made crystal clear by section 10501 which reads ''the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.''

Mr. President, fairness dictates we correct that inadvertent error. That is precisely what the Hollings amendment does. It is exactly why I supported it in conference. It is why I continue to support it strongly.

This historic piece of aviation legislation reflects the outstanding work Congress does when it proceeds on a bipartisan basis. We should meet our responsibility to the American traveling public by passing it as soon as possible. Lets get the job done for the American public. I urge that the Senate immediately pass the conference report to accompany H.R. 3539.

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

The PRESIDING OFFICER. Time yielded to the Senator from Arizona has expired. The clerk will call the roll and charge the time against the time remaining.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

Mr. GORTON. Mr. President, I ask unanimous consent to speak for 5 minutes or less as in morning business.

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

HONORING THE LIFE OF HOWARD S. WRIGHT

Mr. GORTON. Mr. President, I speak here this evening to express my sadness and deep regret at the death last Saturday of a friend and civic activist in the city of Seattle, Howard S. Wright. Mr. Wright can appropriately be called one of the great builders of modern Seattle. He was the head of a major construction firm for many years. His company was responsible for the building of the tallest of our structures, among many others, a set of buildings with the vision behind which led to much more beautiful development in downtown Seattle.

After leaving the construction business, he went into the allied profession, development, and there also was not only successful, but successful in a way that will leave a long-term and positive impact on the city he so loved.

While Howard Wright was magnificently successful as a businessman, he also gave at least as much as he received back to his community in the form of his activities in charitable foundations, such as the Seattle Foundation; to the arts, through the Seattle Opera Association and the Arts Commission; through sports, as one of the original owners of the Seattle Seahawks; and in the field of horse racing; to his schools, Lakeside and the University of Washington; and to other enterprises too numerous to mention.

Another great Seattle citizen, a friend of both Howard Wright's and of mine, Herman Sarkowsky, was quoted recently as saying that Howard Wright had ''an insatiable appetite to learn everything about his city,'' to learn, Mr. President, and to do.

But, in addition to these objective statements about Howard Wright, I must add his own personal friendship to me and to all of my undertakings, his constant counsel and advice, and a sunny disposition, which never admitted that there was a task too great to be accomplished, that never admitted that there was not another friend to be made, another goal to be achieved.

Mr. Wright will be missed by his family, by his community, by all of the organizations to which he so unstintingly gave his time and his money, and by this U.S. Senator as a friend.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the business before the Senate?

The PRESIDING OFFICER. The conference report on FAA.

Mr. DOMENICI. Is it appropriate for the Senator from New Mexico to ask unanimous consent for 5 minutes as in morning business?

The PRESIDING OFFICER. The Senator may seek unanimous consent.

Mr. DOMENICI. I also request unanimous consent that a legislative fellow in my office, a Mr. Larry Richardson be permitted on the floor?

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

ALLOCATION OF THE HIGHWAY TRUST FUND

Mr. DOMENICI. Mr. President, I seek the floor today just to make the record complete before the year ends with reference to what happened to the allocation of the highway trust fund or what is about to happen to it.

First, I want to put in the RECORD all of the States of the Union and the 1996 actual allocation, the percent and the dollar loss or gain from the 1996 allocation to the 1997 allocation. The minimum amount that States lost because of this new allocation is found in the last column of this chart. I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. Mr. President, what I understand and what I think happened is that the administration, principally through the Secretary of the Treasury's office, made a major error in calculating the flow of money into the Highway Transportation Trust Fund, and that means that the Federal money for projects in States like mine of New Mexico will drop $20 million—I should say at least $20 million—from last year's $169 million that we received.

Actually, the reason I say ''at least'' is because we did increase the obligational authority. So actually a State like mine and a State like the one of the Senator presiding here in the Senate should probably have received more in the 1997 allocation than they did in 1996. So this chart is just saying, if we would have received the same overall obligational authority—that is the big pot of money to be distributed—our respective States should have gotten at least what they got in 1996. Instead, they are getting less.

Now, the first point, Congress in that year did not change the formula. The formula was a multiyear operational formula that told the administration, between the Secretary of the Treasury which reports the receipts of the gasoline tax, and the Secretary of Transportation, to allocate pursuant to that multiyear formula.

Now, something happened because, as a matter of fact, more money was taken in, the formula was not changed, and we get less money—substantially less money. Now, it is very interesting.

On the other hand, it is almost incomprehensible to the Senator from New Mexico because some States got huge amounts of new money. For instance, New York gets $111 million less than this minimum I have been describing that they probably should have received. I have told the Senate about New Mexico. Then, if we look down and say, well, what happened to California? Well, California gets $122 million more than they would have received if we would have had a 1996 allocation of the same amount of money in 1996, even though we got more going into this formula now. And, interestingly enough, the State of Texas—I do not know how this all happened, it is almost some kind of phenomenal event—apparently for no real reason, the State of Texas got a $182 million increase. The State of Massachusetts, a $73 million decrease.

Now, frankly, I believe this error should have been corrected by this administration. In fact, ten Senators sent a letter to the Secretary of Transportation well before any drop-dead date with reference to sending the money out, urging that the Secretary of Transportation correct the error. We sent that letter on September 20th.

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

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

U.S. SENATE,
Washington, DC, September 20, 1996.

Hon. FEDERICO PEÑA,
Secretary of Transportation, Department of Transportation, Washington, DC.

DEAR MR. SECRETARY: We are writing regarding the Department of Transportation's decision to use data from the Treasury Department that includes a $1.6 billion accounting error in the calculation of highway apportionments for fiscal years 1996 and 1997.

The Department of Transportation's decision to use the data without first correcting the error unfairly disadvantages our states. Therefore, we are requesting an explanation as to why the Department of Transportation has used this error in its apportionment formulas. At this point in time, it is still not clear why your Department has not been able to address this issue administratively.

Attached to this letter is a short list of questions which we hope will improve our understanding. The answers to these questions will be necessary to respond to inquires from our respective states. We also expect that the answers to these questions will help us to determine how a similar situation could be avoided in the future.

The states affected by this error will receive their apportionments on October 1, 1996. We, therefore, request a response to this letter by Wednesday, September 25. Thank you for your prompt attention to this matter.

Sincerely,

John H. Chafee, Pete V. Domenici, Max Baucus, Jeff Bingaman, Larry Pressler, Joe Biden, Tom Daschle, Alfonse D'Amato, Daniel P. Moynihan.

Mr. DOMENICI. We attached to it the fundamental questions to the Secretary of Transportation regarding this incorrect allocation, this lowering of some States and increasing of some States, without any change in the national formula, which is the law, and with an increase in the total amount we had to spend.

The error in the distribution of the 1997 funds to all States came about through an error of the Treasury Department in calculating the highway trust fund. Then we proceeded to ask several questions.

I also ask unanimous consent the questions be printed in the RECORD.

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

QUESTIONS REGARDING DOT DECISION TO IMPLEMENT HIGHWAY FORMULAS WITH $1.6 BILLION ACCOUNTING ERROR

(1) Given the significant implications of the accounting error, did the Department request an ''official'' correction that could be used in the apportionment formulas?

(2) To help gain an understanding of why the error could not be addressed administratively, please provide a copy of decision memos, legal opinions and other supporting materials and tables that led to the Department's decision to apportion funds based on incorrect data.

(3) Did the Department consult with the Office of Management and Budget (OMB) in making this decision? Did the 1997 budget baseline for the Department of Transportation assume that the error was corrected? Please describe any OMB policy guidance in this area.

(4) Does the Department have any recommendations to avoid a similar situation in the future?

Mr. DOMENICI. Interestingly enough, we have not heard from the Secretary of Transportation. This is an urgent request. They are in the middle of making final decisions which will cost my State a very big percentage of its highway trust fund, which will cost New York $111 million, which will cost States like New Jersey a very large amount of money.

Now, I am here because all I want is fairness. I cannot understand nor comprehend how the same old formula that is mandatory that they have to use, how it could turn out 1 year later to totally change what each State gets, when it has been applied for 4 consecutive years, and we could look at those averages, and nothing like this has happened.

Now, I have come to the Senate because I urge that the Secretary of Transportation fix this. I do not have any hopes that he will. In fact, I do not believe politically that they can. That does not make it right.

Can you imagine the Secretary of Transportation taking this money that I just described away from California, after they told them that is what they will get—even though it is wrong? Can you imagine the President saying, essentially, through his Transportation Secretary, to Texas that they should get what is the right number, instead of what is the wrong number—when they have already been telling them how much more they get? I could go on State by State.

I believe it should be fixed. I do not think the States which have been adversely effected by this should take this sitting down. We cannot fix this. That is the prerogative of the House of Representatives. They did not want to fix it. That does not mean it is right, nor does that add any strength to the fact that they are wrong. That does not make their numbers right because Congress did not take action in the waning days. That is obvious, as a matter of law that that is not the case.

Frankly, I hope the States that have been denied their fair proportion under errors in calculations by the Secretary of the Treasury, that were then forwarded to Transportation and apparently are about to be acted upon, that does not make those right. I believe States should take a look at it. They ought to look and see what their rights of action are.

This is a very, very, big mistake. For some States, it will never be corrected. I cannot tell New Mexico—we are a small State; $20 million is a small amount of money, big percentage, one of the highest percentage of reductions. The State of Rhode Island got a small amount but a big reduction. The State of Montana, small amount of money, but a big reduction—I cannot tell them come January, February, March, ''We will fix this and give you the money you lost by the error.''

I do not think I can promise that, for probably by then it will require we put a whole bunch of new money in the trust fund or that we allocate some extra money because, what about the States that think they can rely upon what the Federal Government has told them they will get. I submit they ought not be relying on it. I hope they have people keeping tab up here because I do not think they can rely on that money because I do not think it is theirs. I think it was erroneously allocated through a misapplication of a formula that is clear and precise and applied either the wrong numbers, wrong receipts—and they had plenty of time to fix it in the executive branch of Government.

Mr. President, while we are closing down tonight, I hope the Secretary of the Treasury's people that are watching, as they probably do from time to time, understand this may not be over with. I am urging States to do something about it themselves. I think they might look at whether they have a cause of action against the Federal Government. I am urging they take a look as to whether they can even get an injunction against the U.S. Government for misallocating this money and ask it be held up long enough for them to seek justice within the court system. That is just my thought. That is nobody else's. I do not hold anybody to it.

I tell you, this error is over $1 billion. That means, erroneously, States have been denied over $1 billion, and it has been funneled to other States, of the formula that they should have applied, was voted on up or down, and prevailed with a handsome majority when that formula was put in. I happen to know about that. I was not on the committee but I think I know how the formula came about. In fact, I know how the formula came about 5 years before that. It is very similar.

The point of it is, the formula has not been changed, the dollars to be distributed are higher, and 28 States get less. Now, that just does not jibe. It just does not make for good sense. Something is awry, amiss, gone wrong, and I hope it gets fixed. I hope the Secretary of Transportation takes a look. It has taken them about 10 days to answer the letter. That is pretty unusual. It has taken 5 days to answer a phone call where I asked him about this, and he will get back to me.

We will see tomorrow, 1 day before we go out, if we get something from them.

TECHNICAL ASSISTANCE—U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: COMPARISON OF ESTIMATED FISCAL YEAR 1997 OBLIGATION LIMITATION

[In thousands of dollars]

State	Fiscal year 1996 actual	Conference	Percent	Dollar loss/gain
Alabama	270,610	329,746	22	59,136
Alaska	203,994	182,075	−11	(21,919)
Arizona	196,433	244,013	24	47,580
Arkansas	175,359	205,117	17	29,758

TECHNICAL ASSISTANCE—U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: COMPARISON OF ESTIMATED FISCAL YEAR 1997 OBLIGATION LIMITATION—Continued

[In thousands of dollars]

State	Fiscal year 1996 actual	Conference	Percent	Dollar loss/gain
California	1,406,489	1,528,545	9	122,056
Colorado	199,342	198,171	−1	(1,171)
Connecticut	353,689	316,202	−11	(37,487)
Delaware	77,484	69,282	−11	(8,202)
District of Columbia	78,920	73,582	−7	(5,338)
Florida	598,880	711,991	19	113,111
Georgia	403,493	526,148	30	122,655
Hawaii	121,729	108,983	−10	(12,746)
Idaho	105,691	98,510	−7	(7,181)
Illinois	660,503	589,620	−11	(70,883)
Indiana	341,554	390,495	14	48,941
Iowa	197,960	177,316	−10	(20,644)
Kansas	205,052	183,204	−11	(21,848)
Kentucky	225,745	286,319	27	60,574
Louisiana	235,699	265,287	13	29,588
Maine	91,559	84,182	−8	(7,377)
Maryland	265,587	262,322	−1	(3,265)
Massachusetts	690,634	617,531	−11	(73,103)
Michigan	467,061	491,589	5	24,528
Minnesota	252,289	219,855	−13	(32,434)
Mississippi	183,481	203,112	11	19,631
Missouri	356,657	402,267	13	45,610
Montana	154,849	133,659	−14	(21,190)
Nebraska	139,084	124,262	−11	(14,822)
Nevada	104,575	105,029	0	454
New Hampshire	85,554	76,434	−11	(9,120)
New Jersey	478,929	434,884	−9	(44,045)
New Mexico	169,082	149,360	−12	(19,722)
New York	1,044,890	933,790	−11	(111,100)
North Carolina	399,218	446,693	12	47,475
North Dakota	102,064	91,086	−11	(10,978)
Ohio	594,508	575,591	−3	(18,917)
Oklahoma	227,795	258,883	14	31,088
Oregon	202,782	204,437	1	1,655
Pennsylvania	660,889	671,171	2	10,282
Rhode Island	85,850	71,582	−17	(14,268)
South Carolina	211,129	263,985	25	52,856
South Dakota	111,380	99,417	−11	(11,963)
Tennessee	325,654	371,667	14	46,013
Texas	984,970	1,167,763	19	182,793
Utah	125,684	121,489	−3	(4,195)
Vermont	78,511	70,155	−11	(8,356)
Virginia	341,432	393,580	15	52,148
Washington	324,150	291,059	−10	(33,091)
West Virginia	158,810	141,509	−11	(17,301)
Wisconsin	291,760	296,896	2	5,136
Wyoming	111,281	99,388	−11	(11,893)
Puerto Rico	76,122	73,648	−3	(2,474)
Subtotal	15,956,846	16,432,881		
Administration	529,843	521,119		
Federal lands	416,000	426,000		
Reserve	647,311	620,000		
Total	17,550,000	18,000,000		

Estimated apportionments provided by HPP–21.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

THE 1997 OMNIBUS APPROPRIATIONS BILL

Mr. KERREY. Mr. President, although I am thoroughly disappointed in the process we endured to reach agreement on the fiscal year 1997 omnibus appropriations bill, H.R. 4278—I am pleased with the content of the bill. It is a huge package, so I am sure we will not know its full impact until weeks—possibly months—into this fiscal year. It would be difficult to put a package like this together without there being some disappointment in the final product. However, as a member of the Appropriations Committee, I worked hard to see that many programs that are important to Nebraskans and this Nation were addressed.

Let me highlight some of these programs.

COMMERCE-JUSTICE-STATE

I have long supported the National Telecommunication Administration's Telecommunications and Information Infrastructure Assistance Program. Last year I led the effort on the floor to include $21.5 million for TIIAP and I'm pleased to see that amount in fiscal year 1997 funding. This is especially important when considering the Senate Commerce-Justice-State Subcommittee began the process with zero funding for this important program. People sometimes ask why we need this program when there is so much going on in the telecommunications industry. We need it to help our rural areas share fully in the promise of networking and telecommunications. We need it to help our nonprofit sector participate. We need it to encourage the imaginative and sometime high-risk demonstrations of what can be done with the technology.

We have included $174.5 million for the Juvenile Justice and Delinquency Prevention Program and $560 million for the Byrne Memorial Grant Program which is important and insightful. If we can stop juveniles from turning to crime, I believe we have a chance at decreasing the need for courthouses, incarceration, and prison construction. The potential benefit is well worth the investment.

INTERIOR

I am pleased to see that the bill includes funding for one of my top priorities, Back to the River. This project is a collaborative effort to create a recreational, ecological, and cultural corridor along the Missouri River in the Omaha/Council Bluffs region. The project encompasses 64 river miles and has been ongoing for the last 2 years. It has the support of several public and private agencies. The Back to the River project will benefit Nebraska and the Nation by providing habitat restoration, floodplain management, recreation and river access, economic benefits, cultural resources and environmental education. The National Park Service and Fish and Wildlife Service have both been involved in this project.