we have seen in modern times.

Tuesday night, a bankruptcy court decided to allow United Airlines to shift responsibility for its defined benefit pension plan to the Federal pension insurance system. United Airlines moved all four of its pension plans into the Pension Benefit Guaranty Corporation with the promise that United Airlines would pay that corporation $1.5 billion. The willingness of PBGC to accept this arrangement, unfortunately, rings the death knell for defined benefit pension plans in America.

United is the latest and the largest example of the fact that corporations are no longer keeping their promises to employees, and the Government insurance system that was designed to protect employees in the case of such catastrophe has become overused and underfunded to a critical State. And this, coupled with the lack of personal savings, with the dramatic increase in consumer debt of families across America, with the growing vulnerability of families to medical bills, and with the assault on guaranteeing benefits of Social Security by this administration, is leading this Nation to a point that could not even have been imagined just a few years ago.

There used to be a three-legged stool that you could count on for your future. Everybody knew it. You went to work; every payroll you paid into Social Security, which would be there when it came time to retire; you took some of your paycheck and you paid into your pension system, if the company provided one, and then, if you could, put some money into savings. The idea is that all three would come together to give you a sense of security and comfort in your old age.

The Chicago bankruptcy court that decided Tuesday night that United Airlines could walk away from its pension commitments unfortunately foreshadows many changes to come, and none of them positive, for working people and working families across America.

United Airlines, the second largest airline in America, is in bankruptcy. It took the pension liability which it had into the bankruptcy court and said: We have to walk away from it. The bankruptcy court agreed. And when United Airlines turned over all of its pension plans to the Pension Benefit Guaranty Corporation, it basically said it would save $645 million a year that it would not have to put into the promised payments to pension plans for its employees.

Judge Eugene Wedoff presided over that decision. To an overflow courtroom on Tuesday, he said this was unavoidable. To quote him exactly:

> The least bad of the available choices here has got to be the one that keeps an airline functioning, that keeps employees being paid.

And that was the choice. From his point of view, to ask United to pay what it promised to pay to its employees and to its retirees would mean that the airline may cease to exist. But to walk away from those responsibilities for the employees and to say instead that the airline would survive certainly raises many troublesome questions.

The way that the Pension Benefit Guaranty Corporation is structured, it only guarantees that a part of pension plans it took over from United and other companies based on a pretty complicated formula would actually be paid to the employees. So many employees, whether United Airlines employees or others whose plans are taken over by this corporation, lose part of their pensions. In this case, it is estimated that United employees will lose an average of 25 percent of their pensions under this arrangement.

Keep in mind what these employees have been through. They have been battered by record layoffs. They have made voluntary pay and benefit reductions for years. They have increased their hours. They have made a lot of personal sacrifices to reach this point. And now, as it appears their airline was nearing the end of bankruptcy, comes this decision to walk away from the pension obligation.

United is the second largest airline. It operates more than 3,400 flights a day to more than 200 destinations. It is based in my home State of Illinois. It has 60,000 employees and thousands of retirees, all of whom will be affected by this decision.

Let us take a look at each of the groups of employees at United and how they will be impacted. The United flight attendants pension plan covers 28,600 participants. Under this Government takeover of the pension plan, the most senior flight attendants will receive about $500 less a month than the $2,500 they were promised in pension payments, about a 20-percent cut. This is significant because most of them have never earned more than $40,000 a year. Flight attendants who are less senior and have less flying hours with the company could lose up to half of what they would receive with their promised pension plan. They have said

they may strike on this. I hope it does not come to that, not just because of the fact that it is a corporation in my State but because I am a loyal customer of United.

Sixteen Senators recently joined me in a letter to the Pension Benefit Guaranty Corporation asking for that agency to explain why it agreed with United to turn over all four pension plans since as recently as 2 weeks ago officials of the same agency told negotiators they thought each plan should be considered separately. The flight attendants were told at the time their pension plan might have been saved, but now, sadly, it has been lumped in with all the pension plans at United and faces dramatic cuts.

Take a look at the ground employees, the mechanics, the people who fix the airplanes and maintain them and handle the bags. There are 36,100 of them at United, both active and retired. They were promised benefits of $4 billion. Their plan has only $1.3 billion in assets. So based on this agreement with the Pension Benefit Guaranty Corporation, on average, they will lose about 25 to 27 percent of their pension benefits. Retired members were promised an average benefit of $1,400 a month, and they could lose on average 19 percent of that promise.

While United was back in court on Wednesday asking for further concessions from the unions on their contracts, the International Association of Machinists and Aerospace Workers announced that 94 percent of its United members had authorized a strike if their contract to work was cancelled. The machinists may feel they have no choice. This, of course, would throw United's financial future into more uncertainty and jeopardy.

The United pilots have a pension plan that covers 14,100 people. The pilots reached a deal with United last year to save much of their benefit, but it is unclear how that will be affected by this new agreement with the Pension Benefit Guaranty Corporation. Pilots have generous pensions. They fly some of the most demanding routes. They have to be well trained and well skilled, and they, of course, are examined constantly to make certain they have the skills to be pilots. They would normally expect to see anywhere from $80,000 to $100,000 of pension benefits after a lifetime of service to the airline, but if this Government agency takes over, the maximum guarantee the Government offers is no more than $45,613 per person for those who retire at age 65 in the year 2005. Keep in mind, pilots are forced to retire at age 60 under rules governing pilots in America, so they would receive less than $45,613. A Government takeover would cut most of their anticipated pension benefits by as much as half.

Under the management plan, there are 42,700 participants encompassing administrative and public contact employees. This is more difficult to quantify in terms of their pension loss. However, the machinists union, which represents some of these workers, says the ramp employees could lose up to 59 percent of their promised pensions, and public contact representatives could lose up to 55 percent. These estimates take into account the likelihood that United will offer a 401(k)-type plan once it emerges from bankruptcy. As we know, there are no guarantees with a 401(k) any more than there is a guarantee that if one buys a mutual fund or a stock today that it will be worth more tomorrow. It is a gamble. It is a risk. It can play an important part in savings toward retirement, but it certainly does not provide any guaranteed benefits such as those that existed for employees who worked at United for decades. It is a gamble that the President is contemplating to bring to Social Security by privatizing Social Security: Let us move from guaranteed benefits in Social Security to the possibility that one will do well in the stock market.

Well, if a person's pension is in trouble now, and it may not survive the bankruptcy court, and the future of Social Security under the President's plan puts one at that same risk when it comes to investment, how can a person be certain they will ever be able to retire? How did we reach this point?

Pension promises that in hindsight may have been unrealistic were made. The terrorism of 9/11 changed the market for airlines across America. High fuel costs, increased competition from startup carriers all contributed to the losses that brought United into bankruptcy.

Last year, I supported a measure known as the Pension Funding Equity Act. We passed it hoping that we could temporarily use an alternative calculation to lower pension liability payments and to make our way through this stormy situation. It did not work. Now United Airlines is not alone in this predicament. Delta Airlines' pension plans are underfunded by $5 billion, and it has threatened to file Chapter 11. Northwest Airlines may be in trouble, too, according to equity researchers at Bear Stearns. And we should believe that a lot of other airlines are looking with great interest at United Airlines and its current situation.

Some people at American Airlines have said they want to keep their pension plans, but they are concerned about the competitive advantage United will now have because it does not have to fund its own pensions.

After the airlines, retirement experts say the auto industry may be the next to default on its defined benefit plans, leaving virtually no companies left that offer guaranteed retirement benefits. Let me give some illustration of this.

Today's Wall Street Journal says:

> By far, the industry accounting for the biggest portion of underfunding is auto makers and automotive-parts companies. The plans of those companies are $45 billion to $50 billion shy of promises made to workers.
>
> Delphi Corp., the No. 1 U.S. auto supplier, is struggling with declining sales at its top customer and former parent, General Motors Corp., plus big pension obligations and higher raw-materials cost. Delphi has an unfunded pension liabili-ty of $4.3 billion and $9.6 billion in retiree health-care liabilities. . . .

We are in the midst of debating the asbestos bill. It is interesting on this asbestos bill the lineup of groups supporting it. That is another outstanding liability for companies like General Motors. Many of us believe the trust fund in the asbestos bill is underfunded. We believe many major corporations with asbestos liability are anxious to sign up for the trust fund because they will be the benefactors more than smaller and medium-sized corporations. So both General Motors and the United Auto Workers have endorsed the asbestos bill.

Certainly, they have to look forward and say asbestos liability will threaten the payment of health care benefits and retirement benefits to the workers. So here there is a situation where victims of asbestos exposure may receive limited compensation under the trust fund plan that has been endorsed by companies that expose them to asbestos because those companies want to limit their liability in the future because of such things as pension liabilities.

As we can see, this is a free-for-all and the losers ultimately are going to be either victims of asbestos exposure, in this instance that I used, or the workers themselves and we'll see retiree benefits disappearing.

The United Airlines deal is the largest pension default in the history of the United States. Before it, Bethlehem Steel's $3.6 billion pension default in 2002 set the record. There is a pattern, and the pattern is that the workers get hurt the most.

I am offering legislation with Senator KENNEDY and Congressman GEORGE MILLER of California that would attempt to make it more difficult for corporations to offer superior pension deals to their high-ranking directors and officers while the company is shifting its unfunded pension liabilities to the Government or treating older workers unfairly during a conversion from a traditional defined benefit plan to a cash balance plan.

Why in the name of fairness and justice should the officers of a bankrupt corporation be receiving superior pension deals and bonuses while the people who faithfully worked for that company for decades are being cut loose, their jobs eliminated, or the promised retirement benefits are not paid? If there is any justice in this done, we should demand of these corporate officers that they at least sacrifice to the same level as the employees who are the victims of their mismanagement. Rank-and-file workers should not be sent to the back of the line in bankruptcy court while executives get a free pass. Time and again, workers have faced the back of the line in this country.

Mr. President, you may remember an amendment I offered to the bankruptcy bill a few weeks ago. It was rejected overwhelmingly by the Senate. Let me tell you how radical this amendment was. It would have allowed bankruptcy courts to reach back and take the sweetheart deals that were given to these officers and CEOs and put the money back into the corporation to benefit the employees and the retirees.

I gave the example of several CEOs, including Ken Lay of Enron, who abuse their companies. You remember reading about Dennis Koslowski of Tyco. This man had a unique lifestyle at the expense of his corporation. He had the corporation buy his family a shower curtain. Well, what is wrong with that? Mr. Koslowski did some pretty shrewd shopping. He found a $30,000 shower curtain. That takes some doing. He took the money out of the corporation, while it was facing financial trouble, and then turned and said to the employees: Sorry, we are going to cut you loose. Retirees, we can't pay what we promised you, and shareholders, you lose, too. So for his shower curtain deal and a lot of other things, I think Mr. Koslowski should have been held accountable. He was in criminal court, but he certainly should be held accountable.

Bernie Ebbers, CEO of WorldCom, didn't piddle around with a shower curtain; he took $408 million out of a company right before it went into bankruptcy court. How can we sit around and say: That is OK, that is management; those guys are in the boardroom; don't worry about them; but say to the worker out in the plant or to the retiree who is counting on a retirement benefit plan or the shareholder: You are going to have to lose because Mr. Ebbers needed $408 million out of the company before he dumped it in bankruptcy? We should have recaptured the assets he took out of the corporation before it went into bankruptcy. Maybe it would not have made the corporation solvent, but at least it would have been a fair allocation of the resources of that corporation to the people who deserve the benefits from them in bankruptcy.

My amendment lost on a vote of 40 to 54. It was entirely too radical for the Senate, to think that these CEOs would be held accountable for their conduct, that they would accept personal responsibility for what they did. No way. Yet their workers and their retirees had to pay the price. They were held responsible for this terrible mismanagement.

We also tried to raise the minimum wage during that bankruptcy debate. I guess we are just wasting our time in this place. It has been over 8 years since we raised the minimum wage in this country. We were told the head of a family who works 40 hours a week at a minimum wage and has two or three kids should not be able to lift his family above poverty. At a time when we have record productivity in our corporations and record corporate profits, why in the world can't we bring ourselves to make certain that workers in America get fair compensation? I don't understand it. If we value work and value families and value children, why aren't we paying a decent wage to many people who get up and go to work every single day, sometimes two jobs a day? But, no, we can't pass that here. That is too radical.

Now the President wants to privatize Social Security. He wants to make sure that two of the sources of retirement security—Social Security and pensions—will no longer have guaranteed benefits. The third source, of course—private savings—has never been guaranteed. President Bush says that is part of the ownership society. But, unfortunately, we are headed for a society for the owners, by the owners, and of the owners, where the workers are more vulnerable than they have ever been in generations in America.

We ought to step back for a second. We ought to try to decide what is important in this society in which we live. Is it important for us to protect the CEOs from their mismanagement of these companies? Is it important for us to say to Mr. Bernie Ebbers, You won't be held accountable for taking $408 million out of the corporation you dumped in bankruptcy? Is it important for us to make sure that people who make more than $1 million a year get handsome tax cuts while we are deep in debt as a nation, trying to come up with the money to fight a war, or is it more important for us to give fair compensation to people who go to work? Is it more important for us to step up and talk about guaranteeing and securing the pensions of hard-working people, who stayed with a job year after weary year because a husband says to his wife: Honey, I am going to hang in there for 2 years because I get my retirement. And look what happens. Months before you retire, or even months after you retire, they pull the rug out from under you.

This is a looming retirement security crisis. Baby boomers are set to retire in large numbers in just a few years. This country is not saving for retirement. Our 401(k)s have taken a huge hit in the last 5 years. Defined benefit pension plans are almost extinct. Medicare is running a huge deficit. And Social Security has been targeted for benefit cuts. The three-legged stool of retirement security is looking a bit wobbly today.

Listen to what people around the country are saying about retirement insecurity. An editorial in the Denver Post said this:

> The retirement benefits offered by Social Security were originally designed as one leg of the three-legged stool that also included a worker's pension and a family's private savings. But American families don't save like they used to, and the national saving rate has been declining for the last 35 years. At the same time, American companies as a whole have been cutting back—or in some cases defaulting—on the pension coverage they once offered employees.

Listen to this letter to the Contra Costa Times in Walnut Creek, CA:

> I am a retired 74-year-old woman and get Social Security benefits, a private pension, payments from 401(k)s. Prior to the dot-com disaster a few years ago, my 401(k) was worth almost $300,000. It quickly dropped to half, [that value] and is slowly recovering. If it were not for my pension and Social Security, I would be very, very nervous about how I would survive what remains of my life.

Another letter to the editor dated March 16 from a Shreveport, LA, paper:

> In this time of corporate scandals, lost pensions, and stagnant wages, working people need something that is guaranteed and risk-free; that was always the genius of Social Security. . . . Social Security does need improvement, but that should mean ensuring benefits, not putting them on a Wall Street roller coaster. There are plenty of opportunities to invest in the stock market. Congress and the president should strengthen Social Security to make sure working people get the benefits we've paid for. We deserve it.

We owe it to our workers and their families to take an honest look at these issues and come up with some real solutions. We need to take a look at the Pension Fairness and Full Disclosure Act. We need to strengthen Social Security, not weaken it by privatizing it. We should encourage people to save for retirement, create incentives, tax incentives and other payroll incentives, for people to save. And we should encourage companies to pay what they promised workers and not allow them to get away with underfunding their pension plans.

As part of the reform of the Pension Benefit Guaranty Corporation, premiums are necessarily going up, and the companies that underfund their pension plan will have to pay more into it so the guarantee of this Pension Benefit Guaranty Corporation is worth something. We need to make sure that this agency meets its obligation to all American workers.

Today, the Pension Benefit Guaranty Corporation is $23 billion in debt. Who is going to bail it out? At a time when we are going to give $32 billion in tax cuts next year to people making over $1 million a year—$32 billion to people making over $1 million a year—at a time when we are facing record deficits, at a time when we are concerned about the survival of Medicare and Medicaid, it is clearly time for some thoughtful leadership in this country.

What happened with United Airlines, sadly, is a symptom of a real problem that is undermining the retirement security of every American family. We have been diverted from looking at the broader retirement security issues by the administration's Social Security privatization proposal. It is time to look at how to address the entire retirement income equation and provide more security, not less.

There was a time in America when we valued work, we valued workers, we valued the worker's family, and we said: We are going to provide you with basic dignity. You get up and go to work every single day, you set a good

example for your family, you contribute to your company and your community, and America will be a better place and we will stand behind you. We will make certain that when the day comes for retirement, no matter what happens, Social Security will be there to provide some basic safety net for you and your family. We will watch the workplace for you, too. We will do our best to make sure it is safe so you are not injured while you are working on the job. If you are injured, we will see you are compensated fairly.

When it comes to the wage you earn, we hope you will do better than the minimum wage, but we will guarantee there will be a minimum wage in America so there will be some basic dignity in work and the hardest working people in America, trying to raise a family, can get by.

It was part of a social contract. It was America as a family, coming together. We were protecting our own. We were committed to our own. But there is a new attitude in Washington. You can feel it. That attitude of the so-called ''ownership'' society says, remember this, we are all in this alone. We do not come together to help one another, to protect one another, to care about one another. That is abandoning a fundamental principle in America.

We believe in the goodness of the people who live in this country. We believe in the fairness of our economic system. We believe the Government should stand for justice in a system where unjust things are occurring. But if you look at what happens in the Senate and the House day in and day out, time and time again, one wonders if we walked away from that commitment. We wonder if we are not dealing with some situation of noble savages being turned loose in a wilderness with the hope they survive. I hope it does not come to that.

Sadly, for tens of thousands of United Airline employees who just a few years ago were glorying in the fact that they work for one of the best airlines in the world, the bottom is falling out. The pension they worked for, for a life, is disappearing. They have taken wage cuts. The future is totally uncertain.

There are no guarantees in a free market system. There are winners and losers. But when you have made a promise to an employee, shouldn't you be held to that promise? Shouldn't you have a social contract, a binding contract, that the promise won't be broken?

I am afraid it has been broken here. This pillar of family security in America is crumbling. What will your Congress do to deal with it?

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to make a few comments about the SAFETEA legislation. I thank the managers of the bill for working with us in trying to address some of the concerns I had about the prior legislation from last session.

As I stood here over a year ago when we debated this bill, I spoke very critically of that legislation and the damage that legislation did to Pennsylvania. Thanks to the Senator from Oklahoma and the Senator from Missouri, in particular, we have been able to address some of what I consider to be inequities in this legislation.

The point I made a year ago was that one of the major reasons for a Federal tax on gasoline in a Federal highway bill was the idea of promoting interstate commerce. Originally, the interstate system was certainly put in place for military purposes—at least ostensibly for military purposes—to move things around the country in a national emergency.

Obviously, the more pedestrian reason, if you will—probably that is a bad word to use when we talk about highways, but nevertheless, the reason that is most often used is because it is for interstate commerce, to move goods around the country, to move people around the country, for travel and tourism, a whole host of other reasons.

When you look at why the Federal Government does that, you have to step back and say transportation is a State function. Every State in the country has a transportation department. Why do we need a Federal transportation department? We need it because we have to make sure the goods that are produced in New Jersey can get to Ohio to Texas, or the goods produced in California can get to Georgia.

The fact is it is important for us to be connected. If there are situations where States are in financial difficulty and they let their roads degrade, particularly the major interstates—for example, my State is occupied increasingly with traffic that does not stop in Pennsylvania—there would be much more of an impetus if you were a local legislator to invest money on roads which Pennsylvanians used and invest a lot less money on roads that are used by folks out of State.

So we put together a Federal tax system, a gas tax, as well as Federal transportation legislation, to promote on the highway side—the transit is another piece, but we will talk about highways for a moment—to promote interstate commerce.

So we have a situation where we have States that shoulder a large burden when it comes to that interstate commerce and we have other States that are the great beneficiaries as to the burden those States shoulder in getting a lot of what is referred to as passthrough traffic. That is traffic that does not stop in your State, does not benefit your State economically, to speak of, but, in the case certainly of trucks, beats the heck out of your roads. So you are in a sense carrying the load for States that are the economic beneficiaries, whether they are the originator of the freight or the destination of the freight, whether you are a State that is a passthrough State for travel and tourism. Those are the States you want to pay particular attention to. Again, the nature of the program is to make sure we have a seamless highway system, that we have good interstate commerce.

The reason I came to the floor last year was to point out that Pennsylvania is a State that certainly shoulders the lion's share or certainly major share of this passthrough traffic. We have in Pennsylvania about as many interstates as any State in the country. I think there are three States that have more interstate miles. Texas, California and Illinois are the only three that have more interstate miles than Pennsylvania. We have 22 interstates in Pennsylvania. Actually, another one is under construction.

There are only four States that have a higher number of ton-miles than Pennsylvania. Again, they are much bigger States than little old Pennsylvania, Texas, California, Ohio and Illinois.

I will show a chart that shows the importance of interstate commerce and what Pennsylvania has to deal with. First, the statistic I throw at you, 47 percent of the trucks that go through Pennsylvania do not stop in Pennsylvania. They do not originate there and are not destined for there. We get a lot of traffic from the New England States—New Jersey, New England—that goes through Pennsylvania to get out West or comes down through Pennsylvania to get down to the South. These lines are the traffic that goes through Pennsylvania that does not stop, coming from way out here in Seattle, and they go way up to Maine and lots of points in between.

We see the resulting effect on the load of traffic in Pennsylvania. This is the Pennsylvania Turnpike, the big thick black line. That is more than 80 million tons of traffic passing through Pennsylvania on this one road. We see several others that have between 60 and 80 million tons of truck traffic, heavy truck traffic. We have heard in the Senate the vehicles that do the most damage to the highways are your heavy trucks.

Yes, we are in an industrial area. We have a lot of heavy steel, coal, and lots of other products that travel through our State. They do an enormous amount of damage. You throw on top of that the mountainous terrain we have in Pennsylvania, the numerous bridges. We have several thousand bridges that are in disrepair. We have lots of bridges, we have lots of mountains, we have a lot of freezing and thawing in Pennsylvania which wreaks havoc on the roads. So we have a lot of problems we have to deal with compounded by this heavy through traffic.

When I came to the Senate last year and said I was going to oppose the bill in the Senate—because here is a State, I argue, that is one of the poster children for a Federal Highway System

that focuses money on States such as Pennsylvania because it carries such a heavy burden for the rest of the country without any direct economic benefit. This was a State, logically, given the topography, the climate, and the congestion and traffic we bear, it would be a State that should do well under a Federal formula. Certainly as Members have said to me in the past, we have.

However, under the bill last year, we actually became a donor State. We became a State that was going to subsidize the rest of the country. Here we are in Pennsylvania with this heavy burden of truck traffic. We rank fifth in the country in ton miles in Pennsylvania. Here is little Pennsylvania.

(Mr. ISAKSON assumed the Chair.)

Mr. SANTORUM. Mr. President, you have States such as Texas and States out West and many other States that are bigger geographically, such as Georgia. Yet Pennsylvania is fifth in the country in the ton miles our roads have to sustain. So what we are asking for is a little bit of equity.

I see the chairman is in the Chamber. We have gotten equity, at least some degree of equity. Everybody always thinks they should always get more equity, but we have gotten some degree of equity in this bill. We are not, under this bill, a donor State. Being one I think was underserved. But we still, thanks to the chairman's amendment, get only a 15-percent increase in the amount of funding from the last bill to this bill. That is lower than any other State in the country. Actually, we tie with two other States as getting the lowest rate of increase. So we are a donee State, but we are declining as far as the amount of money.

I would argue that is inappropriate given what I have laid out here and the purpose of a Federal highway bill. But we have done better. And we have done well enough that I, as you saw from the votes I have cast on this bill, have supported this legislation and will certainly support passage of this legislation.

We have a serious problem in Pennsylvania. We have a lot of bad roads. Twenty-seven percent of our roads in Pennsylvania are rated by the Bureau of Transportation Statistics as mediocre to poor. I see the Presiding Officer from Georgia. We have 27.1 percent of our roads rated mediocre to poor. Georgia has .2 percent rated mediocre to poor. Georgia, under this bill, receives a 30-percent increase. We receive a 15-percent increase. The Senator from Georgia just happens to be in the Chair, and I just wanted to point that out because it is a pretty big contrast.

The Senator from Georgia has fought hard for his State, and he is a donor State, so I know he believes he deserves more. He has fought very hard and, obviously, very effectively to make sure his State has been treated, in his mind, and I am sure in the minds of the people of Georgia, more equitably.

But I would make the argument that States around the perimeter of America really do benefit from States such as Pennsylvania, Ohio, Indiana, and the States through the middle part of the country that have to carry all this traffic to and from the border regions. That is why, if you look at the formula, most of the States that do not do well under these formulas are border States. Again, the reason is they do not have to carry the passthrough traffic, particularly the heavy traffic that we in Pennsylvania have to carry. In addition, they do not have the weather problems and the topography problems and a whole host of other problems that we have to deal with. Forty-two percent of our bridges in Pennsylvania are structurally deficient or obsolete. We have serious problems.

So when I came here last year and opposed the bill last year, I did so because of the concern I had about the way my State was being treated. I am grateful, again, to the chairman for his effort to bring Pennsylvania into some semblance of equity. I thank him for that. I thank the chairman of the Banking Committee, Senator SHELBY, for the work he has done with me on the Banking Committee on the transit piece. Transit is a very important piece of the transportation infrastructure of Pennsylvania. In Pennsylvania, for example, 70 percent of the cost of our transit system is provided for by the State. There are seven States that do not contribute anything to their transit systems. Twenty-eight States contribute less than what the Federal Government contributes to their transit systems.

So we made a major contribution in Pennsylvania to transit. I thank the chairman of the Banking Committee, Senator SHELBY, for making sure Pennsylvania is treated fairly under this legislation.

One final point I would like to make. I see my colleague from Ohio is here. He probably can make a similar argument about the passthrough traffic that goes through Ohio.

I thank the chairman for his effort on the Job Access and Reverse Commute Program. There is a 73-percent increase over TEA–21. This is a piece of legislation that we were able to get into TEA–21. It has been a very important program for a lot of our innercities to be able to get to jobs out in the suburban ring where job development is certainly faster than it is in the core innercities. This transportation program has proven, at least in my State—in Pittsburgh and Philadelphia in particular, and Harrisburg and other places—to be a very important project, to be able to increase the number of employed in the core urban areas with better quality jobs, and the availability of a better life. So I thank the chairman for his increase, and I certainly hope he will hold that increase in conference.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me just respond to some of the things the Senator is talking about. First of all, Senator SANTORUM has done a great job leaning on us and talking to us and is largely responsible for the fact that we made a major change in this bill. This change increased the amount that will be going to Pennsylvania by $208 million.

But I would like to say this: When you talk about the miles of substandard roads and highways, Oklahoma has a larger percentage that are substandard than Pennsylvania. I am not saying it because I am proud of it, because I have not been doing my job, I suppose, but in terms of the percentage of substandard bridges, Oklahoma is considerably higher than Pennsylvania.

Now, what it does point out, though, is the necessity for this bill because we are going to try to correct all these things. We will not be able to do it in 1 year, but by the end of this authorization period, we are going to look a lot better than we are now—but not if we have to continue to operate on extensions.

So I appreciate the comments. And I do not disagree with anything that the Senator says. I believe when you sit down with people and talk about a formula—it is interesting, the previous Presiding Officer is from Texas. I am not sure he agreed with everything that the Senator from Pennsylvania said. But it is a very difficult thing to do.

So I appreciate the cooperation the Senator has given and the influence he has put on this legislation which has helped us make this a better bill. I appreciate that very much.

Mr. SANTORUM. I thank the Senator.

Mr. INHOFE. Mr. President, I say to the Senator from Ohio, I know you are attempting to get the floor for something other than the bill, but we do have someone coming down with an amendment. Would it be permissible, if you were to use the floor, that when someone comes with an amendment, you would yield to them, or is that something you would be uncomfortable with?

Mr. DEWINE. If the Senator will yield?

Mr. INHOFE. I will.

Mr. DEWINE. I have a tribute to a soldier who was killed, and it will take no more than 10 minutes. So once I start, I would not want to stop. But I will not start until you want me to start.

Mr. INHOFE. I understand. But you would attempt to do it in 10 minutes?

Mr. DEWINE. Yes. I will certainly do it in 10 minutes.

Mr. INHOFE. The Senator could wait until you are finished.

Mr. DEWINE. I could wait to start until later if you want.

Mr. INHOFE. No, I suggest you go ahead. I say to the Senator, after the Senator gave his eloquent talk about

the safety problems that are out there throughout America right now, I came to the floor and talked about the safety core provisions that are in this bill, that if we are on an extension, as opposed to passing a bill, people are going to die. This is a life-or-death issue. I think you brought that out very forcefully, and I know it comes from the heart.

Mr. DEWINE. Mr. President, I appreciate what my colleague has done. The Senator from Oklahoma is absolutely correct that if this bill is passed, these provisions will be in there, as well as a lot of new construction that will save lives as well.

Mr. INHOFE. Very good. I yield the floor.

(The remarks of Mr. DEWINE are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding the junior Senator from Virginia has an amendment he wishes to offer. It affects the commerce title of the bill. I ask if Senator STEVENS would like to come down, since this is the commerce title of the bill, while he offers an amendment.

Mr. STEVENS. Yes.

AMENDMENT NO. 611

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I call up amendment No. 611.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, and Mr. Ensign, proposes an amendment numbered 611.

Mr. ALLEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code)

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR SAFETY BELT USE.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

''(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by the National Center for Statistics and Analysis.

''(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

''(c) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

''(d) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(F) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning;

''(M) improving crash data collection and analysis; and

''(N) increasing road or lane capacity.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(e) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(f) FEDERAL SHARE.—The Federal share payable for grants awarded under this section is 100 percent.

''(g) DEFINITION.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car;

''(2) a pickup truck; or

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.''.

Mr. ALLEN. Mr. President, the purpose of the amendment I have offered, along with Senator ENSIGN of Nevada, is to make sure safety belt incentive grants are awarded based on a State's seatbelt use rate, not based on a prescriptive mandate from the Federal Government that a State must enact a primary seatbelt law to receive Federal funds.

I have long opposed Federal dictates, whether direct or indirect, on States to enact a primary seatbelt law. This brand of nanny government precludes American adults from making basic decisions for themselves and could hamper law enforcement's ability to effectively patrol the streets and highways for more serious and egregious offenses. It is generally a waste of scarce time and resources for local police officers to pull over an adult and write a ticket to fine someone who was, theoretically, potentially harming himself or herself by not wearing a seatbelt. Our citizens would be better served if a law enforcement officer, rather than writing that ticket, because someone was otherwise driving safely down the road, was actually finding someone who is weaving down that same stretch of road as a drunk driver, clearly a danger to themselves but more importantly to others. Law enforcement resources are not unlimited. I believe police officers have more pressing needs than craning their necks to make sure every licensed driver on the road has a buckled seatbelt.

This is not an issue of interstate commerce. This is not a civil rights issue. This is not in the U.S. Constitution. This is an issue of enforcement of seatbelt laws, and what laws a State might want to have is and has long been under the jurisdiction of the people of the States. I don't believe that nanny mandates such as this initiative should come from government. But if it is going to come from a government, it ought to be coming from a State government, certainly not the U.S. Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in this country. I am a firm believer that the laws of a particular State in matters such as this reflect the principles and philosophies under which the citizens in that State wish to be governed.

One can see from this chart a minority of States have enacted primary seatbelt laws. The ones in red are the 21 States that have primary enforcement of seatbelt laws. Simple math tells you that 29 States do not have a primary enforcement of seatbelt laws. In fact, New Hampshire doesn't even have secondary enforcement of seatbelt laws. I surmise that this issue has been considered by all of the States' legislatures in the past.

In our general assembly in Virginia—the world's oldest legislative body in the Western World, started in 1619—they have debated the benefits of a primary seatbelt statute numerous times and have consistently rejected such a law in our Commonwealth of Virginia. In fact, during the debate in the Virginia House of Delegates, it was strongly argued that primary seatbelt laws can contribute to racial profiling.

In early 2003, Delegate Kenneth Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating:

> I know what happens when you are stopped by police as a black man in this country, and in Virginia in particular.

He then explained how his oldest son had been pulled over by police numerous times for no apparent reason.

Incidents like this might not happen in every State and may be specific to certain jurisdictions in Virginia, but it is the fundamental reason for us to leave such decisions to the people in the States. The repercussions of such Federal mandates or pressure can have different effects in each State.

Given that the majority of the States have declined primary safety belt laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact them or lose Federal gas tax dollars that they paid into the Federal highway trust fund.

The underlying bill's Occupant Protection Incentive Grant Program, I suppose, is well-meaning officiousness, but instead of providing grants based on obtaining a goal to increase use rates, the safety title requires the States to enact a primary seatbelt law to receive these Federal funds which, of course, have come from the people in the States who paid Federal gas taxes.

The proponents of this provision will no doubt argue that the program is not discriminatory, not an effort to coerce States without primary seatbelt laws to enact such laws. However, the 90-percent use rate required in this bill would make it extremely difficult for a vast majority of the States to qualify for grant funding. According to the National Center of Statistics and Analysis, only seven States had a safety belt use rate of 90 percent or higher in 2004.

I understand there are studies that indicate that primary seatbelt laws are most likely to yield increased use rates. However, if States without primary seatbelt laws are able to attain a comparable or higher use rate to those with such laws, it is fundamentally unfair for the Federal Government to withhold grant funding that has been provided by all road-using taxpayers.

My amendment would revise the Occupant Protection Incentive Grant Program to base grant awards on an 85-percent safety belt use rate. Instead of compelling States to enact primary seatbelt laws, grants would be awarded based solely on seatbelt use attainment. There are a variety of ways that States may encourage people to use seatbelts.

It is difficult for me to understand the logic of an incentive program that would provide Virginia, with its high safety belt use rate, far less funding than a State with a far lower seatbelt use rate and a primary seatbelt law. Yet that is entirely possible under this bill if a State with a lower use rate has enacted a primary seatbelt law. They could have a lower rate than the State that doesn't have such a law and receive funding, while the State with higher usage does not.

If the goal is to attain higher safety belt use rates, incentive grants should be awarded based on a specific goal. In our amendment, it is an 85-percent safety belt use rate. This proposal is similar to the one already included in the House version of this legislation.

My proposal is a much more equitable way to provide incentives and reward States for increasing safety belt use rates. It makes the proposed program fair by making requirements the same for all States but does not compel States to enact primary seatbelt laws. Again, the goal of our amendment is simple and clear: attain higher seatbelt use rates based on achievement, not on an artificial mandate from the Federal Government.

States are looking for the greatest flexibility on how to use Federal transportation dollars that we send back to them. Some may decide that increasing capacity can best serve their citizens by helping alleviate traffic congestion and improving the safety of a particular roadway. My amendment would allow these funds to be used for everything from intersection improvements, pavement and shoulder widening, installation of rumble strips or warning devices, improving skid resistance, improvements to pedestrian or bicyclist safety, railway, highway crossing safety, traffic calming, the elimination of roadside obstacles, improving highway signage, and pavement marking. They can use it for installing priority control systems for emergency vehicles that signal intersections. They could use it for installing traffic control or warning devices at locations with high accident potential, or increasing road or lane capacity.

It has been noted multiple times throughout this debate that our highways are not being maintained and actually require greater funding than the underlying bill provides or authorizes. This amendment would provide the States some additional flexibility to address road and lane capacity needs if they so choose.

We all agree that wearing a seatbelt increases safety for drivers, and the policy should be to try to promote increased safety belt use rates.

My amendment does not change that purpose. However, I do not believe it is the role of the Federal Government to force States to enact such laws that are traditionally considered in the State legislatures. The States may have many ways, such as advertising, to encourage greater seatbelt usage.

My amendment rewards States equally for reaching an 85-percent safety belt use rate, but does not seek to force them into only one solution prescribed by the officious nannies in Washington, which would be a primary enforcement seatbelt law.

I urge my colleagues to consider the laws in their home State. Twenty-one States have such a law, 29 do not. Determine whether you believe this Federal Government incentive plan should reward States that have high usage or whether it should be used to promote a certain meddling nanny philosophy of this body that tells State legislatures and the people in the States what to do.

My amendment would ensure that the occupant protection incentive grant funding is awarded fairly and is done so based on attainment of goals. I strongly urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, very briefly, the Democratic leader and I have a unanimous consent request.

Mr. President, I ask unanimous consent that the list of amendments I send to the desk be the only remaining first-degree amendments in order, other than a managers' amendment to be cleared by both managers and both leaders; provided further, that they be subject to second-degree amendments that have been filed in accordance with rule XXII; I further ask consent that any amendment from the list must be offered by 4 p.m. on Monday, May 16; provided further, that when the Senate resumes consideration of the bill on Tuesday, May 17, all time be expired under rule XXII and the Senate proceed to votes in relation to the pending amendments in the order offered, and that following disposition of the above listed amendments, the Senate proceed to a vote on the Inhofe substitute amendment, as amended, that the cloture vote on the underlying bill be vitiated, and the Senate then proceed to a vote on passage of the bill, with no intervening action or debate.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. To the leader through the Chair, it is my understanding we will have a vote Monday night, and it will be one of the amendments on the list; is that right?

Mr. FRIST. Mr. President, that is correct. We will have one amendment, possibly two, Monday night, and the remainder of these votes will be stacked, on Tuesday, in the order that was just spelled out.

Mr. REID. Further, Mr. President, we have been on this bill 2 weeks, but that is somewhat misleading because we have had so many other issues that have interrupted the discussion of this bill. The work on this bill is good. I compliment the managers and the others. Not only do we have these managers on the bill, but there are many committees that have jurisdiction on this bill. It is a very complicated bill jurisdictionwise. It is a big bill moneywise. The managers have to be complimented for doing this.

I believe this is what we can accomplish in the Senate. We have only spent

a few days on this bill. I repeat, this is a remarkable piece of work we have done. I hope we can continue doing the work for the people of America as needs to be done. I have no objection.

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

Mr. FRIST. Mr. President, I second what the Democratic leader said in terms of both sides working together on a bill that has taken a tremendous amount of work. We spent several days on the bill and had plenty of opportunity over the last 2 weeks for everybody to come forward.

To clarify for the benefit of our colleagues, with this agreement in place, we can announce there will be no further votes this evening. Tomorrow we will resume the bill, and Senators will be able to offer amendments from the list. No rollcall votes will occur on those amendments during Friday's session.

As we just stated, on Monday, Senators will have an opportunity until 4 p.m. to offer amendments. As we discussed, there will be at least one, but possibly two votes. We will be voting Monday evening on at least one of the highway amendments. Therefore, Senators can expect the next vote to be at 5:30 p.m. Monday. We will then complete our work on the bill Tuesday morning. The managers will work over the course of Friday and Monday to further limit the number of amendments that will require votes.

I thank our colleagues, and I thank the chairman and ranking member for their tremendous work, their patience in bringing this bill forward.

Mr. President, I yield the floor.

The list of amendments is as follows:

Germane amendments intended to be offered:

Carper: #638, #723.
Dodd: #732 Teen Drivers.
Durbin: #734 Fuel savings reporting; #669 Bicycling.
Feingold: #695 Buy American; #676 Volunteer mileage.
Feinstein: #591 Alameda Corridor East; #633 Toll Roads.
Lautenberg: #619 Drunk driving; #639 Big Trucks.
Schumer: #674 Transit Benefits.
Wyden: #690 Hours of use exemption.
Landrieu: #620 Corridor.
Kerry: #680 Ferry boats.
Post Cloture Amendments
Sessions #646.
McCain #719.
McCain #720.
Craig #616.
Domenici #659.
Bond #631.
Bond #658.
Warner #686
Ensign #636
Chambliss #603.
Alexander #733.
Snowe #706.
Lott #583.
Lott #667.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 611

Mr. DEWINE. Mr. President, I rise this evening to oppose the amendment my colleague from Virginia offered. With all due respect to my good friend from Virginia, I do so because I believe the bill, as currently written, is a good one, as I said earlier today. I believe the language in the bill on primary seatbelt usage that has been written by Senator LOTT will, in fact, save lives.

In this country every year, we lose over 40,000 Americans in highway deaths, 40,000 Americans who are killed in auto fatalities. This bill is aimed at, in many different respects, trying to reduce the number of Americans who die by building better roads, by dealing with dangerous intersections, and some of the safety provisions we have already talked about in this bill.

If you talk to anyone who is a highway safety expert or if you talk to the real experts who are the men and women who patrol our highways every day—in Ohio it is the Ohio State Highway Patrol or it might be the local sheriff's department, State troopers, whatever they are called in your local jurisdiction—I believe the experts who have looked at and studied this issue will tell you that the use of primary seatbelt laws clearly saves lives.

Why is that? It is pretty simple and pretty basic. The reason is this: Of all the things we can do to save lives, the easiest and simplest is to increase the number of people in this country who buckle up, who put on a seatbelt. Every car that is manufactured in this country today has a seatbelt. It is not adding any new equipment. It is getting people to put on their seatbelts. It is a question of getting people to use equipment that is already in the car.

If people use seatbelts, they are safer and the auto fatalities go down. The highway safety experts, the people who have studied this issue, will tell you when the usage of seatbelts goes up, the auto fatalities go down. It is that simple.

The other thing we know is States that have passed primary seatbelt laws have seen the use of seatbelts dramatically go up. In Ohio, for example, we do not have that law, unfortunately, and we are hovering at about 75-percent use. We are probably never going to get beyond 75-percent. We are not going to get to 80 or 85 or 90 percent unless we have a primary seatbelt law.

If a State gets a primary seatbelt law, that usage will go up. It will go up 5, 10, 15 percent, and when you see that happen, the number of lives will be saved.

In Ohio—I am using my home State as an example, but you can extrapolate these figures from Ohio to any other State in the Union—in Ohio, we estimate if we had a primary seatbelt law and our usage went from 75 percent up to, say, 90 percent, we would save 100 lives per year. That is a lot of people. We would save lives every year. Whatever the figure, we are going to save lives.

So this is a very simple provision Senator LOTT and the managers have included in this bill. What the amendment of my good friend from Virginia would do is basically take that out.

Now, for my colleagues who worry about the Federal Government being oppressive and using the stick, this is not a stick approach. This is a carrot approach. This is extra incentive to the State to do it. It will save lives. There are very few times when one can come to this floor and know that their vote will save lives.

When we get to the point where we vote on this, a vote to retain this language in this bill will, in fact, save lives because States will enact it; the usage of seatbelts will go up, and when the usage of seatbelts goes up, lives will be saved. It is pretty simple.

So I urge my colleagues to defeat the Allen amendment and to keep this language in the bill.

One last comment. My colleague has talked in his speech about the highway patrol and the police have other things to do. Yes, they have other things to do. The point of a primary seatbelt law is akin to most other laws. It is a deterrent. That is why we have speed laws. That is why we have every other kind of laws. It is a deterrent, and the deterrent changes behavior. Because that law is on the books, because people know they have to have it, because they know they can be pulled over for not having it, they will put it on and usage will simply go up. It works. It has worked in State after State, and lives will be saved.

So I urge my colleagues to keep this in and to defeat the amendment of my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today to strongly support the safety belt provisions in the Inhofe substitute, and to urge my colleagues to reject the amendment offered by my colleague, Senator ALLEN.

The Commerce Committee's provisions to provide incentives to States which increase the use of seatbelts is essential to improving the safety of the driving public.

Increasing seatbelt usage is the hallmark of the administration's proposals to the Congress, and it is the cornerstone of the Commerce Committee's title to this bill.

The administration does not support the amendment before us and Secretary Mineta has written that, ''President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.''

The facts are undeniable as the Secretary of Transportation states: ''Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.''

The administration's bill sets as our national goal a seatbelt use rate of 90 percent. That should be our minimum standard, but under the Allen amendment it would be weakened.

In a letter I received yesterday from Dr. Jeff Runge, administrator of the

National Highway Traffic Safety Administration, he writes in reference to the seatbelt grants program that ''no other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.''

I commend Chairman STEVENS, Senator LOTT, and Ranking Member INOUYE for their strong leadership in continuing a critically needed safety belt incentive grant program. It was my privilege to be directly involved in the drafting of TEA–21 in 1998. For the first time, TEA–21 included a significant, new incentive based program to increase the seatbelt use rate in this Nation.

At that time, the national average for seatbelt usage was approximately 67 percent. Some states, particularly those with primary seatbelt laws, were achieving belt use rates far above the national average, and they saw the immediate benefits of fewer highway deaths and injuries.

Before the TEA–21 program, other States, without primary seatbelt laws, had belt use rates much lower than the national average.

The Safety Belt Incentive Grant Program in TEA-21 provided approximately $600 million to States which improved their belt use rates. We have seen improvements in the number of people wearing seatbelts as a result of this program. I commend the Commerce Committee for their leadership in advancing a program that will take us even further in helping States to get people to buckle up.

Today, the average seatbelt use rate has improved significantly. There remains, however, great disparities between the States in their seatbelt usage. It is clear that States with primary seatbelt laws achieve far higher seatbelt use rates than States without primary seatbelt laws. For this reason, the Commerce Committee provides significant funding to States that enact primary seatbelt laws.

The Commerce Committee program, like the administration's proposal and the amendment I offered last year, sets as our national policy a goal that States reach a 90-percent seatbelt use rate. This important provision recognizes that the most effective tool to improve seatbelt usage is by enacting a primary seatbelt law.

Wearing seatbelts is a critical public health and safety issue. As many have said, wearing a seatbelt is the most single most important act we can take to prevent deaths and injuries on our highways.

For the first time in a decade, highway deaths are on the rise. In 2004, nearly 43,000 children and adults died as a result of automobile crashes. Over half of these deaths involved people who were not wearing their seatbelt.

I find that astonishing. There is no other fact that is more compelling that should convince us to take action.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible, and the provisions approved by the Commerce Committee are critical to reducing traffic deaths.

I urge my colleagues to support the provisions in the bill to provide financial incentives to States to increase seatbelt usage to 90 percent or to enact a primary seatbelt law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise in opposition to the Allen amendment, and I will repeat what Senator WARNER had to say:

> I rise today to strongly support the safety belt provisions in the Inhofe substitute and to urge my colleagues to reject the amendment offered by my colleague Senator ALLEN.

I thought that would be a pretty interesting statement to put into the RECORD at this point.

I remember, though, Senator WARNER did a lot of work on this subject a couple of years ago. He has been involved in Transportation bills, highway bills, but I remember he had an amendment that would actually, in effect, provide sanctions if one did not have seatbelts. I voted against that because I do not think that is the way to get States such as mine to do something that could be very important in terms of safety.

Before he leaves the floor, I want to also commend Senator DEWINE for his work on these safety issues. In the bill last year, he had a lot of provisions that he worked with Senator MCCAIN and others on to get them to include in the Commerce portion of the highway bill. This is an area where he has worked, he feels passionately about it and he came back this year and said we want to work together.

I think if my colleagues will look at what we put in the safety provisions from the Commerce Committee, from the Surface Transportation and Merchant Marine Subcommittee that I chair, now a part of the substitute, they will be pleased with the safety provisions.

This is a key part of the highways and transportation in our country. If we just look at the pavement, if we just look at the jobs, if we just look at economic development, we will be missing a big part of the equation, and that is safety and lives that can be saved or lost depending on what we do.

Senator STEVENS, Senator INOUYE, and I met with people on all sides of this equation: highway people, safety advocates, State representatives, labor, the entire mix, and we developed these provisions very carefully. So I want to thank Senator DEWINE for his effort.

Because I have done that, and because I have worked on this issue, I feel very strongly in opposition to the amendment offered by Senator ALLEN. Usually, Senator ALLEN and I would be together on something like this, but my opposition this time is very simple and that is we need people to use seatbelts; they save lives.

I come from a State that is one of the lowest users of seatbelts in the Nation—63 percent. I am one of those who has been slow to come to the usage of seatbelts, but I guarantee you my kids know how important they are. They will not let me crank the car up until everybody is buckled in, including especially my grandchildren.

Then, as I have gotten into it more and more, the statistics are clear that these seatbelts will make a difference. In 2003, about 17,000 people killed in motor vehicle crashes were not buckled up, and nearly 500 of those deaths were children. Would it absolutely have saved them if they had been buckled up? Maybe not. But even if it had been just a few hundred, and it probably was more like thousands, that makes a huge difference. Many of those 17,000 deaths were preventable.

A passenger wearing a seatbelt is 45 percent less likely to be killed when involved in an accident. For light trucks such as SUVs, the figure is higher. The risk of fatal injury is reduced by 60 percent. Traffic safety experts nationwide agree that the most effective short-term way of reducing traffic fatalities is to increase the seatbelt use.

Getting people to change their driving habits is a major challenge that requires more than just airing public service announcements or distributing safety materials. Over the years, States have tried many different ways to increase seatbelt usage. Experience has shown the most effective means to increase seatbelt use is to enact the primary seatbelt law.

In fact, each percentage point increase in seatbelt use saves about 270 additional lives. If every State in the country enacted the primary seatbelt law, more than 1,200 lives would be saved every single year.

Today, in the 22 jurisdictions—21 States and the District of Columbia—that have primary enforcement laws, the average seatbelt use rate is 11 points higher than in States without this primary seatbelt law. I want to emphasize my State does not have it. I have talked to State officials. I want to encourage the State to do that, and this provision will do that. I will explain that a little bit more in a moment.

To give an example of how powerful an effect this will have, consider the recent experience in the State of Illinois which passed a primary seatbelt law in just 2003. In just one year after Illinois passed a primary seatbelt enforcement law, the seatbelt use rate jumped from 74 percent to 80 percent. Increases in seatbelt use produced real results. In Washington State, traffic fatalities declined by 9 percent in the first year after passing a primary seatbelt law. Yet there are still 29 States that have not passed it. This grant program will provide incentives for those States to take the steps needed to save lives.

It also rewards States that are able to achieve a 90-percent seatbelt use rate without a primary seatbelt enforcement law. States that have already done it but show movement and get to 90 percent, there is a reward, an incentive, for them to do that. What we are really worried about is those 29 States that have not done it that are down in the 60—or even less—percent use of seatbelts. This program rewards the States that are able to achieve that 90 percent.

Senator ALLEN's amendment says that unless a State gets 85 percent, they do not get any of the incentives. In my State, it is 63 percent, and we are not going to get to 85 percent for many years to come. We will not ever reach the percentage or get the incentives that would encourage us to do it.

The seatbelt performance grants offer States the flexibility to use much of the funds on highway safety infrastructure projects. That is the most important safety provision we could possibly pass: Better roads, wider roads, more lanes, more bridges, safer bridges. That is the ultimate safety provision. Seatbelts and other things that can be done, the construction of vehicles, make a difference too.

The flexibility funding allows States to identify and address the greatest highway safety hazard. They can improve dangerous intersections, enhance railroad signage or redesign dangerous stretches of road. Combining a primary seatbelt enforcement law with addressing highway safety hazards is a win-win situation.

More States would reap the benefit under the Senate Commerce provision than under the Allen amendment. Today, only 14 States have an 85-percent seatbelt use rate required to qualify for the Allen amendment.

The Allen amendment is also a budget buster. If all States were to enact primary seatbelt laws, the cost of the Commerce Committee bill would be $597 million. If all States were to meet 85-percent belt use under the Allen amendment, it would cost $778 million. The additional $181 million needed to fund the amendment would have to come out of the highway trust fund.

We thought about this carefully. We listened to administration officials. It is very clear it is the view of the administration, the position of the administration, that we need to encourage greater use of seatbelts. We need States to pass this primary seatbelt law. It will save lives, and I believe the Allen amendment will undermine a very strong part of this legislation.

I urge my colleagues, when we do take this back up, to look at this very carefully. We will vote on it next week and you will have a chance to think it through. It is not about, Do I get a little more this way than that way as a State; we are talking about lives here. We are talking about lives, and a life in Georgia is as important as a life in Mississippi or Virginia or any State in the Nation.

I feel strongly about this. By the way, one of the reasons why I feel strongly, I believe, is I am among the converted. I didn't just get here years ago; I moved gradually toward this. Finally, the statistics, the evidence, and the deaths are too much weight for me to reject, or not accept. This is a way to get a significant increase in my State, and States all across the country, in seatbelt usage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I, too, rise and join my colleague from Mississippi in his very eloquent remarks, and my colleague from Ohio.

I know the Senator from Illinois is waiting to speak in a few moments.

I rise in opposition to the Allen amendment. I understand the intentions, but I think the statistics and the numbers and the reality make it clear that the American people are better off under the provisions as they currently exist in the bill. More States benefit from the Senate Commerce primary belt law provision. There are 19 States currently that have primary seatbelt laws on their books and they will qualify for funding immediately. Only 14 States have an 85-percent seatbelt use rate, according to the 2004 numbers. That is what you need to qualify under the terms of this amendment. So more people would benefit and be rewarded for having the primary seatbelt law.

I think the provisions of the Commerce Committee's bill guarantee funding if the State does one thing, and that is either have or pass a primary belt law. Under the amendment we are talking about right now, a State has no certainty that any action it takes will increase belt use that will result in 85-percent or higher rate use.

This amendment would, if enacted, abandon a very important goal, and that is, for several years the Department of Transportation has set a goal of 90-percent seatbelt usage. The amendment in question would set a goal basically at 85 percent. I have a concern. Knowing human nature and the way things work sometimes, I think folks might give up at 85 percent and never try to reach that 90 percent. So I think the DOT policy is a good one. I think it is designed to save lives. It is a commonsense approach. As Senator LOTT said a few moments ago, States that have a primary seatbelt law on average show the increase in seatbelt usage by 11 percentage points. He tried to drive that home a few moments ago. I think that is a very powerful statistic.

Primary seatbelt laws are also the fastest and the cheapest way to save lives. The NHTSA administrator, Jeff Runge, M.D., said of the provisions in the current bill that they would save more lives, do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade.

So the experts agree, the numbers agree, and last, let me say, the safety groups agree. These are the people out there every single day fighting for better laws and more safe vehicles, safer roads, et cetera. They agree. The proposal in the current bill, not in the amendment but in the bill, is supported by the National Safe Kids Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Insurance Association, Advocates for Highway and Auto Safety, Mazda, the Automotive Occupants Restraint Council, the Traffic Safety, the National Safety Council, the American Insurance Association. It incentivizes States to pass these primary seatbelt laws. The experts agree the way to save lives on America's highways is to try to pass these seatbelt laws.

I, like Senator LOTT, do not have a primary seatbelt law in my State. Typically I think States should have the rights to make these decisions, and certainly every State does. But what we do is give a bonus, an extra incentive for States to consider, State legislators, Governors, et cetera, to consider passing these type of laws because it will benefit their citizens and benefits the Nation.

I urge my colleagues to vote against this amendment when it comes up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, like my distinguished colleagues from Arkansas and from Mississippi, I rise in opposition to the amendment offered by my distinguished colleague from Virginia. I strongly urge my colleagues to preserve the seatbelt program as it is written in the Transportation reauthorization bill.

This provision in the underlying bill gives States that pass primarily seatbelt laws a one-time incentive grant from that State's annual traffic safety grant apportionment. The purpose of this incentive is to encourage States to take specific action, passage of a primary seatbelt law that will save more lives.

As it so happens, my State of Illinois passed a primary seatbelt law in response to this incentive. I know we did it in response to these incentives because I was the chief sponsor of passage of the primary seatbelt law.

The same thing happened in Delaware. The same thing happened in Tennessee. You know what. It works, and it works faster and cheaper than any other method, in terms of ensuring that people wear safety belts and save lives.

It is amazing we have to keep saying this, but seatbelts save lives and primary seatbelt laws save more lives. The National Highway Traffic Safety Administration predicts if every State enacted primary seatbelt laws, more than 1,000 lives could be saved each year and 17,000 injuries could be prevented. Seatbelt use is 11 percentage points higher in States with primary enforcement laws than in those States where laws provide for secondary enforcement. And States changing from

secondary to primary enforcement have seen 10 to 15 percentage point increases in usage.

Beyond the facts and statistics, this is an issue that makes sense. We should not have to just hope people wear seatbelts, just as we should not have to hope they obey speed limits or hope they stop at red lights. We should do what we can to make sure people will wear seatbelts that will keep them alive. We teach our children to wear seatbelts when they get into a car and we all hope they listen to mom and dad and do it when we are not there, but wouldn't we feel better if we knew our laws in our communities were helping to make that happen? Doesn't it makes sense for the Federal Government to maintain a consistent message on seatbelt use, not through a mandate but through a simple incentive?

The National Safe Kids Campaign thinks so. Mothers Against Drunk Drivers thinks so. They endorse and prefer the Federal incentive as written in the underlying bill.

Finally, a Federal incentive is also a Federal commitment. When the Federal Government makes a commitment and States respond accordingly, then the Federal Government needs to keep its word. One of the points that was raised by Senator ALLEN in sponsoring this amendment was that, in Virginia at least, there seems to be some concern that primary seatbelt enforcement would result potentially in an increase in racial profiling in Virginia.

As somebody whose community on the south side of Chicago is fairly familiar with racial profiling, and who hears anecdotes each day from African-American drivers who believe they may have been profiled, I am certainly sensitive to Senator ALLEN's point. As it turns out, though, part of the way we were able to solve this in Illinois was to couple a primary seatbelt enforcement law with a racial profiling law that would ensure we were keeping track as to how traffic enforcement was taking place and to make certain it was being done in a nondiscriminatory fashion.

This was the bargain that was struck at the local level: the notion that we would have a primary seatbelt law enforced; we would also have a data collection bill that would allow us to track and make sure our traffic laws are being applied in a nondiscriminatory fashion.

That deal that was struck in Illinois was premised on the notion that we would be getting these Federal incentives. It is not appropriate for the Federal Government to now pull the rug out from under States such as Illinois that have done the right thing. It is appropriate, instead, for us to keep our word, maintain our commitments, and make sure we continue to incentivize a law that everybody knows, in fact, saves the lives of our citizens.

I encourage my colleagues to oppose this amendment

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the pending amendments be laid aside.

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

AMENDMENT NO. 674 TO AMENDMENT NO. 605

Mr. SCHUMER. Mr. President, I call up my amendment No. 674, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES, proposes an amendment numbered 674.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the transit pass and van pooling benefit to $200)

On page 628, line 23, strike ''$155'' and insert ''$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)''.

On page 629, line 5, strike ''2008'' and insert ''2009''.

On page 629, line 7, strike ''2007'' and insert ''2008''.

Mr. SCHUMER. Mr. President, I will be brief. This amendment raises the tax-free mass transit benefit from $155 to $200 per month by the end of the life of the Transportation bill. I, first, thank my colleagues on the Finance Committee, Mr. GRASSLEY and Mr. BAUCUS, for raising the amount to $155. That is already in the bill. What this amendment does is raise the remainder over the course of the bill to $200. What it will do is equalize the benefit offered by employers for transit expenses with the current benefit offered for parking expenses.

I understand that Senators BAUCUS and GRASSLEY are working with the Budget Committee to get this amendment approved. So I hope we will not have to vote on it or debate it much longer than this. I greatly appreciate their efforts.

Basically, we give people a $200 deduction when they drive to work. It is obviously a business expense if they have to pay for parking, but mass transit has always been discriminated against. We do not give people that deduction for mass transit. This makes it equal. It does not favor one, does not favor the other. It does not take from highways to give to mass transit. It is a win-win-win.

Now, mass transit ridership is at an all-time high nationwide. It continues to rise in New York and across the country. For millions of transit riders, this increase will save them hundreds of dollars every year. Raising the transit benefit will simultaneously reduce traffic, congestion, and smog while saving commuters in New York and across the country hundreds of dollars every year.

The existing disparity between the two benefit levels has also created a financial incentive for employees to drive to and from work alone rather than utilize transit or a vanpool. The amendment eliminates this disparity. The transit benefit provides a low-cost way to get more cars off the road. In the New York metropolitan area alone, commuters save over $150 million, thanks to the transit benefit. Employers have saved significantly as well, over $35 million. And that amount can be multiplied for benefits throughout the country.

By taking cars off the road, increasing the transit benefit is sound environmentally as well. It reduces emissions, which leads to cleaner air, and cuts gasoline use across the board.

I hope we can support this good tax cut unanimously.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 646 TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up amendment No. 646.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendment numbered 646.

The amendment is as follows:

(Purpose: To keep the bill within the budget levels)

At the appropriate place, add the following

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11,100,000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(114)) and Sec. 1204): reduce by $235,000,000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47,010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500,000,000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348,000,000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

AMENDMENT NO. 646, AS MODIFIED, TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To reduce funding for certain programs)

On page 410, between lines 7 and 8, insert the following:

SEC. _____. REDUCTION OF FUNDING FOR CERTAIN PROGRAMS.

Notwithstanding any other provision of this title or any amendment made by this

title, amounts made available under this Act, and titles 23 and 49, United States Code, shall be reduced by a total of $10,700,000,000, as follows:

(1) The amount made available under section 1101(4) for surface transportation enhancement activities under section 133 of title 23, United States Code, shall be reduced by a total of $1,100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(2) The amount made available under section 1101(5) for the congestion mitigation and air quality improvement program under section 149 of that title shall be reduced by a total of $4,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(3) The amount made available under section 104(a)(1) of that title (as amended by section 1103(a)(1)) for administrative expenses of the Federal Highway Administration shall be reduced by a total of $400,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(4) The amount made available under section 188(a)(1) of that title (as amended by section 1303(f)) for Transportation Infrastructure Finance and Innovation Act amendments shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(5) The amount made available under section 175(d)(1) of that title (as amended by section 1813(a)) for the transportation and community and system preservation program shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(6) The amount made available under section 5338(b)(1) of title 49, United States Code (as amended by section 6036) for transit formula grants and research shall be reduced by a total of $5,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, we have a very real difficulty with this bill. I think there is a strong desire by most Members of this body to increase the amount of money that is set aside for our road infrastructure. The bill, in fact, does increase that. We had a number at which the President said he wanted us to stay. We increased that number nearly $11 billion. We started at $284 billion. Now the number is $295 billion.

The best numbers that I can get from the Budget Committee have convinced me that the sad truth is we have $11 billion in this bill over the budget spending cap that we agreed to. It is the first real bill that has come up since we passed the budget agreement. So we are already in violation of it. They say there are offsets, but some of those offsets are not realistic. I think most everybody knows it.

They are projecting things are going to happen in conference, and that it is not going to be a pleasant conference because the President has made clear he will veto a bill that is not within his budget. We are facing a real problem.

So I have thought what we ought to do in this Senate, in this Congress, is what real people do when they have to face serious financial decisions. They have to accept the fact they cannot do everything. I know Senator INHOFE has worked so incredibly hard on this bill. My admiration for him is unlimited. I know how strongly he wants to see the road portion of this bill be as strong as it possibly can. And I agree. People travel on highways every day. An improved infrastructure can be a positive difference for our communities and Nation. That is why I try to support everything I can and to be as generous as possible in the road construction account.

I will not go into the details tonight, but my amendment will look at less critical parts of this bill, including the mass transit title, and other portions of the bill, and it will ask how many increases we can sustain in those accounts. By reducing the increases a little bit, by an amount that would allow an increase to occur—not cutting those accounts but not having an increase as big as has been proposed—we can produce a bill that increases our funding for our basic infrastructure, is faithful to the budget numbers this Congress adopted, and will be signed into law—not vetoed by the President.

If we get to conference without something like this, what we are going to see is that the amount of money set aside for our basic highway infrastructure is going to be cut in conference because the offsets are not going to all be accepted.

So let me say again, we are heading to conference with an increase over the budget that is supposed to be offset. Some of those offsets are not going to be approved. And I suspect our basic road infrastructure amount that we now have in the bill will not be sustained and will be reduced.

My amendment will allow us to sustain those increases that have been proposed and that we desire. It will allow us to stay within the budget. It will fund this by reducing the increases in other noncritical programs, but still allowing them to increase—not cutting them.

I think that is what responsible people ought to do. That is what the amendment I have offered does. We will talk about it in more detail. I thank Senator INHOFE for his leadership on this issue and on so many others. I know he has worked hard. They probably have agreements on how this thing has to go, but I believe the amendment I have offered will be helpful to achieving the goal most of us share.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator leaves, let me just clarify something. It is a very rare occasion that the good Senator from Alabama and I disagree on anything. It just doesn't happen. In this particular case, this is the exception. Let me kind of outline how I think the system works. I don't chair the Finance Committee. I don't chair the Budget Committee. I do not serve on either one of them. I do chair the Environment and Public Works Committee.

When we put together the bill—and this particular bill has been 3 years in the making—it is very similar to what we had last year except it is a lower funding level which should satisfy, to a greater degree, the Senator from Alabama. But when we come up with a bill, the procedure is to go to the Finance Committee. We did that, and we have several Finance provisions in there. Senators GRASSLEY and BAUCUS spent a long time. While people keep saying the offsets are not realistic, they could be right, but the ones who can properly evaluate the offsets are the ones who proposed the offsets, and that is the job of the Finance Committee.

I want to say this because the Senator from Alabama and I are ranked as two of the most conservative Members of the Senate. I have said often there are two areas where conservatives spend money; one is national defense and the other is infrastructure. That is what we are supposed to be doing here. I wish to clarify that I will be opposing the amendment because I believe the Finance Committee has done their job. I have heard both the ranking member and the chairman talk about this, and they have convinced me that they have done their work. We will have to wait and see.

Mr. SESSIONS. Mr. President, I thank the Senator from Oklahoma. He is a great leader in the Senate. I admire his work on this committee and his leadership as a senior member of the Armed Services Committee on which I serve with him. I don't dispute that the Joint Tax Committee has said the offsets the Finance Committee has proposed, if adopted, might meet the needs of this increase.

I understand some of those proposed offsets probably will not have support in the House. I would like to see the Senator's goal of spending more money on our road infrastructure and transportation system that serves the commercial transportation needs of all the products that we eat, buy, and utilize daily—that are shipped from trucks on highways all over America—I would like to see that guaranteed. I am afraid if we go the way we are now, we will not be able to hold the full increase that has been proposed when we get to conference. But if we would face up to the question and set some priorities and choose between some of the things that are in this bill that are less fundamental and some of the things that are desirable—things we would like to do but we really don't have to do as much as others—and reduce some of the increases proposed for those programs and move that into the fundamental infrastructure for highways, I would feel better about it.

I think the Senator is not really in disagreement too much with that. But when you move a piece of legislation as he has, it requires a lot of cooperation and partnership.

Mr. INHOFE. Yes, I agree. We hear all the time in this body and all representative bodies about what is desirable. It reminds me of the guy who went to the department store, and this beautiful, young, voluptuous saleslady came up to him and she said: Sir, what is your desire? And he said: Well, my ''desire'' is to pick you up after work, go out to dinner and drink some champagne and make mad, passionate love to you, but I ''need'' a pair of socks.

We have to distinguish between desire and need, and I think it is a difficult thing to do.

Mr. SESSIONS. That is all I am suggesting. Let's go on and make that upfront, and maybe we will be able to hold this full increase for our highway funding.

I thank the Chair and yield the floor.

Mr. INHOFE. 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. LOTT. Mr. President, I ask unanimous consent to call up amendments Nos. 583, 631, and 733 en bloc. I ask unanimous consent that amendments Nos. 631 and 733 be modified with the changes at the desk and agreed to en bloc. The amendments have been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me withhold on the agreement until we get final clearance.

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

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

Mr. LOTT. Mr. President, for the record, I withdraw my unanimous consent request. There was a misunderstanding that was involved. We are working on that, and we hope we can get the package agreed to later.

The PRESIDING OFFICER. The request is withdrawn.

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

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

Mr. INHOFE. Mr. President, before I yield to the Senator from Alaska, I first wish to say how helpful she has been. I know the needs they have in Alaska are unique. She has been very helpful and a great member of our committee. I thank her publicly very much for that.

I think we are making progress now. We have gotten the amendments under control so we can stay on the schedule that has been outlined by the unanimous consent agreement that has been accepted on both sides.

I express my appreciation for everyone cooperating.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank the chairman for the kind words he said and for the substantial work he has done in the committee to move us forward in a manner I think is fair, good, sound, and it is going to work. I am so pleased we are at this point where we will shortly be moving a transportation bill through this body.

I think I speak for all my constituents when I urge this body to move forward on the highway bill. Every State needs it, but truly I believe none need it more than my State of Alaska, and the chairman has referenced our somewhat unique needs.

For most of us traveling from one place to another, it means asking yourself whether you walk, drive, take a bus, take a train, or an airplane. That is life in the 21st century. But in much of Alaska, Americans are still facing issues that are similar to what we faced in the 19th century. In much of Alaska, whether you drive is not a question without meaning. Instead, the question is, What time of year is it? Is it the time of year I will be using a snowmobile or going by boat?

I suppose there are probably some of my colleagues who may be tired of hearing that Alaska is unique with unique problems that require different solutions, but that does not make it any less true, nor does it make Americans living in Alaska any less deserving than Americans living somewhere else.

Yes, Alaska, in fact, does have the highest rate of return from the highway trust fund. We are the donee State that benefits the most, but it is because we are so far behind the other States in transportation needs. I can tell my colleagues, it is a safe bet we would gladly see our position on the donee State listing change if it meant we had the roads to generate more gas tax revenues for the highway trust fund.

To any Alaskan, it is a remarkable and frustrating experience to hear the donor States complain that a dime or so of their Federal gas tax dollar actually goes to serve a Federal purpose—a highway system that unites and strengthens our Nation—and that tax does not come right back home.

It is also remarkable and again somewhat frustrating to hear that roads in many States are in disrepair and more money is needed to repair them. Yes, they are, and, yes, it is, but at least those States have roads. With roads, they gain the ability to move goods and share services. With that ability, they gain the ability to support private sector businesses. With private sector businesses, they provide jobs, and with jobs, they attract new residents, are able to build more schools, offer opportunities, create more wealth. You get the picture. The wealth is shared with the entire country. We have seen that process work.

The funding received by the Appalachian Commission for Road Building has proven this works, and history has proven over and over that reliable, inexpensive transportation is not the result of prosperity, but it is the cause for prosperity.

The highway bill and the highway trust fund which supports it exist for one reason: because Congress recognized that reliable transportation is critical to our national well-being and to the well-being of our individual citizens. This is no less true in the farthest, most remote parts of Alaska than it is in the center of Manhattan. That is why this bill contains provisions to allow the Denali Commission to construct roads between remote communities in Alaska.

This provision is based on a bill I had proposed in 2003 which would streamline the process of bringing Alaska's transportation system into the modern age. The same provision, as amended by the Senate action last year, will also help improve roads within Alaska's many Native villages, some of which still have only the roughest of trails from one part of town to another.

Frankly, the authorization in the bill for this purpose is simply not enough because Alaska has so many years of neglect to catch up on. I am sensitive, however, to the fiscal realities, and I am deeply grateful for the support of those who have helped us get this far. We must recognize this is not just an investment in Alaska today, but it is an investment in Alaska's tomorrow.

For the record, I would also prefer to have a separate system and significantly more money dedicated to our Native village transportation needs. They have been badly neglected. In fact, they have been shamefully neglected by the Bureau of Indian Affairs reservation roads system which is supposed to provide funding for Native American needs. Alaska Native villages have been ignored, their road miles have been uncounted, and money has been funneled into other areas that already have sophisticated road systems.

The bill also contains money to continue the reconstruction of the Alaska highway. I want to comment on this in the hope of dispelling some of the perennial confusion about it. Despite the name, the multiyear project to pave and improve the Alaska highway, also known as the Alaska-Canada, or the Alcan highway, is not an Alaska

project. It is not an earmark for Alaska. It is not even in Alaska. It is a national project, one that was triggered by national defense needs and mandated by treaty between the United States and Canada.

As a treaty obligation, it is not to be discarded lightly. It is unfortunate that some apparently have trouble reading beyond the name and that it has fallen to Alaskans to stand up for the word of honor of the United States to fund this project, but that is just the way it has been. Here again, I am grateful for the support of Senator INHOFE, Senator BOND, and others who have recognized that this is not just a parochial project but one of significance to the entire Nation and one for which the Nation has given its word.

As I mentioned, we have unique needs, unique challenges, and I renew an invitation to all of my colleagues: Come up and visit. Come up and see the State, see for yourself the conditions we have.

I had an opportunity just yesterday to demonstrate that when we talk about Alaska's road system, we use that term lightly. It is not a system; it is a road up and there is a road down and a little connecter in between the two, and that is what we have. When we talk about where our roads stretch from, if we were to superimpose Alaska over the rest of the lower 48 States, we would be going from Minnesota down to Florida and across over into California. The area we cover is huge.

So, again, come up and see the conditions that we have. I would be happy to arrange a trip for any Member of the body, no matter where they stand on the issue, and I am not just talking about transportation issues. We will take the Members up and show them ANWR. We will show them the whole State. I am proud of the State, and I am proud of what we have done to preserve and protect our resources while we still build a vital economy. I would be happy to show my colleagues how we are dealing with some of our unique situations and problems.

One such unique situation has been the fact that it is literally impossible to build roads between some communities, even in long-settled areas like in southeastern Alaska where I was born, where a combination of rugged terrain and the separation of the islands have made other solutions necessary. One solution for the area in the southeast was the establishment of the Alaska Marine Highway System, which builds on a core fleet of large ocean-going vessels in service as ferries. It is the only highway possible between communities such as Ketchikan, Petersburg, Wrangell, Sitka, Juneau, our State capital, and many other smaller communities. It is part of the National Highway System.

If the definition of a highway is a facility used by trucks and cars moving from one community to another, this is, indeed, a highway. In fact, it is one that is considerably less expensive than other options such as tunneling, like we have up in Boston, the ''Big Dig,'' or the combination of bridges and tunnels we see around here.

The last highway bill, TEA–21, contained provisions to fund ferries and ferry terminals in addition to funding received through the National Highway System. I am pleased to say that this bill does as well. In fact, ferry system assistance in this bill is even broader and will help even more States operating ferry systems to do a better job for their citizens.

Now, I have been informed that the finance portion of the bill includes provisions based on two bills which I have previously offered. One of these provisions corrects an inequity imposed on air passengers who live in rural areas where, again, they are unconnected by road and they are forced when they are traveling to fly to a larger airport where they can catch a plane to get somewhere, to reach their final destination. All passengers currently pay a segment fee for air travel, but these rural residents I am talking about are basically forced to pay twice, while passengers who live within driving distance of a larger airport only pay once.

The second measure which I just referenced affects seaplane operators who are not using FAA facilities but currently must pay excise taxes and fees intended solely to support such facilities. This is also an inequity, and my measure will ensure that only those receiving benefits are asked to pay for them.

In addition, it is my understanding that the committee has also included a measure intended to ensure that taxes and fees intended for aircraft carrying passengers from point to point is not incorrectly applied to flight-seeing operations. Senator INOUYE has taken the lead on this matter, but it is worth noting that it has significant support among my constituents in Alaska, and I am pleased to see it included.

Finally, let me note that I understand that the Commerce Committee title includes my proposal to establish State grants for motorcycle rider education. As my colleagues may be aware, motorcycle ridership is increasing all the time, and with it the number of motorcycle accidents has also been rising, particularly among the new riders. It is not necessarily the young riders but riders of any age. It is the latter that my proposal addresses. I believe firmly that the best way to prevent injuries is to prevent accidents, and training is the only way to accomplish that goal.

I have worked closely with the Motorcycle Riders Foundation and State motorcycle education administrators to develop this proposal. All too often, we will see new riders, both young and old, simply climb on and hope that they are going to learn by experience. Better training has been shown to drastically reduce the number of accidents suffered by new riders during the critical period in which their learning curve is the steepest and they are most at risk.

From the national perspective, this highway bill is a good bill. It is not perfect, but few things are. I would prefer to see more streamlining and permitting processes for highway projects. I would like to see more flexibility for States. I would like to see a bill with the funding level that we approved last year. The leaders of each one of our key committees have done yeoman's work—and again, I want to commend the chairman—on phenomenally difficult issues. I believe at the end of the day we have before us a good bill, the best bill possible. I pledge my support for it and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Alaska named a list of things she would have preferred to see in the bill. As I thought of each one of them, I agree with each one. Of course, the Presiding Officer is also a member of the committee, and we know there are a lot of diverse needs in States. It is not a perfect bill. There are a lot of things I would rather have in it, but it is a consensus. It was give-and-take, and that is the way the system is supposed to work.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent that there now be a period for morning business with Members permitted to speak for up to 10 minutes.

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

HONORING LESLIE SATCHER

Mr. FRIST. Mr. President, in 1988 Leslie Satcher picked up her belongings and left her home in Paris, TX, bound for Nashville. With a meager $100 in her pocket, she abandoned all that she had known in her young life, and headed to the Music City driven by her dream of being a country-music star.

Almost 2 decades later, that dream is a reality.

Today, Leslie Satcher is one of Nashville's most sought after song-writers. She has emerged as a glowing success under one of the world's brightest country-music spotlights.

At her core, Leslie Satcher is a woman of humble ambition. Her work is shaped by unyielding faith and limitless passion for music. Critics describe her writing as ''emotionally persuasive, yet understated and artful.'' Indeed, she has found her success not by abandoning her homey roots but by embracing them.

Her lyrics are laced with plain spoken yet insightful observations about love and life. And despite her tremendous success, she has always remained true to her creative vision, never losing hold of the simple joys of writing and singing music.