

But in their effort to be partisan and embarrass Republicans over what was probably a mischaracterization, in my view, in a liberal newspaper, my Democrat colleagues failed to address the key issue, which is, where do you come up with the money to fund all of these programs?

In their zeal to make partisan points and poke fun—and they did have a good time—they failed to offer any constructive solution. If you are going to poke fun and make jokes about the 13th month headline, what are your alternatives? My guess is they would prefer to use the same budget tactics they have been using for about 50 years. The result of those budget tactics over the past 50 years has been to run up the national debt to where it is almost \$6 trillion, raid the Social Security trust fund, and in order to do it all raise taxes.

Every year, we do this. Every year, the train comes down the track and usually has a wreck. We spend, spend, spend, spend, and then we get to the end of the year and we act as though there is some magic budgetary goblin running around eating up money and we invent these tricks to try to figure out how to break the budget, while we still tell constituents we balance it. It is pretty outrageous. We use every budgetary gimmick we can find: forward funding, emergency designation, baseline budgeting. You name it, you have heard it. Now we have "13th month."

For those of you who may be listening or watching right now, when you hear those terms, my advice would be to hang on tightly to your wallet because the story is, if a Democrat has a vision, it is probably focused right on your wallet, and that is what is happening now. They are having fun with this 13th month, but they have that luxury because they are in the minority. I suppose you can say, technically, so am I, but on this point I am siding with the Republicans. They didn't invent budgetary gimmickry.

Insofar as this Congress intends to use smoke and mirrors to secretly fund more rather than less unconstitutional programs, I don't intend to be a part of it. Our Founding Fathers would be ashamed of this whole debate for several reasons:

No. 1, they didn't intend for us to balance our budget using accounting tricks and elongated fiscal years.

No. 2, they didn't intend for us to burden our children with trillions of dollars in debt—trillions.

No. 3, they didn't intend for us to spend billions of dollars on education programs that should be handled at the State and local level.

My colleague, Senator GORTON, has been very instrumental on initiatives to try to bring that spending back to the State and local level where it belongs. So as perhaps the only non-

partisan person in the Senate right now, let me offer a solution. It is pretty simple. I have a way that we can support the Constitution, balance the budget, and not use any budgetary tricks at all. It is very simple: Don't spend the money.

The Department of Education is billions of dollars worth of unconstitutional infringements on State and local authority. Don't spend the money, if the Democrats don't want the Republicans using budgetary tricks, the Republicans don't want to break the budget caps, and the founders don't want us funding unconstitutional programs. So let's abolish the Department of Education. Then we can go back home to our school districts and say: You now have the constitutional authority you had in the first place to educate your children the way you choose—home school, private school, public school, whatever. By the way, you have more money to spend and the budget is balanced.

Very simple. Nothing complicated. So let me say the best way to end all the budgetary gimmickry is don't spend the money.

Mr. President, I yield the remainder of my time.

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

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

#### PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Denise Matthews, a fellow on the staff of the Appropriations Committee, be granted the privilege of the floor during the debate on H.R. 2084 and the conference report thereon.

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

Mr. LAUTENBERG. Thank you, Mr. President, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

Mr. GORTON. Mr. President, I have now cleared the following request.

I ask unanimous consent that no further amendments be in order to the

pending Interior bill other than the managers' amendment or amendments on motions relative to the Hutchison royalties amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON. Mr. President, I should like to make the following announcement. We will have that managers' amendment—I think there is only one that is possible; it may be in two sections—ready within the next half hour or so to present. It does represent an accommodation of the requests of many Members, with the understanding of all Members.

I think it will take only a very few minutes to present and to have it accepted. At that point, we will have only the Hutchison amendment outstanding. The majority leader has reserved the right to ask for reconsideration of the cloture motion that was defeated yesterday. I suspect when he chooses to do that, we will in a relatively short period of time finish debate and dispose of the Hutchison amendment one way or another and then go to final passage of the Interior appropriations bill.

That means, as far as I am concerned, I am going to vacate the floor at this point. Whenever the chairman of the Subcommittee on Transportation wants to start his bill, he can do so. I will ask him for the right to interrupt at some point when I am ready with the managers' amendment and present it then. I see no reason to keep the Senate from moving forward now.

I yield the floor and 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. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### UNANIMOUS CONSENT AGREEMENT—H.R. 2084

Mr. SHELBY. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 2084, the House-passed fiscal year 2000 Transportation appropriations bill, that all after the enacting clause be stricken, and the text of S. 1143, as modified by striking sections 321 and 339, be inserted in lieu thereof, that the amendment be considered as original text for the purpose of further amendment, and that points of order against any provision added thereby be preserved.

The PRESIDING OFFICER. Is there objection?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I object temporarily. I believe strongly that this legislation impinges in the area of

jurisdiction of the Environment and Public Works Committee, and we will be discussing that further on. I do thank Senator SHELBY for the time he has given us in connection with this overlapping jurisdiction—I should not even say overlapping jurisdiction—we think is impinging upon the areas that belong within the jurisdiction of the Environment and Public Works Committee.

However, despite the fact that we have had numerous meetings—our staffs with his staff, myself to some extent with Senator SHELBY—we have not been able to resolve these issues. I believe the unanimous consent request that the Senator has just propounded will solve the problem as far as moving into the major difficulty in jurisdiction I will outline later.

I know the ranking member of the Environment and Public Works Committee is here, and he also has some difficulties with the jurisdiction that has been assumed by the Transportation Appropriations Subcommittee.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, and I will not, I appreciate the indulgence of the Chair and my colleagues for a very brief statement.

Those of us who were here and those of us who were not here but certainly have an idea about it remember the effort that was put into passing TEA 21, the highway bill, a couple of years ago. Many Senators worked very long and hard.

I see the ranking member of the subcommittee, Senator LAUTENBERG; the chairman of the Subcommittee on Transportation, Senator SHELBY; Senator BYRD mightily helped put together a massive highway bill, otherwise known as TEA 21; Senator WARNER of Virginia; and, of course, the chairman of the committee, Senator CHAFEE. I assisted; Senator MOYNIHAN helped a lot; the majority leader, Senator LOTT. We had many meetings in Senator LOTT's office trying to put together all the provisions of the highway bill.

As one might guess, it is extremely complex. There were the Northeast States that had a certain point of view as to how the dollars should be allocated; the Western States thought they did not get a fair deal in the previous 6-year highway bill known as ISTEA; the Southern States. Then there were donee and donor States. There were groups that wanted more so-called CMAQ money. That is money that goes to areas to help them mitigate against pollution in their cities caused by automobiles and trucks. There were enhancement funds. Enhancement funds are for bikeways and other associated highway programs. There was research and development. There were intelligent highway systems. There were

public lands. There were discretionary funds. There was park money. You name it. There were lots of competing interests that were put together a couple of years ago.

We finally put together a highway bill, and it passed on a bipartisan basis, a large vote: 89 Senators voted for it after much gnashing of teeth about what we were going to do with the 4.3 cents that was otherwise set aside for debt reduction in a previous Congress. We finally decided that was going to go to the highway program.

Our basic principle we agreed to was that all Federal gasoline taxes paid would go to the highway fund, and from the highway fund that money all goes back out to the States in the form of related highway programs, all funded with the gasoline tax. That was a major statement that TEA 21 made, the highway bill we passed a couple years ago.

It has worked quite well. On average, States got about a 40-percent increase each year compared with the previous 6 years; some States a little more, some less; but in the whole scheme of things it worked out quite well: On average, a 40-percent increase each year compared to the prior year.

This year we are considering the Transportation appropriations bill, the appropriations bill which basically says: OK, this money that is in the highway program, although there is contract authority that says the money has to be spent on highways, still, the Transportation Appropriations Committee basically just spends it. That is what it does.

There is a provision in the highway bill, TEA 21, which says this: Any additional money that comes into the highway trust fund—unanticipated additional money, presumably on account of a growing economy; and our economy has grown—will then be allocated, to the degree it is allocated, back to the States in the same way the highway bill itself was put together; that is, a certain percent under CMAQ, a certain percent under service transportation, a certain percent under minimum guarantees, a certain percent to public lands, et cetera; and in the same way.

It turns out that because of the additional gasoline taxes in the last year as a consequence of a prosperous economy, there is an additional \$1.5 billion that is to be allocated under the highway bill according to the way the highway bill was put together. So there are no changes.

It turns out, with all due respect to the Transportation Appropriations Subcommittee, they have decided to change the highway bill, to rewrite it, and, rather than to have the money spent as provided for in the highway bill, to instead take all of that money—instead of, say, 10 percent as provided for under the highway bill

under certain discretionary programs and 90 percent under the core highway programs—they take it all and put it under the core highway programs. I think that is very dangerous. It is a very dangerous precedent.

First of all, it is legislation on an appropriations bill. It is rewriting, adding legislation on an appropriations bill. Second, it is a precedent of the Appropriations Committee of, in effect, rewriting the program.

I grant you, this is a small matter. As a consequence of the Appropriations Committee's action, instead of \$1.4 billion going to the core programs, \$1.5 billion is going to the core programs. The additional that is going to the core programs does not go to the various programs I mentioned.

You might ask: Gee, what is the big deal? That is only about \$120 million. The big deal is this. First of all, it is not much money, \$1.5 billion versus \$1.4 billion. Second, it is a big principle, because once we start down this slippery slope of the Transportation Appropriations Committee rewriting the highway bill and how dollars are allocated among States, then we are going to be tempted in following Congresses to take a bigger bite of the apple to redistribute even more.

Why is that a problem? That is a problem because highway programs take time. State highway departments must plan ahead. It takes 2 or 3 years, from conception to design, to bid letting, to construction, to build highways or to resurface. It is not a spigot you just turn on and off yearly. It takes time.

Second, here is another real concern I have. If the Appropriations Committee is rewriting the highway bill, then it is going to become political; the majority party is going to be determining the provisions in the highway bill. There will not be a bipartisan allocation of highway dollars; it will be a majority party allocation of highway dollars.

With all due respect, this is not an abstraction; this has happened in the concrete. In fact, the bill that was about to come to the floor did just what I feared would happen; namely—not the highway part but the mass transit part—the committee rewrote the bill, which took many dollars away from two States, California and New York. It does not take much imagination to figure out whether the Senators from those two States are in the majority party or the minority party.

I am just very concerned we are going to set the precedent of the Transportation Appropriations Subcommittee, A, rewriting the highway bill, which is bad because it takes a long time to plan these projects, and upsetting the apple cart which took a lot of effort to put together—I mentioned Senators BYRD, WARNER, CHAFEE, LOTT, and all of us—to try to

work to put all the pieces together, but also because the majority party is going to be sorely tempted to be political; that is, to give dollars to the States of the majority party but not dollars to the States of the minority party. That might change. It might be the Democrats who are in the majority. Then that precedent will be set. That is not a good precedent. We should instead just do what is right.

I will sum up by saying it is true that every State will get a few more dollars under the rewrite by the Appropriations Committee. It averages about .35 percent. Gee, every State is getting a few more dollars—not many—so why not support it? My point is, it is only a few dollars. It is not going to really affect the States much at all. But it is the principle of going down the slippery slope of rewriting the highway bill without hearings, without any field hearings and hearings here in the Senate. The EPW Committee has not had hearings on this subject. The Appropriations Committee has not had hearings on this subject.

Just basically, it is political. I will not object at this point, but at the appropriate time various Senators will be making this point. I very much hope that when the point is made at the proper time, the Senators will very deeply consider this in a thoughtful way, because sometimes what you do in the short term, for short-term gratification, comes back and is harmful in the long run. I do think in this case it is better to think a little bit more about the purpose of the bill.

I thank the Senators for indulging me.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Is there objection?

Mr. SHELBY. I would like, first, to modify my unanimous consent request. I think it might be best that I restate it, if I may.

The PRESIDING OFFICER. Go right ahead.

Mr. SHELBY. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 2084, the House-passed fiscal year 2000 Transportation appropriations bill, that all after the enacting clause be stricken and the text of S. 1143, as modified by striking section 321, be inserted in lieu thereof—

being amendment No. 1624—that the amendment be considered as original text for the purpose of further amendment, and that points of order against any provision added thereby are preserved.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. A question, if I might. The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it is my understanding that this is the language that has been worked out with our side.

Mr. SHELBY. That is exactly right. The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of amendment No. 1624 is printed in today's RECORD under "Amendments Submitted.")

#### DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (H.R. 2084) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, just for a few minutes I would like to address some of the overview, as I see it, of this Transportation appropriations bill.

Mr. President, after being delayed by the objection to the Transit Equity Provision, I am pleased that the Senate will finally have the opportunity to consider the fiscal year 2000 transportation appropriations bill. Although the subcommittee's funding allocation is tight, I believe we are presenting the Senate with a balanced approach to meeting our Nation's transportation needs by providing adequate funding for all modes of transportation.

At the same time, the senior Senator from New Jersey, Mr. LAUTENBERG, and I have gone to great lengths to craft a bill that I believe accommodates the requests of Members and funds their priorities.

The current fiscal constraints were especially felt in the transit account, where demand for mass transit systems is growing in every State. But funding is fixed by the TEA 21 firewall. My proposal for managing an account in which Members' requests were more than 20 times the available funds was the Transit Equity Provision.

This measure, which I included in the original subcommittee mark of the bill, would have limited the amount of transit capital funds any single State could receive in fiscal year 2000 to no more than 12½ percent of the total.

The two states that receive the lion's share of national transit funds—30 percent of the total in fiscal year 1999—are California and New York.

The provision would have redistributed any transit capital funds appropriated to these two states in excess of 12½ percent to the remaining 48 states. This would have resulted in approximately \$5 million more for every other state, for their own transit programs—while New York and California would still have received more than \$693 million each.

Last Thursday, however, the Senate failed to reach cloture on the motion to proceed to the transportation appropriations bill if it included the Transit Equity Provision, and I have agreed to strip the provision from the bill in order to move this legislation forward.

The equity provision is not central to the appropriations bill. The total program funding levels, which are set at the TEA-21 firewall limits, remain unchanged. I included the provision to help create more room within those totals for the national transit program.

My colleagues have written to me with new start project requests totaling \$2.84 billion and with bus project requests totaling \$1.8 billion.

If the appropriations bill honors all the current and anticipated full funding grant agreement projects and the bus earmarks for fiscal year 2000 that were included in the TEA-21 authorization, we have left only \$96 million in new starts funding and \$235 million in bus funding—to accommodate not only the billions of dollars' worth of requests from my colleagues in the Senate, but also the earmarks that have been included in the House transportation appropriations bill.

This task is beyond challenging: It is impossible. There is no way to begin to satisfy the demand for discretionary transit capital funds. I do not want this fact to catch my colleagues by surprise.

I bring this bill to the Senate floor today without the Transit Equity Provision. By engaging in a lengthy and public debate on this issue, as well as a recorded cloture vote, I hope that my colleagues are now more aware of the pressures on this account nationally, and that they better understand why I have so actively sought a way to provide funds for what I thought were my colleagues' transit priorities.

The bill honors our commitment to increase the flow of federal funds for construction to improve infrastructure throughout the nation.

Within the framework of a \$49.5 billion total bill, \$37.9 billion is provided for infrastructure investment in highways, transit systems, airports, and railroads. This is 6 percent more than last year's level of funding and is greater than the administration's request.

This bill respects the Highway and Transit firewalls that TEA-21 imposed. I would like to point out to my colleagues that we adhered strictly to the TEA-21 firewalls, even though outlays will be greater than the amount anticipated when Congress enacted TEA-21.

By providing the funds above the firewall level, there were fewer dollars available to fund other priorities within the subcommittee's jurisdiction, including the Coast Guard and FAA.

I believe this illustrates the pitfalls of trying to manage annual outlays in multi-year authorization legislation and is one of many reasons the Senate should reject a proposal to establish more budgetary firewalls around trust fund accounts.

I yield to my colleague under the unanimous consent agreement, the senior senator from New Jersey, the ranking member of the Transportation Appropriations Subcommittee.