United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, FEBRUARY 12, 2004 No. 18

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 24, 2004, at 2 p.m.

Senate

THURSDAY, FEBRUARY 12, 2004

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The guest Chaplain, Father Norman H. Elliott, All Saints Episcopal Church, Anchorage, AK, offered the following prayer:

Almighty God, under whom our many States are one Nation, we honor on this day, Abraham Lincoln. We remember his words spoken on the battlefield of Gettysburg: ''Four score and seven years ago, our fathers brought forth upon this continent a new nation conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation—or any nation, so conceived and so dedicated—can long endure.''

Today we are engaged in a war on terrorism, testing once again whether this Nation can endure. In these perilous times it is well that we remember the words of Lincoln as he left Springfield to become the President: ''I now leave . . . with a task before me greater than that which rested upon Washington. Without the assistance of the Divine Being who ever attended him, I cannot succeed. With that assistance I cannot fail.'' Grant then, O God, Your assistance to the men and women called to the high office of Senator and the responsibilities entrusted to them in these grave hours. Give them the faith, wisdom, and courage they need to carry on and not fail. And bring soon, we pray, the day when these walls will resound, as they have in times past, with the shout of ''Victory'' and our Nation will again know peace and security and will endure.

We ask this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 2285, in the nature of a substitute.

Clinton/Bingaman amendment No. 2311 (to language proposed to be stricken by amendment No. 2285), to express the sense of the Senate concerning the outsourcing of American jobs.

Bond amendment No. 2327 (to amendment No. 2311), to limit liability with respect to the owners of rented or leased motor vehicles.

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will complete the final 30 minutes of debate prior to the vote on invoking cloture on the substitute amendment to S. 1072, the highway bill. That vote will occur at 9 a.m. today. If cloture is invoked, it is my hope that we will be able to dispose of any germane amendments in a timely manner, thereby clearing the way to wrap up consideration of the substitute. Once the substitute is disposed of, we still may require a cloture vote on the bill itself. It is my hope that we will be able to speed the process along and be in a position to complete action on the bill today. As was announced last night, it is my intention to remain in session until we pass this bill.

Senators should expect rollcall votes throughout the day. In addition, I remind all Senators that all second-degree amendments must be filed at the desk no later than 9 a.m.

The PRESIDENT pro tempore. The Democratic leader is recognized.

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

The assistant 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 PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, the managers will yield to the Senator from California 5 minutes.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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The PRESIDENT pro tempore. Under the previous order, the time until 9 a.m. shall be equally divided between the chairman and ranking members of the Environment and Public Works Committee or their designees. Does the Senator yield a portion of his time to the Senator from California?

Mr. JEFFORDS. Yes.

The PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I start off by thanking the chairman of the Environment and Public Works Committee, Senator INHOFE, for telling me yesterday that he would be really pleased for me to speak for 5 minutes. This Environment and Public Works Committee is quite a unique committee, extremely bipartisan. Working with Senator JEFFORDS, Senator INHOFE, also with Senator REID, Senator BOND, and also with the help of the majority leader and the Democratic leader, this is a very important moment for this Senate.

Why do I say that? Times are very tough in this Nation and we have a Nation divided on so many issues. But one thing we are not divided about is the fact that we have a very serious job issue in our country. Now, each party has reasons for why they think this is happening and I will not go into that; I don't have enough time to do it now.

This morning, I learned on the news that, surprisingly, jobless claims are up this week again, and retail sales are down. We have a problem in this country—outsourcing of jobs. That is a big problem in this country, although it seems that the administration doesn't think so. I think most Americans—a very strong number of Americans—believe that taking jobs overseas is a serious problem. Without those jobs, families struggle. With the fear of losing their jobs, our families are anxious.

This is a bill that will build the highway and transit systems we need. This is a bill that will put people to work with good jobs, excellent jobs, and good benefits that will bring a benefit to the country. No country that wants to be the leader of the world—which we already are—can survive if it doesn't keep it up with its infrastructure needs. This committee understands that. This Public Works Committee has overcome the things that divide us.

Is the formula perfect? No, it is not.

For my State, we are definitely doing better, and I am very pleased about that. But I can tell you this: We need the million jobs this bill will bring. We need the 100,000 jobs that will come to my State. We need these important road projects. We need to move goods in this society. Goods movement is one of the key issues we have addressed in this bill.

In States such as California, where goods are moving off ports and into the interior of the country, we need attention to these problems. This bill pays attention to these problems.

At my behest, there is language in the bill about using funds to reduce congestion. Congestion is a real problem. This chart shows how many hours are wasted every year with people sitting in their cars in traffic.

In Los Angeles—we are talking about a year's time—136 hours. That is what the average person is wasting sitting in their car in Los Angeles; San Francisco-Oakland, 92 hours a year; San Jose, 74; the inland empire, an area that is receiving all the goods from a very robust port of Los Angeles, 64 hours; San Diego, 51 hours.

Whether you are looking at jobs, whether you are looking at goods movement——

The PRESIDENT pro tempore. The Senator has used 5 minutes.

Mrs. BOXER. Mr. President, I ask if I may have 1 minute to complete my thoughts.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from California, Mrs. BOXER, have an additional 2 minutes.

Mrs. BOXER. That would be wonderful.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for an additional 2 minutes.

Mrs. BOXER. Mr. President, since I have 2 minutes, I wish to say to my chairman—he may not have heard me—how proud I am of this committee. His work, along with Senator REID, Senator JEFFORDS, and the two leaders, has brought us to this point. I personally say for my State and the people in my State who are stuck sitting in traffic 136 hours a year in Los Angeles, thank you.

The Senator's State is a small State. We are a State with 35 million people, growing to 50 million people. This bill is our lifeblood. I am so pleased we have a chance today to vote up or down on a clean bill.

Are there problems with the fact the Commerce Committee did not produce a piece about rail? I think it is a problem. I sit on the Commerce Committee, and I wish we had done it, and I hope, as this bill moves forward, we can address that issue. But we have a bill that is going to meet the problems of this century, that is going to move us forward.

This is the greatest country in the world. We have to have an infrastructure that keeps up. I thank very much the leaders of the committee on which I am proud to serve. I thank the Chair. I hope we get a resounding vote so we can move to this bill and do something to create jobs and create an infrastructure that we need at this time.

Mr. FEINGOLD. Mr. President, today the Senate will vote on cloture on the Inhofe substitute amendment to S. 1072, the SAFETEA bill. As we all know, the country has important transportation needs that Congress must address, and I commend the managers of the bill for working hard to address highway construction, mass transit, highway safety, and other important programs.

This is a very important bill, and I am not taking my vote lightly. However, I am concerned that this bill does not do enough to help meet the transportation needs of my constituents in Wisconsin. And for that, and other reasons, I will be voting against cloture today.

Before I discuss some of my main concerns with the bill, I want to note that the substitute amendment before us was laid down on Tuesday. Furthermore, I understand that the text was not immediately available for review. I know how hard the managers have been working, and I know how important this bill is. But surely it is reasonable to give Senators more than 24 or even 48 hours to review a huge and complicated piece of legislation like this before filing cloture.

I appreciate the months of hard work that my colleagues have spent on this bill. However, I have serious concerns about the funding formula that this bill would establish. Under that formula, certain States would continue to receive significantly more money than they pay into the highway trust fund, while other States continue to be denied their fair share.

Wisconsin is one of the States that will get the short end of the stick. While increasing the total dollars coming to Wisconsin, this bill would ensure that citizens of Wisconsin no longer get back at least one dollar for every dollar that they pay into the highway trust fund.

I worked hard with the rest of the Wisconsin delegation during the last authorization to make sure that our State finally got a fair rate of return. Let me tell my colleagues, that change was long overdue. According to numbers from the Department of Transportation, from 1956 through 2000, Wisconsin got back just 90 cents on every dollar it paid into the trust fund.

In TEA–21, Wisconsin at last received a fair return. Unfortunately, this bill will take us back to where we were for the previous four decades—in the hole. Under the new formula, Wisconsin will once again be a donor State, with average rate of return of 95 percent. I have spoken to other members of our State's delegation, and I think I can safely say we agree that Wisconsin deserves better.

I am also concerned about some of the environmental provisions in the bill, particularly those with a potential impact on the Nation's air quality. The substitute modifies current transportation regulations dealing with long-range transportation planning, which could result in a failure to adequately consider the long-term effects of new projects on air quality.

The substitute also potentially undermines the National Environmental Policy Act—NEPA—and section 4(f), which guarantee meaningful public participation in review of the impacts of proposed highway projects.

And I am concerned that the substitute would allow the Federal Department of Transportation to ignore

the often valuable input of States, tribes, and local governments, who, in my State of Wisconsin, have spent valuable public resources and time to develop transportation and land use plans.

All of which leads me to believe that now is not the time to cut off debate on the substitute. We need plenty of time to analyze and understand the full ramifications of this bill. And, I think we need time to try to improve the bill. I will continue to work hard with the senior Senator from Wisconsin and the rest of the State's delegation to do everything that we can to provide Wisconsin with a transportation bill that is fair for our constituents.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, the vote we are about to take is not just a cloture vote on a transportation bill. The vote to move forward on this legislation is about safety, it is about worker productivity, it is about family, it is about fairness, and it is about fulfilling our responsibility to the American public. But most importantly, it is about jobs—jobs, jobs, jobs.

These jobs are not in China or Singapore or Chile. These jobs are in Portland, Springfield, Los Angeles, Kansas City, and Burlington. This legislation is balanced, it is fair, and it is paid for. We owe it to our constituents to finish this bill today. Tomorrow let's send it to the House and then to the President.

I urge my colleagues to support moving forward and completing this vital legislation. Vote for cloture, vote for jobs.

I yield the floor.

The PRESIDENT pro tempore. Who seeks time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have had 2 weeks of a lot of discussion. We haven't had a chance to vote on amendments mostly because there are some Members who have been objecting to moving forward to consideration of amendments. I think that is regrettable.

We are now to the point where we are going to have a vote on cloture. It is absolutely necessary. The alternative to this would be an extension. Probably 20, 30 different times Members have come in and said we should have an extension. If we have an extension, we will not have streamlining provisions, and we cannot move on with IPAM. We cannot immediately start constructing these roads and bridges.

It doesn't make any sense to stall and stall and wait around and do nothing. We want to get this bill on the road. That is what we are going to do, and we are going to do it today.

I regret a lot of people who wanted to have amendments considered during the last 2 weeks have not been able to do so. I regret that some people just blocked them from having that opportunity.

There have been a lot of objections that have come up on this bill. Members keep talking about the 40-percent increase—40-percent increase. That is 40 percent over 6 years. If you said 6.2 percent for the infrastructure of America that is lagging so far behind, no one could complain about that. They are making it appear this is 40 percent in one year. It is not.

They are talking about the amount of money in this bill. We have to understand we have two things we are looking at. One is capital outlay and one is obligation limitation. This is a perfectly reasonable bill. We have done something that has not been done before. It was not done in 1991, and it was not done in 1998. We have stayed with the formula. The alternative is to stay with the formula, like we failed in TEA–21 and failed in ISTEA, and we will have to put in a minimum guarantee where all you do is pacify some 60 voters by giving them whatever they want in the percentage of the overall, and as to the rest, who cares; we have our 60 votes and we run.

That is not the way we did it this time. For that we have been punished. We have had people assail this bill when this is the first time it has been done right.

The formulas took into consideration many factors. I know others want to be heard. I don't want to use a lot of time. At an appropriate time, I am going to go over what went into these formulas. Fast-growing States, slow-growing States, donor States, donee States—all these factors were considered, and then we came up with a formula.

Sure, I heard the two Senators from Arizona were complaining they didn't think their State had enough and, at the same time, they were complaining we were spending too much on the bill. When we look at the formula, their State still gets $40 million more than my State of Oklahoma over 6 years. Any State can complain about how the formula comes out. The bottom line is every State gets a minimum of a 10-percent increase. The average is 35.6 percent.

It is a good bill. We are going to get cloture. We are going to move ahead. If there are germane amendments everyone agrees should be considered, we will consider them. I look forward to doing that. Cloture is important. We are going to get cloture and bring this step to a halt.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered. The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to speak for a couple of minutes to say I hope we can invoke cloture this morning. I think this debate has been less than many of us had hoped. We hoped we could see more amendments. We hoped we could have a good debate about many of the issues.

This is a good bill. It will create the jobs that many of us have talked about on this floor for the last couple of weeks. It will create perhaps 1 million, 2 million jobs. We have an infrastructure deficit that is growing, and this bill, more than any other bill we will take up this year, is going to address that deficit.

For a lot of reasons, this represents the commitment and investment to infrastructure and our economic growth that I think warrants support for the bill.

I am very concerned about where we go from here. The administration has expressed opposition to this legislation. The House has indicated they do not support the approaches that have been reflected in this bill, the very delicate balance we have achieved in public transit and a commitment to highways. I am disappointed we were not able to deal with the railroad question, as Senator HOLLINGS and others noted yesterday. The business of completing our work is far from finished.

I will put my colleagues on notice that we will not be prepared to move forward to conference until we have a better understanding of the degree to which there is some meeting of the minds on these issues, on the commitment and investment to highways themselves, on a commitment to railroads, on a commitment to public transit, on a commitment to a budget that will accommodate the infrastructure deficit we face. We will take conferences one step at a time, and certainly in this case that is all the more imperative.

I commend the managers of the bill for the extraordinary bipartisanship that was reflected in coming to this point. Senator INHOFE, Senator JEFFORDS, Senator BOND, Senator REID, and others deserve great credit for working as closely together as they have. If we can do that through this whole process, we will have a good result at the end. We will have a result that will generate strong bipartisan support.

I think we will win cloture today in large measure because we have been able to demonstrate the bipartisanship that has brought us to this point, even with the misgivings I have just articulated. I look forward to working with our colleagues in that spirit and fashion and I hope that colleagues on both sides of the aisle will recognize the value of this work product and support cloture this morning.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the minority leader for his very solid views. Once again, I thank my colleagues on the other side of the aisle, Senator JEFFORDS and Senator REID, for working in a bipartisan way to produce a bill that is extremely important for the long-term economic growth and well-being of our country.

Everybody agrees we need to put much more money into roads, highways, bridges, and mass transit. This bill does that. This bill also would create significant numbers of jobs right away if we get it passed. If this bill passes, 90,000 jobs will be created this year. For every billion dollars spent on highways, it creates 47,500 jobs.

There are some on our side of the aisle and some others who have said, well, this bill is too much. The President has recommended $256 billion in obligation limits. Obligation limits are what is spent under the bill. The contract authority is authorizing language that allows spending up to the higher amount. That is subject to the normal process in appropriations and subject to limits imposed by the budget on transportation.

This bill is at $290 billion. The President was at $256 billion. I believe clearly they have indicated there has to be negotiations. There have to be negotiations with the House. Whatever bill we pass is going to be changed because we have to negotiate with the House. Obviously we want to hear the concerns of the White House so we can develop a bill that will be signed by them. We did not go through this drill for over a year not to get something through. Make no mistake about it, this is the last and only chance to get started on the kind of major construction we need on highways, roads, and bridges this year, and to do what is needed for mass transit this year. If we do not invoke cloture and pass this bill this week, there will be no highway bill. We will be stuck at the old level at best, even if we get an extension, and that extension does not do us any good. That extension does not increase the building of roads and does not increase the assistance for mass transit that is so important.

There will be amendments. We look forward to having healthy debates. I am sure after people have rested up for almost 2 weeks they will have lots of good ideas. We look forward to having a busy day, but we cannot work on this bill unless we invoke cloture. Whatever the Senate decides, we will take that to conference. We need to pass this bill. I believe this is going to be the most important economic development bill and job-creating bill in this session of Congress.

Furthermore, it is, as its title says, a major contribution to safety on our highways. The administration has named it SAFETEA and we have included almost all of their safety proposals in this bill. Having traveled the roads of Missouri and traveled the two-lane highways that are marked with white crosses where somebody's family member, somebody's friend, somebody's spouse has died, because there is too much traffic on a two-lane road and somebody has taken a chance, fatalities result. They passed where they should not have. They had gotten out of their lane. That is why we have four-lane highways. We do not have them in Missouri.

There are many provisions that are going to be important for this Nation. I know the distinguished President pro tempore has a proposal to help connect communities in Alaska that have not been connected by roads. I believe that is a high-priority item. There are many other priority items that must be dealt with in this bill.

I urge my colleagues on both sides of the aisle, let's invoke cloture; let's get about the business of voting on amendments. We are ready and open for business, but we will have to negotiate with the House and the White House before we bring back a final version, which I hope can be passed very shortly, perhaps by the end of the month, to get highway construction going, improve safety, and improve the job situation in the United States.

I yield the floor.

The PRESIDENT pro tempore. There is one minute and 55 seconds on the majority side and one minute and 42 seconds on the minority side.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant 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 PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I know we have a couple of minutes remaining. This morning we have covered some of the arguments that have been made over the last 2 weeks. There are some aspects that have not been talked about. I do think we should compliment the Finance Committee. They have taken a lot of heat. They have taken a lot of criticism—unjustly, I might add. We made a request of them when we came up with this bill, at the figures we had in both capital outlay and obligation limitation. We asked Senator BAUCUS and Senator GRASSLEY if they could come up with the amount of money to do this so it will comply with what the President outlined when he said he did not want a tax increase, he did not want to go into deficit or have it come out of the general fund, and they have done that. They have been criticized on this floor.

I do know this, that the highway trust fund has been raided for years, and we are now in a position where we can correct and rectify that problem. I think this is one of the good things that has come out of this bill, and I applaud the Finance Committee for the work they have done.

The PRESIDENT pro tempore. The Senator's time has expired. The minority has one minute remaining.

Mr. JEFFORDS. Mr. President, I yield back our time, through the Chair.

CLOTURE MOTION

The PRESIDENT pro tempore. All time is yielded back. Under the previous order, the hour of 9 a.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture on amendment No. 2285.

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant 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. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James M. Inhofe, Christopher S. Bond, Gordon Smith, Lamar Alexander, Richard G. Lugar, Pat Roberts, Robert F. Bennett, Mike Crapo, Jim Bunning, Ted Stevens, Conrad Burns, Chuck Hagel, Charles Grassley, Trent Lott, Saxby Chambliss.

The PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 2285 to S. 1072, a bill to authorize funds for Federal aid highways, highway safety programs, and transit programs, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

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

The result was announced—yeas 86, nays 11, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—86

Akaka	Chafee	Enzi
Alexander	Chambliss	Feinstein
Allard	Clinton	Fitzgerald
Allen	Cochran	Frist
Baucus	Coleman	Graham (SC)
Bayh	Collins	Grassley
Bennett	Conrad	Hagel
Biden	Cornyn	Harkin
Bingaman	Corzine	Hatch
Bond	Craig	Inhofe
Boxer	Crapo	Inouye
Breaux	Daschle	Jeffords
Brownback	Dayton	Johnson
Bunning	DeWine	Kennedy
Burns	Dodd	Landrieu
Byrd	Dole	Lautenberg
Campbell	Domenici	Leahy
Cantwell	Dorgan	Levin
Carper	Durbin	Lieberman

Lincoln	Nickles	Smith
Lott	Pryor	Snowe
Lugar	Reed	Stabenow
McConnell	Reid	Stevens
Mikulski	Roberts	Talent
Miller	Rockefeller	Thomas
Murkowski	Sarbanes	Voinovich
Murray	Schumer	Warner
Nelson (FL)	Sessions	Wyden
Nelson (NE)	Shelby	

NAYS—11

Ensign	Hutchison	Santorum
Feingold	Kohl	Specter
Gregg	Kyl	Sununu
Hollings	McCain	

NOT VOTING—3

Edwards	Graham of Florida	Kerry

The PRESIDING OFFICER. On this vote the ayes are 86, the nays are 11. 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. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

AMENDMENT NO. 2311

Mr. INHOFE. Mr. President, I raise a point of order that amendment No. 2311 is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Texas.

AMENDMENT NO. 2388 TO AMENDMENT NO. 2285

Mrs. HUTCHISON. Mr. President, I rise to offer amendment No. 2388 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. KYL, Mr. LEVIN, Mr. GRAHAM of Florida, Mr. MCCAIN, Ms. STABENOW, and Mrs. FEINSTEIN, proposes an amendment numbered 2388 to amendment No. 2285.

The amendment is as follows:

In section 139 of title 23, United States Code, as added by section 1201 of the amendment—

(1) strike ''SET-ASIDE.—'' in subsection (b)(2) and insert ''FUNDING.—'';

(2) strike ''of the amounts made available'' in subsection (b)(2) and insert ''the amounts made available'';

(3) strike ''$439,000,000'' in subsection (b)(2);

(4) strike ''allocated'' in subsection (c)(1)(A) and insert ''apportioned'';

(5) strike ''subsection (d).'' in subsection (c)(1)(B) and insert ''subsection (e).'';

(6) redesignate subsections (d) and (e) as subsections (e) and (f), respectively, and insert the following after subsection (c):

''(d) DISTRIBUTION OF FUNDS.—

''(1) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM DISTRIBUTION.—Notwithstanding section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, and in lieu of the amounts authorized by that section, there are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the infrastructure performance and maintenance program under this section—

''(A) $2,000,000,000 for each of fiscal years 2004 and 2005; and

''(B) $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

''(2) EQUITY DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall reserve a sufficient amount of the funding available to carry out this section to provide a final equity adjustment, after making the apportionment under section 105 of this title, for each State to increase the percentage return for all highway apportionments, as compared to the tax payments attributable to the States paid into the Highway Trust Fund (other than the Mass Transit Account), to—

''(A) for fiscal year 2005, 91 percent;

''(B) for fiscal year 2006, 92 percent;

''(C) for fiscal year 2007, 93 percent;

''(D) for fiscal year 2008, 94 percent; and

''(e) for fiscal year 2009, 95 percent.

''(3)(E) REMAINDER DISTRIBUTION.—On October 1 of each fiscal year, the Secretary shall apportion the funds available for allocation under this section among the several States, after the application of paragraph (1), according to the ratio that—

''(1) the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account), bears to

''(2) 100 percent of tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account).''; and

(7) strike subsection (e), as redesignated, and insert the following:

''(e) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—On the date that is 180 days after the date of apportionment, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(1) withdraw—

''(A) any funds allocated to a State under this section that remain unobligated; and

''(B) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

''(2) reallocate the funds and redistribute the obligation authority to those States that—

''(A) have fully obligated all amounts allocated under this section for the fiscal year; and

''(B) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

''(f) APPLICATION WITH SECTION 105.—Notwithstanding section 105(a)(2)(H) of this title, section 105(a) shall not apply to funds apportioned under this section.''.

AMENDMENT NO. 2591 TO AMENDMENT NO. 2388

Mr. INHOFE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFF] proposes an amendment numbered 2591 to amendment No. 2388.

The amendment is as follows:

At the end, add the following:

''SEC. . This section shall take effect one day after enactment of this Act.''

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to talk about the importance of amendment No. 2388 without the second degree. It is a very important time for us to start treating our States more equitably and this bill—I am sorry to say—is a step backward.

TEA–21 embraced as its simple goal the elimination of redistribution of highway funds based on political considerations. For example, under the 1998 bill, Texas' rate of return rose from 77 percent to 90 percent in the formula programs. This means that for every dollar a Texas gasoline purchaser sent to Washington, we got 90 cents back on the dollar. So we contributed 10 percent of our revenue to other States. All of the donor States in TEA–21 were raised to the 90.5 percent level. There has never been a time when we have treated donor States differently from one another until this year.

The bill before us creates a new superdonor status. Growing States and big States, such as California, Texas, Florida, and some smaller States, such as Colorado and Arizona that are also rapidly growing, are locked into superdonor status, still sending nearly 10 percent of our highway funds that we need even more because we are fast growing.

My State is facing budget deficits and is trying to make those up so we can spend the money we need to fix our highways. Our States are rapidly growing, and yet we are continuing to be asked to send 10 percent of our highway funds to other States. We are the States that need the most new infrastructure, because we are experiencing the greatest population growth.

My amendment would correct a small part of this glaring inequity. It would take $9 billion from the nebulous IPAM account and redirect it to the States that need it the most. Basically what you would do is take the IPAM account, which contains projects chosen on the basis of favoritism, and put that into the formula so that everyone is on a more level playing field.

It is not a level playing field. Neither my State nor any other donor State will come out of donor status under this amendment. But it will provide gradual relief for these States to begin to work up to that 95 cent rate of return over the course of the bill.

Under my amendment, all States would receive a minimum of 91 cents on the dollar in fiscal year 2005, and that minimum would rise 1 percent each year until 2009. My amendment would guarantee more money for every State. It would not reduce any State's formula percentage. It would not reduce any State's formula income by a penny. It simply distributes unallocated funds already in the bill, not increasing the bill, not lowering any State's income level. But instead distributing that money by projects, it will create a much fairer formula-based system.

For 50 years, the Federal aid highway program and the States have maintained one of the world's finest highway networks. Highways are the first choice to transport most of the goods

that drive our economy. The majority of that system was designed in the 1950s to help a rapidly growing Nation to connect to new population centers, especially in the West.

Today there are other critical needs to be addressed. We are not in the 1950s. We are in another century, and we have new problems. One of those is the trade that has been created by NAFTA. That is not a problem, except that it has increased the highway needs in the States that have the corridors from Mexico to Canada. NAFTA has provided huge national benefits. The resulting traffic is crippling to our Nation's infrastructure. Early on smaller States and Western States needed extra help from larger and more established States such as Texas. Today the reverse is true.

The funding inequity is increasing at a time when States are growing more equal in their abilities to contribute and our levels of existing infrastructure among the States are much more similar.

In the name of fairness, why don't we go to a strict formula system that will increase everyone's part of the pie on a more equitable basis than when 100 Senators from 50 States go in a room and start trying to divide the funding themselves, knowing that some States are going to be left out, and some States are not going to be fairly treated? Why not make it fair from the beginning?

My home State of Texas has borne the greatest burden over the life of the Federal aid highway program. Since 1956, Texas has contributed over $5 billion more to the program than we have received back in funds to build and repair our own highways. Each and every year Texas has sent more highway funding to Washington than it has received to cover projects in our State.

Texas has more than 300,000 highway miles, the most of any State in our Nation. Our highways make up almost 8 percent of the total national mileage and 7 percent of interstates. As a result, the over 20 million people of Texas necessarily buy more gasoline and contribute more to the highway trust fund financed by the gasoline tax.

In the past 12 years, Texas and other donor States have made good progress. In 1998, Texas received only a 77-cent return on every dollar sent to Washington, a loss of $1.7 billion. Current law guarantees us 90.5 cents on the dollar, but this is still $2.6 billion less than the contribution we make. This is a significant loss to a State that needs the infrastructure improvement to take on the added traffic caused by NAFTA.

The minimum guarantee applies only to formula funding programs and does not restrict funds distributed through earmarks or by the administration in the underlying bill. Though we had hoped for more equality this year, and we hoped for the minimum of 95 cents return on every dollar we send to Washington, it has not happened.

Of course, I hope the chairman and the committee understand I could not possibly support a highway funding formula so contrary to the needs of my home State. We are the biggest loser in this bill, to be sure.

I am also concerned about the precedent it sets to create a superdonor status for the largest, fastest growing States in our country. This is not a good precedent for a United States that is supposed to be one United States.

Our States are much more equal now in ability to contribute and pay for their own services. This is no longer a situation where we have vast amounts of western land that have no roads and no infrastructure. So I hope we will not set a precedent of a superdonor State category where we take the largest, fastest growing States and treat them even worse than they have been treated before and for so long.

The bill before us distributes $227 billion in highway funds using a formula that will hold six States—Texas, California, Arizona, Colorado, Florida, and Maryland—at this 90.5 percent rate of return for 5 years. Only in the sixth and final year does the level increase to 95 cents. If Texas were to receive 95 cents for all 6 years, the formula would provide Texas hundreds of millions of additional dollars over this period. But the amendment I have pending today does not even try to make up this discrepancy. What we are trying to do is increase just the rate of return 1 percent per year, starting at 91 cents, and reaching 95 cents in the last year. It is, I think, a reasonable compromise. It is fair to every State. It increases every State's take in this bill, and it will set a precedent of fairer distribution, even though there will still be many donee States that will get more than they send to Washington.

The superdonor States have one aspect in common: They are the fastest growing States in America. But the formula in the bill offers the least relief to the States whose needs are most pronounced: the States and cities with populations that are developing most rapidly. Three of these six are also on the Southwest border, so we have the added burden of infrastructure needs brought on by NAFTA.

In 2002, Texas contributed 9.11 percent of the total dollars in the trust fund, up from 8.27 percent 4 years earlier. Buying more gas allows us to contribute more funds. That is why when the distinguished chairman of the committee says, ''But you are getting more money than the spending increases in this bill,'' I have to say, yes, but that is because we are contributing more. We are still getting less in return than the other donor States that are going to be raised to a higher level at an earlier time.

So, yes, we are getting more than the 36 percent increase in spending in the bill—I am told we are getting 42 percent—but what we are contributing is far more than the 42 percent growth we would be receiving. It is an enormous loss to Texas over the period of this bill; that amount could go a long way toward alleviating the huge traffic jams we are facing on our major NAFTA corridors.

Eighty percent of NAFTA traffic travels through my home State of Texas. And while the entire Nation benefits from that resulting commerce, Texas bears the brunt of maintenance and upkeep on our highways. In 2002, over 4 million trucks hauling 18 billion pounds of cargo entered from Mexico through 24 commercial border crossing facilities. Over 3 million of those trucks—or 68 percent—entered through Texas. In addition to commercial traffic, 90 million personal vehicles from Mexico also traveled through the southwest border States.

So Texas, with its increased infrastructure burden, is getting a lower percentage of what it sends to Washington than almost all of the other States. I hope we don't break precedent and create this new stepchild in donor States because I know if we see it go through today, we will see it again in every formula. So the inequity in formula funding for Texas, California, and Florida will be imprinted on every formula we have in our system. This is a terrible precedent for a country that calls itself the United States of America.

To its credit, the committee did, for the first time, create a border and corridor fund that reflects the added burden on the States on our northern border with Canada and southern border with Mexico. I commend the chairman and thank him for adding those funds. However, I have to say the $1 billion for each of those funds, when Texas gets its portion, will still not bring us anywhere close to a fair share or match the amount we are losing by not being treated like other donor States. The superdonor category just sets a terrible precedent.

I would love to take the chairman of the committee and the ranking member to Interstate 35. Interstate 35 goes from the border of Mexico up through Austin, San Antonio, and Dallas. I had the unfortunate experience of driving from Austin to Dallas one evening, and it was a parking lot. It took us longer to drive from Austin to Dallas—almost 6 hours—than it does to fly from Washington, DC, to California. It is ridiculous. It is a parking lot because of the added traffic from Mexico that comes through this very important NAFTA corridor.

I know small States have more voting power in the Senate. I also understand small States have traditionally had a larger piece of the funding pie than larger States. However, I have to say I think the concept of donor/donee States should go by the wayside, in a gradual manner, because States are much more equal in their capacity to pay than ever before, and some of these larger States on the border have a real and huge infrastructure need due to NAFTA traffic.

I see my distinguished colleague from Arizona is in the Chamber. He wishes to speak on the bill and on my amendment as well. I am going to yield the floor, but first it is my great hope that the Senate will not take the unprecedented move of creating superdonor States that are in fact the stepchildren of America. Creating such an inequity says, ''because you are bigger, you should pay more,'' without considering you are sending more to Washington, you are in a crunch from the NAFTA traffic that is coming through your State, you have extra needs, you are a large, growing State, and you are being asked to take a 10 percent deficit on the funding you send to Washington despite all these reasons.''

It is time for the Senate to step up to the plate and say that we should not have stepchildren in formula funding. This is a new concept. In the past, the donor status has been shared by 20 to 25 States. So the cost of helping smaller States has been less of a burden. It is no longer fair to have such a disadvantage, and it is especially not right when many of these border States have greater infrastructure needs.

When we were trying to help the West, Texas stepped up to the plate, as other States did. Now it is time to help the States that have the fastest growing populations and the greatest infrastructure needs and not to put them in a stepchild status for our country that calls itself the United States of America.

I thank the Chair. I yield to the distinguished senior Senator from Arizona.

The PRESIDING OFFICER (Ms. MURKOWSKI). The senior Senator from Arizona.

Mr. MCCAIN. Madam President, I rise in strong support of the amendment being offered by the Senator from Texas. Her eloquent explanation of the amendment is very compelling.

Let me go back to the larger issue. It is fascinating to me that after receiving a Statement of Administration Policy where the President of the United States says:

> In total the Senate bill authorizes $318 billion in spending on highways, highway safety, and mass transit . . . a full $62 billion above the President's request for the same period. . . .
>
> Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

There was discussion amongst Republican Senators yesterday that we will fix it in conference. I have this quaint and unusual idea that when we are authorizing $256 billion or $318 billion, maybe the whole Senate ought to be involved rather than ''fixing it'' in conference.

I cannot speak for my friends on the other side of the aisle—they are the opposition party—but how does this party, the party of fiscal sanity, the party of smaller Government, the party of lower taxes, the party that insisted that any revenues to fund highways should come out of the trust fund, now support a bill—according to the last vote—overwhelmingly when the President of the United States and the American people are saying ''enough.'' Enough deficit spending, my friends. Enough. We are mortgaging our children's futures.

We just found out we have been sold a bill of goods on the Medicare prescription drug bill. It is $153 billion more than it was advertised to be a few months ago. When does it stop? When does the Republican Party find its soul? And this bill is an outrageous manifestation of how badly we have left our moorings. The amendment of the Senator from Texas at least restores some equity and fairness to this proposal.

I don't want to take too much more time except to mention one other point about the President's message:

> In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms. . . .

What is interesting about that aspect of the President's message is, as chairman of the Commerce Committee, none of the provisions that the administration objects to came out of the Commerce Committee, the authorizing committee. It was stuck in by the managers of the bill who have about as much knowledge, expertise, and jurisdiction over Amtrak as I do over nuclear science.

It is fascinating the overreach of this bill. They add provisions for Amtrak that have nothing to do with their area of jurisdiction, and what we reported out of the Commerce Committee was not objectionable to the administration.

Finally, this whole formula is just crazy. It is bizarre and byzantine. In TEA–21, there was an immediate increase in the highway formula to provide each State a minimum return of 85 percent to 90.5 percent. The very first year of the authorization period, all donor States received an immediate increase. It has still not been explained to me or any of my colleagues why we should wait 5 years before our share increases. Why should we wait 5 years? It is patently unfair, and it is patently abusive, particularly for those of us who represent States that are dramatically growing in population, which means that our needs, obviously, are greater.

I make no argument that my State deserves more, not in any way. I say the citizens of my State deserve $1 back for every dollar they sent in the form of taxes to the Federal Government.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have said on this floor on a number of occasions how the chairman and ranking member of the full committee and how the subcommittee chair and the ranking member of the subcommittee have worked together for more than a year to come up with a program that we thought would be the most fair for this country.

I say to my friend from Arizona for whom I have the deepest respect, and my friend from Texas for whom I also have great affection, in years past we did not go through the turmoil of coming up with 95 percent for all States. In years past we just decided how many votes it would take to get a bill passed. Some States did very poorly.

When I started in this process, some States got less than 80 cents' return on every dollar. It was moved up to 80, then 85, then 90.5. We have taken this gigantic first step from the last bill, which had no increase, for 95 cents for every State. It is a remarkably fair, good way of doing business.

I say to my two friends—I acknowledge it is imperfect—but we have had people who have run on computers numerous other programs to try to come up with something that would satisfy the needs of this country. How would the State of Alaska like it if for every dollar they paid into the highway trust fund they got $1 back? Alaska would suffer. The State of Alaska, which has such tremendous, important needs and has weather conditions that make road construction and road rehabilitation extremely expensive, could not survive with a return of $1 for every $1 they paid in.

My friends have indicated that would be the fair thing to do: For every dollar a State puts in, they get a dollar back. It doesn't work.

Yesterday, the distinguished senior Senator from Wyoming spoke. Wyoming is a perfect example of a State that cannot survive on dollar for dollar. What we have done is taken into consideration in this formula States, such as Wyoming and Alaska, and made sure they get more than $1. If some States get more than $1, some States are going to have to get less than $1. That is the way it is.

These big States—Texas, which has two votes in this body; Florida, which has two votes in this body; California, which has two votes in this body—we could have made it so that all States got 95 percent except States with populations of more than 15 million people. That would have been easy. We would have lost six votes. We could have still passed this bill.

We thought in fairness that those large States should also get 95 cents on the dollar, and we have done that. I think this is fair and reasonable, and I commend and applaud my colleagues on this committee.

We have a diverse group of Senators on this committee. We were able, working for more than 1 year, to come up with a formula that met the needs of this country to the best of our ability. To come in at this late date and say:

We have a better formula, we have worked on it the last week, and your work the past year does not mean much, and let's have the State of Alaska get a dollar back for what they pay in, the State of Wyoming get a dollar back for what they pay in, and everybody will be happy and we can go home—what we have done has been extremely fair.

I hope the Senate will respond as they did with this cloture vote. This is a resounding vote that we had this morning because the Senators recognized by a vote of 86 to 11 that what we have done is appropriate.

There are very few measures that come before this body that get a vote like this: 86 to 11. I think that represents fairness in this legislation.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. McCAIN. Will the Senator from Oklahoma yield to me for a comment, through him, that is a correction?

Mr. INHOFE. I will yield for 1 minute.

Mr. McCAIN. I say to the Senator from Oklahoma, I was incorrect in my comments concerning the Amtrak provisions. These were provisions that I opposed in the bill and I was incorrect when I stated that they were put in by the committee. My apologies to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I am going to withhold commenting on this amendment because I have made notes. I know it was not deliberately misrepresented, but the information is not accurate that we have heard on this amendment. It is very important that everyone know that, but I would rather have everyone vent everything they want to vent.

I wish to make one comment, first, though. The Senator from Nevada pointed out what we could have done with the six fastest growing States, the largest States. We could have lost six votes and never even looked back. That is exactly what happened 6 years ago. They went into a minimum guarantee program where they were counting votes. It was totally political and that is what we are getting away from. We have a good formula. I will defend that momentarily after we hear from everyone who is speaking in support of this flawed amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, this bill contains a very carefully crafted formula. This committee worked for close to a year to develop the formula contained in S. 1072. Balance, that is what this bill is about. The donor States such as Texas have gained 95 percent. That has been their goal for 6 years. Some would say for longer. Now they have achieved their goal and they are still complaining.

This formula is fair. The formula the Senator from Texas put forward would undermine the highway program in many States and therefore I oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I rise in support of the amendment of the Senator from Texas, and I will explain a couple of reasons for that. First, there has been a suggestion to the States that did not receive their full share of funding, the fast growing States—California, Texas, Florida, Arizona, Colorado primarily—that there just was not enough money to be able to bring those States up to the same level as the other States.

There is an acknowledgment that a lot of other States get to the 95-cent level long before these five States do. That is the primary reason for the deficiency. In fact, as my colleagues can see from this chart, Arizona is in the dark blue, and we have simply selected a State—and I do not mean to pick on my colleagues from this particular State because there are others that reveal the same kind of thing—this happens to be the State of Missouri. We can see that beginning in the very first year, Missouri is returned 95 cents for every dollar. That is guaranteed to the State of Missouri all the way across from the very beginning. Whereas in my home State of Arizona, we are stuck at the current level of 90.5 cents in 2004, 2005, 2006, and 2007. It goes up one- or two-tenths of a percent in 2008. It is not until the sixth year, if the funding is available, that Arizona, as well as these other donor States that I mentioned, would be brought up to the same level that all the other States have been at all this time.

In the case of Arizona, the lost revenue during this period of time is about $160 million. So that is money Arizona would have received had it been treated the same as Missouri in terms of the 95 cents received per dollar.

The Senator from Oklahoma is quite right that when there are States that need more than a dollar, then there are going to be States that do not get a dollar for every dollar in taxes that they send in. That is, of course, true. Under the Federal system I think there is an acknowledgment that it is not totally unfair that some States are going to send more in in gasoline taxes than other States. When it is way out of balance and the balance can be corrected, it ought to be corrected.

The argument has been that it would simply have cost too much money to bring States such as Arizona up to this level. I think it would only cost $2 billion. In any event, the Senator from Texas distributes $9 billion over this period of time and makes these States whole.

One place that the $9 billion could have come from, had they wanted to, is the set-aside program in the committee-reported bill for something called the Infrastructure Performance and Management Program. The IPAM is a—I do not want to call it a slush fund but it is a source of funding that is very unclear about where it is going to be spent.

Very little is known about the purpose of such a program, although there are some who believe that it basically will be used to distribute to folks who vote for the bill and whose vote is needed for the bill and that the money, therefore, needs to be held in reserve in order to ensure that in the end they will have enough money to do all that they want to do. Why not use that money to bring the States such as Arizona, California, Texas, and those other States up to this 95-cent level? It is more than enough to do that.

So when they say there is not enough money to do what we are complaining needs to be done, that is simply incorrect. There is enough money. It just needs to be moved from this one program, which does not seem to have a very clear or fair purpose, and move it over to fund this deficiency.

I have just used the State of Arizona with another State that is somewhat comparable, in terms of size and so on, to illustrate the point, but I think the same can be demonstrated for the other States involved. That is why I support the amendment of the Senator from Texas because what it would do is restore this funding level so that from the very beginning all of the States would be treated the same.

Now, that can be done at whatever level of spending one wants to do it. I believe that the level of spending should be much less than the level in the bill. The President believes it should be much less than is in the bill. The President believes that the total amount should be $256 billion. That ought to be enough. That is a 21-percent increase. That is what I think. Whatever the level of spending in the bill, it should be fair as between the States.

Not all States can be treated exactly the same. We understand that. At least it is fair to have a base level. I will give credit to the chairman of the committee and others; they wanted to get this base level at 95 cents and they got there for most of the States but they did not get there for five or six of the States. My State happens to be one of them. It is not fair to the citizens of Arizona.

As a result, I support the amendment because it would bring this level up to 95 cents for the entire period of time we are talking about, not only in the very last year. I urge my colleagues to support fairness and to support the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I, too, support the amendment of the senior Senator from Texas. As a member of the Environment and Public Works Committee, it has been my privilege to work with the Senator from Oklahoma as the chairman and the Senator from Vermont as the ranking member.

While admittedly I was not satisfied with the formula that came out of the

committee, based on my belief and the good faith of the chairman and others, we have been discussing ways that we could make this bill fairer to my State. The reason I support this amendment is because I believe it would do that—not just to the State of Texas but to also other what I would call superdonor States such as Florida, California, Arizona, Texas, Colorado, and Maryland.

As the Senator from Arizona says, it is a matter of fundamental fairness. Texas contributes a dollar to the gas tax and, all things considered, currently gets back about 88 cents on the dollar. In fact, I have had some of my legislators come to see me and say that our transportation needs are so great in Texas, given our size, given the 10-year lifespan of NAFTA, increased truck traffic on our highways, that we would just simply like to be able to keep that dollar in Texas, spend it on our own roads and not send it to Washington, DC, and have 10 or 12 cents taken off that dollar and the remainder simply sent back to us. I understand this is a national transportation system we are trying to take care of here. But I believe Texas, and I believe all of the superdonor States, the ones that contribute the lion's share for transportation needs in this country, are entitled to greater consideration than is currently reflected in the formula.

I think the senior Senator, Senator HUTCHISON, has come up with a good idea on how to do that, by using the $9.1 billion that is currently not distributed, which I understand remains in a discretionary spending account which can later be doled out. In other words, this will not add to the cost of this bill. It is money that is already figured into the bill but will simply be distributed according to the formula which she has already laid out, and which I think will not only result in greater fairness to my State but also to other States.

In the end, this does not just benefit the superdonor States—Florida, Maryland, Arizona, Texas, Colorado. Indeed, under this amendment every State would end up with more money, so I think every State would win.

If I can say a couple of more words, though, about the unusual posture of my State when it comes to the transportation dollars. As I mentioned earlier, NAFTA is a big consideration. Obviously, for the 10 years NAFTA has been in effect, it has resulted in tremendous increases in trade and benefits to Americans, to Mexicans, and to Canadians. It has raised the level of the water and all boats have risen. Because of the increased trade, more products from our country were bought in Mexico and Canada, and vice versa.

One of the things we are concerned about—we will have a hearing on it today in the Judiciary Committee—is our broken immigration system. One of the best ways I believe we can deal with the causes of illegal immigration is to increase trade with Mexico, for example, so the prosperity of that country will increase, jobs will increase, so people feel less and less need to immigrate illegally to this country to provide for their own families.

My point is this. Because of our proximity to the border, because we have a 1,200-mile border, because of the number of border crossings we have, Texas transportation infrastructure has simply borne a disproportionate amount of the burden, from which eventually all of the country benefits because of this increase in trade and truck traffic I mentioned a moment ago. As a matter of fairness to Arizona, which is in a similar situation, and Texas, our infrastructure has degenerated. It has been overused, in a sense. The public safety has suffered because we have simply been a donor State and have not been getting back enough of the gas tax dollar to help provide for our transportation needs in the State.

As I say, as a member of the Environment and Public Works Committee and the Transportation Subcommittee, I continue to hope—not just hope but also will work toward trying to make this bill acceptable and fair. It is certainly something I hope I will be able to support in the end. But I do think the proposal of the senior Senator, resulting as it will in a greater distribution of discretionary funds now into a formula that will then result in all States seeing an increase in transportation funds, is a step in the right direction.

Finally, I would like to allude for a moment to the comments of Senator KYL relative to the cost of this bill. I, too, believe in fiscal responsibility. I don't know ultimately how the Finance Committee will find a way to pay for this bill in its entirety. I think it is clear the President is not going to go for either a gas tax or for deficit spending. But should the overall amount of money be reduced from the current level to a lower level that would not require an increase in the gas tax or an increase in deficit spending, then my understanding is essentially the formulas we are looking at right now are out the window and we are going to have to look to ways to live within our means. But also, at the same time, we have to make sure this bill is fair to all States, particularly, I submit, the donor States that for a long time have paved roads and provided transit systems in other parts of the country from which the citizens of my State get no benefit. That is a matter of fundamental fairness we need to take care of. I believe this bill, with this amendment, would go a long way to doing just that.

I yield the floor.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. HUTCHISON. Madam President, I hope very much our colleagues will also listen to the arguments against the second-degree amendment and for this amendment. I know the committee tried very hard to balance what they considered to be every State's wishes and needs, but they have made a major precedent-setting change in the business of the Senate by creating a new stepchild category for superdonor States.

They picked States that have other huge problems such as high growth and falling median incomes. Targeting these high-growth, large States that have huge infrastructure problems and other problems that go with being on the border with another country is a major step in the wrong direction.

I hope the chairman will reconsider. That is not likely right now, but we have been trying to work with the chairman to see if there could be some accommodation that would acknowledge the huge infrastructure needs of these superdonor States created in this bill. I hope the Senate does not do this in the end. In our amendment every State comes out better. It will create a more level playing field. The existing bill is not a level playing field by any stretch of the imagination.

We are trying to gradually raise the percentage that every State will be able to get when we are sending more to Washington than we receive in return. Our amendment simply assures that every State will get at least 91 cents back from what it sends to Washington next year; the year after that, 92 cents; the year after that, 93 cents; and the year after that, 94 cents, until all the donor States reach 95. It would be a gradual increase to 95. If we went to 95 immediately, it would deliver even more to Texas. We are not trying to do that. We are trying to enact a modest increase aimed at a more equitable donor status.

We will never get $1 back for what we send to Washington in this bill or in this environment. My hope, of course, is that at some point we will, that at some point other States will step up to the plate and say: We can bear our fair share and we do not need other States to pay our costs. That is not the case today.

This amendment is a measured approach. Every State gets more under this amendment. Alabama will receive $125 million more under this amendment than they would under the committee bill before the Senate; Alaska, $13 million; Arizona, $216 million; Arkansas, $84 million; California, $1.30 billion; Colorado, $178 million; Connecticut, $66 million; Delaware, $16 million; the District of Columbia, $7 million.

All of these are increases in what these States will receive under my amendment over 6 years: Florida, $481 million; Georgia, $288 million; Hawaii, $15 million; Idaho, $35 million; Illinois,

$460 million more; Indiana, $291 million more; Iowa, $120 million more; Kansas, $68 million more; Kentucky, $142 million more; Louisiana, $12 million more; Maine, $40 million more; Maryland, $164 million more. Massachusetts, $119 million more; Michigan, $337 million more; Minnesota, $217 million more; Mississippi, $96 million more; Missouri, $188 million more; Montana, $28 million more; Nebraska, $48 million more; Nevada, $64 million more; New Hampshire, $29 million more; and New Jersey, $265 million more.

Every State comes out better. It is more equitable and it takes out a lot of the politics. Senators who end up voting against my amendment think they will do better by divvying up a $9 billion pot into specific projects in their States, but all 100 Senators cannot come out winners that way. I would rather see us respond in a statesmanlike way, divide all of the money by formula, and give every State a more equitable portion. Every State will be helped and that is how our country should operate, with greater equity and a more level playing field.

I ask for the yeas and nays.

The PRESIDING OFFICER. What is the Senator seeking the yeas and nays on at this time?

Mrs. HUTCHISON. I seek the yeas and nays on my amendment, and I seek the yeas and nays on the second-degree amendment, as well.

The PRESIDING OFFICER. It is only in order at this time to ask for the yeas and nays on the second-degree amendment.

Mr. REID. Madam President, I ask unanimous consent that the Senate vote on her amendment. I believe it takes unanimous consent. And I ask for the yeas and nays, not a vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator seeking consent to request the yeas and nays on the first-degree amendment?

Mr. REID. The amendment offered by the Senator from Texas.

The PRESIDING OFFICER. Is there objection to it being in order to request the yeas and nays on that amendment at this time?

Without objection, the Senator may request the yeas and nays.

Mrs. HUTCHISON. Let me make a parliamentary inquiry. I was trying to get the yeas and nays on the underlying amendment, but I need the parliamentary way to get there, which I think both Senator REID and Senator INHOFE are trying to help do.

The PRESIDING OFFICER. Consent has been granted for the Senators to seek the yeas and nays. Does the Senator seek the yeas and nays?

Mrs. HUTCHISON. Madam President, I seek consent to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered on the first-degree amendment.

The Senator from Oklahoma.

Mr. INHOFE. Madam President, I ask the Senator from Texas, do you have others who want to speak on behalf of your amendment?

Mrs. HUTCHISON. No.

Mr. INHOFE. All right.

First of all, I recognize we are not objecting to a rollcall vote like some have been doing all week long.

I make a couple of comments about this because it has been inadvertently misrepresented. Let me talk a little bit about the States of Texas and Arizona. We have talked about this before. Arizona has a 40 percent growth rate, dramatically greater than the average, which is 35.6 percent. Arizona is comparable to Oklahoma in many ways. But Arizona actually gets $40 million more than my State of Oklahoma.

If we average that amount over TEA–21, it averaged $463 million. It goes up to $800 million at the end of this time and it reaches the donor status that is desired. In the State of Texas, the average over the 6-year period of TEA–21 was $2.1 million. It is the third highest growth rate in the Nation. It is the second highest amount of money, second only to California. It is part of the formula.

Let me say something about the formula. Everyone is deriding this formula. We went through the same thing 6 years ago. They did not like the formula because everyone wants to get something more than perhaps they are entitled to under any formula. That is human nature. We made a commitment, working on this formula for over a year, that we would stay with the formula. I am talking about a bipartisan bill, Democrats and Republicans on our committee.

When we looked at the factors—this is not just some States: let's see the big States and the little States and things like that—we covered a number of things: total lane miles on the interstate; the VMT, that is the vehicle miles traveled; the annual contributions to the highway trust fund attributed to commercial vehicles; the diesel fuel used on highways; the relative share of total cost to repair and replace deficient highway bridges—like in my State of Oklahoma, we are dead last in the Nation—weighted nonattainment and maintenance areas; rate of return of donor States, donee States, fast-growing States.

We have ceilings. We have floors. It is a very complicated formula. You don't come along at the eleventh hour and say, oh, we are going to change one thing and everyone is going to be happy because if you did that, then you are going to affect some other States in a way that is certainly not fair.

Now, let's just look at some of the arguments that have been made. The NAFTA corridor: Because of the insistence of one of the members of our committee, the junior Senator from Texas, Mr. CORNYN, we added $280 million—this goes to Texas—under the Borders Program. The IPAM Program, that has been ridiculed on the floor, is a program that takes projects that are ready for construction. These projects can start jobs immediately. You don't have to sit around and wait. That is why I am personally offended when people come along and say, well, let's have another extension. If we have another extension, none of this stuff gets done, none of the streamlining elements in this bill happen, which means we will not be able to do nearly as many roads per dollar as we can under this bill. That is why we are going to have, at the end of this thing, a 6-year bill. It is going to go to conference, and we are going to end up with a good bill. But we are not going to operate any longer on the extensions.

Now, I know there is politics involved in these things. We have tried to keep this at a minimum. If you look at TEA–21, it was dominated by the Northeastern States. You had several very important people on the committees.

Certainly, Congressman SHUSTER, over there from Pennsylvania—I served for 8 years with him on that House committee—and, yes, they got up to a very large amount in TEA–21: $1.21 return for every $1 they paid in.

Senator Moynihan—we all loved Senator Moynihan—he had a lot of influence on the committee. New York, as a result of that influence, I believe, got $1.25 back for every $1 they paid in.

Certainly, our beloved John Chafee from Rhode Island did his best work. They ended up with $2.16 for every $1 they paid in.

Montana—Senator BAUCUS was actually the ranking member of both the committee and the Subcommittee on Transportation and Infrastructure—$2.18. Now, there are reasons for this, of course, because they do not have a lot of people paying up there. But you have to have roads. You have to get through Montana. You have to get through the Western States.

My State of Oklahoma—and I was on the committee, and I was on the conference committee—90.5 cents.

We have done a job here in really helping people out. But I want to point out the most important part of this program. Everyone who stood up and talked about this new formula has talked about how everyone is going to get a little bit more. Let's stop and think about that. That is going to cost money, isn't it? I do not think there is a person who is supporting this bill who did not first come down to the floor and complain that we are spending too much money in this bill, that $255 billion is too much—and you add the transit on there—it is too much money.

This amendment will increase the cost of this bill by $7.25 billion. If you want to increase the cost, if you want to go tell the White House, ''No, we didn't like the $255 billion so we are going to raise it up to $262.25 billion,'' go ahead and do it. I don't think you would be very well received. The

money has to come from someplace. It is coming from IPAM. Quite frankly, I am not going to stand here and accept and support a change in the formula that increases the cost by $7.25 billion. It is totally unreasonable, and after a year we are not going to do it.

I say to the Senator, do you want me to yield for a question?

Mr. REID. I simply want to say, when the Senator finishes, we have been advised by leadership that they need a vote in the next 5 minutes. If we have more speakers, then I will have no alternative but to move to table. But what we have agreed to do, I say to the chairman of the committee, on this side, is to allow an up-or-down vote, but there will not be an up-or-down vote unless there is some acknowledgement that the debate is going to end now because we have spent considerable time on this amendment. It has been a good debate, but all things have to come to an end, and they will, either with a motion to table or an up-or-down vote now.

Mr. INHOFE. I am through, Madam President.

I want to reemphasize this amendment costs $7.25 billion more, and people have to understand that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you very much. I would direct, through the Chair, a question to the Senator from Texas.

Are you about to complete your statement?

Mrs. HUTCHISON. Yes.

Madam President, I would just like to take a couple minutes to respond to the chairman's remarks, and then I will be ready to vote.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, we are not adding money to the bill. We are taking money in the bill that is unallocated—promised but not yet granted to specific projects in specific States—and redistributing that on a fairer basis than that of political rewards in project money. We are trying to take the politics out and establish fairness for the States made superdonors, or stepchildren, in the Senate's highway bill.

I hope people will look beyond their pet projects and see that everyone benefits and the money used is already in the bill. The amendment does not add even a penny. Yet it creates a fairer planing field for every State already.

So I hope the Senate will rise above project fighting and distribute this funding on a formula basis in order to treat every State more fairly.

Madam President, when I came to the Senate, one thing that impressed me the most is that although I was a member of the minority party at the time, no State ever was ever penalized for size or growth. Every State was given funding that matched its needs.

This bill is setting a new precedent that has never been the policy of the Senate to use big States as providers for other States. Everyone can see this play is not fair.

I hope Senators will support this amendment. We are not adding a dime to the bill. We are redistributing the money that is in the bill in a fairer way. No one loses from the formula that is in the bill, and everyone gains much-needed funding.

I hope the bill does not go to the President without a formula amendment. It would set a terrible precedent to institute a new superdonor category of States with more highway mileage and therefore always paying more money to the highway trust fund than they will ever get back.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, we have discussed the formula, which is what the Senator from Texas has been discussing in the last couple minutes. I want everybody to know, this is 7.25 billion new dollars, new spending under this formula. If you vote for this, you are voting to increase the authorized level by $7.25 billion.

If you look at the pending bill, it says: Under the IPAM Program, under section 139 of that title, $2 billion for fiscal year 2004 and nothing thereafter. If you look at the amendment, it says:

> $2,000,000,000 for each of fiscal years 2004 and 2005. . . .

That is $4 billion, plus:

> $1,750,000,000 for each of fiscal years 2006, 2007, and 2008.

You add it up, and that is $9.25 billion, $7.25 billion more than the pending bill. Everyone has to understand that. When you vote for this, you are voting to increase the spending under this bill.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I echo what my good friend, the chairman of the committee, stated. The amendment does not keep the balance between donor and donee States. Our staff has run through many of these options, 300-plus runs from the Federal Highway Administration, to come up with a fair balance between donor and donee States.

When you take a look at what is fair, we have heard complaints about the increase, that they are not getting enough percentage increase, but when you look at the State of Texas, over the 6 years of the bill, it gets a 42-percent increase. That is $5.3 billion. If you look at the State of Arizona, it gets a 40.23-percent increase, or $1.11 billion over the 6 years. California has a 40.14-percent increase, or $6.1 billion. There are a couple of States that even get 40-percent increases. This amendment purports to increase fairness by giving an even greater share to some of the States that have the largest share of the increase already. That does not have much to do with fairness.

This is a very ill-advised amendment. As the chairman has pointed out, there is not money in the bill. This would add approximately $7 billion to the cost of the bill. I find it passing strange that some of the cosponsors of this bill were ones who opposed the Bond-Reid amendment to set the figure at $255 billion, and they have been very vocal in saying this bill spends too much. They would add about $7 billion to the bill.

We are going in the wrong direction. We are being asked to reward those States that are already doing better than almost any other State in terms of the increase in the money that is coming back. This bill followed the formula as best we could. We did get all States to increase by at least 10 percent. We got all donor States up to 95 cents on the dollar. But nobody, other than about two States, has made it up to a 40-percent increase.

To say certain States who are already in the 40-percent increase need more is unacceptable. I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I am going to move to table. We have waited. The time has come. We either have an up-or-down vote now or I am moving to table. I am not going to yield the floor anymore.

Mrs. HUTCHISON. Madam President, it is fine for the Senator to move to table.

Mr. REID. Madam President, I have the floor.

Mrs. HUTCHISON. There was a misrepresentation that just occurred.

Mr. REID. Madam President, I have the floor. I direct a question through the Chair to the Senator from Texas: Can we have an up-or-down vote? The leadership wanted one 5 minutes ago. We either do it now or I am moving to table.

Mrs. HUTCHISON. Madam President, misrepresentations have just been made. If the Senator feels he needs to cut off the ability to answer that, the Senator is perfectly free to do so.

Mr. REID. I ask the Senator from Texas, how much more time do you need to respond?

Mrs. HUTCHISON. If there are no further arguments that misrepresent the facts, I need 1 minute.

Mr. REID. I ask the Senator be yielded 1 minute prior to a vote on this matter.

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

Mrs. HUTCHISON. I thank the Senator from Nevada.

This bill came out of the committee with $9 billion in money that was unallocated. Now we are being told there is only $2 billion. It is a fair question to ask, where did the other $7 billion go?

The fact is, the money has not been allocated until we vote on this bill. We would have the ability to create a level playing field with the exact same money that is in the bill. It has not been voted on by the Senate. Where is the $7 billion?

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2591, WITHDRAWN

Mr. INHOFE. First of all, the pending substitute has been available for 2½ days now. Everything is in there. We dropped IPAM down to $2 billion. You want to increase it to $9.25 billion. That is an increase of $7.25 billion. It has been down there. We all looked at the pending substitute. We read it. We have been debating it now for 2 days. It is an increase of 2.5.

Madam President, I withdraw my pending amendment so the Senator may have her up-or-down vote.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2388

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2388 offered by the Senator from Texas.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring the vote?

The result was announced—yeas 17, nays 78, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—17

Bayh	Feinstein	McCain
Boxer	Hutchison	Mikulski
Campbell	Kohl	Nelson (FL)
Cornyn	Kyl	Stabenow
Durbin	Levin	Sununu
Feingold	Lugar	

NAYS—78

Akaka	Daschle	Lieberman
Alexander	Dayton	Lincoln
Allard	DeWine	Lott
Allen	Dodd	McConnell
Baucus	Dole	Miller
Bennett	Domenici	Murkowski
Biden	Dorgan	Murray
Bingaman	Ensign	Nelson (NE)
Bond	Enzi	Nickles
Breaux	Fitzgerald	Pryor
Brownback	Frist	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Cantwell	Hagel	Sarbanes
Carper	Harkin	Schumer
Chafee	Hatch	Sessions
Chambliss	Hollings	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Jeffords	Stevens
Collins	Johnson	Talent
Conrad	Kennedy	Thomas
Corzine	Landrieu	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	Wyden

NOT VOTING—5

Edwards	Kerry	Specter
Graham (FL)	Santorum	

The amendment (No. 2388) was rejected.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, yesterday Federal Reserve Chairman Alan Greenspan sent Congress what should be a much needed and sobering wake-up call. He warned that a lack of fiscal discipline could lead to increased long-term interest rates and called for new steps to restrain spending.

In delivering the Fed's monetary report to the House Financial Services Committee, Mr. Greenspan said that should investors become significantly more doubtful that the Congress will take the necessary fiscal measures, then appreciable backup in long-term interest rates is possible.

Also, as we know, yesterday the administration transmitted its statement of administrative policy which we will continue to talk about throughout this debate. We all know the projected budget deficit for 2005 is over $500 billion, half a trillion dollars. Almost every Member in this Chamber has been talking the talk about reining in spending, but when are we going to start to back up our words with our actions? Passage of this bill would be the quintessential example of what we are doing wrong and how we are not stepping up to future financial straits for our children and grandchildren.

The current budget resolution provided $231 billion for the EPW Committee to spend on its portion of the bill. That is the current budget resolution. The pending EPW proposal would instead provide $255 billion, or $24 billion over the current budget resolution by which we are to be abiding. The current budget resolution provided $37 billion for the Banking Committee to spend on its transit portion of this bill. The Banking Committee proposal contained in the pending bill provides $46 billion or 25 percent over the budget resolution.

I guess I have to ask a question about this body's adherence to the budget resolution. We spend arduous days, and then with a vote-athon that is the most unpleasant day and evening of the year—certainly for me and I believe for most of my colleagues—we come up with a budget resolution and one we at least commit to abide by.

This bill, at least in two instances which I am bringing to your attention, is $24 billion over the current budget resolution by EPW, and 25 percent or $9 billion over the budget resolution by the Banking Committee.

A few days ago, the Wall Street Journal editorial entitled ''Road Kill'' had some pretty harsh comments about what we are doing today. I will not quote from all of it. The Wall Street Journal editorial says:

An old political adage has it that the most dangerous place in Washington is between a Congressman and asphalt. That is exactly where taxpayers now find themselves as Congress conspires to pass another monster highway bill. The only good news is that President Bush is showing signs he may fight this election year.

The administration has its own highway proposal which is hardly cheap. Mr. Bush is asking for $256 billion over six years, which is 21 percent more than the past six years and fairly close to Treasury estimates of revenue from the current 18.4-cent-a-gallon federal gas tax that is earmarked for roads.

Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands $55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general—non-gas-tax—revenues into roadbuilding.

One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a ''jobs bill.''

That is what we continue to hear on this floor over and over again.

So at least for parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy.

I would like to repeat that.

Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly come irrelevant.

There are one of two things that are going to happen and let's be very clear about what is happening. One of two things is going to happen.

No. 1, if we pass this bill, it goes to conference and the President of the United States makes good on his very specific veto threat. I am sure that will be of benefit to the President of the United States in showing he is willing to crack down on reckless fiscal insanity, which is really what this bill is all about, or, somehow, a bill is passed by both bodies and they go to conference and, without the participation of the majority of Members of the Senate, the bill will be pared down to the President's demands.

Either way, this bill is rendered meaningless. What we are arguing about is a meaningless 1,300-page piece of document because the President has assured us that, unless it is a certain level, far lower than the present level, he will veto it.

I don't know if the President has the votes to sustain his veto in this body, but I am confident the President has the number of votes to sustain his veto in the other body. Either way, my dear friends of the Senate cannot come out of this looking good because we are so far over in excess of what the President has guaranteed he would veto.

As my colleagues who are managing this bill keep saying: We will fix it in

conference. We will fix it in conference. The last time we fixed something in conference we got a Medicare prescription drug bill that, it turns out, was only $143 billion short.

I have seen things fixed in conference and there is nothing worse than seeing a piece of legislation ''fixed in conference.''

So we are arguing about a piece of legislation that cannot pass—that cannot pass, certainly at its present level, by a significant number of billions of dollars. We are in violation of our own budget resolution in this bill.

Therefore, I raise the point of order against the substitute amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Pursuant to section 904, I move to waive all Budget Act points of order for consideration of the pending substitute in its current status and the underlying bill as amended by the substitute.

The PRESIDING OFFICER. The motion to waive is debatable.

Mr. MCCAIN. Parliamentary inquiry: Doesn't it have to be sent to the desk?

The PRESIDING OFFICER. No, the motion does not have to be in writing.

Mr. MCCAIN. I ask for it to be sent to the desk.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I wish to debate the measure, waiving the Budget Act point of order. I would point out the chairman of the Commerce Committee, who has just spoken, is talking about the reckless fiscal insanity in this 1,300-page bill. A good portion of that is the Commerce Committee title, his committee's title. We don't know what is in that title.

We have laid out our bill. We have taken it through the committee. Our committee voted on it. We brought that bill to the floor. We have had it out here. We are still trying to find out what is in the Commerce Committee bill. We are told it is very different than what was passed out of the Commerce Committee. We have just tried to make an analysis of it and, as best we can tell, the budget resolution authorized the Commerce Committee to spend $4 billion and it appears the Commerce title before us spends about $6.5 billion. So we hope we could help the Commerce Committee by waiving the Budget Act point of order.

Let me talk a minute about why this vote is so important. The vote is on two very important issues. The first is the size of the highway bill—$255 billion for highways, $56 billion for transit. The second is firewalls ensure highway trust fund dollars are spent on this Nation's transportation needs. Last year, during consideration of the budget resolution, the Senate voted 79 to 21 in favor of funding the highway bill at $255 billion, and mass transit at $57 billion. That vote seemed to me to be a resounding victory for adequate funding levels for these two very important subjects.

The administration's proposed bill would fund highways at under $200 billion over the next 6 years, and to cut that would cut $4.5 billion. Furthermore, the highway funding would not reach the level included in the 2004 Omnibus bill until 2008, the second-to-last year of the bill. This would result in a net loss of 850,000 jobs compared to the CBO baseline, because that is how far the level would fall under that which the House-Senate budget resolution authorized.

The funding levels in this Senate transportation bill are responsible. When the budget was adopted there was a provision in there saying the level for highways would be $231 billion unless other funds could be put into the highway trust fund.

I commend the Senate Finance Committee, Chairman GRASSLEY, and Ranking Member BAUCUS, who have taken steps to ensure that they have closed loopholes; they have directed into the highway fund new highway fund measures, and as a result, according to the Finance Committee, this bill will not add to the deficit. Now, in fact, not only will this bill not add to the deficit, it will be a huge economic stimulus. Everyone knows $1 billion invested in transportation infrastructure creates 47,500 new jobs.

In addition, in the last year for which we have statistics available, over 42,000 Americans lost their lives on our Nation's roadways in motor vehicle accidents. Roughly 35 percent, or 14,000, of these are a result of road conditions. It is likely our State may be higher than 35 percent because we have many narrow, two-lane roads, with far more traffic than we have highway to accommodate. In other words, if you have 15,000 cars a day using a two-lane, two-way road, people try to pass at times that are not appropriate, and many other risks are taken by drivers with a result that there are head-on collisions and traffic fatalities.

This is a safety measure. The figures we have are figures that match the initial representations, the initial 79–Member vote in this body. The additional funding above the House-Senate joint resolution is achieved because the Finance Committee put additional funds into the highway trust fund. That is a very sound way of going about it. I urge my colleagues to support the Budget Act waiver.

The Senator from Arizona also raised questions about why we are going to write it in the conference. We have been in touch with the White House and just learned after the bill had been brought to the Senate they were reluctant to accept the figure we had. At this point we need to work with the House and the White House to come up with a final figure.

I cannot imagine anyone thinking a bill we pass out of here, which has so many different interests, will not be changed when it comes back from the conference with the House. We are not the only body. I have worked on a lot of conference reports and if it comes back looking very much like what we pass out of the Senate we have done a good day's work. I have never seen it come back looking exactly the way it left the Senate. That is how this place works. We have to have compromise when we go to the conference committee between the House and the Senate. When the White House feels strongly about it, they have a great say because they have the final say. They have the final say whether it is signed or vetoed.

We have worked too long and too hard to get a good bill. The chairman, the Senator from Oklahoma, the distinguished ranking members, the Senator from Vermont, the Senator from Nevada and the members of the committee, worked on the EPW portion. The other portions have been worked on in their committees. We will do the best we can to follow the outlines we have and come up with our proposal.

We should remind those who criticize this measure, who say they want to know more about it, that we marked up our bill before Congress recessed for Christmas and have used the base text throughout this entire process. For the past 2 weeks, we have consistently urged our colleagues to come to the Senate and offer amendments. Our staff, my staff, the other principal staffs, have been here late every night. We announced last week that the staff was available to discuss amendments throughout the week. Many Members took advantage of it. We tried hard to be open and accommodating to every Senator. That is why it is extremely frustrating to be criticized by Members who have never come to the floor to offer an amendment, let alone send their staff to meet with the EPW Committee staff to discuss changes or to offer amendments for consideration.

Even more frustrating, the fact that rather than offering suggestions or amendments, we are criticized for deficit spending. I remind my colleagues, the point of order was raised by a colleague who cosponsored an amendment we defeated this morning that would add $7 billion to the cost of the bill. It would add more to his State and several other States. It is beyond what is paid for in the bill. It is beyond what is available in the bill.

There has to be some consistency. People say consistency is the bugaboo of small minds, but when we take a look at budget numbers, we ought to be making adjustments in the numbers based on what is available.

Second, when we are criticized for not being open with our bill, I urge the chairman of the Commerce Committee to bring his substitute for the committee bill to the floor to discuss it, to let us know what is in it so we might make meaningful suggestions and directions.

As I said, we have not been able to review it in detail. It is not the same

title as reported out of the Commerce Committee. That Commerce Committee bill which had allocated $4 billion under the budget resolution came in at over $6 billion.

Mr. GREGG. Will the Senator yield?

Mr. BOND. I will yield in a moment. I want to conclude my comments.

I urge my colleagues to waive the provisions of the Budget Act as outlined in the motion to waive previously submitted.

I yield the floor.

Mr. GREGG. Will the Senator yield for a question before he yields the floor?

Mr. BOND. Certainly.

Mr. GREGG. If the Senator could state—since he is moving to waive the Budget Act because the bill exceeds the budget—in his opinion, what dollar amount does this bill exceed the budget?

Mr. BOND. The original proposal in the bill agreed on by the budget conference committee between the House and the Senate was below the Senate number. It came in at $231 billion.

The Finance Committee has fulfilled its obligation to raise enough funds in the highway trust fund to enable us to reach the level of $255 billion, the amount originally adopted by a 79-to-21 vote in the Senate. Rather than argue about that detail and the other details, I want to put the measure to waive that and we can debate the Finance Committee and other questions as they arise.

Mr. GREGG. If the Senator will yield further for a question, that was not necessarily my question. My question was fairly specific. If you accept the number $255 billion as the number you are working from as the budget number that would be defensible, by what amount does this bill exceed the $255 billion number? What is the specific amount?

I presume as one of the managers of the bill that the manager must know that number.

Mr. BOND. I suggest that my colleague ask the Commerce Committee chairman by how much his title exceeds the budget resolution. I believe our number is at $255 billion. I want to help out the Commerce Committee by getting a waiver for what I understand—I cannot be sure—is a 50-percent increase over the budget allowed to the Commerce Committee.

Mr. GREGG. Mr. President, if the Senator will yield further, is the Senator's position that this bill does not exceed the budget, and therefore, if that is the Senator's position, why would the Senator be asking for a waiver of the budget?

Mr. BOND. Mr. President, to answer my colleague, it appears that the Commerce Committee is over the limit and we are going to have this vote at some point. This is a good time to have it. There will be questions raised about the Budget Act. My understanding is that the Commerce Committee is over its $4 billion allocation.

Mr. MCCAIN. I would like to respond to the Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe I have the floor and I am happy to yield for a question to the Senator.

Mr. MCCAIN. Is the Senator aware that the EPW portion is over, by $24 billion, the budget resolution? The Commerce Committee is over by $2.5 billion. The reason it is over by $2.5 billion is because of administration requests. But I would be more than happy and would vote for removing the $2.5 billion which the Commerce Committee is over and the $24 billion that Environment and Public Works is over. That, it seems to me, would be fair.

Again, I hope the Senator from Missouri would look at the substitute that contains the Commerce Committee's input in title IV. The Senator from Missouri keeps claiming that the Commerce Committee is not in there. Look at title IV of the substitute, I say to the Senator from Missouri, and then you will find out what the Commerce Committee is. I am astonished he does not even know what is in his own substitute.

Mr. GREGG. Mr. President, I appreciate that question from the Senator from Arizona and that answer, both of which were excellent, by the way. I am glad somebody around here—who is not necessarily a member of the committee bringing the bill to the floor—knows the number by which the bill exceeds the budget. I do think that is sort of an elementary item you might want to know when you bring a bill to the floor of the Senate, by what amount do you exceed the budget, especially when you ask to waive the budget.

The Senator from Arizona has answered that question. The bill exceeds the budget by somewhere in the vicinity of $24 billion, I believe was the Senator's statement, on the EPW side, and $2-something billion on the Commerce side. I am not quite sure why we should be waiving the budget on that size number. That is a big number: $24 billion.

Mr. BOND. Mr. President, would the Senator yield for a question?

Mr. GREGG. I would be interested in getting an answer first from the Senator from Missouri, who refused to answer my prior questions with any specificity, before I yield for a question. I will complete my statement and then yield.

Mr. BOND. All right.

Mr. GREGG. The point is, we see a bill which has been brought to us which is dramatically over—dramatically over—the number which was proposed by the President, and then the number that was passed by this House as a budget number, and now, when there is an attempt to bring some fiscal discipline to the bill, we see the committee come forward and say, well, we don't know how much we are over or we are not going to tell you how much we are over, but we want to waive the budget.

At what point does fiscal discipline enter any of the discussion around this Senate? It appears to have become a fantasy land for the purposes of spending, and it is unfortunate because who is going to be paying this bill? Well, it is going to come out of the general fund, which means it will be added to the debt, which means that our children are going to pay for it.

Now, there are ways to fund a highway bill that are appropriate, and it is called going to the highway fund and using the money in the highway fund. This proposal, as it came out of the Budget Committee, as it was presented by the President, represented a 19-percent increase in funding, using dedicated funds. It was a very reasonable approach. But the bill, as it is on the Senate floor today, represents something in the vicinity of a 40-percent increase in cost, and it is not paid for with highway funds. It is paid for by borrowing from the general fund, which means running up the debt, and that is inappropriate.

So the Senator from Arizona has raised a very legitimate point, which is that this bill violates the budget. Then, when he asked and I asked the manager of the bill by how much, they could not answer the question, or they would not answer the question, which is ironic and maybe reflects either their lack of knowledge of the bill or their lack of desire to tell us what the number is.

Now, the Senator from Arizona has put a number on the table. He believes this is $24 billion over the budget. That is a lot of money—a lot of money. I think the Senator is probably right. I certainly cannot understand why we would be waiving the Budget Act when we have those types of dollars being added to the deficit, when the deficit has already ballooned beyond what anybody should reasonably expect a disciplined government would be running.

Mr. President, I have a list of just how much this bill has gone up, and I will put it in the RECORD. I ask unanimous consent that this list be printed in the RECORD.

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

TRANSPORTATION PROPOSALS RAW NUMBERS

	In billions
(1) TEA-21's Total Cost 1998–2003	$218
Highways	$167
Transit	$41
Safety, Motor Carrier Adm	$10
(2) Straight 6-Year Extension (6 years @ FY03 Funding level of $40.5 million.	$243.4
Highways	$190.8
Transit	$49.2
Safety, Motor Carrier Adm	$3.4
(3) Administration Proposal	$248
Highways	$195
Transit	$50
Safety, Motor Carrier Adm	$3
(4) "SAFE TEA"—EPW's S. 1072	$318.5
Highways	$255 (w/Finance additions)
Transit	$56.5
Safety, Motor Carrier Adm	$7
(5) TEA-LU: House Bill	$375 (w/o Safety Money)
Highways	$293
Transit	$82
Safety, Motor Carrier Adm	Amount not clear at this point

House bill has yet to be marked up. Young is now negotiating w/ Thomas who intends to mark up a $318 billion proposal in Ways and

Means that is very close to Inhofe's Senate bill.

Mr. GREGG. The TEA–21 total cost for 1998 to 2003 was a $218 billion bill. That included highways at $167 billion, transit at $41 billion, and safety and motor carriers at $10 billion.

A straight 6-year extension of that would have been a $243 billion bill, with highways at $190 billion, transit at $49 billion, and safety and motor carriers at $3.4 billion.

The administration's proposal was originally a $248 billion bill, with highways at $195 billion.

SAFETEA, which is what is on the floor now, is a $318 billion bill, with highways at $255 billion, transit at $56 billion, and safety and motor carriers at $7 billion.

The House, which is talking about marking up its own bill, is at $375 billion allegedly, with highways at $293 billion, transit at $82 billion—and it is not really clear yet what the safety and motor carrier number is, but it is pretty obvious if the House is over our number as we are taking this bill up on the floor, we are not talking about a conference that is going to come back to the budget number. So our one opportunity to enforce the budget, to have fiscal discipline, and to not significantly aggravate the deficit is this vote that is going to come up on the issue of waiving the budget.

I certainly hope we will stand with the Senator from Arizona as he tries to enforce some fiscal discipline on this bill which, remember, if the budget number is put in place on this bill, it will be a 19-percent increase. We are not talking about cutting spending.

We are talking about cutting spending in a lot of accounts. The President has sent up a freeze budget for domestic, nondefense, and nonnational security issues, so we are going to have to cut some spending around here. This bill is not going to cut spending. If it meets the budget, it is going to be up 19 percent. So it is not like we are asking people to take a hit or to reduce highway construction. In fact, highway construction will increase considerably if we go forward with a bill which is within the budget, and it will also be responsible, which is the key to this exercise.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The junior Senator from Arizona.

Mr. KYL. Mr. President, I think my colleague from Arizona makes a valid point of order. And as the Senator from New Hampshire has just pointed out, the bill clearly exceeds the budget; therefore, a budget point of order is valid and should be supported by the Members of this body. For those who would vote against the budget point of order, they are in effect saying: Throw the budget to the wind; we want to spend more money than is authorized; and we are going to do that.

The response from our side, those people who wish we would stick with the budget, is to vote to sustain the budget point of order so that we can at least try to keep within the bounds we ourselves have set.

The rejoinder of our colleagues who oppose sticking to the budget is: We will fix the bill in conference. But they are never willing to commit they will bring a bill out of conference that does not violate the budget.

That is our problem. That is why we cannot accept the proposition from our colleagues that we will just pass this bill, that it is all going to somehow magically get fixed in the conference. There have been no commitments made that the bill that comes out of conference will be consistent with the budget. This is why the President has also expressed concerns.

In the Statement of Administration Policy, after noting the fact that the bill pending before us is $62 billion above the President's request—which was for $256 billion—the letter reads as follows:

> The Administration's proposed authorization level of $256 billion over six years is consistent with the three principles listed above.

And those are the principles that have been read before that called for a bill which does not raise taxes, which does not use smoke and mirrors, and which does not take money from the general fund to pay for the highways.

The letter goes on to say:

> We support a reasonable [responsible] six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes $318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

If we sustain the budget point of order that has been raised by my colleague from Arizona, we will go a long way toward meeting what the President has asked us to do: to stick within the limits that he set and that we set. If, on the other hand, we support the motion to waive the Budget Act of the Senator from Missouri, we have basically said we are not yet prepared to face up to fiscal realities. We are not prepared to show we are going to be fiscally responsible. But trust us, when we get to conference, we might or might not be doing something to bring us back into fiscal balance.

For those reasons, I urge my colleagues to support the budget point of order raised by the Senator from Arizona and to oppose the motion to waive all budget points of order offered by the Senator from Missouri.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I erred on a matter of decorum. I said I would yield to the Senator from Missouri for a question. Unfortunately, I failed to do that. If the Senator from Missouri did have a question, I apologize. He has probably forgotten his question by now. It was a long time ago. I am sure it was going to be a telling question, so it was best that I wait anyway.

Mr. BOND. Mr. President, to answer the question once more, he said how much was it over the budget. As to the original budget passed by this body, it is right at the budget, 255. How much is it over the joint House-Senate budget? It is $24 billion over, but that Budget Act specifically said additional money put in the highway trust fund can be used for trust fund purposes. That is what we have done. The reason we asked to waive the Budget Act points of order is so we can stop the dilatory tactics that have dragged this out without getting a vote for almost 2 weeks.

I would ask the Senator from New Hampshire if he intends to continue to delay, to attempt to prevent votes on the substantive amendments which may be brought to the bill. If he could give us some assurance that he will not continue to use dilatory tactics and raise points of order, should we not waive the budget?

Mr. GREGG. Mr. President, I knew the question was going to be a good one. Let me point out that I offered an amendment 2 weeks ago. I was ready to vote on it at any time over those 2 weeks. It is hardly my dilatory tactics that kept us from going to a vote on that amendment. In fact, it was the manager of the bill who decided to take a parliamentary move which brought down my amendment and made it impossible for me to get to a vote. Why would it be dilatory on my part that the managers brought down my amendment without allowing me a vote?

I guess I would turn the question back to the manager. Is the manager at this point willing to vote on my amendment? In fact, I ask unanimous consent to be allowed to bring forward, recognizing that it is not germane at this time because the manager has positioned the bill so it is not allowed to be voted on, but I ask unanimous consent at this point, because the managers asked for a vote, that I be given a vote on my amendment, which was the amendment dealing with collective bargaining which was pending for a week and a half in this body and on which I was not given a vote.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, we object. It is not a germane amendment. That was the problem.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Mr. President, I think that answers the question. It is not I who has not asked for votes. It is not I who has been dilatory. I have been aggressively pursuing a desire to vote on that very reasonable amendment for a considerable amount of time. I do not wish to waive my rights to maybe raise that issue at some point in the future.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, since the Senator from Missouri is on the Senate floor, I draw his attention to the index of his own substitute which has the commerce provisions of the bill in it in title IV. I wish he would ask to strike his comments if he doesn't know what the Commerce Committee is. I guess I shouldn't be surprised, but I am a little surprised that he doesn't know what is in his own substitute.

The Senate Budget Committee staff tells us that EPW is $24 billion over the budget; Banking, $9 billion over the budget; Commerce, $2.5 billion over the budget—I would be more than happy to erase all of those—for a total of $35.5 billion over the budget. Meanwhile, everybody in America is warning us about running up these huge deficits. The President of the United States, the administration's proposed authorization level was $262 billion on highways and highway safety, $50 billion over the President's request; $56 billion on mass transit, $12 billion over the President's request. In total, the Senate bill authorizes $318 billion in spending on highway safety and mass transit over the next 6 years, a full $62 billion above the President's request for the same period.

The President has guaranteed a veto. He has guaranteed a veto if we go on with this number which the managers of the bill continue to stoutly defend. King Canute had a better idea.

I hope my colleagues will vote to support the point of order which was raised against the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I believe many questions were raised about financing. I see the Senator from Iowa, the chairman of the Finance Committee, in the Chamber. I will just note that he could answer those questions, if he is recognized.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I want to make a couple comments about the bill in general and spending.

We are debating whether to waive the budget point of order. There is a point of order in order simply because this transportation bill goes way over—tens of billions of dollars over—what we voted on as a body and agreed to last year. That is why a budget point of order stands against this bill.

Transportation spending is one of the most legitimate uses of government dollars. Everybody benefits by it. I don't think there is any question. Anybody you talk to agrees it is a legitimate use of dollars. But there are people who want to go above the budget, who want to spend more than the trust fund brings in. The trust fund is that money that comes in because of user fee taxes paid into a fund that are supposed to build our roads and the like, the rest of the infrastructure.

Instead of putting this tax on our children or on the next Congress because we are deficit spending and passing debt, when you pass debt on to the future, you are going to have to raise taxes in the future. We have seen Congress doesn't cut spending. So because you are passing taxes on to the future, the people who want a higher highway spending bill should have the courage to raise the taxes. I don't believe we should. But if those people want to spend more money, they should at least have the courage not to put it off to the next Congress to raise taxes. That is why this point of order should be sustained.

To put this in the context of the economy and other spending, they are touting the jobs that will be created. Alan Greenspan testified that the biggest threat to our economy and to jobs is runaway Federal spending. The markets are watching us right now. Whether somebody is a supply side economist or a Keynesian economist, it doesn't matter what view they take, the one thing they will all agree on—whatever causes the deficit, they may disagree—is the deficit is a huge threat to the future growth of our economy and jobs in America. And they are all watching us right now. The markets are watching; the Federal Reserve is watching what we are going to do on this very bill right now. That is why it is so critical we exercise some fiscal discipline on such an important issue.

It will help us all by voting for more transportation spending; it helps us all for reelection. That is why this bill is so popular. We politicians can get up here and tout how much money is coming to our States; it is going to help you for reelection. But we have to think about not just our parochial interests in our States but put that into the broader context of the overall economy and also in the context of what we are doing to future generations.

If we keep deficit spending, we are putting taxes on to the future generations. We did the farm bill, the Medicare prescription drug bill, this transportation bill—we have passed so many things, plus all of the other discretionary accounts, on top of a war. And Americans understand that sometimes you have to deficit spend during recession and war. But we are out of the recession now. The war is still there, so we have that aspect of it. But to continue to add to the deficit with all of this other discretionary spending and going above the trust fund I think is wrong.

That is why I call on colleagues, if they really want the $311 billion, or whatever the spending amount is they come up to, not to play games, not do this shadow game being done with a lot of the numbers.

I appreciate what the chairman of the Finance Committee has tried to do. He was given a task and he has done the best he possibly could. I think too many games have been played. We ought to be honest. If we want to spin that number and if people want that number, they ought to vote for a gasoline tax increase to pay for it. That should be the only way we do this.

Mr. President, I will conclude my remarks by saying I hope we act in a more fiscally responsible way than we are doing within this bill. I am applauding the President for putting his foot down and saying enough is enough. We have to get our fiscal house in order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I spoke, similar to what I am going to say today, last week on the floor of the Senate because I heard these very same considerations and very same criticisms of the Senate Finance Committee bill at that particular time. And at that particular time, I thought for Senators who don't have time to read legislation, or be advised by their committees or by their staffs on what the committee might be trying to accomplish—I ought to take time to inform colleagues about what my committee actually did.

I can tell by the debate today that either no one was paying any attention to my explanation last week or they forgot or they didn't care, because I am hearing the same criticism this week. I want to state why that criticism is unfounded, and I want to say to my colleagues that what we are doing in this legislation is following precedent and making sure that money that ought to be in the trust fund is in fact in the trust fund, and that any sort of exemption we have is to make all those exemptions and/or subsidies perfectly consistent.

I have found the unfounded criticism of the legislation that has come out of my committee falling into two categories: First, the general fund money is going into the trust fund. In other words, nonroad-related money is going into the road fund and the highway fund, the trust fund, the transportation fund, whatever you might want to call it. Second, the Senate Finance Committee has made changes that are in fact not legitimate changes but are gimmicks.

Let me respond to those. This response is not much different from what I would have stated last week. In response to the argument that general fund money is going into the trust fund, under the Finance Committee amendment no general revenue is transferred to the highway trust fund. We keep hearing this incorrect allegation. I encourage the critics to read the Finance Committee title of the transportation bill.

Under the Finance Committee amendment, the highway trust fund will retain more excise taxes. It is not general fund revenue. That is excise taxes. And excise taxes go into this trust fund. We accomplish this by eliminating the partial exemption for ethanol-blended fuel. Ethanol-blended fuel users will now pay the full excise tax and the trust fund will receive the

money. The benefit will be taken as a tax credit against the general fund. And just to verify that this is a totally consistent policy, this is exactly as all other energy production incentives are handled.

Likewise, the trust fund, as a second source of revenue, will retain the excise taxes collected from certain users, such as exemptions that are given to State and local governments. Those vehicles use our highways, use our transportation systems; should they not be paying taxes? Should that money not be going into the road fund?

Under the Finance Committee amendment, the refund is not charged to the highway trust fund, so that every mile that a city of Des Moines vehicle puts on, that money would go into the road fund, just like the gas tax I pay for the car I drive on the highways in the State of Iowa.

Again, this means, then, that the trust fund retains more of the excise taxes. So let's be clear. The Finance Committee amendment does not transfer general revenue to the trust fund.

The second argument is that we have used accounting gimmicks. We hear the allegations that the Finance Committee is doing this many times on the floor of the Senate. It is an unfair, incorrect allegation. What the Finance Committee did in our amendment to this transportation bill was to ensure that the trust fund keeps more of excise taxes that should actually be in the trust fund and should be spent on our transportation system.

The Finance Committee also recognized that the trust fund should earn interest on its balance. You know, just like we are telling our senior citizens all the time, that surplus in the Social Security payroll taxes coming in, that is not being paid out currently, is invested in Treasury bonds. The interest on that is accumulated and accounted to the Social Security trust fund. So doesn't it make sense to ensure that any surplus in the transportation fund—and there must be some surplus to cover shortages after September 11 when people didn't drive as much and not as much road tax money was coming in—for items beyond what we can plan for needs to be accounted? That surplus then earns interest. That hasn't been accounted for in the highway fund. It now will be. These changes align trust fund receipts with spending purposes.

There are policy initiatives that burden the highway trust fund that have nothing to do with highway policy. We are going to unburden the highway fund. These policy initiatives have, in fact, reduced highway trust fund receipts, money that should have been available to build highways, not available because of exemptions. We accommodate those exemptions. Accommodating an exemption, consistent with good accounting practices, is not a gimmick.

The effect is that these policy initiatives are carried in the general fund where they belong. I heard one of my colleagues'—Senator MCCAIN—harsh criticism of the Finance Committee. Senator MCCAIN's committee, the Commerce Committee, approved new spending of $7 billion in its programs. The Finance Committee didn't question the Commerce Committee's needs and, without reservation, the Finance Committee found a way to fund the needs of this specific committee doing their legitimate work.

The Senator from Arizona legitimately put a burden on the Finance Committee, and we accepted that responsibility within our jurisdiction, within our power, within our responsibility. We bore the Commerce Committee's burden.

Now, after doing their work, the Finance Committee is criticized for what it did. It is easy to put burdens on others. It is easy to criticize those who did the heavy lifting. It is a lot harder to find ways to do the heavy lifting. But that is not their responsibility. They did what they needed to do under the responsibilities of that committee for this transportation bill. I find no fault with what they have done, and I assumed the responsibility as chairman of the Finance Committee, working with my 20 members, to make sure the money was available.

This isn't just because that is something I assumed. This is something that last summer the leader of the Senate, Senator FRIST, asked us to do. He got members of the Commerce Committee, the Banking Committee, the Finance Committee, and the Environment and Public Works Committee together and said that we needed to find something, a common ground we could agree on or he didn't want to bring this bill to the floor. That was last summer.

We didn't have time last year to get it done. We extended it until February 29, but as far as I know, that same collegial assumption of responsibility to produce good transportation policy is still in effect. The three committees decided what those programs should be and the Finance Committee, the committee I chair, met our responsibilities.

Let's deal with reality for a second. As the cloture vote shows, the will of the Senate is to provide resources at the levels provided by these three authorizing committees. The Finance Committee did the job and provided funding at the outlay level. The Finance Committee preserved its role by maintaining the importance of the trust fund.

A week ago, I spoke to these points. I asked the critics, in light of where the Senate was on the numbers, how would you fix it? We have a few vocal people throwing rocks at this bill. None of the rock throwers have accepted my challenge and answered the challenge. What would you do and have it be sustained by the Senate, particularly, as I stated last week and I haven't said yet this week, when we did have that vote of 79 to 21 last year where there was a clear decision made by the Senate to spend a lot more money on transportation.

I was one of the 21 who felt we should not go that far, but how are you going to argue with the Senate making a decision, with only 21 dissenting votes, that the Senate is wrong? I still may think they are wrong, but that doesn't change my responsibility to provide the revenue to meet the needs of the three committees, and I assumed that responsibility. That is what we have done.

It is easy to criticize. It is a lot harder to legislate and do the people's business, and that people's business I think is represented by that 79-to-21 vote last year and by the work of the three authorizing committees—the Environment and Public Works Committee, the Banking Committee, and the Commerce Committee—on how much money needs to be spent. It falls on my shoulders to do it. I have done it in a way that is consistent with the way excise tax money ought to be handled. It is done in a way that any subsidy the Congress thinks ought to be established is done. What do you want me to do? Last week I said if you don't like what we did, I am open to suggestion.

I have one promise that I made to my committee, in the meantime, about the package that is before us. We followed the same policy that we did in the tax bill of 2001, and that was to make some changes in the payment of the corporate tax so that we would have a revenue-neutral bill coming before the committee. At least the leaders of the Budget Committee asked me and Senator BAUCUS during our committee's deliberation to not use that source of revenue, and we are committed to responding to that request. Beyond that, I think the bill voted out of the committee stands, and it is one that meets our responsibility to the Senate, to the leader who asked the four committees to work together, to the transportation needs of our Nation, and, most importantly, in this body doing something in a bipartisan way which, if it isn't done, this body does not have a product for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, in my view—and I think it is the view of the vast majority of the Members of the Senate and probably the majority of Americans—this highway legislation is critical. It needs passing immediately. It is critical because our country so much depends upon our highways. The past highway legislation spent a good amount of money to help repair our roads, provide for new roads, bridges, and safety. We know the importance of our infrastructure system.

This bill expired. We are now in an extension period. Because it expired, we desperately need to pass replacement legislation.

It is also a jobs bill. This is a no-brainer. If we have lost—and nobody

disputes this figure—a couple to 3 million jobs in this country in the last couple of years, we need to pass a bill that creates and provides jobs. That is a highway bill. It does not take much brain power to figure that one out.

I urge our colleagues to get on with it and pass highway legislation. We should not let perfection be the enemy of the good. There may be one or two points—and they are not big points—that individual Senators may want to have in this bill, but we should not let that get in the way. We should pass this legislation.

There are some Senators who say, oh, my gosh, this breaks the bank; it spends too much money. Respectfully, our President has suggested this is too expensive and spends too much money. There is even talk of a potential veto. Well, I doubt seriously that the President of the United States is going to veto this jobs bill. It just is not going to happen. First, the President has not vetoed any bill in his Presidency—none. I doubt that his first veto would be the highway bill, a jobs bill.

Also, importantly, this bill does not increase the debt. It does not increase the deficit. All of the revenue that will be spent for highways is already paid for, except for a small portion of general revenue that goes to pay for a portion of mass transit, but that was in the budget resolution, and the budget resolution with respect to highways does not increase our debt.

I urge my colleagues to think very carefully about that because for those who say it breaks the bank, that is just not accurate. This bill does not do that. I might say, in my State of Montana, this is our jobs bill, this is our economic development bill. This creates and maintains about 17,000 jobs in our State. We are a highway State. We do not have a lot of people in our State compared to others and we have great distances to travel, but we would like to have a highway program that enables us to get around in our State.

That is probably true for all of these folks from all around the country who come and visit Montana. They like to be able to travel on roads that do not have potholes. They want to be able to travel to various resorts in Montana to go skiing in the winter and backpacking and fishing, fly fishing, in the summer. My colleagues would be amazed the number of people I meet who tell me they come to Montana, especially in the summers, to go fishing and just have a good vacation. They want the same highways in Montana that they will find in other States of the Nation.

I just cannot say too strongly how much we need this legislation. I might say, too, this has been a product of bipartisanship, which is so important. We all know that most anything of consequence that gets passed in the Senate is passed only when we work together, Republicans, Democrats, House and Senate. That is this bill. That is this legislation.

I take my hat off to the chairman of the EPW Committee, Senator INHOFE, and to the ranking member, Senator JEFFORDS, who worked very closely together.

I might also say that the money for this bill has to be authorized by the Finance Committee. That is the committee of which I am the ranking member, and the chairman of our committee just spoke preceding me. We have all worked together, all four of us, on a bipartisan basis to get a good highway bill passed. That is the only way we can do legislation, in my view.

The bill also corrects two mistakes. One of them currently—there are a lot of them, but a lot of the money now that goes to the general fund should go to the highway trust fund. For example, interest on the highway trust fund currently goes to the general fund. Well, that does not make any sense. It is interest on the highway trust fund. It should go to the highway program. That is a no-brainer. The same with the ethanol subsidy. There is a 2.5 percent deduction from the ethanol portion of the highway users tax that goes to general revenue. That does not make any sense. Folks who drive cars powered by gasohol drive on highways just like people who drive cars powered by an ordinary gas engine. It seems to me that for anybody who drives on the highway, the excise and gasoline taxes they pay should go to the highway trust fund. A portion of it should not go over to the general revenue. The Finance Committee fixed that and there are some other changes as well.

To summarize, this is a good bill. It is needed. I urge my colleagues to pass it very quickly. The cloture vote was very reassuring. I think only 11 Senators voted against cloture and that was because the remaining Senators who voted for cloture realized we have to proceed. We have to get this bill passed; it is very important. I encourage my colleagues to act accordingly.

I also thank my good friend, Senator REID, from Nevada. He has worked hard on this bill, in a totally bipartisan way, knowing how important it is for Nevada. Nevada is a huge State. A lot of folks in Nevada live in Las Vegas and Reno, but I am sure the Senator would like to get up to the northern part of the State sometime, and this helps him do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I take a brief minute to express my appreciation, as I have done in this Chamber before, to the chairman of the Finance Committee and the ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, for their outstanding work on this legislation.

For anyone to come to the floor and accuse the senior Senator from Iowa and the senior Senator from Montana of being budget busters simply does not meet the facts of their careers. These two fine Senators are known for pinching pennies. They are known as people who are concerned about taxpayers' dollars, as indicated by the many disputes that have arisen and the fact that we have criticized them a lot of times for not coming up with enough money for different things.

For them to come forward on this bill means so much. It exemplifies their public service and also exemplifies the importance of this legislation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend from Nevada. I think he is one of the best Senators in this body and I think his statement indicates—if one reads between the lines, listens to the music—why.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Georgia.

(The remarks of Mr. MILLER are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to commend Senators GRASSLEY and BAUCUS for the contributions they have made to this very important measure. They worked diligently to come up with the funding to pay for the programs contained in this legislation. The Finance Committee has provided the revenue to meet the needs of the three committees that contributed to this bill. In doing so they protected revenue that deserves to be in the highway trust fund and found appropriate ways to offset these costs. Through their hard work we can report that this bill is paid for.

Technically, a budget point of order can be lodged against this bill because a small amount of general revenue is needed. But I want all my colleagues to remember that we have gone beyond the budget for the war, for defense spending, and for tax cuts. Has the spending contained in these type of measures resulted in the creation of U.S.-based jobs? That is debatable. But this bill is a jobs bill. There is no doubt in anyone's mind that this bill will create many, many jobs. Should we bring this bill down over a small technicality? No. We should pass this bill today.

I yield the floor with full confidence that we will do so.

Thank you, Mr. President.

Mr. NICKLES. Mr. President, I wish to speak on the issue in the highway bill on which Senator MCCAIN raised a budget point of order. I am not sure I would have made it at this point, but a point of order is legitimate. Frankly, if you believe in sustaining the budget, if you believe in a budget, this bill isn't paid for, and the budget point of order is well made.

I encourage my colleagues to vote in favor of the budget point of order even though I am relatively certain it will not pass. I have tried to restrain myself on making budget points of order. I think it is important that points of

order be sustained. I thank my colleagues because almost every time last year—about 60 times—budget points of order were sustained. As a result, we saved hundreds of billions of dollars in spending. Now we find ourselves confronting a highway bill.

I compliment Senator JEFFORDS and Senator INHOFE for their leadership. They have worked very hard to put together a bill with allocations and formulas which are fair in meeting our Nation's highway and bridge needs. I understand those needs are great, indeed. I understand they want to increase employment. I concur with the objectives. They have worked long and hard to make that happen and to come up with the funding formulas. I don't think Congress has worked as long and hard on how to pay for it. I have heard compliments of our colleagues, the chairman of the Finance Committee and the ranking member. I compliment them as well. But the Finance Committee portion of this bill doesn't pay for this bill that is before us. Those are just the facts.

Somebody can say we think it is paid for, but I can tell you it is not paid for. I will give you a couple of examples. Maybe I don't know how to read, but I happen to be a member of the Finance Committee. The Finance Committee has revenue raisers to replenish the general revenue fund at about $22 billion, over 10 years. This bill is over 6 years. The amount of money raised by this bill to replenish the general revenue fund over 6 years is only $11 billion. It doesn't meet the gap.

If you look at the revenues on the scoring sheet that was handed out by the Joint Committee on Taxation of February 2, the corporate estimated tax payment due July through September of 2009 increased to 119 percent of otherwise required amounts. That moves $11.4 billion from the year 2010 to the year 2009 so they can say we met our targets for the first 6 years of the bill. That is a sham. That is a shell game. To say that pays for this highway bill defies reality.

I told my friends—and they are my friends. Senator GRASSLEY is one of my very best friends. I was elected at the same time Senator GRASSLEY was elected. He and I will be very good friends long after this bill. Senator BAUCUS and I are good friends.

But I think it does not pass the smell test. This shouldn't be enacted into law. They have assured me it won't be, that they will come up with a replacement. I haven't seen the replacement yet. But I just try to look at the numbers and see if it adds up. The fact is right now it doesn't. Maybe there will be an amendment offered later by leadership, or maybe one offered by Senator GRASSLEY and Senator BAUCUS that will pay for it. But right now, it doesn't. Right now, it relies on this shell game of moving $11.4 billion from 2010 to 2009 and saying that helps make it work. It doesn't.

I am amazed people think we are going to be able to get all of this highway spending for nothing. This is a 46-percent increase over the last highway bill, TEA–21. The President proposed 17 percent, but this is 46 percent. The House is proposing 72 percent. They talked about increasing the gasoline tax to pay for it. But they did not. I am guessing they will have to come down. But where is the money coming from for the 46-percent increase? The Federal gasoline tax right now is 18.3 cents. No one here has yet said let us increase the gasoline tax. The President is opposed to that. I happen to agree with him. He thinks if States want to increase their gasoline taxes, let them do it. But right now we are saying we are going to increase Federal contract authority and obligation authority, but we don't have any new money coming in for it.

I looked at what the Finance Committee did. They came up with a bunch of transfers, most of which are taking money from general revenue funds and putting it into highway funds, some of which is sort of related to highway and some not. That totals about $11 billion. It really comes up short. Even if you said this escalating corporate estimated payment in 2009 was legitimate—and it is not, and I wish somebody would come to the floor and say that is very legitimate because it is not legitimate—it is still short. So we are increasing the deficit.

It depends on whose baseline you are using to see how much we are increasing the deficit, but the President forecasted the deficit at $500 billion-plus this year. This will increase that number. The President has deficit figures, estimates for this year $521 billion, $364 billion for the following year, and $268 billion for 2006. This bill is substantially higher than the President's number. Compared to the funding that is actually in the fund, it is about $39 billion shortfall. Compared to the President's number, it is $29 billion. The President was pushing the numbers as far as he thought we could push them without bankrupting the fund and without saying raid the general revenue.

Let's look at what is coming into the fund right now. I mentioned we have an 18.3 cent tax. Some is earmarked for transit, but if you add the total amount of money coming into the fund, it is $228 billion over the next 6 years. This bill would result in estimated outlays of $281 billion. That is a difference of $53 billion. The Finance Committee came up with about $11 billion from general revenue, increasing to $14 billion including fuel fraud receipts to the trust fund, so $14 billion. So there is a shortage. It is not paid for. It will increase the deficit. I hope everyone understands that. I will hear a lot of speeches saying this deficit is too high. I want Members to know this bill will increase the deficit. It is not paid for. If it was paid for, it would not be increasing the deficit. It will increase the deficit. The total amount of money coming under this bill is $242 billion and the outlays are estimated to be $281, and the contracts we are making are greater than $281 billion. The obligation limits are $290 and the total budget authority is $318, and $318 billion is about a 46 percent increase over present law. We did not increase gasoline tax, so that is too big of an increase. It is not paid for.

The point of order made by my colleague from Arizona should be sustained. I am relatively certain it will not be sustained. I hope people understand, in my opinion, we are making a mistake. We should use user fees to pay for the highway program. If we break that link and say highways should be financed out of general revenue funds such as income taxes or payroll taxes, there is almost no limit to how much this bill could cost.

There used to be a limitation on the highway program and the mass transit program. You said users have to pay for the program; when you fill your car with gasoline, you are paying for the roads that you are using. That makes sense. We will be breaking that link under this bill. We are breaking it with general revenue financing and we are not paying for it even at that.

Some Members, Senator CONRAD or others, may have an amendment to pay for it. That would probably be better than just deficit financing.

But we are making a mistake when we break the link between the user pay and paying for highways or not. If people say, I want a 60 or 40-percent increase in gasoline tax, you want a 50-percent increase in the highway program—this is almost 50 percent—you would have to increase the gasoline tax by 9 cents. You want 50 percent more of a program, increase the gasoline tax from 18 cents to 27 cents.

That is not what we are voting on. What we are voting on is increasing the program by 46 percent and we will take some money out of general revenues to pay for it. That puts more pressure on the deficit. I don't diminish for a second the good intentions of the authorizers who are working to help build a national infrastructure that is in desperate need of more resources. I do not denigrate their efforts one iota. I compliment them. They worked a lot longer than we did on the Finance Committee to pay for it. Again, I am not disparaging the work of the chairman and ranking member, but it falls short and it needs to be improved. It will not fund this bill. It relies on a shell game of at least $11.5 billion.

They said they are trying to raise $22 billion to replenish the fund and they do that over 10 years and we find about $11.4 billion is a shell game. It does not meet the needs of financing the bill if people want to say legitimately the bill is paid for.

We have to be honest. We have to say this bill is taking a lot of money out of general revenues and it will increase the deficit to pay for the 46-percent increase in highways. People need to know just the facts. People are always

entitled to their own opinion, but I don't think they are entitled to their own facts. The facts are this is a tremendously large increase in the highway program that is not yet paid for and will increase the deficit. Therefore, I urge our colleagues to vote in favor of the budget point of order later this afternoon.

Mr. CRAIG. Will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. CRAIG. We are talking about rates of increase from the last transportation bill to this bill, 43 percent. The President is proposing a level of spending. What does this represent as an increase over the last?

Mr. NICKLES. The President's proposal increases from $218 billion to $257 billion, an increase of 17 percent.

Mr. CRAIG. There is a 17-percent growth rate above current levels of expenditures. Is that annualized?

Mr. NICKLES. Over the 6 years, a 17-percent increase. The bill before the Senate in contract authority is an increase of 46 percent.

Mr. CRAIG. That is annualized?

Mr. NICKLES. It is 46 percent over the 6-year period. You have a 6-year bill. The bill that just expired, TEA–21, was $218 billion over 1998–2003. This new bill will be a total of, for contract authority, $308 billion; total budget authority would be $318 billion.

Mr. CRAIG. I thank my colleague.

Mr. NICKLES. I yield the floor.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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 (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I was gone during part of the discussion on this issue. I would like to reemphasize a couple points. First of all, when we talk about 40 percent or 43 percent, we are talking about over a 6-year period. Generally we are in the mindset of talking about from year to year down here, and there are people walking around thinking we are talking about a 40-percent increase. We are talking about, if you would amortize it and put it the way we normally discuss things, 6.2 percent a year. This is in infrastructure, things you see out there. I think people need to understand that.

Secondly, those of us who were in the business of putting together this bill over the last year, along with its formula and everything else that is being criticized, considered all these things. Then we went, as we should, to the Finance Committee and said: All right, how are we going to pay for this? And, yes, we can do it. I do not want to get inside the minds of Senator GRASSLEY and Senator BAUCUS as to what considerations they were making during this time, but I will say this, they are the guys who are running the Finance Committee.

They have said this bill is going to be paid for. They have said the three criterion the administration sent down some time ago—that, No. 1, it would not increase gas taxes; No. 2, it would not have any fun-and-games type of bonding fixes; and, No. 3, it would not add to the deficit—is met.

There are 100 people in this Chamber, and I know there can be any number of them who are going to disagree. But I believe if we take this to the committees that have the jurisdiction, have the expertise, have the resources, have the personnel, have the staffers who can put these things together, that is the place it should be, and they have given us the assurance this bill will be paid for.

We just had a vote today. We defeated an amendment that would have increased the amount of money by $7.25 billion in this bill. In other words, the transportation portion of this, the highway portion of this, would go up from $255 billion to $262.25 billion. I think a lot of people who voted in favor of that amendment are the same ones who are talking now about the fact this is too much.

I know we have the genuine division of interpretations as to what the Finance Committee did and how this thing is really going to be paid for. But I have often said—in fact, I said to the administration that, to me, instead of coming down and saying this bill is going to have to be $50 billion less, I would think they would be better off to say: So long as the bill is paid for, does not add to the deficit, does not increase taxes, then we would support it, we would not veto it. I am hoping before this thing is over that is where we will be.

Let's keep in mind one other thing, too. We are sending a bill to conference. In conference all kinds of things happen. I had occasion to speak with the Speaker of the House at length yesterday. We understand when it gets into conference we are going to be able to look at this and take everything into consideration. At that point, we will be able to really evaluate this finance package and see where we are. There is no one out there who is going to say: I want deficit spending. I do not. That has never been my philosophy. I think the senior Senator from Oklahoma has known me well for many years, and he has heard me say for many years that we, who are fiscal conservatives, are big spenders in two particular areas: One is in national defense and the other is in infrastructure.

As I have heard different individuals such as from Arizona and Texas, I am reminded of what happened during the Thanksgiving holidays and the Christmas holidays. We are used to this in Oklahoma. I can remember someone saying: Well, I came from California. As I came across Arizona, they had such great roads. I came across Texas and everything was great. I sure could tell when I got to Oklahoma. They had lousy roads. That is what we have been plagued with for a long time. Our bridges in the State of Oklahoma are dead last of the 50 States.

This is a spending bill that is paid for. It does not increase the deficit, in the opinion of the Finance Committee. I take their word for it, and I know others may not. For that reason I know this discussion is good, but we need to move along.

We are going to be moving along. There is much more cooperation on the floor now. I have to say, this has not been a partisan fight. This has been something where there are honest philosophic disagreements.

I yield the floor.

The PRESIDING OFFICER. The Senator from the great State of Nevada.

Mr. REID. Mr. President, Senator INHOFE and I have been in touch with a number of Senators on the other side. What we would like to do is have anyone who wants to speak on waiving the point of order do that, and then, when that is done, we are going to ask consent to set aside the waiver and go to the next amendment, which would be Senator KYL, who has another amendment.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. REID. I am happy to yield.

Mr. NICKLES. I understand from one of the proponents of the budget point of order they do not wish to concur to setting aside the amendment.

Mr. REID. OK. That settles that. I would advise all Senators, then, we will not be able to vote on this until maybe a little before 2 o'clock. Both leaders have indicated there are people who have problems with being here, and they have agreed to let them not be here, so we will try to speed that up and get to Senator KYL as quickly as we can.

I would say this: If there is no more debate and it is completed on the point of order waiver, rather than sit in a quorum call, I would suggest maybe Senator KYL could talk about his amendment to just speed things up when we finish the point of order vote.

I want to say to everyone here, I think sometimes mornings are a little testy around here. I think, as the day has gone on, we have worked out an arrangement where, to this point at least, we have had up-or-down votes, and we are going to continue to do that for the foreseeable future. The main thing Senator INHOFE and the rest of the managers and I want to do is make sure people feel they have had a fair shake here. We hope we are accomplishing that. We are certainly trying.

I indicated to the Senator from Arizona that at the appropriate time—and probably this is an appropriate time—I would talk publicly about statements I made on the floor yesterday. There was some, I think, very serious debate yesterday, and I indicated during that debate the Senator from Arizona was—I think the words I used were ''at the

beck and call of the White House.'' I would like the RECORD to reflect that was a poor choice of words, that the Senator from Arizona on many occasions has been independent on issues the White House has propounded and advocated.

And so without belaboring the point, if there is an apology that is necessary, I am certainly willing to do that and apologize to my friend from Arizona, who I have the highest regard for. If I did anything to hurt his feelings, embarrass him or—in hindsight, it does not make me look very good to be name-calling. That is basically a subtle way of name-calling, and I apologize for that.

The PRESIDING OFFICER. The Senator from the great State of Arizona.

Mr. KYL. Mr. President, I cannot tell you how much I appreciate the words of my colleague from Nevada. I would like to make two points. First of all, when my staff showed me this morning the words of the Senator from Nevada—and they seemed to be very concerned about it—they probably were a little astonished that my reaction was not particularly negative. I said: Look, people say things on the floor not exactly the way they meant to express them, and I simply attribute it to that. Then I chuckled. The Senator from Nevada and I talked a bit about it, because I said: My friends at the White House might wonder what on Earth the Senator from Nevada was talking about when they appreciate the fact that I don't support the amount of funding in the highway bill even that the President supports, that I don't support the amount of the funding in the energy bill, and in some cases I have been kind of a royal pain for folks in the administration.

I try to support the President all I can, and I do support the President a lot, but we all find ourselves sometimes in opposition to the administration, sometimes in support of the administration. But I do appreciate the sentiment of the Senator from Nevada. He certainly did not mean to suggest, I know, that I only do things if the President wishes them. I appreciate his comments just now.

I also appreciate what else he said, which is the debate has been constructive, that there has been a process to try to get amendments to votes. Just to reiterate that, and describe what I think might happen here next, the budget point of order my colleague from Arizona raised a moment ago has been amended by the Senator from Missouri. I checked with the staff for Senator MCCAIN, and he has no objection to having that vote at or about 2 o'clock, depending upon what the managers of the bill wish to do in that regard. He would be prepared, as I understand it, to come to the floor just before then to make closing comments about that point of order.

I also know Senator GRAHAM is here and wishes to speak. Rather than lay aside the pending business, my suggestion would be to go ahead with that, have any other people speak on it who wish. The managers should certainly be the ones who determine what time the vote is. I will simply express what Senator MCCAIN's staff has told me, which is that he has no objection to voting at or about 2 o'clock and would presume to be here for a few minutes ahead of that time to speak on this budget point of order.

Then presumably following that, if there is not a Democrat who wishes to offer an amendment at that time, I would like to offer an amendment which should not take very long to debate and would be happy to have a vote on that amendment as soon as debate time is concluded. I mean perhaps half an hour or something in that timeframe. I don't know who all might want to speak on it, but I don't have that much time left, and I want to save a little bit of time to speak on other business as well.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I must say this has been a very interesting first year in the Senate. Our country has been challenged in many ways. I have listened to this debate about the highway bill. If I were a citizen of Oklahoma, I would be pretty proud. You have two Senators down here expressing different points of view but in a very articulate way.

The problems Senator INHOFE related in Oklahoma are very real in South Carolina. We are billions short of the money we need for bridges and roads. It is an honest-to-God legitimate problem. This is not about getting reelected. When people say that, I disassociate myself with that. This is about trying to do some good for the country economically.

One good thing about the highway bill that needs to be said more is, it is not just about jobs. That is very important. But another thing for sure, these jobs are going to be here. When you pave these roads and you build these bridges, most of the time, if not all the time, Americans are going to be doing the jobs.

One of the reasons we have had a kind of jobless recovery is that the jobs that are being created are being created overseas. When you look at trying to create a domestic opportunity for somebody to go to work, a bill such as this is an excellent opportunity for people to go to work.

Whether or not it busts the budget, I have had a fascinating opportunity, sitting in the chair for the last hour, to try to figure all that out. Senator NICKLES is going to be sorely missed by this body. I find him to be an extremely smart, capable person. Senator GRASSLEY and Senator NICKLES are very good friends. I like them both. Senator GRASSLEY took the floor about the bill being paid for.

Here is where I come down. The President has made a decision for the first time in his Presidency to threaten to veto a bill if it goes above $256 billion. To the defense of the people in the Senate, there has been a little bit of bait and switch here. The White House at one point in time was not so inflexible in growing the number. I don't know what has happened there, but something has happened. My best guess is that the President sees a trend that is pretty disturbing to our party and maybe the country in general. We have lost sight of our fiscal responsibilities. The deficit is larger than anyone would like. It is going to grow.

The things we have done in the past have all been necessary. A prescription drug benefit can save you money because if you keep people out of the hospital with a prescription drug, that is a lot better than having to treat them in the hospital. But at the end of the day I voted no on that bill because I believed that by the way we set it up, utilization rates would go through the roof.

I am totally convinced that the marketplace works in two ways: It can bring out the best in people or the worst. If you have a dollar copayment, if you make under $12,000 a year as a senior—and a lot of people are in that situation—your payment under the Medicare prescription drug bill is $1. That is it. I just really believe that people are going to start using drugs at a higher rate and that if you are in the middle of the pack, as a middle-income senior, this is not that great a deal. The donut hole will be filled in because of political pressure. The means test is a great idea and the health savings accounts is a great idea, if we can hang on to them.

At the end of day, my fear was that the Medicare bill would not be $395 billion; it would explode. Even in my wildest dreams, I never believed it would explode by some $130 billion in a week. So the estimate of 395 is now 534.

Let me tell people in South Carolina about these estimates. It is a guess at best. It is an educated guess. The deficit is an educated guess. Two years ago we had trillions of dollars of surpluses as far as the eye could see over a 10-year period. The truth is, you really can't govern based on what is going to happen 10 years from now because you really don't know. You can govern pretty well if you will watch every year or every couple years where you are and project down the road and not let this thing get out of hand.

The highway bill is not like the farm bill. The farm bill was special-interest driven even more than the highway bill. I wound up voting for the farm bill. The amount of money we spent on the farm bill was more than I felt comfortable with, but I wound up voting for it because I am trying to get my legs here as a new Senator.

Senator INHOFE and Senator GRASSLEY were the two leading proponents of the tax cuts. I am very glad I voted for the tax cuts because I think they have helped the American economy. But we are going to have to make a decision in

light of everything we have done in the last year—the war, the tax cuts, because it does take money away from the budget in the short term, but it has helped the economy—how far do we go down this road, no pun intended.

I guess I have made a decision. I have made a decision that the President's desire to not see this bill grow over 256 is probably a good decision. You hate to do it on a bill where so many people have worked so hard to address legitimate needs and to clean up the mess of highway funding. Senator INHOFE, his colleagues, and his ranking member should take great pride in the fact that they have taken the funding of highways that was kind of a hodgepodge and made it more professional. You brought money back into the highway trust fund that should have been there all along. You have taken interest payments on highway trust fund moneys that went to the general revenue and you have brought them back. I congratulate you for trying to build a stronger fund because we need a stronger fund.

Here is the really hard part for me as a conservative. The average person in my State works until about May, or now almost June, to pay taxes. If you are out there working for a living, when you add up your State tax and local tax and Federal tax and you look at your pay, it takes you almost half the year before you start working for yourself. So the last thing I want to do is come up here and put another burden on people.

The worst thing I could do is come up here and lie to people. This is the truth: Our highway funding needs are far in excess of the money coming in from the gas tax, the mass transit taxes. We are trying to get more money back into the pot, and I don't want to use general revenue.

The reason I don't want to use general revenue is that it would be a bad principle. If you start using general revenue to fund highways, then you will just have total budget chaos. The authors of this bill have tried to avoid that as best they can. They put money back into the fund. In their opinion, it is not enough.

We are at war. The Senate highway bill is increased by 43 percent. I am sure every penny could be used in a legitimate manner. But when you do the family budget and when you do your budget back home at a business entity, to raise one area by 43 percent would be a very difficult task to do to keep the budget balanced. As much as I would like to get money into Oklahoma and South Carolina in a more robust fashion, I don't believe a 43 percent increase, given our financial dilemma up here with the war and other problems, is going to be fiscally sound.

With the President's increase of 18 percent and 43—I hope we can reach a compromise. The House version of 70 percent is not going to happen. The key issue is, how can you get more money in the trust funds without raising taxes? Down the road, I don't see how you do that. So some time in the near future, America is going to have to come to grips with a couple of competing concepts. The war on terrorism was unexpected in many ways, in terms of its scope and cost. Maybe it should not have been, but it was. Every day we are trying to get better in fighting that war. We have spent a lot of money we did not plan to spend but couldn't afford not to spend. That is on the deficit.

The recession is finally over. That has been hurting our revenues. As I see it, as a fairly new Member of this body, future budgeting is going to be tough to get this thing back to balance in my lifetime. We are going to have to do some things we have never done before. I think there have been a lot of creative things done to the trust fund to make it more solvent in the future.

This is a bridge too far for me. I want to build bridges, but there are too many being built given our other needs right now. Probably, over time, conservatives are going to have to come to grips with a gas tax increase, which is going to be the only legitimate and honest way to make up the shortfalls in terms of our highway needs in this country. You can play with the numbers all day long, but a legitimate, honest debate over whether we need new revenue has been had in this bill. The question is how to do it.

I think this bill borrows money. This bill is not paid for. The point of order is legitimate. I am not blaming anybody because the needs are real. But some day, somehow, somewhere, we are going to have to start saying no to something. The President has chosen to say no to this approach to highway funding.

This President has not vetoed a bill since he has been in office. Whether or not he will veto this particular bill, I don't know. But his letter was correct in terms of his concerns about the way we are going as a Nation, in terms of spending. I hope and pray we can work out a compromise between the House and Senate and the President that will do most of the things Senator INHOFE would like to do, because those are legitimate concerns. They will not be able to get everything they want, given the amount of money we have to spend. That is probably true of people in South Carolina who voted for me or did not vote for me. This year, you are not going to get everything you would like because times are tough.

My hope is if we cannot do a 6-year bill we can agree on, which will withstand the highway road building projects in a way that will allow things to go forward, we will come back next year after the election and look at some long-term solutions. That is my hope. At the end of the day, I think the President will veto this bill, and it will be a debate that probably needs to be had about how far you can go before you literally not only break the bank but make it impossible for the bank to be restored.

I know a lot of people have worked long and hard. Senator GRASSLEY was given the job of trying to come up with some offsets, and he is right, it is hard to do. I think Senator INHOFE has looked at the highway trust fund every way you can look at it to try to make it more sound and secure and to get legitimate revenue into the pot. Unfortunately, at the end of the day, the amount of money we are going to spend has a deficit component, in my opinion. I may be wrong. But the President sees it that way. The politics of this bill is probably the most important decision we will make this year in terms of domestic spending. If we can resolve this issue in a way that maintains budget integrity and gets money out into the country to create jobs, we have set a good tone for the rest of the year. But if the political discourse about this bill at the end of the day divides us along many lines, and creates an us-versus-them attitude and we try to say one side is good and the other side is bad—that is about where we are right now—the prospect of a consensus down the road to maintain the fiscal discipline we need to balance the budget one day I think will be lost. I don't know how it happened, but it has happened.

All the forces that are in play post-9/11 and before are coming together on this bill—the obligation of the country to defend itself, the obligation of the country to make itself economically viable by improving infrastructure, the moral duty for one generation not to put so many burdens on the next so that they cannot survive, making hard decisions that are inconsistent with some of the things you have said as a politician in the past, like raising taxes—all of those concepts are coming to bear on this bill. To me, this bill and how we resolve it is a test of character as much as it is of anything else.

Do we have the ability to set aside our individual hopes and dreams, whatever they may be—whether deficit reduction, highway spending, never having a tax increase, whatever drives your train—can we find some common ground? If we leave the playing field having a veto that was overridden, the consequences to this country, not just the Republican Party, are extremely serious because if we cannot control it on highways, as popular as that might be, how will we ever control it when it comes time to repair Social Security?

That trust fund is $5 trillion short of the money it needs to maintain solvency by 2042. By 2075, that trust fund is $75 trillion short of the money it needs to maintain solvency. Those are numbers beyond comprehension. How did we get into that mess? Both parties, in my opinion, have played games with the real problem of Social Security, because nobody in the past has really wanted to embrace the looming problem Social Security faces. Why? It is very hard in any election cycle to talk about Social Security, because people who are on it get scared to death.

I was born in 1955. There were over 16 workers for every retiree when I was born. Today, there are three workers for every retiree. Twenty years from now, there are going to be two workers for every retiree.

The point I am making is Social Security has a problem that is not created by the Republican or Democratic Party. Social Security is funded by payroll taxes. That is the exclusive source of money coming into Social Security. The highway trust fund is funded by gasoline taxes. If you think the highway bill is a problem, trying to live within these numbers, you have not seen anything yet when it comes to Social Security. The consequences of having 2 workers for every retiree versus 16 for every retiree when I was born are huge.

In 2042, which is not that far away, the only way we can keep the checks coming is to reduce benefits across the board by 28 percent or double taxes. To sit on the sidelines for the next 30 years and argue with each other is unacceptable because after 2042, it gets worse. The highway bill has a similar problem but not nearly as dramatic. I think every dollar we will spend in this highway bill has a legitimate purpose.

If we overspend this year, if we go to 43 percent this year and add to the deficit and not have a fiscally sound plan to save the highway trust fund, we set in motion the forces that come back to haunt us. If we could solve the highway problem in a bipartisan fashion, then maybe we will solve Social Security in a bipartisan fashion. But the truth is that the highway needs, the infrastructure needs of this country cannot be maintained at the current rate of revenue flowing into the trust fund. That problem gets worse over time, not better.

I do not want to pass on every problem on my watch to somebody else. I would like to be thought of as somebody who at least embraced a few problems on my watch in a serious way and did things outside the box. There is nothing outside the box about trying to create offsets. We do that all the time. There has been some outside-the-box thinking about this trust fund and recapturing money, and that will make this trust fund more solvent and more sound over time.

At the end of the day, in my humble opinion, we can't afford, at this point in our Nation's history, with a looming deficit that seems to have no end, a nation at war that seems to have no end in the short term, to increase spending on something as meritorious as highways at this level now this way. That is why I think this vote on this bill will define us for the rest of this year and maybe in years to come.

I am totally convinced of the following: That if the leaders of the House and the Senate sat down with the President, we could find a way to put new money into the trust fund, get through this conflict, and next year talk about some new funding that would be permanent over time. I think that is possible. I hope that happens because the quality of the people with whom we are dealing are capable of doing that. I will not be in that room as a junior member.

I just have one vote, and my vote will be cast for a purpose. It is not to deny anybody a chance to improve their State or for us to improve the economy through better infrastructure. I will vote no, and hopefully the President will have some support for his veto threat. That ''no'' vote is cast to say let's look at a different way, a better way of resolving this issue. This, right now, is sheer, tough politics.

People wonder: If they vote no, will they lose all their highway projects. That won't be up to me. People have to choose the path they think is best to manage their bills and to run the Senate. But I can say for absolute certainty that the best way for me to go home and get reelected is to be me. I am not going to try to change and become something overly opposite of what I ran on. So I believe if I vote no with the proposition that 43 percent is more than the taxpayers can afford right now in terms of retiring the deficit over time, that this is a bridge too far, most people will agree with me.

That is my hope; that is my bet. But if they don't, I am still going to vote no because the reason I was sent here, I assume, was to use the best judgment I can muster. And the best judgment I can muster after having listened to this debate, which I think has been good and healthy, is that this highway bill has been innovative. We have done some things to make the trust fund sound, and the needs are real, but we are going too far. We are putting too much pressure, combined with the other actions that we have taken, on future generations, and somebody sometime has to say: Whoa.

That is what I intend to do—to cast my vote with the idea of let's look at this in a new and different way in light of the rest of our problems.

I yield the floor. Mr. President, I thank you for listening.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair. Mr. President, I compliment the Senator from South Carolina on his comments. I, too, will be voting no on this motion to waive. As a member of the Finance Committee who worked on this legislation, I just want to say that the reports about this bill not being paid for are accurate. There are games clearly being played to try to move money from one year to the next, to cover up money by moving money from the year 2010 to 2009 and pretending this is new money. In fact, this increases the deficit in 2010 because it is outside the window of what this bill deals with; it is only a 6-year bill.

We have provisions that increase taxes in areas that have nothing to do with transportation in order to fund transportation dollars. I know a lot of people don't care about that. Most people in this Chamber, obviously, by their votes are not going to care about that. We increasingly care less and less how things are funded around here. At one time around here we were actually concerned about that.

I admit, I am guilty on my own account having voted for this Medicare bill we just passed where we increasingly, over time—it took us a while—increasingly over time we separated the funding taxes and stream for Medicare from the money we actually spent on Medicare because the demand was so great to provide Medicare services that we decided just to fudge and lose a little general fund revenues, then a little more, a little more, and then a lot more and a lot more, and all of a sudden now the Medicare Program has grown and the vast majority of it is now funded, in large part, by general fund revenues. It has no relation to the Medicare tax that we pay. That is only a small part of the program, as it turns out.

Highways and transit have always been funded historically by user fees. Most of it is gasoline taxes, but there are other excise taxes and special taxes that are put on transportation. Why? Because the concept was we were going to create a Federal gas tax and collect money from the users.

One of the points we hear over and over is this is a user fee. It is not a general tax, but we are going to tie the amount of money we collect to the people who use it, and that makes sense. Those who use the roads should pay for the roads, and the costs should be passed along to those who benefit from the use of the roads, from the businesses that pay the taxes and individuals, for that matter. There was always this nexus, and that stood us in stead.

The argument was made for years around here that we were paying more taxes than we needed to pay because we weren't spending all the money that was coming in, and that was a legitimate complaint we had two transportation bills ago to spend all the money that was coming in and not use some of these gas taxes to pay for other Government spending to hide the real cost of Government.

I supported that because I supported the concept that when someone is being taxed on gasoline and other excise taxes, that money should be used to improve the roads on which they are driving.

We were able to accomplish that 12 years ago. Six years ago we said we not only are going to take all that money, but the money that accumulated over time, we are going to spend that down. I thought: That is really a general fund transfer, but legitimately that money was put in there for that purpose. OK, I will support that.

Now we are saying there is no more money left in the trust fund, there are no more revenues coming, but we still want to spend more. Why? Well, I have developed an axiom in Washington and

that is: Never get between a Congressman and asphalt because you are destined to get run over. And that is exactly what is happening in the Senate and the Congress.

There are a few of us who will soon be roadkill on the Senate floor, who are going to try to get between a Congressman and a Senator and the ability to go back home and say look what wonderful road projects I am delivering.

I am for road projects. I am for transit projects. I believe we need to improve our infrastructure. I just think we need to be honest how we are paying for it. So let's be honest about it. We are not paying for it.

Now, if any of my colleagues went home, as I did, over the break, one of the things they probably heard over and over again was the profligate spending that is going on in Washington, DC. Republicans and Democrats alike, there is no difference between us, we are all just spending money like there is no tomorrow and there is no deficit.

So many of us came back saying there is a point where we need to rein this in. We have huge deficits that go off in the future. It is time for us to start drawing the line, and it is important not just because we have huge deficits but it is important to signal to the markets, it is important to signal to those who value our currency, that we are not going to allow this fiscal irresponsibility to continue; that we are not going to continue spending at outrageous rates of growth like the 45 percent increases that are in this bill.

I think it is unfortunate that the highway bill is in the crosshairs because this is a bill that is very important. I understand that. But let's be honest about it. The signal we are sending is; the throttle is still wide open; we are going to spend, spend, spend. Of course, we will justify it by saying a whole host of things about how important this is to our economy and all the other things, but the bottom line is we are spending a ton of money and we are not paying for it. We are adding to the deficit and we are doing something very dangerous, which is taking money from the general fund to fund highway programs.

I think it is wrong. That is why there is a budget point of order against this bill. Now, I understand we are not going to succeed because this amendment or this point of order gets between a Congressman and asphalt. Most amendments will fail when that is the case.

The bottom line is, somebody somewhere in this Senate is going to have to start getting between Members of the Senate and House and the projects they want to deliver back home. Otherwise, this deficit is just the beginning of problems.

I had an opportunity to spend a little time with the President up in Pennsylvania this morning. I had a chance to chat with him just briefly about this legislation. Let me assure my colleagues, any Member of this Senate who thinks they are going to go back home and get a bill that is $290 billion or $318 billion or $375 billion, which is what the House was talking about, they may be able to do it but they are going to have to do it by overriding a veto.

Again, that is the old axiom that maybe the President is going to try to stand between a Congressman and asphalt. The President has a pretty big roadblock that has to be gotten through, and I am one Senator who is going to support that roadblock because I believe we have to at some point start to say fiscal responsibility matters and we are not doing it.

I would rather have us have a vote on the floor of the Senate right now about gas taxes. If my colleagues want to fund this program, fund it by putting a gas tax in place. Where is the courage of the people who say we need more roads to pay for the roads? That is the problem we have. We always want to spend more money, do more things, and we do not want anybody to pay for it today. Whether it is Medicare, highways, or whatever the case may be, it is spend more now, get the political benefit, and pass on the bill to that future generation that, by the way, I do not have to worry about because I am not going to be running when they are voting; I can always give them something and pass it on to the next generation and they will not be mad at me.

At some point, this Ponzi scheme is going to come up. In my mind, this is a Ponzi scheme. It is wrong.

Now, I admit—and I am going to talk about this later, not now, because this is a debate on the budget point of order—this is a bad bill for a lot of reasons. One is because it uses general fund revenues. No. 2, it raises the deficit. It is not paid for. There is also a reason I will talk about later, which is what it does to my State, which is a grave injustice. It is counter to everything.

This entire area of funding transportation projects from Washington, DC, which is a fairly recent phenomenon, the whole idea was to facilitate national security and defense but also interstate commerce.

What does that mean? That means States that shoulder the burden of carrying cross traffic should get paid by other States that do not have that burden but get the benefits of it. I daresay there is no State in the Union that carries more cross traffic than Pennsylvania. Yet we become a donor State under this bill, which is an outrage. That is a parochial interest about which I will talk at another time.

The philosophical and, I believe, fiscal reasons to oppose this bill have been laid out clearly by several people in the Chamber. It is wrong. We will lose, but ultimately the American economy will lose. The impact and ripple effect of this bill, which will send a signal to those who are looking at the Congress of the United States to see whether we are going to constrain spending, will be profound and will multiply innumerable times the number of job losses versus the job creation in this bill. This is a bad jobs bill, and we need to put an end to it.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I probably will not win this vote since I think the sentiments of many of the Members were expressed in the cloture vote, but I think it is important to point out again that the total spending in this bill exceeds the current budget resolution by $35.5 billion. We are facing a $500 billion deficit for the year 2005. In the Armed Services Committee hearing the other day, the Secretary of Defense pointed out that they will be coming in for a supplemental appropriation, many billions of dollars, after the elections, probably sometime in January. Our service chiefs mentioned that they might be 4 months' short of being able to operate with the funding they have. Our priorities seem to be passing a bill that exceeds the budget resolution by $35.5 billion.

I note the presence of the Budget Committee chairman, who I think does an outstanding job. I appreciate the credible efforts he has made both as chairman and otherwise for fiscal sanity. I wonder if we ought to waste our time this year going through the couple of weeks of trying to come up with a budget, or should we consider, as many House Members have and other Members of this body, that perhaps we should make the budget resolution signed into law by the President of the United States? With all due respect to my dear friend from Oklahoma, who has been here many years, this makes a mockery of the entire budget process.

The distinguished chairman of the Finance Committee came to the floor and raised these old chestnuts as to how we are going to finance it. My all-time favorite is customs user fees. Again, I ask my friend, the chairman of the Budget Committee, how many times have we used customs user fees as a way of paying for something which has now given us a half-trillion-dollar deficit, the party of the balanced budget amendment to the Constitution in 1994?

Mr. President, I ask unanimous consent for the Senator from Oklahoma to respond to my tirade.

Mr. NICKLES. I will respond to the question of my colleague and friend, and the question was how many times we have used customs user fees. They have been used several times, although I do not know that we have passed it. It is used to help pay for more spending in many cases, maybe other tax cuts, but it has not been enacted into law. My guess is it will be at some point, but I think my friend from Arizona is making a very valid point and I appreciate that.

My colleague asked, if we pass this, do we still need to pass a budget? I happen to think we do. Because we passed a budget last year, we saved hundreds of billions of dollars' worth of spending over a 10-year period of time. The budget resolution helped make that possible. So I hope we will still be able to pass a budget resolution in spite of this bill.

Mr. MCCAIN. I say to my friend, I thank him for his hard work. Again, I do not look forward to the most unpleasant day we have this year in the Senate, and that is when we all vote every 30 seconds on issues of huge import and none of us have a clue as to what we are voting for when we do it.

Again, I don't think it is through any fault of the chairman of the Budget Committee that this is over the budget resolution by $35.5 billion. But, if this is the process we should go through when we are authorizing or appropriating money—we have a budget resolution. It calls for a certain amount of money to be spent for a certain function. But then we can get the chairman of the Finance Committee to come down and say, Don't worry about what we decided in the budget resolution; we will just find some more money. Usually customs user fees is one of the old chestnuts that are drawn out of the fire to be used over and over again.

The other thing about this, my dear friends, the House of Representatives just decided to delay by 4 months consideration of the transportation bill. Why? Because there is an outright revolt over there, because they are closest to the people, about these totally out-of-control spending practices which have given us these unprecedented high deficits. I hear a rumor that they may do what is probably the right thing to do and just extend for 1 year the existing transportation legislation.

So what do we do? We are passing legislation of which the President of the United States has guaranteed a veto. Again, I like to point out, it is the Republican Party that is the majority. It is the party of the President of the United States that is in the majority here, yet we are pushing a bill to which the President says he is unalterably opposed. What is going on?

I hope my colleagues will consider voting to uphold this budget point of order. It is clearly valid. This budget point of order is clearly valid.

My friend from Oklahoma said he wished I hadn't raised this point of order because he doesn't like to see the budget really overridden. A vote against upholding the budget point of order, to waive the budget point of order, will basically override the work of the Budget Committee. I hope my colleagues will take that into consideration if they vote to waive this and future budget points of order.

It is interesting, on this bill no further budget point of order can be raised, according to the waiver that is before the Senate now. No matter how outrageous, no matter how egregious, we have waived this budget point of order and future points of order.

There is something wrong with this system. Let me remind my colleagues again, we have been on this for 2 weeks. For 1 week we didn't have a single vote. Yes, I oppose unanimous consent agreements. I never ever opposed votes on amendments. I was in favor of those. Why didn't we have a vote on the Gregg amendment? The reasons are obvious: Because they didn't want a vote on it. But that was not a reason to stall any process. But that is behind us.

Now we are faced, as of yesterday, with a veto threat from the President of the United States because of the tremendous $35.5 billion increase in spending over the budget resolution and about $62 billion above the President's request on this legislation.

I urge an affirmative vote, a vote against the motion to waive the budget point of order.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as the ranking member of the Budget Committee. There is no question that this budget point of order is well taken, in the sense that the legislation before us as it is at this moment is not paid for. It is not paid for in any way that is serious.

In the Finance Committee, Senator NICKLES and I raised this point repeatedly and secured a commitment from the chairman and the ranking member that, before this legislation would leave the floor, it would be paid for. I had offered an amendment to pay for this bill in the Finance Committee and only withheld that amendment based on the commitment that we were given by the chairman and ranking member of the Finance Committee that this bill would be fully paid for before it leaves this Chamber. I am trusting in the chairman and the ranking member to keep their word—to keep their word to me, to keep their word to Senator NICKLES—that before this bill is passed, it will be paid for.

It is on that basis that I will vote to waive the Budget Act. But I think it should be abundantly clear Senator MCCAIN is correct in saying that, as it is before us, this bill is not paid for.

I do want my colleagues to know that in the Finance Committee the chairman and the ranking member pledged that before this bill leaves this Chamber, it will be paid for. I trust them at their word. They have made that commitment. I can say that they have kept commitments to me in the past. I am counting on them to keep that commitment that in this Chamber, before this bill leaves the floor, that it will be paid for—and not by any timing changes; not by moving corporate receipts from 2010 to 2009, or any funny-money financing, but really paid for.

I should add, I am disturbed that this waiver takes down other potential budget points of order except out of the conference committee. Out of the conference committee, if it is not paid for, we would still have budget points of order apply. But I must say I am very disturbed that this waiver will be for all budget points of order because there are other legitimate points of order that could be raised unless this problem is fixed, as the chairman and ranking member have promised this will do.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I ask for the yeas and nays on the waiver.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question occurs on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye.''

The yeas and nays resulted: yeas 72, nays 24, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—72

Akaka	Dayton	Lott
Allen	DeWine	McConnell
Baucus	Dodd	Mikulski
Bennett	Dole	Murkowski
Biden	Domenici	Murray
Bingaman	Dorgan	Nelson (FL)
Bond	Durbin	Nelson (NE)
Boxer	Feinstein	Pryor
Breaux	Frist	Reed
Bunning	Grassley	Reid
Byrd	Harkin	Roberts
Campbell	Hatch	Rockefeller
Cantwell	Hollings	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Shelby
Clinton	Jeffords	Smith
Cochran	Johnson	Snowe
Coleman	Kennedy	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Talent
Cornyn	Leahy	Thomas
Corzine	Levin	Voinovich
Crapo	Lieberman	Warner
Daschle	Lincoln	Wyden

NAYS—24

Alexander	Enzi	Kyl
Allard	Feingold	Lugar
Bayh	Fitzgerald	McCain
Brownback	Graham (SC)	Miller
Burns	Gregg	Nickles
Chambliss	Hagel	Santorum
Craig	Hutchison	Sessions
Ensign	Kohl	Sununu

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Specter

The PRESIDING OFFICER. On this vote, the yeas are 72, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order is not sustained.

Mr. REID. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2473 TO AMENDMENT NO. 2285

(Purpose: To provide for a substitute to title V)

Mr. KYL. Mr. President, if the managers of the bill have nothing at this point, I have an amendment at the desk which I would like to call forward. The amendment is No. 2473.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2473.

Mr. KYL. 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 printed in the RECORD of February 11, 2004, under ''Text of Amendments.'')

Mr. KYL. Mr. President, let me briefly describe for my colleagues what this amendment does. In simple terms, it reduces the funding we have provided for the transit and highway purposes of this bill from the amount in the substitute offered by the Senator from Oklahoma to the amount requested by the President; namely, $256 billion over the 6-year period.

That is the amendment. There are some features of it we could discuss, if you like, and I would be happy to answer questions from my colleagues. But the gist of this amendment is simply to say, we understand the bill before us is too expensive. The President has said he supports a $256 billion number. The statement of position by the administration would recommend a veto if the bill violates the principles set forth by the President, including specific reference to the substitute that we are considering.

So it seems to me if we want to ensure the bill will not be vetoed, if we want to demonstrate that we are going to begin to spend money wisely here, then we should be willing to support the level requested by the President over 6 years, which is $256 billion.

Now, we have quoted before from the Statement of Administration Policy. What I would like to do is quote from the President's press officer, Scott McClellan, on board Air Force One this morning at just a little after 10 o'clock. After talking about some other things, he had this to say about the question of the highway bill before the Congress. He said:

This is the first test for the Congress when it comes to spending restraint. And the President's proposal is at $256 billion.

I am reading from the comments this morning of the President's press secretary. He said:

This is the first test for the Congress when it comes to spending restraint. The President's proposal is at $256 billion. This is for the next 6 years. It's a 21 percent increase above the previous 6 years, and we urge Congress to show spending restraint in moving forward on this legislation.

That is the basis for this amendment, to limit our funding for highway transit purposes for the next 6 years to this level, $256 billion.

Let me get into a little bit of detail about what the Finance Committee did to come up with a larger number. One of the reasons it is important for us to focus on this number is because in all three respects that the President's advisers laid out in the statement of position of the White House, the bill before us violates the principles laid down by the President. Those three principles which caused the advisers to the President to recommend a veto if any of them were violated are as follows: That the transportation infrastructure spending should only rely on gas tax revenues and that there not be any increase in gas tax or other Federal taxes.

This bill raises other Federal taxes. This bill provides new spending that doesn't come out of the highway trust fund but, rather, results from work the Finance Committee has done to close a variety of corporate loopholes. We are familiar with some of the corporate loopholes the Enron executives were able to take advantage of, for example. There are some other provisions we were able to close which represent tax increases for the people who otherwise would have been able to take advantage of those loopholes.

Those tax increases will produce revenue—I have forgotten the exact amount, but in the neighborhood of $50 billion or thereabouts. That was revenue we counted on to use in providing relief to our manufacturing facilities because we are going to be taking away from that some special tax treatment the World Trade Organization held to be impermissible under the WTO principles. Our European trade competitors brought a case against us in the WTO, and we lost that case.

The way in which we gave tax advantages to our manufacturing companies can no longer exist. We have committed to the WTO we will change our tax laws so those advantages no longer exist. However, we recognize we have lost a lot of manufacturing jobs over the last several years. We don't want to simply reduce for those companies the offending provisions. We want to substitute something else so our manufacturing corporations and other corporations will have the tax structure to continue to grow economically, to continue to produce jobs and hopefully create new jobs.

If we use the revenue the Finance Committee came up with for this purpose—and it is called the FSC ETA reforms—if we use those revenues instead to build highways, I don't know where we are going to come up with the money to aid our manufacturing firms. I mean this with all sincerity. It is fine to respond to our general contractors who are great people back in our home States; we are going to be spending a lot of money on highways. We are going to be increasing spending by 21 percent if we just adopt the amendment I have laid forth and the number the President has requested. But I don't know how we are going to look our manufacturing constituents in the eye, and particularly the people who work for them, and say: Gee, we are sorry. We spent the money we would have provided to you on building highways.

I don't know where we are going to get the money to support the tax relief to these manufacturing corporations if we use all of that money for this purpose.

That is exactly what the Finance Committee bill does. The chairman of the committee has said the bill is paid for. This is how the bill is paid for. So we have increased taxes, and we are going to be transferring that revenue from a project we all committed to, and we have to move this forward by March or there will be retaliation by our trading partners in Europe. They have waited patiently for a year and a half or 2 years now. We have to do that. But now we are going to apply those revenues to this bill. Why? Because the chairman of the Finance Committee felt he had an obligation, in view of the Bond amendment that passed last year, to find some way to fund the level the Senate had passed.

It raises taxes. It violates the President's principle. On that alone the President's people would recommend a veto. We should not do it.

Secondly, the President's principle was the bill should not be funded by mechanisms that conceal the true cost to taxpayers. This bill obviously conceals the true cost to taxpayers because it doesn't limit highway and transit spending to revenues we collect in taxes from those revenue sources. The gas tax produces $196 billion in revenue over 6 years. But we don't limit the spending on highways to $196 billion. Instead, we have found other ways to increase that amount of money.

In the Finance Committee we went over all of these various options, and there are some of them that make enough sense that I am willing to support them and say: All right. You could go above the gas tax revenues of 196. You can get up to about 210 to $214 billion and argue with a straight face this is money that is real money and could, in fact, be attributed to the highway trust fund.

But beyond that, we are in fact concealing what we are really doing. That gets into the third principle, which is we should not be funding from the general fund; that we should fund from the revenues we derive from the gas tax and should not take money from the general fund for this purpose. This substitute violates that principle that until now has guided our spending for

highway projects. It is there both to protect highway users to make sure the money in the fund will be used for highway purposes—a point that was eloquently spoken to by the chairman of the committee, the Senator from Oklahoma, a day or so ago.

It also protects those people who don't pay a great deal into the fund because they don't drive very much and they don't buy very much gas. It protects them from having to pay income taxes to support roads they never use. We have always had the principle that we are not going to dip into general revenues, because once you begin doing that, there is literally no constraint, up until now. Now for the first time we are going to dip into general revenues.

How does this bill violate that principle and the second principle of concealing from the American people exactly how these revenues are going to be spent? It pretends money is in the trust fund that is not there. By saying that, I don't mean to denigrate the purposes or motives of my colleagues who created this mechanism. But the fact is, no new revenue is being created by the collection of gas tax revenues to be put into the trust fund. We are simply going to deem that money was put there without it ever having been put there through the gas tax.

For example, there is an exemption for schools and churches and States and towns. So when your local school bus drives around and has to refill the gas tank with gas, we don't charge them the Federal gas tax for that. What we are going to do now is pretend as though we did. We are going to say, there is $9 billion that would have been collected if we had done that, so we are going to pretend as though there is $9 billion in the highway trust fund.

The other thing we are going to do is, if you buy ethanol, you get a 5.2 cent exemption. You don't pay the full 18.3 cents. You pay 18.3 minus 5.2. We are going to pretend as though that 5.2 cents was collected and transferred to the highway user fund. When I say that, the mechanism is we are going to actually collect that tax, but then we will rebate it to the taxpayer. So it actually was collected once, but it has also been rebated. So again, no net new money.

Since you have to pay highway contractors in real dollars—they don't pave these highways for nothing, with fake money—how do you do it? That is where this corporate tax increase money comes in. The Finance Committee closed these tax loopholes, raised taxes on these corporations, and produced—again, the number is roughly 50 billion. If one of my colleagues wishes to correct me, I am happy to be corrected, but say it is $50 billion.

That new tax increase from corporations is going to then be taken from the general fund and transferred over to the highway trust fund. That is general revenues.

So all three of the principles that the President laid down will have been violated. We have increased taxes on corporations, we have obscured the fact that the highway trust fund doesn't pay for all of what we are spending here, and we have transferred money from the general fund into the highway trust fund in order to pay for the bill on which we are about to vote.

In all three respects, we have violated the principles that the President's statement of policy laid down. Given the fact that the advisers to the President said they would recommend a veto if we do that, and if we move forward with legislation—I will cite the sentence from the Statement of Administration Policy:

> Accordingly, if legislation that violates these principles, such as this legislation—

These people are saying ''this legislation'' violates those principles—

> Accordingly, if legislation that violates these principles, such as this legislation, which authorizes $318 billion, were presented to the President, his senior advisers would recommend that he veto the bill.

As that letter says, and as Scott McClellan confirmed, the President's proposal is $256 billion, a 21-percent increase over the previous 6 years. That ought to be enough. That is why I offered as an amendment for colleagues to vote on here the opportunity to support the President and say, enough is enough, a 21-percent increase is enough—we don't need to spend more—and, as a result, we are going to exercise fiscal restraint and pass a bill that is funded at the $256 billion level.

I would like to yield the floor now to any of my colleagues.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I appreciate the opportunity to offer a few observations about my friend's amendment. He has spoken with his usual eloquence. I listened with care to the three points he raised. I say this with entire sincerity, even though I confess that I didn't agree with a word he said.

I was in the Chamber yesterday and had with me the survey of the Department of Transportation on the needs of the United States of America for transportation. It was about the size of this volume I have in my hand. It was an exhaustive survey that concluded we needed a transportation infrastructure bill of around $375 billion to take care of our crumbling transportation infrastructure.

It is a fact that I have not heard contested, much less contested successfully, on this floor, that 32 percent of the roads in the United States are in poor or mediocre condition; 36 percent of the urban roads are in that condition; 28 percent of the bridges are substandard; we lose $65 billion a year in productivity and man-hours because people are trapped on congested roads; there is $50 billion a year in extra maintenance costs that we have to pay because our automobiles have maintenance problems due to the fact that the roads are no good.

Who hasn't been in a situation where they have rolled over a pothole—and not always on some subdivision road but on a highway—and blown out a shock or their tires have gone out of balance? It is because of the road, and you have to pay for that. It is not going to get better if we don't do something to make it better.

This is what I don't understand from the critics of the bill. What do they want to do? Are these roads just magically going to fix themselves? Is there something defective about this survey? That is what the Department says in terms of its academic study, if you will. We all know it is true. We encounter it every day here on the east coast, and we encounter it when we are in our States. My friend from Arizona talked about the bill conceals something. It doesn't conceal something. It is an attempt to meet the problems of transportation infrastructure.

What is concealing things is to pretend that the problem doesn't exist, to set an arbitrary limit for how much we are going to spend and say, based on what we are willing to spend, that is what we need to spend, instead of honestly assessing where we are in terms of transportation infrastructure in this country and coming up with the money one way or another to meet the needs.

The critics are concealing the fact they don't intend to do anything about the problem. This is what they say: Well, OK, you cannot raise taxes to raise money to deal with the problem. You cannot use bonding because we have never done that before. Everybody else in the country does it. I spoke at some length about this yesterday. I will not inflict it anymore on the Senate. Everybody else in the country bonds for roads and highways and bridges, but we cannot do it here. Now we cannot use general revenue either. So go ahead and fix the roads, but you cannot raise taxes, use bonds, or use general revenue. Go ahead and get the $375 billion.

That is concealing the fact that they are not going to do anything about the problem. We are going to continue losing the $65 billion a year in lost productivity, $50 billion in increased maintenance—and what about the people who die because the roads are no good? What about those people? Tell them we don't need to do any more? Tell their families we don't need to do any more for transportation infrastructure?

I hear my friends say it is not fair to use general revenue, not fair to the taxpayers. There are a lot of people in Missouri who get up every day, and they have worked hard and been fortunate enough that their lives are going pretty good. Maybe they are single or they have families. They work and get taxes deducted from their paycheck every week. They pay the taxes at the pump. They pay all the other taxes they have to pay. On April 15, they write another big check. Because their lives are going good and they don't need a lot of extra help, they don't participate in a lot of Federal programs

that we have here. They support them. They want people with needs to have access to help. They don't participate in it because they don't need it. If you stopped and asked them, what is it you get directly out of the taxes you send to Washington, and they stop and think about what it is that Washington does that makes a difference for them day to day, about the only thing they would say is the roads. They would say: It would help if I could get to work in the morning.

Sure, we have a problem with the fiscal future of the country. That is not even considering what we have to do with Medicare and Social Security when the baby boomers begin to retire.

Mr. INHOFE. I didn't hear the figures the Senator mentioned that were tied to lost productivity and maintenance. What were the figures?

Mr. TALENT. It is around $65 billion a year in lost productivity because people are trapped in traffic jams.

I say to my friend from Oklahoma, it certainly makes sense. We have the workers of the country every morning going to work—and I see it in Missouri—and they are trapped in traffic jams. That is time they are not spending on the job producing goods and services and wealth for the United States.

Mr. INHOFE. The other figure on maintenance was what?

Mr. TALENT. It is about $49 billion in extra maintenance costs because the roads are not good.

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

Mr. TALENT. Yes.

Mr. REID. My friend's memory is very good. The figure is $67 billion. And people wait in traffic and waste 5.6 billion gallons of gasoline every year.

Mr. TALENT. I appreciate the question of the Senator from Nevada, also.

If you went to that taxpayer and said, what do you get for the money you send to Washington, and they thought about it, they would say, well, the roads.

I have people say to me: We don't really want anything, but it would be nice if you would fix the roads. It would be nice if you had an extra lane on that bridge or it would be nice if I didn't have to, when my kid went out on a date at night, wait up at night, not worrying because I thought the kid would get into trouble but whether my kid was going to get home on those roads.

So I think the people who are paying the income taxes of the country into the general revenue of the United States of America would appreciate it if we used a little bit of that to fix their roads. I don't know whether that fits whatever rules of accounting we have been following in the past. I think it would make a difference for the people of the country.

You know what I don't think is fair—what is not fair is to pass the bill for the Nation's infrastructure on to the next generation, knowing we have not done our part to pay it.

Yes, this highway bill is bigger than the last highway bill. As everybody said, it is about 30 percent bigger. The gap between where it is and where it should be is bigger, too, and what that tells us is with each highway bill, we are failing more and more to get to where we need to be, and it is going to have to get bigger and bigger as time goes on if we are going to make up for this transportation deficit.

I used this example yesterday. You are a homeowner, and you have a hole in the roof. You have to consider what options you are going to use to pay for fixing it. But what isn't an option is not fixing it because if you don't fix it, it doesn't get any better; it just gets worse and eventually the roof collapses. I think we should do our part and face honestly what we need.

I appreciate the managers of the bill getting this bill up to the level they have. I ask them to hang tough. We need a highway bill at that level. I made a point of saying yesterday that we need it more than that. I am hopeful, as this process goes on, that we can persuade those who, with the sincerest of intentions, are concerned about the fiscal state of the country, that we don't improve the fiscal state of the country by undermining the economy that produces the wealth on which this Government depends.

We are going to meet these needs in the future. We are going to meet it through growth. America is going to go out and produce and create jobs and grow and make enough for everybody. America will rescue us from this fiscal situation if America can get to work in the morning, and that is what this bill is about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I wish to speak in opposition to the amendment. The previous speaker has outlined articulately the huge loss in productivity this Nation suffers because of the present situation with respect to our highways, and that if we don't do something about it, we, obviously, are not going to get the productivity we need. With international competition from all over the world now, lost productivity becomes even more important as we go forward.

Many in this body have argued that the level of funding in our bill is too low. In fact, if we look at the transportation needs of the Nation, they may be right. What we have done in this legislation is to follow the will of the Senate.

Last year, during debate on the budget, this body overwhelmingly voted in favor of the budget levels contained in this bill. In addition, our levels are almost $60 billion less than the House proposal—again, $60 billion below the House. In fact, our bill falls right between what the President wants and what the House wants. We are in the right place. I could be wrong—maybe I am—that we should accept that low a level, but we will never get this bill to the President's level. And without a bill, we risk missing out on the creation of many jobs.

The American people need these jobs. The biggest problem we have right now is the lack of effort to pull forward and increase productivity and to increase the number of available jobs. This bill will do it. It will create thousands of new jobs, and it will create them within proper areas of expenditure.

This is a good bill. I would like to see it a little bigger. Maybe we will get it a little bigger. The House is certainly going to give us that opportunity. Right now what we should do is pass this bill and get it on to the President.

I yield the floor.

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

Mr. INHOFE. Mr. President, this will be brief because I think we are getting redundant in some of the things we are saying. I do find it a little bit puzzling that the people who are promoting this type of an approach—whether it is temporary extension or a narrowed-down version and spending less—are the same ones who were willing to spend $7.25 billion more just a few minutes ago.

On the issue of amount, the 40 percent we keep battering around, we have to remind ourselves that when we look at Government programs that are worthwhile Government programs, it is not unusual to have an increase of 6 percent a year. I draw a distinction between this and a lot of programs we have—I have a long list I could read about foolish things we do around here wasting money.

As a fiscal conservative, I believe in spending more in certain areas. One area is national defense and another area is infrastructure. I know that is what we are supposed to be doing here. In fact, the Senator from Missouri has access to a survey that shows that 69 percent of the people in America, as opposed to 22 percent against it, favor spending more money right now in this climate on infrastructure—roads and bridges. That is what we are here for.

I do want to say again—and I am sorry about being redundant, but it is very important—the President sent over three criteria. I think the first two we can't even argue about. We are not talking about raising gas taxes. He wasn't talking about plugging corporate tax loopholes. He was talking about increasing gas taxes. We don't do that.

Secondly, some of the things he considered to be gimmicks, we are not doing. I know the Senator from Missouri would like to approach the more creative types of financing.

In the third area where he talks about taking out of the general fund, that is one that could be debated. I am fully willing to take money out of the general fund if it got to the general fund from the highway trust fund. And it never should have.

One sentence out of the Finance Committee says:

In the view of the tax committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund.

In other words, if you are going to pass something having to do with vehicles that use less fuel, or something similar to that, that is policy and has nothing to do with traveling on roads. Because those vehicles travel on the same roads as other vehicles, why have the highway trust fund pay for that? I think that is absurd.

I was here in 1997 when we had a balance of $16 billion in the trust fund. The previous administration wanted $8 billion. We said let's take half out of the $16 billion. So they took that out of the highway trust fund and put it in the general fund. That ought to go back. That is a policy of being honest with the people. I think it is a moral issue, in a way, because 99.9 percent of the people who pay their taxes are willing to do that, assuming that goes to building roads and repairing bridges, and it is not because we have been raiding the trust fund over and over for the 18 years I have been here.

That is what this is all about. The Senator from Missouri is exactly right. We can't continue to do nothing. We are going to have to rebuild our bridges and roads.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first I wish to correct something I said. I was trying to estimate the amount of money the Finance Committee has come up with in corporate loophole closings. That is a gross way of saying what we did. We have changed several provisions of law that are going to raise revenue. It amounts to a tax increase on certain kinds of businesses, but it represents good policy. Some of this follows the Enron scandal.

I thought we had gotten up to about roughly $50 billion. Actually, the amount is $22 billion. I stand corrected on that. That would be a $22 billion tax increase if you want to put it that way.

Second, there are two things to which I want to respond. My colleague from Missouri basically made the argument: But our needs are great; we have a great need to rebuild our highway system.

First, I don't want my views to be characterized as I don't care about building highways; that I don't think we have needs. Of course we have needs. We have all kinds of needs. If the Congress responded to every need that every Member brought forth, we would have a budget that is five times as big as it is right now. We can't possibly satisfy all of the needs of all of the people all of the time with the revenues we have, and it is probably a good thing because it does force us to set priorities.

That is what this amendment does. It says we would like to have maybe a 42-percent or 41-percent increase over the last 6 years in highway spending, but everything else in the budget is going to be less than 1 percent, except for homeland security and defense.

If we can set a priority with health, education, welfare, and justice and all of the other activities we do, if we can create a budget that has growth of less than 1 percent for those activities, then why do we have to have more than a 21-percent increase in highway funding, which is the amount that $256 billion finances?

That is the amount the President will support. I do not want my colleagues to characterize this amendment as against highway funding. It is a 21-percent increase. Is that not enough? No, my colleagues say it needs to be 41 percent. Well, that is a legitimate argument, a difference of opinion: Do we need to increase it 41 percent or 21 percent? But do not mischaracterize the argument that those of us who think 21 percent is enough are somehow against doing something about our infrastructure.

The final point I want to make is to respond to the Senator from Oklahoma. As to the rationale used, and he characterized it correctly a moment ago, in the Finance Committee by those people who say this money ought to be attributed to the highway trust fund, we only raised $196 billion in gas tax revenues, but we have made some public policy decisions, the results of which have denied money to the highway trust fund and because of that we ought to attribute those funds to the highway trust fund.

One public policy decision is that schools, towns, and churches should not pay the gas tax. That is a legitimate public policy decision. So we do not collect the gas tax. But the logic is stood on its head to say but because that is a decision that denies funds from the trust fund we should pretend as though we put the money in the trust fund.

The bottom line is, the general revenues of the country are paying for that policy decision, and the same thing is true with respect to the ethanol tax. We do not collect 5.2 cents of it. Now we are going to collect it and rebate it, and they say that hurts the highway trust fund. Fine. Then charge the tax. Do not pretend as though we charge the tax and say that justifies attributing that money to the highway trust fund when, in fact, there is no money, and the only way one gets the actual money in the highway trust fund is going over to this $22 billion in new corporate taxes, taking it from the general revenues and then putting it in the highway trust fund.

That is why I think we should limit this funding to $256 billion, a 21-percent increase. The President says that ought to be enough. I agree with the President.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, from time to time I say nice things about Senators on this side of the aisle, and I do not often enough say nice things about those on the other side of the aisle. I want to say the presentation made by the junior Senator from Missouri is one of the finest presentations I have heard in many years in the Senate. It was logical. It was to the point. It laid out what we, the four managers of this bill, have been trying to do, and how difficult it was to arrive at the point where we are. I want to express my appreciation to the Senator from Missouri for an outstanding statement. It was well delivered and had a lot of substance.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in support of the amendment. This is an opportunity for the supporters of this legislation to avoid a Presidential veto, in two ways. One, bring it down to the President's number and, two, the criteria established by the statement of administration policy highway spending should be financed from the highway trust fund, not from the general fund of the Treasury. All spending for highways should be authorized and appropriated from the trust fund and derived from taxes imposed on highway use. It says the administration supports an authorization level of $256 billion. So to avoid a Presidential veto, I think the Kyl amendment is very important.

I do not want to comment on the statement of the Senator from Missouri, but I was entertained by his comments about the hole in the roof. I will tell the Senator from Missouri, there is actually a hole in the net, there is a hole in the safety net. Maybe highways are more important than people's Social Security and health care to the Senator from Missouri, but the fact is, and ask any expert, including testimony by Alan Greenspan just yesterday, this deficit is going to destroy America, and the first casualties will be Social Security and Medicare because they are unfunded mandates to which we just added, with the support of the Senator from Missouri, a $400 billion and now $543 billion debt on the taxpayers of America.

So if he is worried about a hole in the roof, I hope we are worried about a hole in the net, the safety net, the guarantee that we have made to people who are the least able to defend themselves and help themselves in our society. Those are recipients of Social Security and Medicare. Both systems are going bankrupt while we spend 60-some billion dollars more than the President wants and $35 billion more than the budget resolution we passed calls for.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KYL. If the Senator from Nevada would permit the Senator from New

Hampshire to speak, then I am happy to let the vote go forward after he has concluded.

The PRESIDING OFFICER. Is there further debate? The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise to speak a few moments in support of the amendment, and perhaps to address some of the issues and concerns that have been raised as well. I begin with the points made by the Senator from Arizona about the overall size of the bill. This amendment, if and when adopted, would certainly reduce the total amount of funds available in the bill, but the increase in highway spending relative to the last 6-year bill would still be 21 percent. To suggest that somehow the supporters and proponents of this amendment do not want to invest in infrastructure, do not want to improve the safety of our highways, do not want to improve the quality of our bridges, do not want to expand in some cases the existing interstate highway system, is simply not correct.

We are not engaged in a debate about the value of infrastructure. We are engaged in an important debate and discussion about how much is enough and about how much we can afford and, as Senator MCCAIN of Arizona pointed out, what our overall priorities are going to be.

I understand for some a 20 or 30 or 35-percent increase in spending is not enough. I certainly believe it is enough, given that the President has pledged to veto a bill that is at that level, given that we have other pressing national security issues, Social Security modernization questions, a Medicare bill that was passed last year that is going to be far more expensive than even the supporters of that bill suggested. We do have other priorities among which we are going to have to choose.

I think it is very misleading to suggest the supporters of this amendment do not care or are not willing to commit that money we are collecting in excise taxes, gasoline taxes, to this kind of investment. This bill as it is currently written breaks the budget. It violates the budget resolution. We just had a vote to waive the budget requirements, to waive a budget point of order so this bill could go forward, because it violates the budget resolution, because it breaks the bank, because it is far more than was prescribed in that budget resolution. As a result, it is going to significantly increase the deficit.

In addition, the legislation contains financing mechanisms that are disingenuous at best, and phony at worst. We are diverting general revenue funds that were never intended to go into the highway trust fund into the highway trust fund, and we are doing it by crediting money to the highway trust fund that is never collected. We say, well, if we had excise taxes that applied to States, cities, and towns, we would collect more in excise taxes, so let's pretend we collected those taxes and put them in the highway trust fund. That is simply wrong.

When that money is credited to the highway trust fund, it has to be taken from somewhere else and it is being taken from general revenues. I think it is instructive to go back to the last debate we had when we wrote a highway bill—in fact, in 1998—and the proponents of a very large highway bill at that time said the only thing we are asking for, and the only thing we ever will ask for, is that all of the money we collect in gas taxes go to highways. That was essentially accomplished with the writing of that bill.

Today we are listening to a debate that pretends that commitment was never even made.

The goal seems to be to scrape every penny possible into the highway trust fund in order to pass a bill that is as large as it could possibly be. That certainly is not OK by me.

I am sure there are some people here who would like to raise gasoline taxes. I am certainly willing to have that vote. There are some people who would like to pass bonding authority. I am certainly willing to have that vote. But somehow the supporters of those ideas, while they want to talk about those ideas and suggest there is a conspiracy to prevent them from doing those things, don't really want to have those votes because they know they would not win.

This bill adds to the deficit, and we do have an extraordinarily high deficit right now. Our economy is just beginning to grow. It is certainly not the right time to raise taxes, but I think it is the right time to begin to exercise some fiscal restraint.

Another question that I think is begged by some of the claims thrown around in this debate is, What is the role of States in highway and infrastructure—transportation spending? There is certainly a tone that suggests the State of Missouri, or the State of Texas, or the State of New Hampshire, or California somehow do not have the wherewithal to design and build a decent road; they don't have the commitment or the foresight to levy excise taxes, collect those taxes, hire good people to run departments of transportation, and invest in maintenance or safety, bridge management, or new highways.

I think that is simply wrong. States are not incapable. States certainly care every bit as much as any Member of this Senate about the safety of their roads, and about their potential for economic growth.

If you look at the highway fatality rates of the different States, some States have done a much better job than other States in dealing with the safety issues that were discussed earlier by some Senators. I think States have not just an important role but a leading role to play here. Certainly in my experience they set better priorities. They tend to spend the money a little more efficiently.

That brings me to my final point. Ultimately, what we are really talking about is a redistribution of funds. If you think literally about what we are doing, the Federal Government is collecting 18.4 cents for each gallon of gasoline sold in the State of New Hampshire or the State of Missouri, or Oklahoma, literally bringing that money here to Washington, and then we are engaging in a debate as to how to divide up that money to send it back to the States. It makes you wonder what the purpose of this diversion is in the first place because I can assure you, the laws of physics, finance, or nature result in less money ultimately going back to invest in pavement or bridges or transit at the local level than ever came to Washington in the first place—unless you believe all the administration, oversight, and regulation that comes from Washington with regard to transportation is free.

It is not. Ask any worker at the Department of Transportation. They may wish they were earning a better wage but they are certainly not working for free. There is a significant overhead cost. That does not mean there is no Federal role at all in these programs or projects or investments, but I think we need to be a little more careful in our debate and discussion. Certainly we need to be a little more careful with the use of the moneys we are collecting, and be more careful in the debate or discussion than to somehow suggest the Federal Government is the only entity that has the ability to make a good decision about which 5- or 10- or 50- or 100-mile stretch of pavement ought to be dealt with first and foremost in our States.

If you don't think we are just talking about a redistribution of money, take a look at the tables that are part and parcel of this legislation. The percentage redistributed to each State is spelled out in excruciating detail, year after year. You can see one State has 102.5 percent of what was collected from that State in gas taxes in year 1. Then it might go to 104.8 percent and then 95.4 percent and then 93.2 percent. The only reason to calculate such specific statistics is that ultimately this is a vote and a battle over a formula for redistributing the money we took from our States and our consumers in the first place.

I think there is some value in a discussion about whether we should leave more of that money at the State level in the first place. Certainly we could give the opportunity to those States that would like to collect that excise tax in the State to spend it locally, and I believe a little bit more efficiently than Congress might do here in Washington.

That is not part of this debate, empowering States, empowering consumers, empowering local officials to collect and invest a little more of their share of these excise taxes, but perhaps in the future it will be. But at the very least, we can take up and support the

amendment before us today that will bring this bill into compliance with the budget, that will bring this bill to a level that will not be vetoed by the President, that will bring this bill up to a level that will ensure we do not have to raid the general fund; that we don't have to raid taxpayers' funding that they are sending for programs other than laying pavement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would have voted ''nay.''

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

The result was announced—yeas 20, nays 78, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—20

Alexander	Enzi	McCain
Allard	Feingold	Miller
Bennett	Graham (SC)	Nickles
Brownback	Gregg	Santorum
Chambliss	Hatch	Specter
Craig	Hutchison	Sununu
Ensign	Kyl	

NAYS—78

Akaka	DeWine	Lott
Allen	Dodd	Lugar
Baucus	Dole	McConnell
Bayh	Domenici	Mikulski
Biden	Dorgan	Murkowski
Bingaman	Durbin	Murray
Bond	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Frist	Pryor
Bunning	Graham (FL)	Reed
Burns	Grassley	Reid
Byrd	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hollings	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Sessions
Clinton	Jeffords	Shelby
Cochran	Johnson	Smith
Coleman	Kennedy	Snowe
Collins	Kohl	Stabenow
Conrad	Landrieu	Stevens
Cornyn	Lautenberg	Talent
Corzine	Leahy	Thomas
Crapo	Levin	Voinovich
Daschle	Lieberman	Warner
Dayton	Lincoln	Wyden

NOT VOTING—2

Edwards	Kerry

The amendment (No. 2473) was rejected.

Mr. REID. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, may I make a suggestion. This last vote took 35 minutes. We have people who have been waiting to offer amendments all day. We have a number of amendments lined up for people to offer. I would hope the leadership would call a halt to these votes after a reasonable period of time.

There are people who have already come to me, there are people who have come to Senator INHOFE and the two leaders, about how long this is going to take. It could take a long, long time, but it is going to take a lot longer time if these votes go on endlessly. So I would hope we could terminate these votes more quickly.

If people miss a vote now and then, it is not the end of the world. I hope everyone would be in agreement. People feel very strongly about these amendments, and they have a right to offer them. The decision has been made today by the managers of the bill to let them offer them, to have up-or-down votes on them. Until there is some change, that is what we are going to continue to do. But everyone should not be punished by the dilatory nature of Senators for whom we wait around endlessly. I hope the next vote will be 20 minutes and then we will call it quits.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2430 TO AMENDMENT NO. 2285

Mr. DORGAN. Mr. President, I call up amendment No. 2430.

The PRESIDING OFFICER. Is there objection?

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

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2430 to amendment No. 2285.

Mr. DORGAN. 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 penalty for nonenforcement of open container requirements)

On page 147, after the item following line 24, add the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this is an amendment about which I have spoken previously. It deals with the subject of drunk driving. More specifically, this amendment deals with the issue of open containers of alcohol in vehicles. It is similar to an amendment that was voted on and approved by the Senate when we passed the previous highway bill 6 years ago. I would like the opportunity to explain what this amendment does and what it means.

Let me describe to my colleagues an organization that most of them know well, Mothers Against Drunk Driving, a wonderful organization that sprang up over recent years dealing with the issue of drunk driving.

Every 30 minutes someone gets a call that their loved one has been killed by a drunk driver. That is a relentless number of deaths caused by something that can be avoided and can be dealt with, if we get tough dealing with drunk drivers. The scourge on American highways from drunk driving is not some mysterious illness for which we don't have a cure. We know what causes it. We know what cures it.

Let me offer some statistics: Of the children from birth to 14 years of age who were killed in alcohol-related crashes in 2001, more than half were passengers in vehicles with drivers who had been drinking; 23 percent of the children under 15 years of age who were killed in motor vehicle crashes were killed in alcohol-related crashes in 2001; the leading cause of death for children 4 to 14 years of age is motor vehicle crashes, too many of them, far too many, as a result of alcohol.

During the year 2001, 8,054 passenger vehicle occupants under 15 were involved in fatal crashes. It is estimated that 269 children under age 5 were saved as a result of child restraint. The statistics about safety issues with children are really quite remarkable. It is especially compelling to take a look at what is happening with respect to drunk driving. It is important to understand what we can do about it.

The amendment I have offered is very simple and would be hard to oppose. It says that nowhere in this country should you, driving a vehicle, come to an intersection and meet someone else driving another vehicle who is drinking while they are driving. It ought not be legal anywhere in this country to drink and drive. It ought not be legal in this country anywhere for there to be open containers of alcohol in moving vehicles.

Some say: Well, but that is the State's decision. That is a decision the States ought to make.

Thirty-six States have already made that judgment. Thirty-six States have said they agree, under no condition

should there be open containers of alcohol in passenger vehicles on the roads.

There are 14 States, however, that don't make that same judgment. There are some that prohibit consumption by the driver but say it is fine if others in the car are drinking alcohol. There are some that say it is OK to have open containers of alcohol, but you can't have it when the car is in motion. You just have to pull off to the side of the road. There are others that have prohibitions on open containers that apply only to drivers. But one State has an exception for frozen daiquiris. Sound goofy? It does to me. Let me say that again.

We have 14 States that do not comply with the requirement that would prohibit alcohol in a moving vehicle on America's roads. There are several States in which there are no laws at all with respect to alcohol in vehicles. You may, in some of those jurisdictions, put one hand around the neck of a bottle of Jack Daniels, put the other hand on the steering wheel, start your car, begin to move, and you are perfectly legal. You may drink and you may drive. That is unforgivable.

Nowhere in this country should we have laws that permit drinking and driving or drinking in vehicles that are on American highways. This is not rocket science. We know how to prevent this, and 36 States do.

Six years ago, when we passed the legislation creating the highway bill, we had a vote on this. It was a tougher amendment that I offered then. It would have imposed a penalty that 5 percent of the highway funds that were going to a State be withheld unless that State complied with the requirements to prohibit open containers of alcohol in vehicles. That passed the Senate 52 to 47. The first year it was losing 5 percent; the second year and thereafter, losing 10 percent of the highway funds. That was tougher than this amendment.

This amendment provides that if States do not comply with a prohibition on alcohol in passenger vehicles, then they will lose 2 percent of their highway funds each year during the 6 years. The amendment that passed the Senate 6 years ago—an amendment I offered and one that was supported by a majority of my colleagues—was watered down in conference. The requirement still existed, but it was a requirement that said, in effect, you better watch it. It said if you don't comply, some of your highway funds, a small amount, will go to hazard mitigation or safety programs. Money is fungible, so these 14 States that have not complied have not minded that because they have to use money for hazard mitigation in any event. So we have 14 States that have decided it is all right in some circumstance or in some form to have alcohol in your moving vehicles.

I mentioned that one State does actually have a small prohibition against this practice, saying that apparently drivers only cannot drink, with the exception of a frozen daiquiri. There is actually a frozen daiquiri exception.

I think I have the exception here. In this particular State, just to show you the extent to which States have gone to produce their own version of whether you ought to be able to drink and drive: It shall be unlawful for the operator of a motor vehicle, when the vehicle is on the public highway or right of way, to possess an open alcoholic beverage or container or consume an alcoholic beverage in the passenger area of a vehicle.

Then it describes alcoholic beverage: Beer, ale, port, or stout, so on, wine, distilled spirits. Open container means any bottle, can, or other receptacle—(B) except open alcoholic beverage container shall not mean any bottle, can, or other receptacle that contains any amount of frozen alcohol beverage unless the lid is removed and a straw protrudes.

I don't think there ought to be a State in this country where you ought to be able to drink and drive. It is as simple as that.

It is a fact that conditions have changed dramatically in this country, and thank God they have. It wasn't too many years ago when a drunk driving arrest produced a slap on the back and a knowing grin—well, you got caught, did you, old buddy? These days, it is far more serious than that.

A wonderful organization called Mothers Against Drunk Driving decided to stop the carnage on America's roads. They have had a dramatic impact in Congress and in State after State. I have met most of the presidents of that organization in recent years. All of them have lost children to drunk driving accidents. They are all passionately committed to stopping this. Again, there is no mystery to this. We understand what causes these deaths, and we understand how to stop it.

I have told my colleagues before that, at 10:30 at night, I received a call that my mother had been killed by a drunk driver. I will not describe that except to say the horror of that call, that happens over and over and over again in this country, is a horror you never forget. It is so tragic because none of it has to happen. All we have to do is get serious about drunk driving and enforcing our laws and having the right laws.

I wish we were as tough and serious as Europe is. In most of Europe, your attitude had better be that you will not even think about doing this. You don't dare get caught in Europe drunk driving. The consequences and penalties are far too great. That is what I wish we would do in this country.

For about 12 years now, I have been unable to successfully persuade the entire Congress that there ought to be such penalties to require every State in this country to make a very simple statement with their law, and that would be that, in no circumstance, at no intersection, at no time shall anybody be driving a vehicle in this country and drinking at the same time and be perfectly legal. It is nuts, in my judgment, to have laws that allow that to happen—and not just drivers. Yes, there are circumstances where drivers can drink and it is legal in this country—in addition to others in moving vehicles who are consuming spirits and wine, beer, liquor. It is not the right thing to happen in this country. We have gone well past the time when this ought to be debatable.

My colleague, Senator DEWINE—who, incidentally, supports my effort here—offered an amendment dealing with drunk driving which I supported. My colleagues in this Chamber know this is an important and serious issue. They also know that this is the place to address it. If you were going to address the issue of drunk driving, it seems to me you would address it in this venue, right here on this bill.

We spent a great deal of money putting together a piece of legislation using Federal revenue that we collect and send back to the States. We have every right to impose a restriction that says we expect the States to have a prohibition on open containers of alcohol. As I have indicated to you, 36 States have such a prohibition. This relatively small map shows, in dark green, all of the States that already have legislation that causes a complete prohibition on the consumption of alcohol in a moving vehicle.

The legislation I offer would simply require the other 14 States to comply. In fact, a fair number of the 14 are close to complying. I believe it would not be much effort for them to do so. Only those few States that are remaining, where they insist on some sort of personal right to allow people to drink and drive, would object. There is no justification for that objection.

When someone turns an automobile into an instrument of murder because they decide to get drunk and drive, then there need to be consequences. One of the consequences, in my judgment, is not only to get tough with drunk driving, as Mothers Against Drunk Driving have all across the country—they have gone to court and they have represented victims and they have insisted on changing State laws. They have been here in the Congress and have been very successful in dealing with Federal law changes.

In addition to that, they support this, and I believe we ought to change Federal law one more time to make this prohibition on open containers stick across the country. Once again, there is no justification to say that anywhere, anytime, under any circumstance, someone ought to be able to drink and drive. Too many of us—many in this Chamber, in fact—have experienced a phone call and that phone call is one we never, ever forget because it is such a senseless tragedy and needless death when someone gets

drunk and decides to get into a vehicle and it results in the death of another American.

Let me make a couple of additional comments and then I will complete my presentation. We know from studies that have been done that prohibitions on open containers of alcohol in vehicles—the laws that exist—have made a difference. They have deterred both moderate and heavy drinkers from driving. We know those laws are successful. In fact, some States have had the laws for many years, and there are a good many studies that describe that success. States with prohibitions on open containers in vehicles have had significantly lower rates of alcohol-related fatalities than States without. States with open container prohibitions have had lower numbers of hit-and-run crashes than States without such laws.

In every single State in this country, the majority, by far—80 percent, 90 percent, 76 percent, 91 percent—of the people say they support passing legislation prohibiting the open container of alcohol in vehicles.

My amendment is not hard to understand. It is simply written. It is a short amendment. The objective of it is quite clear, and the passion with which I have, for 12 years, worked to try to effect this change remains. I don't know how the vote will occur today. I regret that some will decide we cannot take the simple step of saying to the American people that nowhere in this country should you be able to drink and drive. I regret that some will oppose that. My hope is that perhaps the Senate once again today will decide, on this issue, to do what is right. If so, perhaps we can go to conference and do what is right.

We won't know the names of those whose lives we saved, but I can tell you they are young children, high school students, babies, senior citizens, workers, moms, and they are grandpas. A lot of people's lives will be saved if we take this step, pass this requirement, and get people off America's roads who now drink and drive and, in some parts of the country, who drink and drive legally. In my judgment, that is unforgivable. I don't want any American, under any circumstance, to come to any intersection at anyplace in this country and meet someone driving another vehicle who is driving with one hand on the steering wheel and the other hand on the neck of a bottle of Jack Daniels, drinking whiskey, and it is legal. That situation exists in this country and it ought not to.

If this Senate doesn't have the stomach to take that simple step, I wonder whether we have the capability to legislate on much of anything.

That completes my remarks. I don't know what the procedure might be. I expect we will have a vote on that. I suggested that the manager of the legislation, the chairman, accept it by unanimous consent or by a voice vote, or at least vote for it. I don't know what the chairman intends to do.

Mr. INHOFE. Mr. President, I appreciate the choices, but it is going to be none of the above. I know the Senator is very passionate about this issue. I also know that currently in title 23 there is this 1.5 percent that is taken out of the programs it is designed to be used for and put into other programs, such as the section 402—the alcohol-impaired driver countermeasures and all that. Now, this is different in that it takes money away—well, look at it this way. The States pay the taxes that go into the Federal Government, and then we take those and go back to the individuals and say: Unless you do something in the wisdom of us here in Washington, even though your State does not agree with it, we are going to withhold your money.

Let me share a short story with my friend from North Dakota. Many years ago, I was elected to the State legislature. My first trip to Washington was 1967. Do you know what it was for? To testify before the Environment and Public Works Committee protesting Lady Bird's Highway Beautification Act of 1965 because of this very reason: philosophically using money that comes from the State to blackmail them to do something, however good the cause.

I was sympathetic with Senator WARNER on his seatbelt amendment, but I had the same objections. I think the Senator is going to find some philosophical objections to his amendment. Yet I assure everyone within earshot, the Senator from North Dakota is very passionate about this issue, he believes in it, but I will respectfully vote against it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this most surely is a mandate, and those who believe no mandate is worthy ought to oppose this.

I say to the Senator from Oklahoma, the proposal that has existed now for some years in which we have tried to encourage the States to comply is a very simple proposition that has not worked.

The encouragement has been to say you will lose highway construction money that will go into hazard mitigation if you don't comply. Fourteen States have not complied. In some States, it is legal to drink and drive. I say this to my friend from Oklahoma, if ever there is a case for a mandate, it ought to be to say that, as a nation, we have a national purpose and a national interest in deciding that nowhere in this country on no public highway shall it be legal to drink and drive at the same time. I think there are enough Americans who understand the consequences of this and the tragedy of it to understand why it is necessary for us to be aggressive.

We can decide that we don't like mandates. That is perfectly acceptable. But that then will not solve this problem. I guarantee, if we pass this legislation and the other 14 States comply, lives will be saved.

In any event, aside from the mandate issue, I don't expect there is one person in the Senate who will come to the Chamber and say: I really think it is good public policy to allow people the choice, to let people choose whether they want to drink while they drive. If someone has a hankering thirst for whiskey and a powerful need to drive at the same time, God bless them, get them on the road. There is not one Senator who will come to the Chamber and say that because that is nuts and we know it.

There is no justification for allowing anybody in this country to drink and drive. None, none at all. If this Congress cannot take baby steps in the right direction dealing with public safety, then a lot more lives will be lost. This is not radical. This is easy. This is not complicated. This is simple.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I do not wish to speak on the amendment. I wish to speak on the bill.

First, I have great respect for the chairman of the committee and the ranking member. I understand this is one of the toughest jobs we have, trying to draft a highway bill which everybody thinks is fair. I suggest it is an impossible task because someone is going to benefit and someone is not. All we can do as Members is try to make our case as to why our respective States should be treated in a manner that befits its condition.

In the Commonwealth of Pennsylvania, we have historically benefited from the Federal highway program. We have benefited in the sense that more money comes to our State than we have paid in taxes to the Federal highway fund.

I would make the argument that is as it should be. Of course, every Senator will stand up and say that is as it should be, everyone should be a donee State and, of course, that is impossible to do.

The question is, Why should States be donor States and why should States be donee States? I will give my rationale, which I think is the rationale underpinning the whole reason the Federal Government gets involved with highway programs.

Of course, all of our States have highway departments. All of our States have departments of transportation. All of them have gas taxes, excise taxes that raise money for the purpose of providing roads. The question is, Why does the Federal Government do what is already being done by the States? There is one overriding reason.

Originally, the Interstate System was designed for moving defense items around in times of war. That was the Interstate System. The reason for the Federal Government's involvement has to do with interstate commerce. And the reason for a Federal gas tax is to make sure there is a network of highways that facilitates interstate commerce.

For example—and I use the example of Florida—you want to make sure, if you are an orange grower in Florida, that you get your products before they perish to market over a system of roads. So you are willing in Florida, which has virtually no interstate traffic, to pay a little bit more for Georgia, South Carolina, North Carolina, Virginia, Maryland, and Pennsylvania to have good roads so you can get your products up to New York, Boston, and places such as that.

The idea is that States that may not have a lot of cross-traffic are willing to pay other States that do to facilitate commerce on behalf of that State. That, to me, is a very logical reason for there to be a Federal gas tax.

That being the premise of my discussion, I want to get to my State. One additional premise. What causes a lot of trouble for roads? There are two major causes that I can think of—there may be more and I will be happy to hear them. The two major causes are weather—and I challenge anybody to go out in the DC area and drive around, now that we have had a lot of freezing, thawing, snow, and ice, and look at all the potholes. It is not a common occurrence in this area because we don't have a lot of thawing and freezing generally. We do now. We are having weather like Pennsylvania.

A lot of freezing and thawing beats up the roads in combination with what? Really the biggest thing that beats up roads is weight, heavy trucks—heavy trucks pounding and beating up roads. Heavy trucks, in combination with freezing and thawing, really kick a lot out of the roads.

A premise of my discussion is, No. 1, what is the purpose of this bill? The purpose of a Federal tax is to facilitate interstate commerce in those States that benefit from the cross-traffic that occurs in other States that don't get an economic benefit. I remind my colleagues, if a heavy shipment is going from Florida to New York and it goes through the State of Pennsylvania, Pennsylvania gets all of the aggrieved road problems and none of the economic benefit.

Weather and heavy truck traffic. Let's look at the situation in my State. Why do I bring up my State? Because my State historically has been a donee State. Historically, we have benefited from the Federal program. Why?

The reason we benefited, based on the premises I laid out before, is because we get a heck of a lot of cross-State traffic, heavy truck traffic that neither originates nor is destined for our State. In other words, our State gets no economic benefit from heavy trucks in large numbers rolling through our State.

Let me give you the numbers. As far as ton miles—what am I talking about here? Heavy trucks, weight that hurts highways weight that destroys highways, disproportionately to car traffic.

As far as ton miles, we are fifth in the country in ton miles—fifth in the country in ton miles in our State.

Now, that does not necessarily say Pennsylvania deserves more money because we get all of this heavy traffic. Let's look at an additional factor which I think is vitally important—in fact, more important when it comes to this formula—and that is how much of that heavy traffic is just going through our State and does not stop, how much of that traffic gives no economic benefit to our State.

We are third in the percentage of heavy truck traffic going through our State that does not stop. Forty-seven percent of the heavy truck traffic going through our State does not stop in my State. Our State gets no benefit from these heavy trucks beating up our roads and rolling through our State. There are only two States that have a higher percentage, and that is Indiana and Ohio. Which States have more heavy truck traffic than Pennsylvania? Well, Texas does. They are No. 1. Texas, obviously, is a much bigger State than Pennsylvania, but only 15 percent of the traffic going through Texas is not originating or destined for Texas. So they do not get near the amount of cross-traffic that we do. So most of the heavy truck traffic is to some economic benefit either to someone who is getting shipped the goods or shipping the goods.

What is the second one? California. Only 2 percent of the heavy truck traffic going through California is just going through California and not stopping there. So my colleagues can see what I am talking about. It is not just that we get heavy truck traffic.

What is the point of this tax? What is the point of this formula? To compensate States that are what we call in the airline business fly-over States. Well, we are a crossover State. Vermont happens to send a lot of stuff through our State—ice cream and milk and all that kind of good stuff. But the fact is, the reason I have not been happy with this bill and have been critical of it and have voted to try to change it is because I believe if we look at the numbers and look at the weather factors we have to deal with, which a lot of the country does not have to deal with, particularly the South, and look at the number of vehicle miles—I mean, look at this. Here is Pennsylvania. These are all the interstates that go through Pennsylvania: I–70, I–76, I–78, I–79, I–80, I–81, I–83, I–84, I–90, I–95, I–476. I–99 is an interstate—but it is not interstate—that is just in Pennsylvania. Look at all of these interstates where heavy truck traffic is trundling through, beating up our highways, with no economic benefit to our State.

What is this Federal tax intended to do? It is to say to States that get no economic benefit from having that traffic go through those States that we are going to compensate them. But what happens in this bill? We actually contribute to other States that do not have near the traffic we do coming through our State for no benefit.

One of those States—and I do not want to pick on a particular State, but to me it is the most dramatic example because a lot of traffic for that State goes through Pennsylvania—is Florida. How many interstates does Florida have? Really three: I–95, I–10, and I–75. I–4 is an interstate but it goes from Daytona to Tampa, so it is not really an interstate. The fact is, there are three.

And by the way, less than 3 percent of the traffic that goes through Florida is originating somewhere else and destined somewhere else—3 percent of all the traffic. In our State, 47 percent of the truck traffic is neither originating in our State nor is destined for our State; Florida, 3 percent. Yet look at what happens. Florida—yes, it is a bigger State. It has more people. I understand that. Do they have ice, snow, and freezing rain in Florida? Do they have heavy trucks running over their roads? Do they service other economies and do other States benefit from the traffic going through Florida? The answer is, no, no, and no. Yet over the 6 years of this bill they are going to get a billion dollars more than a State that is shouldering the burden of trying to keep this economy up and going by carrying truck traffic, heavy destructive truck traffic, through our State.

So one might ask, and I know several have: Senator, why are you so upset about the way this bill is put together? Again, I am not being critical of the chairman or the ranking member. They have a tough job. I am focusing on one aspect. I happen to believe it is a very important aspect of why highway formulas are put together. I am sure the Senator from Oklahoma will tell me, well, there are other factors where Pennsylvania does not stack up. Pennsylvania is a State that does not have as many people as Florida, or is not as big geographically as California or Montana. I understand those are all factors.

Again, if we look at the central premise of why we are here, why do we have a Federal tax program for highways, we have to ask that question. It is not because we want to raise money and just turn it back to the States. I hear it said on this issue that every State deserves 95 cents on the dollar. Let me just say something very clear. Why? Why does every State deserve 95 cents back on the dollar? Why does the State of Florida, with only 3 percent of its traffic is cross-traffic, deserve money from a Federal program that is designed to help facilitate interstate commerce? They are the beneficiary of all of the other States when a truck runs from Florida or to Florida, and the roads get the heck beat out of them. They do not originate in my State. So I am not picking on Florida, but that is the most dramatic example.

The fact is, if this program is designed to help States that are carrying the burden of other States and getting no economic benefit, if that is the reason we have a Federal highway program—and I would argue that is the principal reason we should have a Federal highway program—then States

such as Pennsylvania and Ohio—and my sympathy goes to Ohio. I know Senators DEWINE and VOINOVICH are enthusiastic about the improvements in this bill, and they should be improved. They have been on the short end of the stick for a long time. Indiana and Illinois, the States that are sort of the freeway of the heavy trucks and the bad weather, those are the States that the rest of the States in this country, particularly in the region, should be helping out because they benefit economically by having good roads going through those States.

I think I have a valid complaint. That complaint will go on deaf ears today because this bill will pass and instead of Pennsylvania being a donee State to help compensate us for the 47 percent of heavy truck traffic that goes through our State, for which we get no economic benefit, now we are going to contribute to other States and have the blessing of carrying their truck traffic on top of it. To me, that is unfair. It is an injustice to the people of Pennsylvania who are going to be driving on those pothole-filled roads that are going to be pothole filled because of heavy trucks going through our State, beating them up, and providing no jobs except crews running around trying to fill potholes with tax dollars from Pennsylvania residents.

That is not what interstate commerce is all about. That is not what this tax was designed to do. It is an outrage that the Commonwealth of Pennsylvania is being treated in this fashion. I am hopeful that after my explanation those who are in authority, who can look at this and hopefully fix this problem, will see that we have a legitimate complaint, and we will have an opportunity in conference to try to address an issue which I think is going to hurt interstate commerce and job creation because we are not going to have the quality of roads in Pennsylvania to shoulder that 47 percent of the truck traffic that goes through our State of which we get no economic benefit.

It will hurt my State because in my State the quality of roads will decline. I understand some will say the money goes up in this bill. Yes, the money goes up. That is assuming we get a bill at this level, which is looking increasingly uncertain given the President's comments. So the money probably is not going to go up as much as this bill suggests it will. So keeping the same formula, our increases are going to look less and less, as will every other State.

This bill spends about a 45-percent increase in highway funding. We get a 19-percent increase. Finally, I make the argument that this premise that every State is entitled to 95 cents back on the dollar is what happens in Washington all the time. We set forth a goal and purpose for legislation which is we are putting this bill forward, and we are putting this system forward to help facilitate the interstate commerce of America. That is what it was designed to do. But what we turn it into is: No, this is money coming from my State and I deserve it back.

If that is the case, if that is what this is for, I am for repealing the whole thing and just letting the States raise the money. If that is what we are going to do, let's not bother. If this is all just about raising the level on the Federal level and giving it back in the percentage which they raised it, why are we here? We are here because we wanted to help those States that carry the disproportionate burden of making the economy of the rest of the country work and getting no economic benefit from it. That is what originally, I would argue, the highway formulas have accomplished, at least for my State.

I can stand up and say for Ohio it didn't work that way, and it should have. I don't know what happened that it didn't. I understand for other States it didn't work that way. At least it did for mine, and I hope we can have it work more equitably for the purpose for which this legislation was originally intended.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I commend my colleague from Pennsylvania, Senator SANTORUM, for his very cogent remarks about the highway bill and its effects on Pennsylvania. I associate myself with what my colleague from Pennsylvania has said.

I think it is unfortunate we have a bill which appears to be heading for a Presidential veto. We have a bill which quite a number of States find unsatisfactory.

I compliment the Senator from Oklahoma, Senator INHOFE, the chairman of the committee, and Senator JEFFORDS, the ranking member of the committee, as a whole, for their very strenuous efforts. But I do believe Pennsylvania is not being treated fairly. Senator SANTORUM has gone over the specifics about our State, which has very heavy traffic going through the State, the third heaviest truck traffic State in the Nation. Almost half of the trucks which go into Pennsylvania do not stop in Pennsylvania. There are very difficult problems of weather, potholes, and highway deterioration that require Pennsylvania be granted more of the funding.

Pennsylvania has traditionally been a donee State, which means Pennsylvania receives more than the funds which Pennsylvania contributes to the trust fund. Now Pennsylvania, for the first time, was turned into a donor State, so Pennsylvania is contributing more to the trust fund than Pennsylvania is receiving. I think that just is not appropriate.

I have also expressed my concern earlier in voting against cloture, on the first cloture vote earlier in the week, about the concerns I have for the size of the budget. There has been a clear-cut statement from the White House that the President is not going to agree with the figure present in the Senate bill. That is why I voted against cutting off debate, because I think to be fruitful in what we are doing here we are going to have to work with the President's figure.

We all know about the ballooning deficit, in the range of $500 billion. We all know about the national debt. We have very heavy expenditures in many areas. We have a budget that has been submitted which grants a very small allocation for discretionary spending. In the context of where we are with the deficit, it seems to me the President is correct, that this bill ought to be pared, at least to some extent.

The bill is ultimately going to have to be signed by the President, although it is a matter of speculation as to whether there are enough votes to override a Presidential veto. But I am not prepared to override a Presidential veto and I am not prepared to support a bill with this funding flow, where there has not been some accommodation with the White House, some accommodation with the President.

There are many steps before the matter comes to a final determination. There will be final action taken by the Senate, which appears to be passage. We will have to see whether there are more than 67 votes in favor of the bill. There will be a conference. Senator SANTORUM and I are continuing to talk with the chairman of the committee and the ranking member and others on the committee to try to get a more equitable share for Pennsylvania. But on this state of the record, I cannot support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I understand there is a pending amendment, the Dorgan amendment?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. I wish to set that amendment aside temporarily and speak on an amendment which I intend to withdraw.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. I have no objection.

The PRESIDING OFFICER. No objection is heard. The Senator from Louisiana.

AMENDMENT NO. 2615 TO AMENDMENT NO. 2285

Ms. LANDRIEU. I send this amendment to the desk for its consideration, but my intention is to speak for about 10 or 15 minutes and then I am going to ask to withdraw the amendment because, unfortunately, even though this is an extremely meritorious concept, I am not certain we have the votes for it at this time, but I thought I should take some time to talk about it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] for herself, Mr. BREAUX, Mrs. LINCOLN, and Mr. PRYOR, proposes an amendment numbered 2615 to amendment No. 2885.

Ms. LANDRIEU. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish a program to apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects)

On page 39, between lines 22 and 23, insert the following:

(17) FINISH PROGRAM.—For the FINISH program under section 178 of that title, for each of fiscal years 2004 through 2009, an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. FINISH program

''(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

''(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

''(c) APPORTIONMENT.—For each of fiscal years 2004 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

''(1) the estimated amount that may be obligated in the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

''(2) the total estimated amount that may be obligated in the fiscal year for the completion of eligible projects described in subsection (b) in all States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2004 through 2009, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section an amount equal to 6.4 percent of the amounts received in the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year under section 9503(b) of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

''178. FINISH program.''.

Ms. LANDRIEU. Mr. President, I offer this amendment on behalf of myself and Senator BREAUX, Senator PRYOR, and Senator LINCOLN from Arkansas—the two Senators from Arkansas and Louisiana. There are other Senators who are very interested and have given us a lot of encouragement as we moved forward with this concept.

I first want to thank the leaders of this bill for their tremendous work in putting a very balanced transportation bill together. You can see how controversial and emotional some of this debate is regarding highways and jobs. Highways, if not built correctly or built in the right way, or if rail or mass transit isn't provided, if the trade burden is too heavy on one area, can cost jobs, as you just heard the Senator from Pennsylvania speak.

This is a very complicated and very big bill and a very expensive bill, but one we certainly have to find a way to afford because it is the infrastructure on which our economy in large measure is built. It is not the only infrastructure. I would like to remind everyone that schools and education are just as important, but our highways, our rail, and our Interstate System particularly are the foundation for jobs and economic growth.

The concept of the amendment I talk about—again, I am going to withdraw it—is to pull a few percentage points of dollars away from the general program and direct it to the completion of major interstate routes that are in desperate need in order to handle the new international trade and the increased truck traffic and the increased moveable inventories that are in large measure traveling by truck on our highways because of policies we have as a Congress put into place over the last couple of years.

We have an Interstate System to be proud of. We have made mistakes over the decades as we have constructed it. Obviously we have not been as sensitive to the environment when we began this several decades ago as we are today. But it has been a remarkable achievement of the American people, to dedicate their tax revenues and their gasoline tax revenues and general tax revenues. It is a true partnership between the Federal Government and local governments, as we built this Interstate System, primarily built by the Federal Government.

As you can see, these are the major corridors throughout our country. In the early days of the country, as trade was more east-west, as we traded more with Europe and with the Pacific rim, our highways have had to move across the country and of course the whole Nation has been on a westward expansion. It started on the east coast and then moved westward.

The problem now is States such as Louisiana and Texas and in large measure Pennsylvania, Indiana, Michigan, Missouri—the heartland States, these States right here in the middle of the country—are under a tremendous burden as the population has increased. I realize two-thirds of our population lives within 50 miles of a coast. I am from a coastal State so I understand the populations are very heavy. But the populations are also very heavy right here in the heartland and there simply are not enough interstates moving north-south.

That is what this amendment attempts to do, to say to those writing these policies—and all of us have an input in that—let us pay attention to finishing some of these interstate corridors. From Louisiana, the corridors that are most important to us are I–49 and I–69. I will talk about that in just a minute.

Again, the map shows the concentration of interstates is east of the Mississippi River, not west. The Western States, particularly those in the center, need to have additional interstates that are completed. I–49 would affect Louisiana, Arkansas, Mississippi, and others; I–69 which is not completed, Texas, Louisiana, Arkansas, Tennessee, Kentucky, Indiana, and Michigan; I–35, which is not completed, Iowa and Minnesota; the CANAMEX interstate, which is not yet completed, Arizona, Nevada, Utah, Idaho; and ports to plains, Texas, Oklahoma, and Colorado.

Although I did mention Pennsylvania, I want to put up another map. I know the chairman has worked very hard. I am sure he and the staff know these numbers, but 46.6 percent of the truckborne traffic that comes from Canada comes through this entrance right here, and 49 percent that comes from Mexico or through Mexico comes through this point.

The I–69 corridor, which is not finished, is a very important corridor to be completed because other corridors that do exist—there are probably one or two others in this section—are not enough to handle the percentage of the traffic.

The Senators from Pennsylvania, Senator SPECTER and Senator SANTORUM, with New York and Pennsylvania right here, are feeling the sting of a lot of those trucks coming through, not stopping, not delivering goods, not delivering jobs, but creating a lot of traffic, havoc, a lot of potholes, and accidents are coming through these corridors because of the way our economic system is developing.

Do we want to stop the economic growth? Absolutely not. But we have to provide for it. That is basically what our amendment attempted to do.

I wish to speak for a few more minutes about it, but I am hoping as we draw some attention to this corridor and the percentages of trade that come through on a north-south direction we can get more help and more support.

I think the committee has done a beautiful job. I have worked with the chairmen on both sides. Louisiana has been treated fairly. This is not a complaint from the State of Louisiana. I like the idea that our State, along with many others, is getting a bit more money under the new formula.

I think it sounds very fair when you say every State should get at least 95

percent of what they put in. But the problem with that is it sort of takes away a bit from our concept of interstates and completing interstates. Whether it helps Louisiana or not, ultimately, when these corridors are completed, it helps every State. In this case, two of the corridors I am speaking about would cut through Louisiana, and would be a great help to us, and also to the whole Nation and our metropolitan areas.

That is the underlying concept of the amendment. Again, to generally describe it, it would take a small percentage—6 percent—which equates to about a $16 billion commitment over the next 6 years to finishing anywhere from four to five of the major corridors through the middle part of the country. This is only one. There would be others that would fall into this concept and this amendment.

Let me keep the I–69 chart up for 1 minute and talk about one of five that will be completed in the middle part of the country.

I–69 will serve the Nation's top 25 seaports, 13 inland waterway ports, and 15 of the Nation's top air cargo ports. One of the reasons we need to finish I–69 is because it helps to link our seaports, our waterways, and our airports. That is true for every one of these corridors that would be proposed in this plan.

When I–49 is complete—hopefully one day soon—it will extend from New Orleans to Kansas City, but it benefits the whole Midwest part of the country, from the great port of New Orleans, the port of Houston, the port of Mobile, with huge amounts of trade and traffic which are goods imported and exported moving through these ports. They need north-south corridors. We simply don't have enough north-south corridors. We have a lot of east-west corridors but not north-south corridors.

Once completed, the I–49, I–29, and I–35 corridors will intersect with nine other east-west interstates, including I–94, I–190, I–80, I–70, I–44, I–40, I–30, I–20, and I–10. Building the north-south corridors connects them to the east-west to make this grid workable and helps all of us to be more efficient and profitable as we move goods and services around and through this great Nation.

There is one final point I want to show a picture of. This is a hard picture for me to look at, but the ranking Member from Vermont, Senator JEFFORDS, has actually seen this with his own eyes. He was gracious enough to come down to Louisiana. We were literally standing there looking at a bridge, which is not in this picture frame. The Senator asked me what would happen to the bridge if there was an accident. At that point, a large shrimp trawler literally hit the bridge, knocking the mast of the trawler off and knocking the nets down. The bridge was out of commission for several hours. The Senator witnessed that himself. There is only one way in and one way out.

But the frightening thing for people who are observing and listening to this today is this is the main highway for offshore oil and gas revenues coming into the continental United States. This is LA–1. Eighteen percent of the imports and a majority of the offshore oil and gas drilling that is done happens at the end of this road. With a heavy rain, it goes under water. This road needs to be elevated and protected. The marshlands need to be restored. All of that can be done with the right kind of investment.

This is probably one of the worst examples of not using our Federal resources directly and well, in the sense that $6 billion is produced from the Treasury off the shores of this highway, but we can't get one penny to broaden or fix this highway—that is not true. We have, through the generosity of the chairman, gotten some money to fix and designate this highway. But this is one of the corridors that could be greatly improved by a commitment to finish the major economic corridors we rely on for our security and which give us energy security—but also in the middle part of the country to help us move oil and gas off our shores to light up Chicago, New York, or places in Pennsylvania and Vermont, and move goods through the Gulf of Mexico. This is a major corridor.

My amendment seeks to re-focus only a small percentage—6.4 percent—of our Federal highway spending on finishing our network.

My proposal calls for creating a finish program. The finish program would provide enough funds to finish or substantially finish a few highways of international significance.

In 1995, we dissolved the interstate program and left behind a few major uncompleted segments. From its founding by President Eisenhower until its dissolution in 1995, the Federal interstate program provided a dedicated stream of funds to build our system of interstate highways.

This map of completed interstate's shows the concentration of interstates east of the Mississippi River and the great gaps in the network that exists west of the Mississippi River, particularly north-south interstates.

ISTEA and TEA–21 provided a new program that listed a number of high priority corridors that are vital to national economic development, but did not provide the funding to construct these highways.

The proposed finish program would provide the necessary funding to finish or substantially finish the most significant of these Congressionally designated high priority corridors so that we can begin closing the remaining gaps in our national network.

All of the proposed roads for the FINISH program have already been Congressionally designated high priority corridors, yet we haven't given them priority funding. Many segments of these roads do not exist. Some of these roads exist but are inadequate and are awaiting improvements. All of these proposed road projects link our borders north and south. All of these proposed road projects will bring tremendous social and economic benefits for both their regions and for the Nation.

Of the six corridors that I propose be included in the FINISH program, I want to focus on three specific corridors that I know best because they directly impact Louisiana. These three specific corridors are: I–69, I–49 and LA–1.

When completed, this will span the Nation's heartland, connecting Canada and Mexico through the States of Michigan, Illinois, Indiana, Kentucky, Tennessee, Mississippi, Arkansas, Louisiana and Texas.

Since the passage of NAFTA, Canada and Mexico are now the U.S.'s major trading partners. In 2001, 80 percent of U.S. trade with Mexico and 67 percent of U.S. trade with Canada was transported by truck. The I–69 corridor accounts for over 63 percent of the Nation's truck-borne trade with Canada and Mexico. This map of the I–69 corridor shows that the Michigan border points of Detroit and Port Huron account for over 46 percent of the Nation's truck-borne trade with Canada. The Texas border between Laredo and the Lower Rio Grande Valley accounts for over 49 percent of the Nation's truck-borne trade with Mexico.

I–69 will serve the Nation's top 25 seaports, 13 inland waterway ports and 15 of the Nation's top air cargo airports. This corridor would directly serve 25 million people. I–69 will provide economic development in some of the Nation's most impoverished regions, including the Mississippi Delta and the lower Rio Grande Valley.

In the I–69 corridor States, there are over 9.1 million people living below the poverty level. In 6 of the 9 corridor States, the population in poverty exceeds the U.S. average. Currently, only two sections of this corridor—Interstate 69 from Port Huron, MI to Indianapolis and Interstate 94 from Port Huron to Detroit and west to Chicago—are complete and open to traffic. However, these sections are in need of upgrading. The remainder of I–69, from Indianapolis south to the Mexican border, is in varying stages of completion. Location and environmental studies are near completion and many sections are under design work and construction.

When completed, I–49 will extend from New Orleans to Kansas City. When completed, it will provide a continuous trade highway from Canada through the Midwest and New Orleans to Latin America.

Major portions of the route are already constructed: In Louisiana, from Lafayette to Shreveport as well as other sections in Arkansas and Missouri. Environmental work has been completed for every unconstructed section of the roadway. Records of decision for every one of these sections

have been signed by the Federal Highway Administration. Project funding is the only remaining obstacle to the completion of the Interstate.

I–49 is a nationally significant freight distribution and inter-modal corridor that will service the deepwater ports of South Louisiana, New Orleans, Houston, Beaumont—four of the top five ports in the Nation by tonnage—the Great Lakes ports of Duluth, Superior, Chicago, Gary and Milwaukee, as well as numerous other inland waterway ports throughout the Midwest and plains States.

The I–49 corridor bisects a 420-mile north-south gap in what is potentially one of the most agriculturally and industrially productive regions of our country between I–55 to the east and I–35 to the west. Once complete, the I–49/I–29/I–35 corridor will intersect with nine other east-west interstate highways including: I–94, I–190, I–80, I–70, I–44, I–40, I–30, I–20 and I–10.

With existing rail facilities along the corridor including BNSF, KCS—now NAFTA Rail—and Union Pacific, completion of I–49 will spur the creation and expansion of major inter-modal facilities from Canada to the Gulf of Mexico. Once complete, I–49 will provide $817 million in annual savings to the Nation's economy by reducing travel time, transportation costs and congestion. Over 6 years, these savings will total over $4.9 billion. Coincidentally, the total remaining cost to construct I–49 is estimated at about $4.9 billion. Construction and completion of I–49 will support the creation of up to 206,290 new jobs.

I thank the chairman from Oklahoma and the ranking member from Vermont. Of course, the Senator from Nevada had a great deal to do with this bill. I thank them for their balanced approach. But I suggest to them if we could accelerate the completion of some of our major interstates in the middle part of this country, it would help everyone. It is desperately needed from an economic, security, and safety standpoint for the 30 or 40 States that are tremendously affected by the lack of this kind of infrastructure.

AMENDMENT NO. 2615 WITHDRAWN

Ms. LANDRIEU. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2615), to amendment numbered 2285, was withdrawn.

Mr. REID. Mr. President, I have just spoken to Senator DORGAN. He is in the cloakroom and he wishes to speak for a few minutes prior to the vote on his amendment. We should advise the Senate there should be another vote in the next 10 minutes or so. Does the chairman agree with that?

Mr. INHOFE. If the Senator will yield, we should emphasize we will not have more 38-minute votes. It could help the situation to be prepared for perhaps two more votes, if that is necessary.

Mr. REID. I appreciate my chairman acknowledging the fact at this stage—things could happen later on—we have another amendment on our side and two more amendments on the other side, and that is all we know of on this bill. There may be other things come up but that is what the managers have been told.

I underline and underscore what the chairman of the committee has said. It is not right to have these votes go 38 minutes. People have other things to do. It is unfair to the Members here, voting on time, to nonchalantly walk in, knowing the vote has been held up. These are not close votes. There is nothing that will be damaged by someone missing a vote. If you have an important engagement, tell that to your constituents. It is unreasonable to do this. I hope later we will acknowledge that and help move the bill forward.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. REID. I am happy to yield.

Ms. LANDRIEU. Is there any way the votes could be stacked at a set time so we would know about votes later tonight?

Mr. REID. I say to my friend, the junior Senator from Louisiana, we have tried that today and we have had objections to stacking votes. We will continue to try. We would be elated to do that. We know the schedule is extremely difficult for everyone but it is especially difficult for a mother of two children at home.

Ms. LANDRIEU. Senator BREAUX and I are entertaining for Mardi Gras this weekend. We are honored to have 2,000 of our friends in town. But he will have a good time anyway.

Mr. REID. Knowing Senator BREAUX—and this is directed toward him—we hope he does not have too good of a time.

Mr. INHOFE. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. INHOFE. It is my understanding Senator DORGAN is here and will speak. If he could confine his remarks to less than 10 minutes, we would have no objection to accepting his amendment.

Mr. DORGAN. Mr. President, my understanding is we could dispose of the amendment I have offered in a moment.

Let me again explain this amendment. Six years ago, the Senate did pass an amendment that is slightly tougher than the one I now offer dealing with the issue of drunk driving. It specifically deals with the issue of open containers of alcohol in vehicles.

We understand that nowhere in this country should someone be able to drink and drive at the same time. Yet there are still jurisdictions where that exists. The Senate has had a vote on this. When we previously considered this legislation 6 years ago, the Senate voted in favor of my amendment. It did get watered down in conference. My understanding is that the amendment would now be accepted, and I appreciate that. I have spoken twice on it and have fully explained it. I feel passionately about this piece of public policy.

I thank Mothers Against Drunk Driving and all of the other Senators across this country who dedicate their time and commit their lives to try to do something to make a difference about drunk driving and save the lives of so many in this country who are at risk as long as there are people who are drinking and driving in the United States.

I thank the two managers of the bill.

I yield the floor with the understanding the amendment is accepted.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. May I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, my understanding is my amendment will be cleared by an approval of a voice vote and I ask that that occur.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2430) was agreed to.

Mr. DORGAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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 (Mr. CORNYN). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like my fellow Senators to learn of some of the tremendous advances we have been able to make under this bill in the past relative to the changing needs of our Nation. I am going to spend just a few minutes on the North Street Revitalization Project.

This effort is an innovative transportation project in Vermont that demonstrates the value of the Transportation and Community and System Preservation Program, also know as the TCSP.

When the TCSP was authorized in TEA–21, the city of Burlington quickly realized that this innovative program could be used to revitalize a blighted neighborhood called the Old North End.

North Street is located in the heart of Burlington's Old North End.

The North Street revitalization project was born of a need to reinvigorate one of Burlington's oldest and most densely populated neighborhoods, a neighborhood where nearly a third of

the inhabitants fall below Federal poverty levels, where over 85 percent of elementary school children receive free and reduced price lunches.

It has been a wonderful example of a community using transportation funds to fight sprawl by investing in an older urban neighborhood.

I do not exaggerate when I say that efforts to revitalize the Old North End have been underway for over 20 years. The early TCSP Program grant for North Street has been the single most important factor in the success that the project is finally achieving.

I am pleased to report that the project is out to bid and construction will commence this spring. In addition, business activity in the neighborhood is way up and housing investment is increasing. The optimism is infectious and the infrastructure work has barely just begun.

As you can tell, I am very excited by this project. But I have chosen to highlight the project for another reason.

The North Street revitalization project is an excellent example of the benefits of the TCSP. The TCSP allows projects such as this one to develop all over this country. It encourages communities to consider the ways in which transportation investment can improve mobility, economic vitality, and quality of life.

I am pleased to say that we have continued this program in our reauthorization package and increased the funding associated with it. This is only one of the many excellent programs that this bill authorizes.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I just want to speak briefly because there has been some talk and discussion floating around the Chamber that one of the proposals that is being considered is to use customs fees to try to fill the failure of this bill to meet its budget obligations.

As we have discussed earlier, the bill is about $24 billion over budget, minimum. I think that is a conservative figure, but that is the number that is being accepted as the number that is given.

Unfortunately, a lot of the additional spending in the bill, rather than coming from the highway trust fund, which is where it logically should come from because the highways should be paid for by the highway trust fund, comes from a variety of movements of dollars, which essentially ends up with the general fund funding the highway trust fund from between about $226 billion up to about $255 billion, I believe. Off the top of my head, I think those are the numbers that are picked up by general fund activity that is now alleged to be highway fund activity, which is inappropriate. We should pay for roads with highway fund activity.

But I just want to put a marker down that if we—on top of all this other gamesmanship as to how this is being paid for, and the deficit, which is being added to by this bill—move to try to use customs fees to give a figleaf of financial correctness to this bill, we would be making a serious and inappropriate error.

First off, the use of customs fees would be a direct raid on the general fund because it would mean that fees, which are dedicated and which go into the general fund and would support the Customs Service, and anything else the general fund needs to spend them on, would then be moved over to the highway fund. That would be inappropriate because that would mean, yes, it might fill up the highway fund with more money, but it would take money out of the general fund, and you would have to borrow to cover that and you would end up aggravating the deficit to the extent you did that.

So it would not accomplish anything other than to give you a figleaf approach to fiscal responsibility. But even more importantly, this whole issue of customs fees has been around the track so many times. It has been used so many times here that I would think people would start feeling a little reticent about trying to use it again. Literally, customs fees have gone around the track probably more times than Seabiscuit.

I just want to list a few times we have used customs fees—the same customs fees, by the way.

We used customs fees to pay for H.R. 7 in the 107th Congress, which was the Community Solutions Act. We used customs fees to justify—we never used them. We use them to justify that the bills are within the budget. That is what this whole exercise is about. We used them again in the 107th Congress on the Bipartisan Patient Protection Act. We used them again in the 107th Congress for the Personal Responsibility, Work, and Family Promotion Act. We used them again in the 107th Congress for the American Competitiveness and Corporate Accountability Act. We used them again in the 107th Congress for the Trade Adjustment Assistance Improvement Act. We used them again in the 107th Congress for the Servicemembers' Tax Assistance for Noteworthy Duty Act.

That was the 107th Congress. We used the same custom fees six times in the 107th Congress. That is amazing, gamesmanship at a new level.

Then we move to the 108th Congress. How many times have we used custom fees so far in the 108th Congress? Well, it was used for the Prescription Drug and Medicare Improvement Act; the jobs and growth tax relief reconciliation bill. It was used for the Relief for Working Families Tax Act. It was used for the Relief for Working Families Tax Act twice, in fact. It was used for the Rebuild America Act by the House. It was used for the Health Care Coverage Expansion and Quality Improvement Act. And, of course, we are considering using it for this act.

At some point we have to have some modicum of fairness and forthrightness about what we are doing around here. I will strongly resist using custom fees as a vehicle for giving a figleaf of fiscal accountability to this bill because that is all it is. It is not legitimate to use it. We know it won't be used. Its only purpose would be so that people could come to the floor and argue that they somehow paid for this bill when, in fact, the practical effect of it is that it will never be used. It has not been used yet in the prior 13 instances I have cited. And if it were used, it would mean a direct shift of funds out of the general fund into the highway fund, creating a deficit situation in the general fund, aggravating the deficit to the extent that it was scored as being used in the highway fund.

It is bad policy. I wanted to lay down an early marker that this should not be a manner in which we proceed on this bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2502 TO AMENDMENT NO. 2285

Mr. BOND. Mr. President, I have at the desk amendment No. 2502. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2502.

Mr. BOND. 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 strike the highway stormwater discharge mitigation program)

Beginning on page 876, strike line 12 and all that follows through the matter between lines 6 and 7 on page 880.

Mr. BOND. Mr. President, this amendment to S. 1072 preserves the basic expansion of eligibility for storm water mitigation projects but removes a mandatory 2 percent set-aside for storm water which was added in committee. While I protect storm water mitigation project eligibility for funding from highway programs, I oppose sending another Federal Government mandate to the States, telling States they must set aside 2 percent of their surface transportation programs for

storm water activities regardless of the actual need in the State.

There are few greater champions of Federal funding for water quality and drinking water in the Senate than myself and my colleague from the State of Maryland with whom I chair and serve as ranking member—depending upon who is in control—of the appropriations subcommittee which funds water projects and programs in the EPA budget. Senator MIKULSKI and I year after year have squeezed the rest of the budget to put badly needed funding for clean water and safe drinking water measures into our bill because we know there are great needs. Every year we have to restore hundreds of millions of dollars that OMB, on a bipartisan basis, always takes out of the State revolving fund.

Last year we appropriated $1.35 billion to States for the clean water funds and $850 million to States for their drinking water funds. Every year we appropriate millions of dollars to protect, sustain, and restore the health of our Nation's water habitat and ecosystems.

We spend millions of dollars funding water programs for the Chesapeake Bay, the Gulf of Mexico, Lake Champlain, Long Island Sound, and the Great Lakes. Last year we sent hundreds of millions of dollars more to member States for targeted investments in their water infrastructure. We do that every year for our colleagues because we believe so much in providing clean and safe drinking water for our families and local communities.

In this highway bill, I was also proud to join my colleagues, Senators INHOFE, JEFFORDS, and REID, in expanding the eligibility for storm water mitigation projects. Current law allows States to spend surface transportation program funds on storm water mitigation needs. In S. 1072, section 1601, we expand storm water eligibility to allow States to spend National Highway System funds on storm water mitigation needs. States can spend up to 20 percent of a project's cost on environmental restoration or pollution abatement such as storm water mitigation. However, that amount will be left up to the State and the individual conditions at the site of each project. We should not set an arbitrary number in Washington and force States to set aside that amount.

We are not talking about a small amount of money. A mandatory 2 percent set-aside equals almost $1 billion over 6 years. That is $1 billion States must divert from their surface transportation programs regardless of need. By now, many of you have heard from State DOTs that they oppose a mandatory set-aside. Almost none of them, and nobody who is running highway programs, likes to have mandatory set-asides. Our States certainly do not appreciate mandatory set-asides from Washington.

We also must remember that not every State has the same environmental conditions or needs. A State's need to spend highway funds on storm water will differ depending on the individual conditions in each State or each part of the State. States in the upper Midwest, States in the West, States in the Great Plains will not see the same rainfall nor storm conditions as States in the East. Nonetheless, all States will be forced to set aside 2 percent of their STP funds for storm water unless this section is struck.

What sense does it make for a State which has tremendous highway needs but relatively few storm water needs to set aside 2 percent? Let me repeat, with my amendment, storm water mitigation projects are still eligible for funding from highway programs. We preserve and expand storm water funding eligibility. States will be free to spend the amount of money they believe necessary to address storm water needs in their State. There may be years in which Missouri spends more than 2 percent on storm water needs. But our State has heavy rainfalls.

This vote is about whether we want to impose another mandate on our States. I urge my colleagues to turn back this Federal Government mandate to say what the needs of every State are. There may be many States for which this is not appropriate. I urge my colleagues to let States decide how best to spend their highway dollars, and I urge support of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. BOND. 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. REID. If the Senator will yield, the four of us—the chairman, ranking member, chairman, and ranking member—have worked tirelessly to arrive at a point where we can complete this bill. This is an important amendment.

The Senator from Missouri has worked with us, the three managers—if I said weeks, it would not be valid; it is months. We are at a point where we simply cannot do this. I will make a commitment to my friend from Missouri that when we get to conference or when we work on this or do our deal with the House, I will personally be involved in this and try to work out something that would be satisfactory to the Senator from Missouri. It simply won't work at this stage. I ask that the Senator withdraw the amendment at this time.

AMENDMENT NO. 2502 WITHDRAWN

Mr. BOND. Mr. President, I appreciate the words of my cohort on the Surface Transportation Subcommittee. We have worked together over the years. I raise this point for the entire Senate so they know we are going to have to address it in the Congress, because there are many States that I am sure we will hear from that do not need this. In order to move the bill along and to avoid causing our colleagues to have another vote—perhaps those who need to get away—I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am pleased the Senator did that because it was to strike a provision I worked on in the bill.

Mr. President, I rise to express my opposition to the amendment offered by my colleague Senator BOND to strike the Committee's stormwater mitigation program.

The full committee adopted an amendment I offered with many of my colleagues to begin to address—for the first time—an unfunded Federal mandate on our localities.

I regret that my colleague opposes helping our localities with the serious financial burdens imposed by the Clean Water Act to correct stormwater runoff problems. I have heard him tell the Senate that this stormwater provision is a mandate on our state highway departments, but he has not told you the rest of the story.

The rest of the story is that the existing Clean Water Act regulatory program requires all of our communities to obtain a permit for their stormwater discharges and flood control projects. According to many organizations who are on the front lines in dealing with this problem, they strongly support this modest provision to begin to address pollution problems from existing highways.

This modest program of $160 million annually is a very small part of this massive $311 billion bill. It begins to fund an unfunded Federal mandate. Most importantly, our states want this program.

The Association of State and Interstate Water Pollution Control Administrators—our state officials responsible for improving the water quality of our rivers, lakes and streams—have written urging that the Senate retain this small program.

For the benefit of my colleagues, I refer to a portion of the State officials letter:

> Communities throughout the nation, including numerous smaller towns and counties are required under the Clean Water Act to obtain discharge permits for stormwater. Even those communities, which have long understood the value of protecting their drinking sources and recreational waters from stormwater impacts, are already hard-pressed to cope with the cost, as they have been absorbing the costs of discharges from highways. This represents an unfair burden to these communities and we believe it is fair for the transportation funding system to remedy this problem where existing highways and other roads cause significant runoff problems.

The Association of Metropolitan Sewerage Agencies has written that

''This amendment marks a crucial step toward addressing the billions of dollars in expenditures that state and local governments are required to make in controlling stormwater generated by our nation's highways. . . .

Similar letters of strong support have come from the Association of Metropolitan Sewerage Agencies, the Association of Metropolitan Water Agencies, the American Water Works Association, and the Association of State Floodplain Managers, and numerous other groups.

The support for the Committee's provision is strong because everyone recognizes that stormwater runoff from highways is a known impediment to good water quality. Some have calculated that this runoff is the leading cause of pollution for nearly 50 percent of our national rivers, lakes and streams.

Roads collect pollutants from tailpipe emissions, brake linings, oils and other sources. During storms they mix with other contaminants of heavy metals and road salts that wash into our waters. This result is seriously degraded water quality of our rivers, lakes and streams.

Today, every new highway must include methods to control this runoff. But, there is a large need for our states and local governments to construct stormwater mitigation projects on existing roadways to meet the requirements of the Clean Water Act. Under federal regulations, even our smallest communities and counties will be required to implement projects to control stormwater runoff.

The modest program in the Committee bill requires States to dedicate 2 percent within the Surface Transportation program—one category of highway funding—to control stormwater runoff from our roads.

It is true that stormwater mitigation projects are eligible for funding under the NHS and Transportation Enhancements program. However, the funding demand for these programs is great.

I have also heard the author of this amendment that will punish our local governments say that we will work to fund these stormwater activities under the Clean Water Act. The Environment and Public Works Committee, however, has struggled unsuccessfully with financing our Nation's multi-billion dollar water infrastructure needs. We've come to no consensus or new financing package.

In 2000, EPA estimated at least $8.3 billion over 20 years in local funding needs to address stormwater requirements. The modest program in the bill before us provides approximately $958 million over 6 years. This is simply some small relief to our localities to address pollution from existing highways.

Our States want this program. Our communities deserve to have some relief from this unfunded Federal mandate.

For the benefit of all of my colleagues—make no mistake—this is not the only requirement on how States spend Federal highway dollars. The bill before us is full of mandates on our States. Even the proponent of the amendment has offered his own mandate in the bill. It requires that States divert 2 percent of the National Highway System funding to connector roads that are not even on the National Highway System map. Perhaps this is a worthy goal, but again, it is a mandate on our States on how they use their Federal highway funds.

I ask my colleagues to carefully consider this amendment and ask that they not move to take away this critically needed funding from our localities and work to meet unfunded mandates.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. REID. This has been a long, arduous 2 weeks for me and the other managers. We are at the point now that I understand we can soon go to final passage. If there is something to the contrary, I would certainly like to know about that.

Prior to final passage, the chairman of the committee has some matters that need to be disposed of. I wanted to alert everybody we are getting close to the end of this matter.

Mr. INHOFE. Mr. President, we have the managers' amendments that we have talked about for a long period. I ask unanimous consent that they be agreed to.

Mr. WARNER. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor and cannot suggest the absence of a quorum.

The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, yesterday, I filed an amendment with Senator ALLEN and Senator BURNS to the Household Goods Moving portion of SAFE–TEA. Under the circumstances, I will not call it up. The amendment's purpose is to enact meaningful consumer protections that also safeguard small businesses and their employees.

Each year 1.5 million households hire commercial moving companies to move their household goods to another state. There are almost 3,000 federally registered motor carriers who transport household goods across state lines. Most of these moving companies are small businesses—Mom and Pop family-owned businesses.

In addition to the thousands of licensed small business movers, there are countless unlicensed and unregistered movers. Everyone agrees that the vast majority of movers provide quality service in an ethical manner, but there are some ''bad apples'' that don't follow the rules to the detriment of consumers and other reputable small businesses. These ''bad apples'' take advantage of consumers with misleading estimates, baiting them with deals that are ''too good to be true.'' They're also known to hold customers' household goods hostage while they demand higher fees.

The predatory tactics of these ''bad apples'' give the entire moving industry a bad name. They hurt consumers and they threaten thousands of legitimate small business moving companies, endangering the jobs of the tens of thousands of employees and the families that depend on them. Congress needs to commit itself to enacting reforms that will help stop unscrupulous movers and their predatory tactics and protect consumers and the small business jobs in the moving industry.

I appreciate Senator MCCAIN and his staff's efforts in this area. Many of the reforms in the Household Goods Moving portion of SAFE–TEA accomplish these goals. I believe that Congress can enact legislation that will protect consumers, small businesses and the thousands of jobs in the household good moving industry. My amendment works to punish ''bad apples,'' protect consumers, safeguard the thousands of legitimate small businesses, and sustain the good jobs in the moving industry.

When I was Chairman of the Small Business Committee in the House, I learned that sometimes regulation offered even with the greatest of intentions could unfortunately have an opposite and devastating impact on the people it intended to protect. It is clear that some of the provisions in the underlying bill will not hinder unscrupulous ''bad apples,'' but instead seriously harm legitimate small businesses and endanger American jobs and the families that depend on them.

I have some concerns about the consumer protections that were attached, because some of them operate in a way where they burden the honest businesses and do not stop the dishonest ones. That is always the nightmare with regulation when we do it. Sometimes they end up making it difficult for the people who are trying to comply with the law, and the corner cutters still cut corners and we end up with the worst of both worlds.

There is a provision in the bill that was added in the Commerce Committee, for example, that would allow lawsuits against movers who don't use the absolute shortest route to get the household goods from one place to another. That is very understandable because some of the bad apples will drive around town in order to build up the price and get a higher fee for the moving.

At the same time, they are very legitimate reasons why a business may not take the shortest route—safety reasons, for example. What I am saying is we need to look at the provisions that were enacted in committee in conference to make certain that we do the best job we can do of protecting consumers while partnering with the legitimate small businesses, because they want the bad apples out of the business as well. All of us have had an experience or we know of friends who

had experience with these businesses that want to hurt everybody.

We want to protect consumers. We have to do it in a way that partners with the good companies. We don't want to drive their costs up, which will then be passed along to consumers. Worst case, some of these legitimate small businesses will have to go out of business. These issues deserve further consideration in the conference.

Our amendment offers commonsense solutions.

My amendment protects a legitimate small business mover's right to collect for additional work requested by the customer at the time when his or her goods are delivered.

My amendment enhances consumer protections. State enforcement laws should strictly protect consumers by prohibiting movers from holding a customer's goods hostage.

My amendment defends legitimate small businesses' right to recoup attorneys fees if they are determined to be ''in the right'' by a court.

My amendment also addresses provisions in the underlying bill that have little to do with consumer protection.

For example, if the underlying bill is passed as written, attorneys could legislate through prosecution the route a legitimate small business mover must take when delivering household goods.

Admittedly, this provision was designed to protect consumers from ''bad apples'' that literally take their customers for a ride, using longer routes and charging higher fees.

But, unfortunately, the way the provision is written, mom and pop small business moving companies would also suffer and be exposed to lawsuits and fines that will threaten their business and the jobs of their employees. Attorneys should not determine the fate of legitimate small business movers.

Small business movers are experienced and they know which highways to take in traffic and in bad weather. In St. Louis, Missouri, we have two central highways: highway 40 and 44. It's clear to anybody who travels on those highways that 44 is often the quicker route in rush-hour traffic. But, this provision would take away an experienced drivers right to choose. It could be mandated that he use only highway 40.

Legitimate movers don't make their money scamming customers; they make their money getting shipments on and off, on-time.

Despite the fact that this provision is intended to protect consumers, it could have the opposite effect, requiring movers to take less efficient routes; routes they knew were slower because they drive on those roads everyday; and all because an attorney decided it was quickest.

As a result, the longer shipment times would translate into higher costs for consumers since carriers would be forced to petition for higher fuel tax surcharges, a cost born by consumers.

I believe that it's important in situations like these to reach out to the stakeholders in the community of legitimate small business movers those who are affected by these provisions and partner with them to determine the proper solution. Everybody wants to stop the ''bad apples.''

This list goes on and on. Many of the provisions do not protect consumers and force unnecessary and burdensome regulations on mom and pop small businesses across all 50 States; possibly causing an increase in carrier rates across the country; harming legitimate small businesses—and not the ''bad apples''; and threatening the jobs and livelihoods of the thousands of employees in the moving industry. These issues deserve further consideration in conference and I urge my colleagues to continue their good work; and to partner with the small business moving community to punish the ''bad apples'' and enact meaningful consumer protections, safeguard small businesses and protect the jobs of the tens of thousands of employees and families that depend on them.

I yield the floor.

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

Mr. BOND. 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. BOND. Mr. President, earlier today the Chairman of the Senate Commerce Committee was here on the floor charging Chairman INHOFE and our EPW Committee with inserting Amtrak legislation into our highway bill. Shortly thereafter, I was glad to see that same Senator rise to apologize for this incorrect statement. Because the truth is, that the provisions the Senator was talking about are actually in his own committee's title of this bill.

So now that it is established not even the Chairman of the Commerce Committee knows what is in his title, I think it is only appropriate to address some of the problems in that title.

Earlier today I discussed a few of the problems I have seen in that title. At that time, I pointed out that we still have not heard from the Commerce Committee Chairman what is in his title. Well, we still haven't had an explanation . . . and if that committee's chairman didn't know that the Amtrak provisions were actually in his own title, it makes me wonder if anyone actually knows what is in the Commerce Committee title of this bill.

That said, I am back here again to briefly address a few more problems with the Safety Title of this bill. And in an effort to safe time, I will not call up amendments to fix these problems, but I hope that these concerns can be addressed in Conference.

I am concerned that certain provisions in the Commerce Committee's Title go a little too far in specifically directing the National Highway Traffic Safety Administration to publish final rules on a wide variety of new vehicle safety requirements. I am all for highway safety, but to assume that today, we know enough to tell NHTSA exactly when it must promulgate over a dozen rules, covering many elements of vehicle design to crash testing, over the next few years, seems disruptive to NHTSA's safety priorities. I am not an expert in this area, but let me read what the administration thinks of this amendment. I remind my colleagues that earlier today we were told by the Commerce Committee Chairman that none of the statements in the SAp were in relation to his committee's title. Well, this if from the statement of administration position on this provision issued February 11.

''The administration strongly opposes mandate rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety.''

My main concern is that these mandates disrupt NHTSA's safety priorities and might not be the best use of its resources. We have passed laws that govern the issuance of motor vehicle safety standards requiring NHTSA to consider all available safety data when setting new standards and that those new standards must meet the need for highway safety, as well as be reasonable, practicable and appropriate for the vehicles to which they apply. This amendment, by telling NHTSA it must promulgate certain standards, is inconsistent with existing law and has the potential to require NHTSA to publish standards that might not be in the best interest of highway safety. I hope that the sponsor of the amendment will agree to work with me, and others, to ensure that we actually improve highway safety and not do harm by requiring the experts at DOT to divert valuable and limited resources from their true safety mission.

Mr. President, this debate is not personal. But I cannot stand idly by and have one Member or a handful of Members tell us all that the EPW Committee is a budget buster, or is the only part of this package that carries a veto threat, or that Amtrak provisions are in our title, or on and on.

The truth, Mr. President, is that this bill is paid for, is budget neutral based on the Finance Committee title which pays for increases over the budget resolution. For the Record, of all the titles above the budget resolution (though paid for), it's the Commerce Committee title that is the highest increase over their allocation. In fact, that title is a 50-percent increase over the budget allocation.

Mr. President, it is also true that the Commerce Committee title is new. It is

not what was reported out of Committee, and it was not altered by the amendment process here on the floor. Instead, it was changed by the Commerce Committee staff, and apparently not even the Chairman knows what is in it.

I want a good highway bill. There are some real problems with this title, and I urge my colleagues to take a close look at it. And I hope we can address some of these harmful mandates in Conference.

We had thorough discussions when other safety provisions had come forward. This one has been slipped into the commerce title. There are some real problems. Earlier today, we were told by the Commerce Committee that none of the statements in the Statement of Administration Policy were in relation to the committee title. Let me read from the Statement of Administration Policy on this provision issued February 11:

The administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering, and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety.

I think this provision disrupts NHTSA's safety priorities. We passed laws that govern the issuance of motor vehicle safety standards. Unfortunately, they are not going to be able to use the full scientific and engineering information they wish to if they are forced to take the provisions in this amendment.

This is inconsistent with existing law. I hope in the conference we will work to change these so we do not foul up the efforts of NHTSA to use the best safety and engineering to achieve goals that have not been discussed or debated on this floor. I hope we can change that part.

Finally, the truth is, this bill is paid for. It is budget neutral based on the Finance Committee title. For the record, all of the titles in the budget resolution are paid for. It is the Commerce Committee title that is the highest increase over the allocation. It is 50 percent over the allocation. These are problems we are going to have to deal with in the conference. I assure my colleagues we need to address all of these issues.

I close my comments by thanking the chairman, Senator INHOFE, the ranking member, Senator JEFFORDS, and my good friend and colleague, Senator REID of Nevada, for the cooperative way we have worked through this bill. There is a long way to go before we get to a conference agreement with the House that we hope will be able to include concerns by the administration so we will be able to move quickly to get a good highway bill which will deal with our tremendous overwhelming transportation safety problems in the United States and put people to work sooner rather than later.

Finally, as I said, I support the proposal raised by my colleague from Missouri, and I hope that can be included in the conference.

I urge my colleagues to support passage of this bill to move the highway and transportation bill forward and get a good bill that can make a great deal of difference for the economy, for jobs, long-term economic growth and, most of all, for the safety of transportation in the United States.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal 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.

AMENDMENT NO. 2333 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HARKIN, proposes an amendment numbered 2333 to amendment No. 2285.

Mr. REID. 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 encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinate physical activity or healthy lifestyles program)

On page 389, between lines 15 and 16, insert the following:

SEC. 18___. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

''(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.''.

Mr. HARKIN. Mr. President, my amendment concerns transportation enhancement projects, and the need to promote physical activity and healthy lifestyles. In particular, my amendment gives priority to transportation enhancement projects that include a coordinated physical activity plan.

Over the last 20 years, new public health threats have emerged—obesity and the chronic diseases associated with poor nutrition and lack of physical activity. In fact, chronic diseases now account for 75 percent of our Nation's $1 trillion annual health care costs.

The health statistics on obesity are staggering. According to the Centers for Disease Control and Prevention, two-thirds of Americans over overweight or obese, and the rates of obesity have doubled in children and tripled among teenagers since 1980.

Obesity also increases the risk of diabetes, heart disease, stroke, several kinds of cancer, and other health problems. Approximately 300,000 deaths a year in the United States are associated with obesity and being overweight.

Spiraling rates of obesity don't just affect individuals, they place a burden on the average taxpayer and on the Federal Government. The U.S. Surgeon General estimates that obesity costs the Nation $117 billion a year in health care and related costs. Physical activity alone costs over $75 billion per year.

There is no single solution to the problem of obesity and overweight. This is a complex problem, and it must be addressed creatively and comprehensively. One opportunity is before us today in the transportation bill.

The amendment that I am proposing today concerns transportation enhancement projects, a long standing transportation program under which a large share of our hiking and bike trails on non-Federal lands are built.

Such trails, paths, and projects can play an important role in promoting physical exercise in our communities. My amendment seeks to encourage transportation trail enhancement projects to include physical activity and healthy lifestyle programs. Very simply, within the applications a State or planning organization receive for trail or bike path funding, it gives priority to trail projects that encourage coordinated physical activity or healthy lifestyle programs. It does not shift the balance of funding to trail enhancement projects from other allowable categories. It certainly has no impact on the total dollars that go to enhancement projects.

This amendment does not micromanage funds or tie the hands of States seeking to make choices that are most appropriate to their needs. I believe individual States and local planning organizations should have flexibility to make decisions about their transportation priorities. And my amendment preserves that flexibility.

Possible examples of such efforts might include an exercise course on the side of a trail; or perhaps an exercise program run by a local recreation department. We have had tremendous success with local trails and bikeways.

If we do not start seeking out opportunities to encourage healthier lifestyles for Americans, whether it be in an obvious place such as a child nutrition or health care bill, or in a less obvious bill such as this transportation bill, we will all pay the price—both in our health and in our budgets. I ask for the support of my colleagues on this commonsense amendment.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. TALENT. 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. TALENT. I have an amendment filed at the desk on behalf of Mr. WYDEN and myself. I think we have had it cleared, and I was going to ask unanimous consent that it be adopted. It is amendment No. 2482.

The PRESIDING OFFICER. There is an amendment pending. Is this a second degree?

Mr. TALENT. There is an amendment pending?

The PRESIDING OFFICER. There is.

Mr. TALENT. I will wait until that amendment has been resolved.

I ask unanimous consent that the pending amendment be set aside while I offer this amendment.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I object.

The PRESIDING OFFICER. The objection is heard.

The Democratic whip.

Mr. REID. Are we in a quorum call?

The PRESIDING OFFICER. We are not.

Mr. REID. What is the matter pending before the Senate?

The PRESIDING OFFICER. Harkin amendment No. 2333.

Mr. REID. To my understanding, there is no further debate on that amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2333.

The amendment (No. 2333) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

Mr. TALENT. Mr. President, will the Senator from Nevada withhold?

The PRESIDING OFFICER. The Senator from Nevada suggested the absence of a quorum. Does he withhold?

Mr. REID. I withhold.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2482 TO AMENDMENT NO. 2285

Mr. TALENT. Mr. President, I send amendment No. 2482 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself and Mr. WYDEN, proposes an amendment numbered 2482 to amendment No. 2285.

Mr. TALENT. 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 amend the Internal Revenue Code of 1986 to allow tax-exempt private activity bonds to be issued for highway projects and rail-truck transfer facilities)

On page 1298, after line 24, add insert the following:

Subtitle H—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5671. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

''(14) qualified highway facilities, or

''(15) qualified surface freight transfer facilities.''.

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

''(l) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

''(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

''(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

''(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

''(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

''(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

''(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''or (13)'' and all that follows through the end of the paragraph and inserting ''(13), (14), or (15) of section 142(a), and''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5672. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5674. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5673 of this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5675. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

Mr. TALENT. Mr. President, the time is short. This amendment would allow private activity bonds. It has been cleared on both sides. The President supports it. It has been fully offset and I ask that it be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2482.

The amendment (No. 2482) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALENT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I know there are discussions going on, but I would like, if at all possible, to begin to bring matters to a close in the next several minutes. While some final decisions are made on this important bill, I will make a closing statement and then we will see what the outcome is on the remaining amendments.

The transportation bill that we have been considering for the last 2 weeks is one of the most important pieces of legislation that we will consider in this second session. It is important not only for maintaining and improving our transportation infrastructure system—something that we talked a lot about over the last 2 weeks—but it is also important, as has been discussed, for creating jobs.

Conservative estimates are that this legislation would create as many as 1.6 million jobs over the life of the bill, and some analysts now believe it can create as many as 2 million new jobs.

This legislation is also important for our Federal-State partnership. The bulk of expenditures in this country for our public infrastructure programs, for building, for expanding and maintaining transportation systems is not Federal dollars but State and local expenditures. The Federal share from all public infrastructure spending in this country averages about one-quarter or 25 percent. That is the Federal share.

Further, at the Federal level annual spending for ground transportation programs represents less than 2 percent of all Federal spending. But this important spending serves as a catalyst for economic growth. I believe it is a small investment we can make in our economy. It is an essential investment in moving our economy forward while also making it safe for us to use our highways and our intercity rail systems.

The funding for our Federal highway and mass transit infrastructure system is complex, it is obscure, and I freely admit that it is confusing. Here in the Senate, the legislation involves at least six standing committees, sometimes with overlapping jurisdiction.

The financing of our Federal highway system includes spending subject to annual appropriations. It also includes automatic or mandatory spending. The financing of these expenditures comes from many sources—from gas taxes, from excise taxes, from user fees, and from general revenues.

But this afternoon, I would like to address in as simple a way as I can my understanding of the Federal spending issue that clearly has frustrated both ends of Pennsylvania Avenue.

Several points: First, this is a 6-year authorization and spending bill. The administration supports enactment of a 6-year bill. While they do not support the level of resources this bill devotes to transportation spending, I hope we will be able to find a compromise with the House of Representatives and the administration that will meet all concerns.

We are currently operating all these programs under a temporary extension that expires on February 29. Before the end of the month, we will have to once again temporarily extend the expiring authorities.

Funds have already been provided for the programs this year in the Omnibus appropriations bill that we enacted last month, but authorization to expend those funds will lapse at the end of this month.

Point No. 2: The bill—or I should say more precisely the four bills—highways, mass transit, safety programs, and financing—establish an overall level of ''contract authority.'' For the next 6 years, this contract authority is estimated to total $318 billion.

What is contract authority? There has been a lot of confusion. I was on the Senate floor as we talked about this bill in the last several weeks. And, indeed, throughout Capitol Hill, people do not fully understand what contract authority is.

Contract authority is created in law, authorizing the Federal Government to enter into contracts and incur obligations in the future but in advance of, or even in excess of, funds available for that purpose.

The funds actually necessary to carry out that contract authority must be provided later—usually later in the appropriations bill—and it is called liquidating appropriations.

Point No. 3: How will this bill before us today, if enacted, impact Federal spending in the future? There has been a lot of focus on spending today, and a lot of fracturing of the discussions on this spending.

Interestingly, the bill also includes language that limits the amount of this $318 billion in contract authority that can be obligated or liquidated over the next 6 years. This bill sets that limit to be $290 billion, which is nearly $28 billion less than the level at which the contract can be set.

If one is concerned about spending, it is this so-called obligation limit that really matters—not the contract authority. Therefore, when I compare what the Senate bill proposes to spend versus the President's budget request, it is a difference of about $6 billion a year.

I am committed to resolving this difference as this legislation works its way in regular order through the Senate and conference with the House.

Fourth and last point: Since this bill limits the amount of contract authority that can be obligated over the next 6 years, one possible solution might be to reduce the higher contract level to a level that we actually believe will be obligated and spent. There may be some who can explain the difference, but simplistically I think that those two—the obligation limit and the contract authority—should be the same.

Indeed, the President's budget sets both the contract authority and the obligation limit at identical levels. Therefore, I suggest that we all remain flexible on this spending issue, and that as this bill goes forth we give consideration to reducing the contract authority level down to what we truly expect to spend.

Today, even before this bill ever becomes law, the Federal aid to the highway trust fund is estimated by the administration to have $25.6 billion in unobligated balances. This is in unobligated contract authority.

Let me repeat. Today, we have put on the books $25.6 billion in contracts that we have not fulfilled and are not likely to honor because we have been limited—or will be limited—by previous legislation to the level of these obligations.

Thus, I am convinced that as this bill proceeds we can find ways to reduce its costs and address the concerns raised by the President.

This is a very difficult and complicated legislative issue. I congratulate all the committees involved, especially the committee chairmen and ranking members and their staffs who have brought this legislation to the Senate for consideration. Indeed, it is because of all the complexities involved that they are to be truly congratulated for even getting this far.

In closing, just as an aside, let me conclude that one lesson that we might learn from these legislative exercises surrounding the highway bills over the last several weeks—indeed months—is as we look to the future, we may want to rethink the structure of our committees in this area. We may want to find ways that could streamline this overall legislative process to make funding more transparent and to improve the overall oversight of these various transportation programs.

I probably would find that restructuring of committees and how we consider major infrastructure legislation in the Congress even more difficult than just passing a highway bill. But I think we need to start thinking about this for the future.

Mr. INHOFE. Mr. President, we would like to at this point yield for a unanimous consent request of the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2396 TO AMENDMENT NO. 2285

Mr. DEWINE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 2396 to amendment No. 2285.

Mr. DEWINE. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. DEWINE. Mr. President, I ask unanimous consent that amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2396) was agreed to.

AMENDMENT NO. 2308 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator CORZINE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CORZINE, proposes an amendment numbered 2308 to amendment No. 2285.

Mr. REID. 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 permit funds to be used for programs to impound the vehicles of drunk or impaired drivers)

On page 762, between lines 12 and 13 insert the following new paragraph:

''(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2308) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

AMENDMENT NO. 2312 TO AMENDMENT NO. 2285

Mr. REID. Mr. President, I call up amendment No. 2312.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CORZINE, proposes an amendment numbered 2312 to amendment No. 2285.

Mr. REID. 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 require additional programs and activities to address distracted, inattentive, and fatigued drivers)

On page 724, strike line 19 and all that follows through page 725, line 2, and insert the following:

(A) by redesignating clause (6) as clause (8);

(B) by inserting after ''involving school buses,'' at the end of clause (5) the following: ''(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,''; and

(C) by inserting ''aggressive driving, distracted driving,'' after ''school bus accidents,''.

On page 731, between lines 12 and 13, insert the following:

''(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 5 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

On page 770, between lines 7 and 8, insert the following:

''(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

On page 770, line 8, strike ''(2)'' and insert ''(3)''.

On page 770, line 19, strike ''(3)'' and insert ''(4)''.

On page 770, line 23, strike ''(4)'' and insert ''(5)''.

Mr. REID. I ask the amendment be agreed to.

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

The amendment (No. 2312) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. 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. 2498 AND 2532, AS MODIFIED, TO AMENDMENT NO. 2285

Mr. BOND. Mr. President, I have an amendment for Senator MURKOWSKI relating to Denali and a second-degree amendment of Senator SHELBY, No. 2532. I ask unanimous consent to call these up, as modified, and ask they be accepted. The modifications are on the amendments.

The PRESIDING OFFICER. Without objection, the amendments will be so modified and agreed to.

The amendments (Nos. 2498 and 2532), as modified, are as follows:

(Purpose: To establish the Denali Access System in the State of Alaska)

On page 39, between lines 22 and 23, insert the following:

GENERAL FUND AUTHORIZATION.—

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $30,000,000 for each of fiscal years 2004 through 2009.

AMENDMENT NO. 2532, AS MODIFIED

At the appropriate place, insert:

''SEC. . THE DELTA REGIONAL AUTHORITY.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''178. Delta Region transportation development program

''(a) IN GENERAL.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and corridor development;

''(2) provide for transportation project development;

''(3) facilitate transportation decisionmaking; and

''(4) support transportation construction.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

''(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

''(1) whether the project is located—

''(A) in an area that is part of the Delta Regional Authority; and

''(B) on the Federal-aid system;

''(2) endorsement of the project by the State department of transportation; and

''(3) evidence of the ability to complete the project.

''(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

''(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

''(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase the mobility of people and goods;

''(B) improve the safety of the transportation system with respect to catastrophic—

''(i) natural disasters; or

''(ii) disasters caused by human activity; and

''(C) contribute to the economic vitality of the area in which the project is being carried out.

''(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out

a project under this section shall be applied to the non-Federal share required by section 120.

''(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.''.

''(b) CONFORMING AMENDMENT.—The analysis for chapter I of title 23, United States Code (as amended by section 1841 (b)), is amended by adding at the end the following:

''178. Delta Region transportation development program.''.

On page 678, after line 5, insert:

GENERAL FUND AUTHORIZATION.—

(16) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $80,000,000 for each of fiscal years 2004 through 2009.

Ms. MURKOWSKI. Mr. President, one of the amendments I filed yesterday, along with Senator STEVENS, was in relation to what I am calling the Denali Transportation System. I am disappointed the full amendment will not be part of the bill, but I am grateful for the efforts Senator INHOFE and others who were able to accommodate even part of it.

As my colleagues know, the National Highway System we established in the 1950s not only brought benefits to individual States but to the country as a whole. It has more than lived up to its promise of greater access, an improved quality of life, and increased wealth for all Americans. Throughout the United States, a modern highway system connects virtually every single community in every single State—except one.

The majority of Alaskan communities remain unconnected. Alaska has been left far behind the rest of the Nation, with a road system that is no system at all. If the highway system is the Nation's skeleton, Alaska is still missing its arms and legs.

As a result, many Alaskan communities are punished with third-world conditions and an extraordinarily high cost of living, and the Nation as a whole is that much poorer because Alaska's tremendous natural wealth cannot be shared.

This is not the first time that Congress has dealt with a similar problem. When the Appalachia region needed extra assistance, Congress responded to the call by providing $450 million per year for the Appalachia commission to construct the Appalachia Transportation System. The bill before us proposes to increase that sum even further, to $590 million per year.

A 1998 Congressional Research Service report reads as follows:

In 1964, a Presidential commission on Appalachian region reported that ''geographic isolation'' was the very basis of its development lag. The commission argued that development ''could not proceed until its regional isolation was overcome by its penetration by an adequate transportation network.''

Further, they said, a system was needed ''to and from the rest of the nation and within the region itself.''

Their core argument: ''before development could take place in Appalachia, major investments had to be made in basic public facilities.'' This was coupled with a belief that the ''barrier-effect of Appalachia's mountain-chains was a major cause of underdevelopment'' and led to a proposal that a development highway system be built ''to break the isolation of Appalachia's economically depressed regions.''

Importantly they noted, ''that the routes not be chosen to ease congestion or upgrade heavily traveled areas but to stimulate traffic through remote areas that have a development potential.''

My amendment would allow the Denali Commission to begin doing for roadless areas of Alaska what Congress authorized for Appalachia. However, there are some critical differences. I want to emphasize that word ''roadless.''

In the Appalachia region, communities were isolated by poor roads. In Alaska, they are isolated by no roads. We are not asking for an entire network of major highways, only for the simple ability to move people and goods overland from one place to another. The dirt roads Appalachia started with would be regarded as a blessing in Alaska.

Second, we are proposing only to construct connections for communities that have no current access—no highway, no rural two-lane road, no dirt road, or improvements to the internal roads in these same isolated communities. The latter is critical for residents to get to their schools, to clean water sources, to clinics and stores and garbage dumps.

Third, and most important, we are not asking for similar funding. I understand the fiscal realities before us today. The amendment I filed asked for only $50 million per year for Alaska. As revised, it will provide $30 million.

The increase this bill contains for Appalachia is almost three times that sum. In all, the Appalachia system will receive almost 12 times what we are asking.

I do not object to spending money in Appalachia. I think that money has gone to good use. I simply believe we would get even greater value from a modest investment in the 49th State.

Alaska is rich in resources that can and should be a driving force for the Nation's economy, stimulating hundreds of thousands of jobs throughout the country. It is in an ideal location to be a crossroad for international trade, both by air and by sea, especially if you believe predictions that warming trends will open up a northern sea route to Europe in a few short years.

Yet we remain poor both in population and in highway miles. The formula funds we receive through the highway bill are not sufficient to allow the construction of new links between communities, no matter how badly they are needed.

I also understand some of my colleagues wish to create a new Appalachia-style system for the lower Mississippi area. I noted some pictures of a bridge were displayed on the floor yesterday, and it was suggested that that bridge was inadequate. At least the citizens of that area have bridges to complain about. My constituents do not.

It is important to make the point that this is not just about Alaska's needs. We all expect and demand certain basics for our constituents: clean water and food, warmth, shelter, schools and medical services.

In my State, because of the isolation of so many communities, all these services have to be duplicated over and over again, because the Native people of these isolated communities are eligible for and receive Federal assistance to ensure they have access to those services.

I have heard some of my colleagues suggest that Alaska demands a great deal. Let me suggest that we would be happy to demand less, if we were in less desperate need. No State—or its citizens—can prosper without adequate transportation systems. In much of the country, such systems have been in place since before the American Revolution, and have been constantly changing, adapting and being upgraded ever since. In much of Alaska, in contrast, residents are still forced to travel between communities by boat, or on frozen rivers, just as they did when the Territory of Alaska was first purchased from Imperial Russia. In this day and age, such a situation is completely unacceptable. It is a lasting mark of neglect, and it is past time to rectify it.

The Denali Transportation System will provide far greater benefits than costs. As we enter an era where gigantic natural changes are occurring in the Arctic environment, and ice-free maritime transportation through the Arctic Ocean is expected to become a reality within decades, it is critical that we begin to prepare ourselves for those changes. Adequate transportation connections to—and within—America's only Arctic State are imperative.

This is a time for foresight. The key to long-term prosperity is wise investment. Investing in Alaska is investing wisely for the future of the entire nation, just as investing in Appalachia was a wise choice. We have incomparable resources and vigorous citizens. It is time we have the transportation system that will allow those assets to be used as they should be.

Mr. BOND. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I ask unanimous consent to vitiate the cloture motion on the bill and then ask the bill be read for a third time.

Mr. LAUTENBERG. I object.

Mr. INHOFE. I withdraw the previous unanimous consent request and now send the managers' amendment to the desk. We have no further debate on the managers' amendment.

The PRESIDING OFFICER. The managers' amendment is not yet pending.

AMENDMENT NO. 2616 TO AMENDMENT NO. 2285

The PRESIDING OFFICER. Is there objection to considering the managers' amendment?

The Chair hears none, and it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. JEFFORDS, proposes an amendment numbered 2616 to amendment No. 2285.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal 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.

Is there further debate on the managers' amendment?

If not, the question is on agreeing to the managers' amendment.

The amendment (No. 2616) was agreed to.

AMENDMENT NO. 2285, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the substitute, as amended.

The amendment (No. 2285), as amended, was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal 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, I now ask unanimous consent to vitiate cloture on the bill and then ask that the bill be read a third time and the Senate proceed to a vote on passage of the measure.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GRASSLEY. Mr. President, I would like to say a word about tax provisions being included in non-tax titles. The Finance Committee has sole jurisdiction over tax matters. The reasons for this are rooted in the U.S. Constitution. As a committee, it is imperative that we weigh in on all tax matters. This is particularly true with the provision included in the EPW Committee Substitute. We have heard from the Justice Department that this provision, as drafted, could jeopardize law enforcement efforts against organized crime and money laundering. The provision did not have the benefit of committee review or process. I appreciate the sponsor's interest in this issue. But I would remind Members that the chairman and ranking member take the responsibilities of the Finance Committee seriously. When we go to conference, I also want to ensure that regardless of the fact that the provision is included in the EPW title, the tax-writers are given responsibility to oversee the provision.

Mr. BAUCUS. I thank the Chairman for his comments, and I look forward to working with him to resolve this matter.

PRESERVING PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES

Mr. INHOFE. I would like to engage the Senator from Ohio, Mr. VOINOVICH, on the intent of his amendment regarding the preservation of parks, recreation areas, wildlife and waterfowl refuges, and historic sites. The amendment would require the Secretary, when making a finding of de minimis impact, to consider all ''avoidance, minimization, mitigation, and enhancement measures'' that have been incorporated into the project. Could you explain how this provision would be implemented?

Mr. VOINOVICH. This language serves an important function: it builds in an incentive for project sponsors to incorporate environmentally protective measures into a project from the beginning in order to support a finding of de minimis impact.

Obviously, there will be projects whose impacts will exceed the de minimis threshold even when mitigation measures are taken into account. For those projects the traditional Section 4(f) requirements will apply. But there also are many projects that could meet the de minimis impact standard if the project sponsor commits to take specific actions to reduce or offset the project's impacts on Section 4(f) resources. This amendment will make it possible for a finding of de minimis impact to be made in those situations.

REVENUE PROVISIONS

Mr. CONRAD. Mr. President, during the Finance Committee consideration of the tax title of this bill, there was significant debate on the provision in the bill that would shift a portion of corporate estimated tax payments from 2010 into 2009. This provision raises $11.4 billion in the year 2009, but loses $11.4 billion in the year 2010. The Chairman included this provision in his bill in response to concerns raised by me and the Chairman of the Budget Committee that the highway spending is not fully paid for over six years. I appreciate his sensitivity to my concerns. I believe that the spending in this bill, which occurs over six years, should be fully paid for over the same six year period. However, I do not believe that the shift in corporate estimated tax payments in the most appropriate way to achieve the goal of fully funding this bill over six years. The provision proposed by the Chairman shifts a hole in general revenues from one year into another.

In lieu of me offering an amendment during the Finance Committee mark up to replace the shift in corporate estimated tax payments with different revenue offsets, the Chairman and the Ranking Member of the Committee made a commitment to work with me to find new offsets before the highway bill is voted off the Senate floor. The second degree amendment that I have filed to the amendment by the Senator from Oklahoma, Mr. NICKLES, would have executed the commitment that was made to members of the Committee during the Finance mark up.

Mr. NICKLES. Mr. President, I appreciate the opportunity to work with my colleague on the Budget Committee, Senator CONRAD, and with the Chairman and Ranking Member of the Finance Committee on this matter. I share the concern of the Senator from North Dakota about using a timing shift in the corporate estimated tax payments as a way to pay for the spending in this bill. Although I realize that this payment shift has been used as an offset previously by the Finance Committee and this body, I do not support using the provision in the legislation before us today. I agree with my friend from North Dakota that real spending should be offset with real revenues. Senator CONRAD's second degree amendment to my amendment striking the shift in corporate estimated tax payments would replace the $11.4 billion that is shifted into 2009 with real revenue over the six year period of the bill.

Mr. CONRAD. My friend from Oklahoma is correct. My amendment would have replaced the provision shifting corporate estimated tax receipts with an extension of IRS and Customs User fees, and with several tax loophole closers that are included in S. 1637, the JOBS Act. These measures have already been reported by the Senate Finance Committee. I thank the Senator from Iowa for trying to include our amendments in his package of technical tax measures. Unfortunately, because certain provisions of my amendment are considered non-germane, we were unable to consider it on the floor today. I hope that the chairman and ranking member of the Committee will continue working with me as the legislative process moves forward to address my concerns.

Mr. NICKLES. I, too, am disappointed that we were unable to consider the amendment of the Senator from North Dakota. I look forward to working with him and the Chairman and Ranking Member of the Finance Committee to find a way to fulfill the commitment that was made during the Finance Committee mark up of the highway bill.

Mr. GRASSLEY. I support the amendments offered by my colleagues from North Dakota and Oklahoma. I

want to assure them that I fully intend to make good on the promise made in the Committee mark up. In a separate statement I made today, I laid out for the Senate the history of the use of the corporate shift. It has been used in varying forms on a number of tax bills that have been enacted. In making this agreement, I do not concede that it is an improper provision for the tax writing committees to use. As the legistlative process moves forward, I pledge that I will continue working to address their concerns.

Mr. BAUCUS. I concur with the statement of the Chairman of theh Finance Committee, and pledge to continue working to address the concerns of my colleagues from Oklahoma and North Dakota.

TRANSIT FUNDING FOR MICHIGAN

Ms. STABENOW. Mr. President, I rise to engage in a colloquy with the distinguished chairman and ranking member of the Banking Committee. The SAFETEA bill provides over $656 million in transit formula funding to the State of Michigan and while this represents a 53 percent increase over our funding under TEA–21, it still falls short of our transit needs. The Michigan Department of Transportation, MDOT, estimates that their routine Federal capital needs over the next 6 years just to maintain existing systems and services would exceed $1 billion. This comes at a time when Michigan's ridership continues to grow. Over the life of TEA–21, Michigan's transit ridership has grown from 81.6 million passengers in 1997 to over 89 million passengers in 2002—close to a 10 percent increase. The Senior Senator from Michigan and I have submitted a request on behalf of MDOT to help close this funding gap. The request would provide MDOT with $120 million in the 5309 Bus Discretionary account over the next 6 years. Would the chairman and ranking member work with us in conference to provide MDOT with this necessary funding to support Michigan's transit needs?

Mr. LEVIN. Mr. President, I join my colleague from Michigan in making this request. Michigan has tremendous transit needs. There are bus systems operating in every one of Michigan's 83 counties, from the urban Wayne County to rural counties in the Upper Peninsula. Despite covering all counties, service in many areas is minimal, creating a real hardship for working families who cannot afford to own a car. This shortfall exists despite the significant contribution by Michigan taxpayers. Michigan ranks sixth, behind five States with rail, in direct support for its public transit systems. Under TEA–21, Michigan ranked last in Federal transit funding among the Great Lakes States, and only received 43 cents back on every transit dollar it contributed to the highway trust fund. To help close this equity gap, I would also urge the chairman and ranking member to work with us in conference to provide these critical transit funds for Michigan.

Mr. SHELBY. Mr. President, I will work with my colleagues from Michigan to address this issue in conference and provide this critical funding for their transit systems.

Mr. SARBANES. I, too, will do everything I can to support funding in Michigan in conference.

Ms. STABENOW. We thank the chairman and ranking member.

GOLDEN GATE BRIDGE

Mrs. BOXER. Mr. President, I wanted to discuss the importance of the seismic retrofit project for the Golden Gate Bridge.

The Golden Gate Bridge is an internationally known landmark. The bridge was constructed with local funding and opened in 1937, serving as a critical link in California's highway system.

The Golden Gate Bridge now carries 40 million vehicles a year and is visited by more than 10 million people annually. However, retrofitting this bridge to withstand an earthquake with a magnitude of 8.3 is an expensive undertaking, with a total cost of $392 million.

The Golden Gate Bridge District paid for the first part of the retrofit—$71 million—with tolls. But, tolls will never raise enough money. Federal assistance is needed to protect this national treasure.

In TEA–21, I was able to obtain $50 million for the seismic retrofit of the Golden Gate Bridge. I would like to be able to provide funding for this project in SAFETEA.

Mr. REID. I agree with the Senator from California on the importance of the Golden Gate Bridge for the State's highway system. I support working with you during conference to ensure that the Golden Gate Bridge District can receive funding for seismic retrofit.

Mr. INHOFE. I also agree with my colleagues from California and Nevada that the Golden Gate Bridge is very important for the State. I also support working with the Senator from California in conference to provide funding for the Golden Gate Bridge District.

Mrs. BOXER. Thank you for your support.

SPIRIT HIGH PRIORITY CORRIDOR

Mr. BINGAMAN. Mr. President, I thank the chairman of the Environment and Public Works Committee for all of his fine work on this highway bill the Senate is now considering. I know he has had a very difficult task to balance the infrastructure needs of each state, and I appreciate the excellent job he and his staff have done.

If I could, I ask the chairman if he is familiar with the proposal to designate U.S. Highway 54 in the States of Texas, New Mexico, Oklahoma, and Kansas as the SPIRIT high priority corridor on the National Highway System?

Mr. INHOFE. Yes, I am familiar with the proposal and am pleased to be a sponsor of the bill of the senator from New Mexico to designate U.S. 54 as a high priority corridor.

Mr. BINGAMAN. I know the chairman is aware that community leaders in the four states have been working for 9 years to focus attention on the SPIRIT corridor because of the heavy truck traffic on the route and the important role that transportation plays in economic development. Is the chairman aware that Senators ROBERTS, DOMENICI, and I have offered an amendment to the highway bill to designate the SPIRIT corridor as a high priority corridor, but the managers of the bill have stated they prefer to consider it during the conference with the House?

Mr. INHOFE. Yes, the Senator is correct. I am aware of the amendment and will do my best to consider including the SPIRIT corridor designation in the conference report on the highway bill.

Mr. BINGAMAN. I thank the chairman for his consideration of my amendment in the conference.

PROTECTING HISTORY AND NATURAL BEAUTY

Mr. WARNER. Mr. President, I want to commend the Senator from Ohio, Mr. VOINOVICH, for his hard work, fairness, and responsiveness that he showed to me as he worked to resolve issues involving the preservation of parks, recreation areas, waterfowl and wildlife refuges, and historic sites.

In 1970, it was a privilege for me to serve as the chairman of America's Bicentennial Celebration. During that time I had an opportunity to visit many historic sites across this country. In Virginia we have a proud heritage that is enriched by the preservation of hundreds of historic properties. These sites have witnessed the shaping of our Nation. Today, they serve as our outdoor classrooms that bring alive the history of our democracy and our communities. They are living treasures of our past and are the foundations for our future.

For these reasons, I would like to enter into a colloquy with my colleague on the intent of his amendment. I understand that the amendment directs the Secretary of Transportation to issue regulations clarifying the factors to be considered and the standards to be applied in determining whether alternatives are ''prudent and feasible'' under section 138 of title 23 and section 303 of title 49. Would the amendment by my colleague that is included in the managers substitute alter or weaken the standards established in the Supreme Court's 1971 decision in the Overton Park case?

Mr. VOINOVICH. This amendment does not alter or weaken the Overton Park standards for determining what constitutes prudent and feasible alternatives. In authorizing this rulemaking, it is our clear intention that Overton Park will continue to serve as the lodestar—the fundamental legal standard—for defining and evaluating feasible and prudent alternatives. Under this standard, an alternative is considered ''not prudent'' if it would result in cost or community disruption of extraordinary magnitude, and is considered ''not feasible'' if it cannot

be constructed as a matter of sound engineering. This amendment would not change those long-standing definitions of ''prudence'' and ''feasibility.''

The basic problem we face today is the gradual accumulation of different interpretations of the Overton Park standards over the past 30 years. In particular, the lower Federal courts' interpretations of the Overton Park standards have resulted in considerable confusion and uncertainty about how to determine the ''prudence'' of alternatives. The net result is that Section 4(f) is sometimes viewed as an inflexible prohibition—an ''avoid at all costs'' requirement. That mistaken interpretation of Section 4(f) leads to many of the so-called horror stories that we hear so much about.

With this amendment, we are directing the Secretary of Transportation to issue regulations clarifying the application of the ''prudent and feasible'' test in a variety of circumstances. For example, it is only common sense to recognize that the ''prudence'' of an avoidance alternative depends in part on what you're avoiding, and how hard it is to avoid it. Are we dealing with a major part of great significance to the community—such as the famous Overton Park in Memphis, Tennessee? Or are we dealing with an easily replaceable ball field in an area where a replacement can be located without detriment to the interests of the affected users? Both of these parks receive a substantial degree of protection under Section 4(f). But what's prudent in one situation is different from what's prudent in the other, depending on a range of factors, including the degree of harm and the consequences to other resources from avoiding it. Those are the kinds of distinctions that need to be clarified in the regulations.

In short, the sole purpose of this amendment is to require the Secretary of Transportation to issue regulations that provide more detailed guidance on applying the Overton Park standards on a case-by-case basis. The result will be greater consistency in the application of the standard throughout the country.

Mr. INHOFE. I would also like to assure the Senator from Virginia that I concur with the explanation provided by the Senator from Ohio that it is our intent to retain the Overton Park standards as the fundamental legal standards to be applied in determining prudent and feasible alternatives.

Mr. JEFFORDS. I would concur with the comments of my colleagues and join Senator WARNER by reiterating the need to preserve our history.

In my state of Vermont, we have a wealth of history and natural beauty. To see the wildlife that populates the Missisquoi Wildlife Refuge or the covered bridges used by our forefathers is to experience a heritage that we all want preserved for future generations.

Section 4(f) has helped preserve these treasures. The Revolutionary War site at Fort Venegence on Route 7 in Pittsford, Vermont, was avoided as a result of 4(f).

An excellent collection of historic metal truss bridges across the Connecticut River was rehabilitated, not replaced, as a result of 4(f).

A road in the Danville Historic District was narrowed in order to keep the historic characteristics of the historic village because of 4(f).

Section 4(f) protections have served us well and will continue to safeguard our precious resources in the future.

Ms. MURKOWSKI. Mr. President, those of my colleagues who have Native American tribes located in their States will understand the importance of the Indian Reservation Road funding authorized as part of the our highway program. However, they may not be aware that the Indian reservation roads program does not treat all States equally. There are serious deficiencies in the inventory of road miles eligible for funding under the Indian Reservation Road—IRR—program.

Yesterday, I filed an amendment intended to address this issue. I understand the National Congress of American Indians and other groups favor action on this matter, and I would certainly be willing to entertain any suggestions for improving the current amendment. Unfortunately, it appears the present situation may make it impossible for the Senate to deal appropriately with this important matter.

In most areas of the country, the BIA had a reasonably complete inventory of roads and road needs by 1993, and these were incorporated into the IRR inventory. In Alaska that is not the case. The inventory numbers for Alaska are in no way complete, nor are they based on an actual count of road miles. They are based instead on a 1993 document that was never intended to serve as a complete inventory. The document was essentially a list of specific project requests known at that time. As a result, it omitted even core infrastructure in many villages, and completely overlooked approximately one-third of the villages in Alaska that should have been included.

Furthermore, BIA policy does not allow the situation to be corrected, as it arbitrarily limits increases in the inventory to 2 percent per year. While this may be appropriate in areas for which an accurate inventory was available in 1993, it is by no means equitable for Alaska's Native villages. In addition to missing entire Native communities, the BIA's inventory data has other flaws such as simply not having complete or current construction cost data for large parts of Alaska.

Let me add also that Alaska is not the only State where inventory deficiencies are a problem. Around the Nation, there are 93 to 99 tribes, depending on how you count, that have zero recorded inventory. By far the greatest numbers are in Alaska and California, but there are affected tribes in the East, the Midwest, the Southwest, the Pacific Northwest, and the Plains States—in short, throughout the country. If the Indian Reservation Roads program is to function the way it was intended to function, a new national inventory must be completed and it must be completed fairly. Congress must act to ensure that the absence of information on roads is not treated as the absence of need.

In recent years, our Native communities have themselves attempted to begin the planning and inventory process needed to develop a true inventory or a long-range transportation plan.

However, very little of this work product has actually been accepted by the BIA. Once inventory updates began to be submitted to BIA on a large scale, we found that the BIA was applying a ''2 percent'' limit to inventory increases. In Alaska we were limited to 365 miles in the 2001 update—2 percent accumulated from 1993—and since then, the limit has been about 45 miles per year. For a State with 229 tribes, a tragically deficient BIA inventory, and a transportation need that is second to none, the current policy is an absolute travesty of mismanagement.

Legislation would not be necessary if the BIA were willing to correct its own mistakes, but it has not done so. The inventory updating process has been a nightmare for Alaska Natives. BIA has changed the rules every year, has imposed requirements over and above what is contained in its own guidance manuals, and on occasion has changed the rules so close to the deadline for submittals that compliance is virtually impossible

In my opinion, the current formula and inventory system is based on an implicit BIA policy decision to focus future funds on the existing incomplete system, rather than on creating a system that serves all of the Nation's tribes equally. That is not BIA's decision to make, and it is not the process required by the law, but it is the apparent reality—and it badly needs to change.

Mr. President, among the amendments I filed for this bill is one to encourage additional motorcyclist training, which was cosponsored by Senators INHOFE, STEVENS, and CAMPBELL. This matter is in the jurisdiction of the Commerce Committee. It is deeply disappointing to think that the Senate may not act on it. Lives will be lost as a result.

My amendment has the full support of the American Motorcyclist Association, the Motorcycle Riders Foundation, the National Association of State Motorcycle Safety Administrators, regional and local riders groups throughout the country, and many others.

The single best way to prevent accidents is to provide better training.

A study of the California Motorcyclist Safety Program designed by Dr. John Billheimer and completed in 1996 found that rider training dramatically reduces accidents, and thus eliminates injuries and fatalities. Specifically, the study stated,

Analyses of statewide accident trends show that total motorcycle accidents have dropped 67 percent since the introduction of the California Motorcyclist Safety Program, with a drop of 88 percent among the under-18 riders.

Current statistics from the Commonwealth of Virginia are equally amazing. Virginia has approximately 110,000 registered motorcycles. Since 1998, there have been 7,099 motorcycle crashes in Virginia and 222 of those crashes have been fatal. Yet out of all those accidents, trained riders were involved in less than 4 percent of the total, and the number of fatal accidents involving trained riders is just 1.8 percent.

What this tells us is that the vast majority of motorcycle accidents involve riders who have not received proper training, and that when riders do receive training, the accident rate will drop dramatically.

My amendment is simply intended to encourage States to support motorcycle rider training and to adopt other important measures to save lives and prevent injuries. A State which demonstrates that it is making improvements in motorcycle safety would qualify for a grant of $100,000 per year, which is to be used to further improve and expand formal training for motorcyclists and for programs to improve driver awareness of motorcyclists.

Let me also stress that participation in this program is voluntary. No State is being forced to comply, and the amendment contains no sanctions for those which do not. This is strictly an incentive to do a better job at saving lives.

Why is this important? I have addressed this issue in detail in a previous statement, but let me recap some of the key points.

There are almost 5 million motorcycles operating on America's roadways, covering almost 17 million miles per year. Many more are used off-road, and some estimates put the actual number of riders at up to 20 million. The number of riders is steadily increasing every year, and as that number increases, so do accidents. At the same time, we are falling farther and farther behind in training people to ride safely.

The single best way to avoid injuries, fatalities, high insurance costs, lawsuits, medical costs and all the other factors that come into play is by avoiding the accidents in the first place.

The authors of the ''National Agenda for Motorcycle Safety'' agree. The ''National Agenda,'' published by the National Highway Traffic Safety Administration, was a cooperative effort of that agency, along with the Motorcycle Safety Foundation, the National Association of State Motorcycle Safety Administrators, and a host of others representing the insurance industry, law enforcement, riders, traffic safety experts and others.

The National Agenda identified a number of steps needed to reduce the tragic rate of motorcycle accidents. Rider education was one of its ''essential'' recommendations.

Unfortunately, there is currently no uniform process for providing such training. Although many, if not all, State provide at least moral support, most training is funded almost entirely by the students themselves, who pay up to $300 per person for the privilege. Many States also collect additional fees—often a nominal charge of $5.00 for a motorcycle operator's license—but it doesn't always go toward training programs.

That means there are more people who need and want training than there are programs to deliver it. Throughout the country, the waiting list for training class ranges from several weeks to several months.

In California, which has one of the oldest and strongest programs, it may take as long as 3 months. In Wisconsin, motorcyclist groups self-fund training classes, but the waiting list may be as large as 7,000 people. In Illinois, almost 11,000 people were trained last year, but nearly 4,000 were turned away for lack of space. That is happening in State after State.

The number of untrained riders is increasing, and we urgently need to reverse that trend. If you can pass your State's operator test, you can ride. And if you just spent thousands of dollars on a new motorcycle, the chances are you won't be letting that new motorcycle license go to waste. But passing a test doesn't make you a safe rider—that takes either years of experience—or it takes formal training.

The longer we ignore this issue, the more lives will be lost, the more injuries will be suffered, the more insurance rates for both drivers and riders will go up, and the more families will be harmed. This body should be acting, not avoiding.

Mr. JOHNSON. Mr. President, I want to take a few minutes to speak in support of the transportation bill now pending before the Senate and urge my colleagues to support final passage of the legislation.

This is an important bill that will create thousands of wellpaying jobs, make needed investments to the Nation's bridge, highway, and mass transit infrastructure while injecting billions of dollars a year into the economy and saving commuters millions of hours on the roads. The chairman and subcommittee chairman along with the ranking member and the senior Senator from Nevada have worked hard to craft a highway bill that balances the often conflicting needs of the States. Similarly, as a member of the Banking Committee, I want to recognize the bipartisan manner in which the chairman and ranking member worked with all colleagues to craft a transit package that meets the varying transit and bus service needs for our constituents.

In my remarks, I follow a host of other Senators who have come to the floor over the past week to highlight the importance of passing a robust transportation bill. In many respects, the matter we are debating has a more direct and daily impact on our constituents than just about any issue the Congress considers. Reducing accidents through increased road safety, replacing and refurbishing aging infrastructure, and moving people more efficiently and effectively go directly toward improving the quality of life throughout the Nation.

South Dakota is a large State and its citizens often time have to travel extraordinary distances to visit friends and family, receive medical care, or connect to major economic markets. With thousands of miles of roads, efficient, reliable, and dependable transportation is directly linked to the prosperity of rural America and our quality of life. The first emphasis of a transportation bill should be on a robust highway program. Without a comprehensive Interstate Highway System and secondary feeder roads it would be very difficult for the constituents of my state and those in other rural places to travel and earn a living. The bill before the Senate recognizes the national interest in transportation in and across rural America.

Passing a highway bill is also good for our economy. The jobs created through this legislation are permanent, high-paying jobs that will spur further economic development and put people to work in what has largely been a jobless economic recovery. According to the South Dakota Association of General Contractors, if the Congress passes this highway bill over 20,000 new jobs will be created in my State in the next 6 years. The importance of passing the bill goes beyond job creation. Good highways in rural areas also enable agricultural products and natural resources to get from source to market. The farm-to-market road system developed by the State depends upon a vast and reliable network of interstate highways, in good condition, to move products throughout the country and grow the economy.

As a member of the Senate Banking, Housing, and Urban Affairs Committee with jurisdiction over bus and transit programs, I believe that the transportation bill makes important investments in rural and urban transit. Transit and especially bus service; however, is an important link in rural America where social service providers, local governments, and state agencies struggle to provide reliable bus service. Federal aid to transit and buses is the crucial link ensuring that reliable and dependable service exists throughout many communities.

In meeting with transit providers across South Dakota, I fully understand the unique challenges toward providing reliable and dependable bus service over longer traveling distances. Although routes are more heavily used in urban areas, certain basic needs for public transit remain constant in urban and rural areas: there must be a driver, parts must be purchased, and

costly, but necessary, insurance obtained. The transit title considered by the Senate recognizes for the first time these unique challenges in constructing a financing mechanism that will grow rural transit and enhance service. Chairman SHELBY and Senator SARBANES deserve much of the credit for working with rural state Senators on the committee to incorporate this provision in the final bill.

It is vitally important that the Senate pass the transportation, transit and road safety bill pending before the Senate. As a member of the Senate Budget Committee, I am pleased that the committees constructing this bill did so within the budget framework this body adopted last year. The Senate-passed Fiscal Year 2004 Budget Resolution called for a six-year transit program totaling $56.5 billion. The Senate Finance and Banking Committees have worked diligently to construct a comprehensive and forward-looking bill that stays within the budget while addressing the Nation's critical infrastructure needs.

Mr. President, as the Senate considers legislation to reauthorize Federal transportation programs, I want to take a few minutes to address the transit programs authorized in the bill. As a member of the Senate Banking, Housing, and Urban Affairs Committee with jurisdiction over bus and transit programs, I believe that the transportation bill makes important investments in rural and urban transit. Chairman SHELBY and Senator SARBANES have performed an admirable job in constructing a transit title that enhances bus and transit service in large metropolitan areas, as well as rural States like mine.

South Dakota is a large State and its citizens oftentimes have to travel extraordinary distances to visit friends and family, receive medical care, or connect to major economic markets. With thousands of miles of roads, efficient, reliable, and dependable transportation is directly linked to the prosperity of rural America and our quality of life. The first emphasis of a transportation bill should be on a robust highway program. The bill before the Senate recognizes the national interest in transportation in and across rural America. Transit and especially bus service, however, is an important link in rural America where social service providers, local governments, and State agencies struggle to provide reliable bus service. Federal aid to transit and buses is the crucial link ensuring that reliable and dependable service exists throughout many communities.

In meeting with transit providers across South Dakota, I fully understand the unique challenges toward providing reliable and dependable bus service over longer traveling distances. Although routes are more heavily used in urban areas, certain basic needs for public transit remain constant in urban and rural areas: there must be a driver, parts must be purchased, and costly, but necessary, insurance obtained. The transit title considered by the Senate recognizes for the first time these unique challenges in constructing a financing mechanism that will grow rural transit and enhance service. The transit title recognizes the special challenges facing low density states by creating a new rural density program for rural transit and elderly and disabled transit. By calculating the population density of a State along with the size of the State, the program ensures that rural States with demonstrated transit needs will receive a fair share of the billions of dollars in new transit spending over the next 6 years.

As a proponent of the new rural program it is necessary to recognize the indispensable role of Chairman SHELBY and Senator SARBANES toward ensuring that this program was included in the transit mark. Senators from both sides of the aisle worked in a constructive and bipartisan manner that produced a product that was unanimously supported by the Banking Committee. The consequences of our actions mean that transit providers in Pierre, Huron, Aberdeen, and other South Dakota communities will be able to expand service at a time when the demand for rural bus service is increasing. Connecting people in rural America to medical care, jobs, and family and friends is the legacy of this bill.

Therefore, it is vitally important that the Senate pass a transportation bill and incorporate the transit title into the broader transportation and road safety legislation pending before the Senate. As a member of the Senate Budget Committee, I am pleased that the various committees constructing this bill did so within the budget framework this body adopted last year. The Senate-passed Fiscal Year 2004 Budget Resolution called for a 6-year transit program totaling $56.5 billion. The Senate Finance and Banking Committees have worked diligently to construct a comprehensive and forward-looking bill that stays within the budget while addressing the crucial bus and transit infrastructure demands facing our country.

Mr. DURBIN. Mr. President, today the Senate will vote on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA, S. 1072. I support this legislation. I believe it is a good first step toward funding our Nation's transportation infrastructure and creating jobs.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

The Federal transportation bill, S. 1072, would make the largest investment to date in our Nation's aging infrastructure, $318 billion over the next 6 years. In short, this legislation would increase the State of Illinois's total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois's roads and bridges, improve funding for mass transit in Chicago and down State, reduce traffic congestion, and address highway safety and protection of our environment.

The bill would provide $255 billion over 6 years for highways and other surface transportation programs. Illinois has the third largest Interstate System in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $7.6 billion over 6 years from the highway formula contained in the Senate bill. That is a 37-percent increase or $2 billion more than the last transportation bill, TEA–21.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans every day. S. 1072 includes $56 billion over 6 years for mass transit. Illinois would receive about $2.9 billion over 6 years under the Senate bill, an increase of $500 million or 21 percent more than the last transportation bill.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, Program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. The Senate bill would increase funding for CMAQ from $8 billion to $13 billion—an increase of 62.5 percent. Illinois received more than $460 million in CMAQ funds in TEA–21; the State is expected to receive an increase in CMAQ funding under the Senate bill.

With regard to highway safety, Illinois is one of 20 States that has enacted a primary seatbelt law. S. 1072 would enable the State of Illinois and other States that have passed primary seatbelt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not a perfect document. Illinois's highway formula will be improved by this Senate bill, and I hope our House colleagues can add to our effort. Amtrak reauthorization and rail freight transportation funding are noticeably absent. And important road and transit projects from around my home State have not yet been included. I will work with my Illinois colleagues in the House to ensure that Illinois receives a fair share of transportation funds—highway, transit, and highway safety—in the final conference report.

With the passage of this legislation, the Senate has upheld its obligation to reauthorize and improve our Nation's important transportation programs.

I urge my colleagues in the House to move quickly to resolve their differences. This bill should have been

passed last year. Any further delay at this point could jeopardize construction and the jobs we so desperately need in Illinois.

Mr. DOMENICI. Mr. President, I want to begin by thanking the managers of the bill for their hard and tireless work on one of the most complicated pieces of legislation we will consider—second, perhaps, only to the Energy bill.

In this Senator's opinion, this bill, known as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, or SAFETEA, represents a tremendous step forward in the life of our country's transportation policy. While this is by no means a perfect bill and, quite frankly, I don't think such a thing exists, I believe this is a good bill. I am convinced that the Chairman and Ranking Member have put together a bill that treats our many States and varied interests as fairly as is possible.

With respect to my own State of New Mexico, this is a bill that will provide immeasurable economic benefit to our State. The most visible economic impact is on jobs. Thousands of New Mexicans will go to work as a direct result of this legislation. We have repeatedly been told that for every $1 billion spent on roads, more than 40,000 jobs are created. Over the 6-year span of this reauthorization, we will spend over $2 billion in the State of New Mexico. Quick math tells me that this will mean that over 80,000 jobs will be created in New Mexico alone in the next six years.

New Mexico is the fifth largest State geographically and has a predominantly rural population. This means that our population is very dependent on roads to keep us connected. Better roads will mean that people and goods will be able to move throughout our State in a safer, more efficient manner. Commerce will certainly benefit, bringing additional economic benefit to New Mexico.

Additionally, passage of SAFETEA will ensure that our State continues the improvements to our roads and rails begun under TEA–21. New Mexico roads will be safer for drivers, passengers, and pedestrians. Safer roads mean fewer accidents, fewer emergency road visits for victims of accidents, fewer lost days of work and productivity as a result of accidents. Aside from the much more important physical and emotional benefits, prevention of these accidents will bring on economic benefits as well.

While New Mexicans are primarily road-travelers, there is also a significant need for public transportation, both by bus and by rail. I am pleased with work done by the Banking Committee on the Transit portion of this transportation reauthorization bill. New Mexico will be a better place become of this portion of this bill.

Some of you know that I worked with the Native American leaders in New Mexico and throughout the country to create the Indian Reservation Roads program over 20 years ago. Each time we have reauthorized our transportation programs, I have worked to ensure that this program is taken care of. This year is no different. While the Environment and Public Works Committee was not able to accept all of my recommendations, or all of the Indian Affairs Committee's, I am pleased that the Chairmen and Ranking Members were willing to work with us to improve the program on the floor.

Now I know that the Statement of Administration Policy indicates that the President's advisors will recommend that he veto the bill if it remains at the current funding level. It is my great hope that we will be able to work with the White House and at the House of Representatives when this bill gets to Conference to find a way to provide adequate funding for our Nation's transportation needs. This country needs the certainty of a six-year reauthorization in order to plan for multi-year projects. I believe we are taking an imporant step toward providing that certainty today by sending this bill to a Conference Committee. I look forward to working with the Conferees to make this bill even better.

I yield the floor.

Mr. SARBANES. Mr. President, this reauthorization of the highway and transit program is one of the most important pieces of legislation that we will consider in this Congress. Its enactment will help restore the federal commitment to our surface transportation infrastructure—the lifeblood for our economy as well as our quality of life.

Ensuring that our Nation has a modern, safe and efficient transportation network has been one of my highest priorities in the United States Senate. As ranking Democrat on the Senate Banking, Housing and Urban Affairs Committee, which has jurisdiction over our nation's transit programs, and as a member of the Senate Budget Committee, I have fought vigorously to bolster federal investment in transportation infrastructure and to put in place a sensible, balanced framework in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA–21) to enable the nation to sustain its economic growth and enhance the quality of life of our citizens.

The reauthorization bill, known as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, or SAFETEA, that is before the Senate authorizes $318 billion in funding over the next six years for maintaining and improving our Nation's and States' highways, bridges and transit systems and addressing safety issues.

There is a huge backlog of needed repairs, replacements and upgrades to bring our transportation network—our roads, bridges, transit systems and railroads—up to standards. The Department of Transportation's Conditions and Performance Report estimates that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of these systems. Other estimates show an even greater need. This backlog constrains our Nation's economic competitiveness, leaves more and more Americans stuck in traffic, contributes to air pollution and results in unnecessary fatalities. In my judgment, we must make prudent investments in our transportation systems not only to prevent further deterioration of the network—but to improve the system, relieve congestion and save lives.

These investments will also boost our economy and create jobs—at a time when new jobs and a boost to the economy are desperately needed. The United States Chamber of Commerce has estimated that each $1 billion invested in transportation infrastructure creates 47,000 direct jobs and there are indirect impacts as well. The Texas Transportation Institute has estimated that in 2001, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the nation of $69.5 billion in lost time and wasted fuel. As these figures show, congestion has a real economic cost, in addition to the psychological and social costs of spending hours each day sitting in traffic. We cannot afford to let these costs of congestion grow any further. The investments made under this bill will help us make progress in our efforts to combat traffic congestion and deteriorating conditions on our Nation's roads, bridges, and transit systems.

For our Nation's roadways and bridges, this legislation authorizes an average increase of nearly 36 percent in funding to enable states and localities to make desperately needed repairs and improvements. Maryland's share of highway funding will grow by 40 percent over the next 6 years compared to the level provided in TEA–21—more than a $1 billion increase to help upgrade our highway infrastructure.

As a small ''bridge'' State with crisscrossing interstate routes, a State with high population density and with high traffic congestion, Maryland has tremendous highway infrastructure needs. Maryland is the fifth most densely populated State in the Nation. Maryland roads, including both State highways and other roads, now serve almost 54 billion vehicle miles of travel annually. Our State has the second largest urban interstate traffic density and the sixth largest percentage of roads in urban areas in the United States. As part of the northeast corridor Maryland experiences an extremely high volume of through traffic, especially on roadways such as I–95. Maryland is one of the few States in the Nation with two major metropolitan areas, Washington, D.C. and Baltimore, and two major beltways with some of the highest traffic volumes in the country—in excess of 150,000 average daily traffic—within 30 miles of each other. Our state has the

sixth highest congestion cost in the nation, and these congestion costs continue to rise. According to the Texas Transportation Institute, from 2000 to 2001, the annual cost in Washington, DC is up from $631 to $667/year. In the Baltimore Region, the annual cost went up from nearly $400/year to $455/year. In the Washington metropolitan area we have the second longest average commute time in the Nation.

In the next 20 years, Maryland's driving age population is expected to increase by nearly 20 percent, the number of licensed drivers by 25 percent, and the number of registered vehicles by 29 percent and this will mean significantly more traffic on our roads and pressures on our transit systems. Maryland's Department of Transportation is at a crossroads, facing deficient roads and bridges as well as key gaps and bottlenecks within the State's transportation system that are known to cause delay and congestion. Maryland has an estimated unfunded capital need for more than $13.2 billion in highway maintenance, construction and reconstruction over the next ten years. Clearly, Maryland must have adequate funding to address these transportation challenges and to facilitate overall mobility and the funds made available under this measure will be a significant help in this regard.

Importantly, the measure preserves the dedicated funding for the Congestion Mitigation and Air Quality, CMAQ, program which helps States and local governments improve air quality in non-attainment areas under the Clean Air Act; the Transportation Enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core TEA–21 programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, TEA–21's basic principles of flexibility, intermodalism, strategic infrastructure investment, and commitment to safety are retained.

I am especially pleased that the legislation includes a provision which sets aside 2 percent of a State's Surface Transportation Program for stormwater runoff mitigation. According to the Environmental Protection Agency, polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40 percent of U.S. waterways not meeting water quality standards. In the Chesapeake Bay region, it is estimated that runoff from highways contributes nearly 7 million pounds of nitrogen, 1 million pounds of phosphorous and 167,000 tons of sediment annually to the Bay. In Maryland alone, the Center for Watershed Protection estimates that the 7500 miles of Federal-aid highways generate yearly loads of 1.2 million pounds of nitrogen, 127,000 pounds of phosphorous and 25,000 pounds of sediment into Maryland waterways and eventually into Chesapeake Bay each year. The stormwater provision will provide more than $73 million for the Bay States and local governments for stormwater abatement of which $15 million would be available for Maryland.

For our Nation's transit systems, the legislation authorizes $56.5 million—$15.5 billion more than provided in TEA–21—to modernize and expand our transit facilities. These funds will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country. Maryland's formula share of transit funding will grow by nearly 60 percent over the next 6 years from $572 million to $907 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, DC, Frederick and Brunswick, and the Baltimore Light Rail system. Bus systems and para-transit systems for elderly and disabled people throughout Maryland will also receive a big boost in funding.

I am particularly pleased that the legislation includes the Transit in Parks Act or TRIP which I introduced. This new Federal transit grant initiative will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

I especially thank the staff of the Banking Committee for the fine work done on the transit title of the bill. First, I commend Chairman SHELBY and his staff, including Sherry Little, Rich Steinmann, Peggy Kuhn, and of course, Doug Nappi and Kathy Casey. I also compliment my own staff, who did a superb job, providing needed additional resources to meet the transit needs of all Americans. My transit team was most ably led by Sarah Kline, and I also thank Aaron Klein, Charlie Stek, and Kate Mattice. Let me also acknowledge the major contribution made by the Subcommittee on Housing and Transportation and the staff of Subcommittee Chairman ALLARD, Tewana Wilkerson, and Ranking Member REED, Neil Campbell.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. ALLEN. Mr. President, I rise today to offer my support to the amendment submitted by the distinguished Senator from Missouri, Mr. TALENT. I, like him, have been inundated with phone calls and letters by small business owners throughout the Commonwealth of Virginia expressing great concern with the moving provisions included in the Safety Title of the TEA–21 reauthorization legislation.

I believe the intentions for mandating these changes to current regulations governing the moving industry are well-intentioned. We have all heard horror stories about families having their belongings held hostage by a rogue moving company attempting to extort further revenues. This is a serious problem and the Federal Government needs to make sure regulations are in place to protect consumers and the vast majority of moving companies that act in good faith and provide a valuable service to millions of American families.

My constituents that move Virginia families from their old homes to their new ones have expressed their belief that these moving provisions go too far to try and reform an industry that is largely composed of law-abiding small businesses. By crafting broad language to target the small minority of ''bad actors'' in the moving industry, the Safety Title will unnecessarily and significantly burden those that follow existing regulations and go to great lengths to ensure consumers are satisfied with the outcome of their move.

We cannot ask small businesses, which often cannot absorb large additional costs in the services they provide, to have no recourse when a consumer inaccurately describes the services required. A small moving company cannot provide additional and often labor-intense services without appropriate recourse to collect for those services. By forcing movers to relinquish shipments for the initial price quoted provides no effective recourse to seek payment when other services are requested or required. This amendment would allow movers to collect any added expenses at the time of the delivery, or if there is disagreement about those charges, allow movers to recoup expensive attorneys' fees if it is determined that the mover was correct in assessing the additional charges.

Additionally, we should carefully consider the language we include with regard to providing States the authority to enforce Federal regulations. I understand that the moving industry is fully supportive of permitting State attorney generals to hold rogue movers accountable for consumer protection violations. However, it may be ill-advised to leave open the possibility that issues beyond consumer protection will be interpreted in varying ways by the States. If a moving company cannot be confident that there is a consistent application of these regulations, it will make it difficult for them to implement uniform practices.

As we consider the highway bill and continue to refer to it as a jobs measure, I believe we must make sure all provisions are appropriately measured and do not injure legitimate small businesses. Rogue movers are no more likely to adhere to the rules outlined in this legislation because they do not adhere to current statutes regarding the shipment of citizens belongings. I will state again, I believe the vast majority of U.S. movers abide by our laws and go to great lengths to ensure that they provide a quality service to consumers. The Safety Title legislation was crafted with a noble purpose, but I believe it would unduly hurt legitimate small businesses and I hope my colleagues will join me in supporting this amendment, which provides a more measured and even-handed response to a small, but high-profile problem of unscrupulous movers.

Mr. LAUTENBERG. Mr. President, we have been in a difficult parliamentary situation which has precluded my offering my amendment, but had I offered it, it would have accomplished the following.

My amendment would keep intact long standing provisions that protect public health, the environment, and the rights of citizens and states to have meaningful participation in transportation decisions.

While I know the authors have worked very hard to strike a balance on the provisions in this bill, I believe their language to ''streamline'' transportation planning processes is ill-advised and will have severe and unintended consequences.

No one can argue with the theory behind ''streamlining'' transportation projects.

No public official wants to slow and encumber its State's transit, highway, bridge, rail, or other major construction projects.

Unfortunately, the assumption behind the streamlining in this bill is that crucial tools to protect the environment, such as performing ''environmental impact statements,'' are the reason behind the long, protracted projects that go on for years. That is patently incorrect and this misconception must be put to rest.

In 2000, the Federal Highway Administration queried its divisions in all States, asking for a list of all projects requiring an ''Environmental Impact Statement'' that had been in preparation for over 5 years.

What they learned should inform this body as it seeks to address the problem of delay.

The Highway Administration found that a 70 percent—a large majority of the delays, were due to five issues—all unrelated to the environment.

They were: one, lack of funding; two, low project priority; three, local controversies; four, project complexity; and five, late changes made in the scope of a project.

If our purpose is really to bring greater efficiency to transportation planning, we must address the primary reasons for delay—those which are listed here.

The National Environmental Policy Act, NEPA—which this bill seeks to weaken—was signed by President Nixon for very good reasons. When citizens and all relevant agencies are given the opportunity for meaningful participation in project planning, any needed adjustments can be made early in the process, saving states time and money.

The approach outlined in this bill would essentially allow the U.S. Department of Transportation to waive the NEPA process if it so desired. That would be like a manufacturer that waits until its product is already designed before checking to see if it even serves the needs of consumers. Clearly, such an approach is clumsy, inefficient, and far more expensive in the long run if design changes are needed.

As written, the language in the substitute amendment is confusing and even contradictory.

It first states that despite NEPA or ''any other law'' that agencies are accountable for, the Department of Transportation is given the authority to make the final decision on the need for, and purpose of, a transportation project.

At the same time, the bill contains a standard ''savings clause'' which states that no other law—such as NEPA, the Clean Air Act, and the Clean Water Act—will be preempted by this very language.

This is inherently ambiguous and you can bet it will lead to more litigation. It will without doubt slow the progress on transportation projects—the very outcome this so-called ''streamlining'' language seeks to remedy.

Instead of just handing final decisionmaking authority over to the U.S. Department of Transportation, DOT my amendment outlines a simple, traditional process that will allow all relevant agencies to resolve conflicts which can arise. DOT has neither the expertise nor the statutory authority to make pivotal decisions on matters of public health and the environment.

Overarching decisionmaking authority should not be handed off to DOT.

This amendment restores the balance of authority that has historically existed across all relevant agencies and departments—both State and Federal—to facilitate thorough, responsible project planning.

My home State of New jersey perfectly illustrates the crucial role of our health and environmental agencies in making transportation planning decisions.

For years, New Jersey has implemented responsible, aggressive environmental law enforcement policies.

Yet because of up-wind pollution and large metropolitan areas, health standards for ozone are being violated in every county in New Jersey—which has some nine million residents.

According to New Jersey's department of environmental protection, 45 percent of our ozone pollution is caused by motor vehicle exhaust.

The group, Physicians for Social Responsibility, reports that nationwide about 15 million Americans suffer from asthma, which is triggered and exacerbated by ozone. In the last 20 years, the prevalence of asthma has risen over 60 percent.

An analysis performed a few years ago estimated that for just one pollutant, particulate matter, 2,300 to 5,400 people die prematurely every year in New Jersey. Mobile sources account for about 30 percent of the particulate matter emitted into the air. Nationally, some 20,000 American citizens die prematurely from this pollutant.

Think about that. America grieves for the 536 American soldiers we have lost in Iraq since March of last year, and rightly so. Yet in that same 1-year period 20,000 Americans died unnecessarily from just one air pollutant—particulate matter.

Consider toxic air pollutants. Seventeen of New Jersey's 21 counties rank among the 100 most polluted counties in the Nation and the risk of cancer in four of our counties is up to 3000 times higher than EPA's health threshold. A primary cause of these toxic emissions is mobile sources.

My point is that with such serious health threats related to transportation on the increase throughout the country, now is not the time to pare back the role of our public health and environmental protection agencies in decisionmaking on Transportation projects. The meaningful participation of these agencies is needed more today than ever before.

The U.S. Department of Transportation is simply not equipped or qualified to make the ultimate decisions with regard to public health and the environment. The stakes are too high.

I urge my colleagues to support public participation. I urge them to support agency cooperation that protects public health and the environment. And I urge them to support my amendment.

I yield the floor.

Mr. CORZINE. Mr. President, my distracted driving amendment addresses one of the most serious highway safety problems in our Nation: distracted and fatigued driving.

When drivers talk on their cell phones, change radio stations, eat, or otherwise fail to devote their full attention to driving, they pose a threat not only to themselves, but to others. Drivers who are drowsy or tired pose a similar threat.

I am particularly concerned about the use of hand-held cell phones while driving, which the California Highway Patrol recently reported was the number one cause of distracted driver accidents in their State. According to a study by the Harvard Center for Risk Analysis, ''the use of cell phones by drivers may result in approximately 2,600 deaths, 330,000 moderate to critical injuries and 1.5 million instances

of property damage in America per year.'' Other studies have reached similar conclusions. One, published in the New England Journal of Medicine in 1997, concluded that the ''use of cellular telephones in motor vehicles is associated with a quadrupling of the risks of a collision during the brief period of a call.'' That study went on to say ''this relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit.''

States, counties and municipalities around the country have considered legislation affecting the use of hand-held cell phones while driving. New York enacted a ban against the use of hand-held cell phones while driving in 2001. A number of municipalities in my own State of New Jersey have also chosen to enforce bans within their borders, including Marlboro, Carteret and Nutley. New Jersey itself has enacted a law that imposes additional penalties on those driving infractions where cellphone use has been determined to be a factor.

This patchwork of laws, however, does not take the place of a consistent, Nation-wide ban. That is why I introduced the Mobile Telephone Driving Safety Act last year. That bill would provide incentives for States to adopt bans on hand-held cell phones, and I hope that we can build more support for this legislation in the future. However, this amendment proposes a more modest first step that I have worked out with the managers of the bill from the Commerce Committee, Senators MCCAIN and HOLLINGS.

The main provision in the amendment would provide Federal funds for States to implement programs designed to address distracted and fatigued driving, by making such programs an eligible use of funds under the Section 402 highway safety program. These programs might include public education campaigns, additional training for law enforcement, and implementation of laws that specifically address fatigued or distracted driving.

The amendment also calls for several demonstration projects to specifically test ways of combating distracted driving. And it directs States to work with local law enforcement officials to find ways to collect more accurate data about how the use of electronic devices in vehicles affects traffic safety.

In sum, this amendment helps address some of the most important highway safety issues we confront. And it does so without requiring any new funds, or putting any additional burdens on the States. I want to thank Senators MCCAIN and HOLLINGS for their cooperation on this matter, and I urge my colleagues to support it.

Mr. BINGAMAN. Mr. President, I have submitted an amendment to continue an important Federal program begun in TEA–21 that addresses a unique problem with the roads in and around the Nation's single largest Indian reservation and the neighboring counties. Through this program, Navajo children who had been prevented from getting to school by frequently impassable roads are now traveling safely to and from their schools. Because of the unusual nature of this situation. I believe it must continue to be addressed at the Federal level.

The Navajo Nation is by far the Nation's largest Indian Reservation, covering 25,000 square miles. Portions of the Navajo Nation are in three States: Arizona, New Mexico, and Utah. No other reservation comes anywhere close to the size of Navajo. The State of West Virginia is about 24,000 square miles. In fact, 10 States are smaller in size than the Navajo reservation.

The counties in the three States that include the Navajo reservation must maintain the roads used by county school buses but receive no Federal or local tax funds to maintain the roads. Nearly all of the land area in these counties is under Federal or tribal jurisdiction. As I understand it, counties in States with large reservations are not required to maintain roads on the reservation. Of course, no other reservation is anywhere close to the size of the Navajo reservation.

According to the Bureau of Indian Affairs, about 9,800 miles of public roads serve the Navajo nation. Only about one-fifth of these roads are paved. The remaining 7,600 miles, 78 percent, are dirt roads. Every day school buses use nearly all of these roads to transport Navajo children to and from school.

In response to this unique situation, I authored a provision in TEA–21 to provide annual funding to the counties that contain the Navajo reservation to help ensure that children on the reservation can get to and from their public schools. Under section 1214(d) of TEA–21, $1.5 million is made available each year to be shared equally among the three states that contain the Navajo reservation. These Federal funds can be used only on roads that are located within or that lead to the reservation, that are on the State or county maintenance system, and that serve as school bus routes.

For the last 6 years, the counties have used the annual funding to help maintain the routes used by school buses to carry children to school buses to carry children to school and to Headstart programs. The amendment provides a simple 6-year reauthorization of that program, with a modest increase in the annual funding to allow for inflation and for additional roads to be maintained in each of the three States.

Continuing this program for 6 more years is fully justified because of the vast area of the Navajo reservation—by far the Nation's largest. I do believe the unique nature of this situation can only be dealt with effectively by the Federal Government. I am pleased to have my colleague, Senator DOMENICI, as a cosponsor, and I hope all Senators will support our amendment.

I ask unanimous consent that several letters supporting this amendment be printed in the RECORD.

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

SAN JUAN COUNTY COMMISSION,
Monticello, UT, January 6, 2003.

Re: Indian School Bus Route Safety Reauthorization Act of 2003

Hon. JEFF BINGAMAN,
U.S. Senator, Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: San Juan County, Utah wants to express our appreciation to you for your efforts to secure funding to improve the Indian School Bus Routes. San Juan County has approximately 25% of the total land area on the Utah portion of the Navajo Nation.

The County is currently maintaining 611 miles of roads on the Navajo Nation. 357 miles are natural surface, 164 miles are of a gravel surface and 90 miles are paved. Most of these roads are used by school bus in the transportation of students to and from the different schools.

The County has three high schools that are operated by the San Juan School District on the Utah portion of the Navajo Nation (Whitehorse High School in Montezuma Creek, Monument Valley High School in Monument Valley and Navajo Mountain High School in Navajo Mountain). In addition, the school district has two elementary schools located in Halchita, near Mexican Hat and in Montezuma Creek. The Bureau of Indian Affairs has two boarding schools that also operate within the County boundaries at Aneth and Navajo Mountain. In addition there are pre-schools that are located in Monument Valley, Halchita, Toda, and Montezuma Creek.

One major example of the funds that have been previously used was to pave the nearly six miles section of road in the Navajo Mountain area. Navajo Mountain is an isolated community located in the southwestern corner of San Juan County. There is a single highway in and out of the community, with the nearest community located over seventeen miles to the south in Arizona. The road still is dirt for ten miles south of the Utah boundary, but the County was able to pave the road on the Utah side this past year making the road passable year round and greatly improving the safety for the students and residents.

We would strongly encourage the re-authorization of these funds for this important need.

Very truly,

TY LEWIS,
Commissioner.
MANUEL MORGAN,
Commissioner.
LYNN H. STEVENS,
Commissioner.

BOARD OF SUPERVISORS
OF APACHE COUNTY,
St. Johns, AZ, March 1, 2000.

Hon. Senator JEFF BINGAMAN,
Hart Senate Office Building.
Washington, DC.

SENATOR BINGAMAN: I strongly express my appreciation for your effort for the passage of the Transportation Equity Act for the 21st Century (TEA–21). The TEA–21 funds were utilized to purchase some gravel for school bus routes within the Apache County, District II, on the Navajo reservation where it was badly needed.

Without your effort and other members of Congress, such road improvements would have never been possible on the Navajo reservation.

Please accept the enclosed information on the Apache County, District II plus the resolutions of the local Navajo community chapters as our thanks.

Again, thank you.

Sincerely,

TOM M. WHITE, Jr,
County Supervisor, Ganado District II.

Enclosure.

NAVAJO COUNTY BOARD OF SUPERVISORS,
Holbrook, AZ, December 18, 2002.

Senator JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: TEA–21 Funding for Maintenance of School Bus Routes

DEAR SENATOR BINGAMAN: Navajo County has used the TEA–21 funding since its inception to maintain school bus routes located on reservation lands within the county. In order to best use these funds, we have entered into agreements with the Bureau of Indian Affairs and various established school districts. These agreements allow us to expand the budgets for roads in the school districts and receive maximum benefit for funds spent.

The funding to date has been spent as follows: Funding of road worker salaries, $63,226; purchase of road working equipment, $215,651; purchase of road building materials, $173,313.

This material, labor and equipment helps to maintain over 1,300 miles of school bus routes. Even though these funds are extremely helpful, the current amount of funding is inadequate to meet the needs that are encountered in these remote lands.

Navajo County fully supports your efforts to not only continue the present funding, but also the efforts to increase the annual amount. If this funding was not available, the school children on the reservation would be the ones who suffer.

Please continue your efforts to enhance the TEA–21 funds. If you need further information, please call me at (928) 524–4053.

Sincerely,

JESSE THOMPSON,
Supervisor.

OPERATIONS DEPARTMENT,
Kayenta, AZ, January 20, 2004.

Re: Letter of Support

Senator JEFF BINGAMAN,
Attn: Denial J. Alpert, Legislative Assistant,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the Kayenta Unified School District (KUSD) and Navajo County Board of Supervisors, I write in support of the TEA–21 grant that the federal government allocates to the State of Arizona and distributes to the Navajo County Board of Supervisors. The TEA–21 Grant greatly impacts the Kayenta Unified School District and the surrounding communities it serves on the Navajo Reservation.

For example, during the 2002–2003 school year, Kayenta Unified School District graduated 188 students from Monument Valley High School, and out of the 188 students, 120 students were bused to and form school daily and many of these students live off paved roads. The district buses travel over 350,000 mile on an off unpaved roads and transports 2,105 students a day. The overall enrollment at Kayenta Unified School District is 2,600 students.

The district is allocated $30,000.00 from the TEA–21 grant annually to support the salary of a heavy equipment operator. Currently, the district has 35 bus routes, and 25 of these routes are on unpaved roads. The heavy equipment operator grades all unpaved roads and with assistance from the TEA–21 grant, we are able to maintain these roads adequately. Most of all, the unpaved roads need to be safe for student transportation, and it is important that we maintain these bus routes, so KUSD is requesting that your office continues to financially support this funding for all Indian reservations, but more importantly, to ensure safe transportation for our students.

Furthermore the TEA–21 grant should be equally distributed among the three states that receive this grant. The purpose of the grant is to improve or maintain unpaved roads on the Indian Reservations, especially when inclement weather sets in. With many unpaved roads, the assistance from the TEA–21 grant has made it possible for our students who live in remote areas to continue to remain home and attend school. Otherwise these students would have to go to a boarding school and live away from home. Navajo families in our surrounding areas and Kayenta Unified School District greatly benefit from the TEA–21 grant.

Your continuous support and allocation in awarding Kayenta Unified School District is greatly appreciated.

If there are any questions please contact me at (928) 697–2130.

Sincerely,

JULIUS YOUNG II,
KUSD/Operations Director.

FORT DEFIANCE COMMUNITY CHAPTER,
Fort Defiance, AZ.

RESOLUTION OF THE FORT DEFIANCE CHAPTER EXPRESSING AN APPRECIATION TO SENATORS PETE DOMENICI AND JEFF BINGAMAN AND OTHER MEMBERS OF THE U.S. CONGRESS FOR THEIR EFFORTS AND SUPPORT OF FUNDS ALLOCATION TO APACHE COUNTY AND OTHER COUNTIES WITHIN THE NAVAJO NATION FOR ROAD MAINTENANCE

Whereas:

1. The Fort Defiance Community Chapter of Arizona is a certified Navajo chapter government pursuant to 26 N.N.C. is delegated governmental authority with respect to local matters consistent with Navajo laws, including custom, traditions and fiscal matter; and

2. The Fort Defiance Community Chapter population of 5,581 people have at least (800+) miles of excess dirt roads and the Apache County, District II maintains seven (7) miles of dirt road; and

3. The Fort Defiance Community Chapter realized that in the past, the Apache County was unable to defray the cost of gravel for the dirt roads; however, this past year, the Apache County was able to gravel two (2) miles of school bus routes in Fort Defiance area; and

4. The Fort Defiance Community Chapter knows that the Apache County, District II lobbied for its funds such as the TEA–21 (Transportation Equity Act for the 21st Century) and was funded to gravel some of the county routes which are bus routes; and

Now, Therefore, Be It Resolved That:

1. The Fort Defiance Chapter sincerely expresses an appreciation to Senators Pete Domenici and Jeff Bingaman and other members of the U.S. Congress for their efforts and support of funds allocation, especially the TEA–21 (Transportation Equity Act for the 21st Century) to Apache County and other counties within the Navajo Nation for road maintenance of school bus routes.

2. The Fort Defiance Chapter further supports that the gravel of dirt roads continue so that all motorists and school busses travel safely in all types of weather.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Fort Defiance Community Chapter at a duly called meeting at which a quorum was present and that same was Motioned by: Larry Anderson and Seconded by: Louva Dahozy, and passed by a vote of 26 in favor and 0 opposed and 1 abstained, this 28th day of February, 2000.

ALBERT DESCHINE,
President.
RENA C. WILLIAMS,
Vice President.
LAURITA BEGAY,
Secretary-Treasurer.
ELMER L. MILFORD,
Council Delegate.
HAROLD WAUNEKA,
Council Delegate.
RODGER DAHOZY,
Grazing Officer.

SAN JUAN COUNTY,
Aztec, NM, January 9, 2003.

Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

HON. SENATOR BINGAMAN: We are aware that Congress will be considering bills to reauthorize the TEA–21 funding for local roads that provide access to the Navajo Reservation. These funds are of special significance to San Juan County.

The Public Works Department of San Juan County regularly maintains over 400 miles of roads that are adjacent to or provide access to the Navajo Reservation. These roads are critical to the population in the service areas. School buses depend on our County workers to keep the roads maintained and to provide other essential services.

Over the past five years, we have received $953,688 from the TEA–21 program for the maintenance of roads and bridges in these areas. The assistance received under this program will be crucial if we wish to continue to provide these much needed services to the residents on the Navajo Reservation and their visitors.

I would like to thank you for your hard work on behalf of the citizens on San Juan County and urge you to support legislation that would extend the TEA–21 Program.

Sincerely,

TONY ATKINSON,
County Manager.

GALLUP-MCKINLEY COUNTY PUBLIC SCHOOLS,
Gallup, NM, December 19, 2002.

Hon. Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: Regarding the reauthorization of TEA–21 legislation, I would like to be up front in support of this bill. Our Gallup-McKinley County School District cannot function without a decent roads maintenance program. Our school district has established a good partnership with the McKinley County Commissioners' Office. Mr. Irvin Harrison, McKinley County Manager, is very instrumental in addressing the many roads maintenance issues. Of course, the money to do the actual maintenance work comes from the Indian School Bus Route Safety Reauthorization Act.

Let me explain why the Gallup-McKinley County Schools consider TEA–21 is practically indispensable. Our district daily transports 9,089 students and covers 16,070 miles. The 9,089 students are almost all Native Americans residing on Indian reservation land or checker Board Areas. The majority of the roads are dirt or unimproved. Our bus fleet totals 146 and 27 buses are equipped with lifts. Senator, you can imagine how delicate it is to make sure the roads are safe and all-weather condition. On an annual basis, our miles driven exceed 3,047,269. Without the county's roads maintenance program, our buses would deteriorate as quickly as we buy them and absenteeism would climb astronomically. What is so

unique about our district is, its 5000 square miles size and reported unpaved road transportation nears 400,000 miles. What the McKinley County Roads Department maintains include grading, placing gravel with some degree of compaction, repair work on drainage appurtenances and providing drainage solutions to rain damaged areas. Gallup-McKinley County School District is still expanding. A new high school is under design in Pueblo Pintado. A safe bridge is absolutely essential right next to the new school site.

Senator, I recall 3 years ago that you took a ride in one of our buses west of Gallup. I understand you enjoyed the rough ride. I thank you for taking the time from your busy schedule to visit our school district.

I am confident that the reauthorization of TEA–21 will be an historic event because this piece of legislation indeed relates to the No Child Left Behind initiative. All weather and safe roads provide the means to get the children to school on time. Absentees and tardiness are discouraged with a reliable transportation to school. I urge your colleagues to jump on the bandwagon and support the Indian School Bus Route Safety Reauthorization Act of 2003. Please call me if you have any questions.

Sincerely,

KAREN S. WHITE,
Acting Superintendent.

GALLUP MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR HON. JEFF BINGAMAN: The Gallup McKinley County Schools serve over 15 thousands students, of which over 10 thousand are bussed daily. Our District's school buses travel 9,250 miles daily, one way. Several miles of these roads are primitive dirt roads with poor or no drainage. Several do not have guard rails and some are not maintained by any entity. The inability to safely negotiate school buses over these roads during wet, muddy and snowy conditions greatly restricts our ability to provide adequate services for families living along these particular roadways. Funding for school bus route road maintenance is vital to providing safe and efficient transportation for thousands of students throughout our County.

The School bus route maintenance programs have helped tremendously. Our County Roads Division (McKinley County) has been extremely helpful in maintaining hundreds of miles of bus route roads. The route improvements completed recently in the North Coyote Canyon, Mexican Springs, Johnson loop, Tohlakai, CR–1, Crestview, Lyanbito and Bluewell have provided us with the ability to safely negotiate these areas and transport hundreds of students to various schools.

The School bus route program is a very important program. Our County Roads division worked diligently to provide safe access and passage for our school districts 160 school buses. Without the school bus route program, it would be impossible to maintain safe conditions on these roads. To insure the safety of our school children and families, it is imperative that the reauthorization of the TEA–21 Bill be realized.

Your help in sponsoring bills, which address the unique situations with respect to school bus route roads, have been greatly appreciated. Your continuing support of the school bus route program (TEA–21 Bill) will enable us to continue to safely and efficiently transport our students. It is through these cooperative efforts that we are able to serve the hundreds of families living in our County. Thank you for your continued efforts.

Sincerely,

BEN CHAVEZ,
Support Services Director.

THE NAVAJO NATION,
ROCK SPRINGS CHAPTER,
Yah-Ta-Hey, NM.

RESOLUTION OF ROCK SPRINGS CHAPTER,
EASTERN NAVAJO AGENCY—DISTRICT 16

Requesting and Recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Reauthorize the TEA–21 Bill for Continued Funding to the County of McKinley, State of New Mexico for Improvement of School Bus Routes Leading to and within the Navajo Indian Reservation which is Supported by Rock Springs Chapter Community.

Whereas:

1. The Rock Springs Chapter is a certified chapter and recognized by the Navajo Nation Council, pursuant to CAP–34–98, the Navajo Nation Council adopted the Navajo Local governance act (LGA) which directs local chapters to promote all matters that affect the local community members and to make appropriate decisions, recommendation and advocate on their behalf, and;

2. The Rock Springs Chapter is requesting and recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Re-authorize the TEA–21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation which is supported by Rock Springs Chapter Community, and;

3. The Rock Springs Chapter is established to plan, promote, and coordinate the community, economic, and social development for the community, including an oversight of coordinator and support for federal, state, tribal, and other programs and entities; and

4. The Rock Springs Chapter Community are highly concerned of their students attendance due to poor road conditions, lack of improving and maintaining bus routes and how it effects the daily transports of students as well as daily travel for community members, and:

5. There are vest miles of (dirt roads) school bus routes that still require improvement. Poor roads contribute to poor education, health issues, economic growth, unemployment, and fatalities in our rural (community) county.

Now, Therefore Be It Resolved:

1. The Rock Springs Chapter strongly supports the foregoing resolution to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominici to Re-authorize TEA–21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation.

2. The Rock Springs Chapter Community hereby supports the continuation of improving and upgrading the vast miles of dirt roads school bus routes.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly presented and considered by the Rock Springs Chapter at duly called chapter meeting at Rock Springs Chapter, New Mexico (Navajo Nation) at which a quorum was present and the same was passed with a vote of 33 in favor, 00 opposed and 00 abstained on this 18th of February, 2003.

Motion: Ted Billy.

Second: Rose Mark.

RAYMOND EMERSON,
Chapter President.
HARRIETT K. BECENTI,
Council Delegate.
LUCINDA ROANHORSE,
Acting Community Services Coordinator.

Mr. CORZINE. Mr. President, I have submitted an amendment which addresses the serious national problem of drunk driving by helping to ensure that when drunken drivers are arrested, they can't simply get back into their car and put the lives of others in jeopardy. The amendment is based on legislation known as ''John's Law'' that I have introduced in the Senate and that has already been enacted at the State level in New Jersey.

On July 22, 2000, Navy Ensign John Elliott was driving home from the United States Naval Academy in Annapolis for his mother's birthday when his car was struck by another car. Both Ensign Elliott and the driver of that car were killed. The driver of the car that caused the collision had a blood alcohol level that exceeded twice the legal limit.

What makes this tragedy especially distressing is that this same driver had been arrested and charged with driving under the influence of alcohol, DUI, just 3 hours before the crash. After being processed for that offense, he had been released into the custody of a friend who drove him back to his car and allowed him to get behind the wheel, with tragic results.

We need to ensure that drunken drivers do not get back behind the wheel before they sober up. With this amendment, States would be allowed to use some of their drunk driver prevention grant money from the Federal Government to impound the vehicles of drunk drivers for no less than 12 hours. This would help ensure that a drunk driver cannot get back behind the wheel until he is sober. And that would make our roads safer, and prevent the loss of many innocent lives.

I hope my colleagues will support this commonsense measure. And I want to express my appreciation to Senators MCCAIN and HOLLINGS for their cooperation on this matter.

Mr. KOHL. Mr. President, I would like to take this opportunity to explain my objections to the transportation reauthorization bill. I want to make it clear to everyone in this chamber, and more importantly, to the people of Wisconsin, the reasoning behind my vote today. This legislation is important to me; I wholly support a 6-year transportation reauthorization bill. I understand the need, on so many levels, for long term transportation funding. This is especially true in Wisconsin, where the harsh winters make transportation planning critical. And across the Nation, I know that investment in our transportation infrastructure is vital to our safety and our economy. I know how a 6-year bill affects planning for cities and States, affects jobs across the country, and the overall impact that a 6-year authorization has on the economy. I have heard the statistics, read the data and seen the charts. But

most importantly, I know that if I were to support this bill today, I would not be doing my best to represent the people of Wisconsin.

Every time Congress has faced reauthorizing a transportation funding bill, I have had to fight for Wisconsin's fair share. And under TEA–21, Wisconsin received the best possible return over the course of the bill. Under TEA–21, Wisconsin received an average rate of return of approximately $1.02 to every dollar the State contributed to the highway trust fund. This fair return did not come without a fight, however, and prior to TEA–21's passage, I worked diligently to ensure that Wisconsin saw its fair share of transportation dollars.

This bill, however, throws those hard-won and well-earned returns away. By the second year of the bill, Wisconsin's rate of return will drop from almost $1.03 to $.95. According to preliminary estimates from my State's Department of Transportation, Wisconsin stands to lose an average of $80 million every year for the 6-year life of the bill under a 95 percent rate of return. In other words, the difference between a hundred percent and 95 percent rate of return results in millions of dollars lost for Wisconsin. How can I support that?

That is why I sought to offer an amendment, which would have helped Wisconsin recoup some of the loss under this bill. My amendment would correct one of the largest problems that midwestern States have faced over the past several years. Midwestern States account for almost 70 percent of the loss of funds that is associated with the ethanol tax exemption. Wisconsin's loss has more than tripled within the last 3 years alone. My amendment would change States' TEA–21 average by adding the ethanol losses that occurred between 1996 and 2001. By applying the revised averages to the portion of the bill that calculates the minimum a State can receive, Wisconsin would stand to gain in the range of $50 million every year of the bill. This would help the State gain back the losses that we faced due to ethanol.

Unfortunately, because of the rush of leadership on both sides of the aisle to finish the transportation bill, efforts to offer amendments improving the bill were procedurally blocked. I am very disappointed that so many of my colleagues—so many whose States do well under this bill—have shut out the rest of us who want to debate our ideas for making the bill fairer and better. This is politics at its worst. And the result will be a huge amount of public resources divvied up by a formula crafted in secret, unimproved with the ideas from—unresponsive to the needs of—too many States like Wisconsin.

Fortunately for Wisconsin and these other States, this bill is far from law despite our work this week. The White House is insisting on bringing the cost of the bill down by billions before the President will sign it. The House is developing a bill including an increase in the gas tax that has little support in the Senate. If a 6-year authorization does become law this year, it will not look anything like the behemoth we have voted on today.

And for all these reasons, I could not vote for this legislation—vote to pass the losses contained in this legislation to my State. I will not be part of a process that puts the Senate stamp of approval on an embarrassing backroom deal that has a lot more to do with log rolling than road building. I will not push through legislation that does not give Wisconsin drivers and Wisconsin taxpayers their fair share.

A safe and secure transportation network is important to the people in my State. The Wisconsin highway system requires constant attention and repair, to offset the damage caused by harsh winters and hot summers. Every year during the appropriations process, I have worked to secure funding for ongoing projects critical to ensuring safe roads and a stable economy. I support the Senate's decision to pass a 6-year authorization. But not this bill. I cannot in good conscience support this bill, which represents an embarrassment to the Senate and a serious loss to my State.

Mr. BURNS. Mr. President, I thank the managers of this difficult bill for the hours and days of work that have gone into this bill. This legislation is the most difficult the Senate will deal with this year. It goes without saying that there are more moving parts of this bill and that's what makes it so difficult. It affects every State in the Union in important ways: infrastructure and jobs. Every Senator in this body knows and understands that. All of us here are in need of both and it affects rural and urban areas alike.

If I have learned anything during my tenure here, it is this: It is impossible to out build America's love for the automobile.

The Subcommittee on Communications of the Commerce Committee has looked at this along with the Subcommittee on Surface Transportation. We have spent hours discussing safety and efficiency. We have passed legislation in telecommunications making it easier to telecommute. The deployment of broadband Internet services is lagging due to several reasons, but it becomes vital to the easing of congestion found in our morning and evening commutes—labor and consulting laws to deal with the one who stays home two of the five working days and uses either the telephone or Internet to correspond and perform his or her office responsibilities. It is being done in Washington, D.C. as we speak.

Great strides have been made in telemedicine and distance learning using these new and exciting communications tools. What I am trying to say is simple. It is not just a highway bill to move people but to move people and commerce. It is just one more item that is the infrastructure to do many things. The Internet has allowed Montana to move closer to downtown Minneapolis-St. Paul, Chicago, Seattle, Denver, or San Francisco. For that matter, it has opened up the world and world markets to us in rural areas as never before.

Now why do you ask why Montana has a huge interest in our roads and highways? We still depend on our farm-to-market roads. We are at the end of the line for product and the head of the line for the natural resources that are in high demand in every corner of the Nation.

Here is the problem. It is a problem that has been dealt with by so many Senators and Congressmen in a fair way. Montana has only 28 people per lane mile on our Federal aid highways when the national average is 124. That is on Federal aid highways. In another area, our per capita income is below the national average. If that is not enough, rural Montana has long stretches, fewer people with smaller incomes. In fact, you have heard me use this expression a lot: ''We have a lot of dirt between light bulbs.'' We also have ways of financing the modern day needs for modern day roads. We have huge holdings of federally owned lands—federally owned national parks, national forest lands, Indian reservations, and public lands. They all have transportation needs that are unique to their areas. That limits our tax base, thus the need for some assistance in fulfilling the transportation needs for the entire country.

Overall, I am very supportive of the bill before us today, but I do have some concerns and issues I wish we had more time to deal with.

As the bill is written now, Montana would not receive funds under the impaired driving or occupant protection sections of this bill. I have two amendments that create a minimum guarantee to States such as mine that desperately need assistance is these areas. If it is a national program, then everyone should be able to access those funds. I understand the incentive-based approach my colleagues have written but creating programs that exclude some States is not the right direction.

Senator SHELBY did a great job, and I thank him for his work and assistance on rural transit. Even though Montana receives a 169 percent increase from TEA-21, it translates into modest dollars. Now here is my problem. We have an aging rural population. I have 14 counties that do not have a local physician. So routes taken in Montana must traverse these areas where we have modest ridership and long travel distances. These new transit funds will help us meet those needs.

While we are on the subject of mass transit, it is time to face the situation of Amtrak.

Let me state at this point that I have been and continue to be a supporter of Amtrak. With all its problems, all the bumps, scars, and warts, Congress has listened to our folks at home, and it is clear they want a national passenger

system. It is costly. There are all kinds of studies and reports that one can draw from to deal with Amtrak, and I have yet to see any change in how it does business. We demagog the issue a lot and sometimes we see some attempt to change it but nothing that would change it drastically. We all demagog well, but we have shown no political will to change it. Regional needs and issues come front and center when we try.

There are those who think of Amtrak as a light rail commuter system, so the interest and money flows in that direction. It is the only national passenger railway system this country has. Let me repeat—it is the only national passenger system we have. If it takes money from the Federal Treasury to subsidize, then so be it. But if there are areas where it is being used as a local commuter service, then are the taxpayers of the Nation subsidizing a local problem?

Amtrak is just one of many important rail issues we should discuss today. When looking at rail policy, I believe it is important to consider the outlook of the rail customers along side that of the railroads, and those views are quite different.

In my State and many others across the Nation, we have the issue of captive shippers, and the economic impact to our States is no small item.

We have heard from more and more shippers about decreased transportation competitiveness and, as a result, increased transportation rates.

Let me give a quick description of what has happened in this country the last 20 or so years. In 1980, there were 40 class I railroads in this country. As a result, Congress passed the Staggers Act that year with the intent that regulation would be eased and competition would endure and drive the marketplace ensuring rail rates would remain reasonable. Through regulatory involvement and a stifling amount of consolidation, we find ourselves with essentially four class I railroads today, two in the east and two in the west.

Together with Senators DORGAN and ROCKEFELLER, I introduced S. 919, the Railroad Competition Act of 2003 which is represented in several amendments before us today. Our intent is to correct the model and the economic structure that allows monopolistic behavior in the freight rail industry. Contrary to what you have heard from the railroads, there are no provisions in our amendments that are re-regulatory. The bill restates the original intent of the Staggers Act of 1980 which has been eroded by mergers and regulatory interpretation.

Our amendments will not penalize the railroads or create an environment where railroads cannot compete with other transportation modes. In fact, our amendments will create competition among our railroads improving transportation efficiencies in our economy. I am the last Member of Congress who would introduce a measure that would drive a railroad out of a local economy, simply due to the fact that my State of Montana is nearly entirely captive to one railroad.

The bottom line is the railroad industry in this country is allowed to legally operate in a business model that breeds monopolistic behavior.

Montana is a classic case of what happens to rail customers when you eliminate competitive transportation alternatives. Our rail rates are some the highest in the Nation and my shippers end up subsidizing rail rates in regions where competition is present. Our rail customers pay more for less service. The rail customers in regions with competitive alternative pay less and receive more service.

American agricultural shippers are the most vulnerable to predatory marketing by monopolistic practices of railroads. The farm producer, unlike every other industry in America, cannot pass the freight costs onto anyone else. They must simply eat the cost.

It has been 24 years since the enactment of the Stagger Act, and neither the marketplace nor the Surface Transportation Board has corrected the obvious monopolistic behavior of our railroads. I ask that my colleagues seriously consider the rail customer issues we have in this country.

Finally, I appreciate the hard work of the managers of this bill and their consideration for rural America. It is my hope we begin to move forward on the highway bill and I look forward to its timely passage.

Mrs. FEINSTEIN. Mr. President, I take a few minutes today to talk about the transportation reauthorization bill before the Senate and why it is so important that we deliver a strong, well-rounded bill to our States.

This bill authorizes the largest increase of funds for California over 6 years since I have been in the Senate. That increase is $6 billion for California roads over the next 6 years.

As a donor State, California sends more tax dollars to Washington, DC, than we receive back. This bill over the next 6 years would greatly improve that status.

For the first time, this bill brings California, and all donor States, to a 95 percent rate of return. California is currently at a 90 percent rate of return. In other words, for every dollar California sends to Washington, it gets back only 90 cents for maintenance and improvement of our highways. This bill would allow California to receive 95 cents back on the dollar in the sixth year of the authorization of the transportation bill.

While that increase does not happen as quickly as I would like, this bill provides California with an overall $6 billion increase for important highway programs.

As a Californian, transportation is the backbone of our economy. California has two of the Nation's busiest ports—Los Angeles/Long Beach and Oakland, and California ports handle half of all cargo coming into the United States.

We need roads that are equipped to handle the flow of goods and the truck traffic that comes with it.

Mr. President, three-quarters of all goods shipped from California ports are now transported by truck along California roads. Roads that are in desperate need of repair. Thirty-seven percent of California road conditions are rated ''poor.'' Only 11 percent of roads nationwide have that same rating. On the other hand, only 13 percent of roads in California have a ''good'' rating while 46 percent of roads nationwide have the same classification.

At the same time, travel on California roads increased 97 percent between 1980 and 2000, while population increased 42 percent in the same period.

We are all familiar with pictures of California gridlock. Cars sitting on our freeways, moving at a snail's pace.

The facts bear out the images. Los Angeles has had the worst traffic in the nation for 16 years in a row. San Francisco and Oakland are tied with Atlanta and Washington for second place. San Diego ranked sixth.

Traffic congestion in California costs motorists $20.4 billion annually in lost time and fuel.

All this in a State that has six nonattainment air quality areas, with 70 percent of the State in the reformulated gasoline program because our air is so dirty.

California needs an infusion of cash to pay for highway enhancements to allow an easier flow of traffic to reduce the amount of time trucks and cars are idling, increasing air pollution. That is just one step we can take to allow communities in my State to reach air quality attainment.

We also need money for public transit to reduce the amount of cars on the road, reducing air pollution, and decreasing the amount of time my constituents have to spend commuting every day.

California has some of the largest regional transportation systems in the country including the Bay Area Rapid Transit, BART, CalTrain, the rail service between San Francisco and San Jose, and Metrolink, Southern California's regional transit system.

My State is facing a crisis. Without Federal highway dollars my local communities will not be able to eliminate bottlenecks on our highways to improve air quality. As a result, they will be out of conformity with Federal air quality regulations, and will lose even more Federal highway dollars. This will become a never-ending cycle. Without money they can't conform, and without conforming they can't get money.

California also needs this bill for economic reasons. According to the Department of Transportation, each $1 billion in new infrastructure investment creates 47,500 new jobs: 26,500 of

these are directly related to construction, engineering, contracting, and other on-site employees, and 21,000 are indirect jobs resulting from the spending associated with the investment.

We would not have to wait long to feel the benefits of this transportation bill. Transportation construction contractors hire employees within a few weeks of obtaining a project contract. These employees begin receiving paychecks within 2 weeks of hiring. In other words, if the bill is passed tomorrow, three weeks from now construction sites would be bustling with activity. We can't afford to delay.

In an economic recovery that has so far been jobless, the Federal Government must do what it can to create jobs.

Improving our transportation infrastructure is one of the critical things we can do to create all sorts of jobs.

According to the California Employment Development Department, job growth in the coming year in California will be a dismal 1 percent about 142,000 jobs in all—barely more than half the 10 year average.

California needs a robust transportation bill to help clean the air, ease congestion on the roads, and create jobs.

Mr. CHAMBLISS. Mr. President, today I rise in opposition to the final passage of S. 1072, the ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA.'' However, this vote does not come without great difficulty, because I understand how vital this legislative package is to the transportation infrastructure of Georgia and the country as a whole.

I understand that the future growth of my state largely depends on a robust transportation program, particularly in Atlanta and its surrounding counties. Georgia's commuters are suffering from some of the most notorious congestion in the country and without the crucial funds from the reauthorization of the highway funding bill, the time they spend commuting will only get worse. I also clearly understand that the funding from this bill will be used for highway and transit projects that would greatly enhance the vast transportation infrastructure in Georgia. However, I believe that these improvements can be made in conjunction with sound fiscal policy.

Last year, in a vote that I did not support, the Senate moved to increase the contract authority in the budget resolution for transportation spending to $272 billion. The SAFETEA bill on the floor of the Senate today breaks this unprecedented level by further increasing the contract authority by $36 billion, this being an increase of 46 percent over the previous level. In other words, to pass the Senate's version of the SAFETEA legislation, the Senate will have to vote to set aside its own budget resolution. In addition, the legislation contains a significant funding gap between the desired spending levels and the anticipated transportation-related excise tax receipts. Simply put, the gas tax receipts used to finance most federal surface transportation projects will not keep pace with government spending. Over the next 6 years, the Congressional Budget Office projects that the gas tax receipts for highways and transit will generate roughly $233 billion—about $80 billion less than the contract authority provided in the SAFETEA legislation on the floor of the Senate. The Finance Committee has produced a plan to make up the difference in a series of revenue boosting maneuvers that simply move revenue generators out of general revenues into the Highway Trust Fund. However, at the end of the day when we realize that there just isn't enough money from the Highway Trust Fund to pay for this bill, inevitably, the burden will fall on the General Fund to make up the difference. The deficit will continue to grow and that is an option that I cannot support.

In this time of soaring budget deficits, we must hold the line on spending. We must draw a line in the sand and say that we will not continue to lay the burden of these ever increasing deficits on the shoulders of our children and our grandchildren, because they will pay the price of Congress's profuse spending habits. It is up to us to monitor ourselves and if we do not start by limiting the spending contained within this bill, the deficit will only increase. I am not willing to leave these problems to be dealt with by future generations. Our President has given us an amount that he would support for the cost of this highway bill. He has requested that we limit our spending to $256 billion to work with over the next 6 years. Even with this limitation, this figure represents a 21 percent increase over the Transportation Equity Act for the 21st Century (TEA–21), enacted in 1998. I believe that this rational increase would still have a positive effect on Georgia's transportation infrastructure, while doing significantly less damage to our Nation's economy.

I urge my colleagues who will be Senate conferees when this legislation moves to conference to pursue fiscal responsibility and work to reduce the total cost of this bill before the conference report returns to the Senate floor for final passage.

Mr. LEVIN. Mr. President, Michigan is a long time donor State that for 50 years or so has sent more gas tax dollars to the Highway Trust Fund in Washington than are returned back in transportation infrastructure spending.

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, SAFETEA, addresses this inequity by returning more money to donor States which for years have seen a portion of their highway trust fund contributions shifted to ''donee'' States. These ''donee'' States have benefitted from antiquated Federal highway formulas which give them more Federal highway funding than they paid into the highway trust fund.

I have been fighting to correct the inequity faced by donor States like Michigan for decades. We have made some progress, but we won't be satisfied until we get the full return on our gas tax dollars after the costs of administering the program are allocated. For instance, in 1978, Michigan was getting somewhere around 75 cents on our gas tax dollar. The 1991 ISTEA bill brought us up to approximately 80 cents per dollar and the 1998 TEA–21 bill guaranteed a 90.5 cent minimum return for each State.

SAFETEA moves us in the right direction toward correcting the inequity in the distribution of highway funding. I cosponsored an amendment that would have, if adopted, provided additional funding to donor states to bring them more quickly to equity. While the inequity should be corrected immediately rather than gradually over the life of the 6-year bill, it is an important step forward that donor States will all achieve a 95 cent return by the sixth year of this bill, a level that is much better than in prior bills.

Under this legislation, Michigan will get more than $2.1 billion additional dollars over 6 years to pay for badly needed transportation infrastructure improvements. In all, under the formula portion of this bill, Michigan will get over $7.4 billion over 6 years which represents more than a 40 percent increase over TEA–21, plus additional funds from other sections of the bill.

Our Nation has significant infrastructure improvement needs. For instance, according to the Federal Highway Administration, FHWA, congestion at border crossings can lead to delays of over 80 minutes. The lost productivity from this congestion has a negative impact on the Nation's economy. It also causes environmental problems in the border regions. We need to get trucks and people across the borders more quickly and with greater safety.

I am pleased the bill managers have accepted my proposal to distribute funding for the bill's enhanced and expanded Border Planning, Operations, and Technology Program based on documented usage and trade flows at individual border crossings. Under my proposal, border infrastructure funding would be distributed using criteria that is based on the cargo weight, trade value and the number of commercial and passenger vehicles crossing the particular border. This means our Nation's busiest border crossings will get the Federal funding needed to improve this important economic infrastructure. Distributing the funds by this formula gives border projects more stability and predictability and is good public policy. It will also enhance U.S. economic activity and growth by facilitating the more efficient flow of goods, services and people at U.S. border crossings. Michigan, home to our Nation's top two commercial vehicle

crossings on the northern border, the Ambassador Bridge in Detroit and the Blue Water Bridge in Port Huron, would receive approximately $204.5 million from this account over 6 years to improve its border infrastructure.

SAFETEA also makes an important change to the ethanol tax subsidy that will benefit my State of Michigan. At issue is the fact that the current ethanol subsidy comes at the expense of the highway trust fund and those States such as Michigan and Ohio that consume ethanol. Under current law, ethanol consuming States end up, under the formula, getting less back in federal highway funds. The Michigan Department of Transportation estimates that Michigan's annual revenue loss is $37 million a year in Federal aid because of the way the taxes on ethanol are credited.

To fix this, this bill shifts the cost of the ethanol tax subsidy from the highway trust fund to the general fund. Once ethanol taxes are credited at the same rate as gasoline, 18.4 cents a gallon compared to the current 13.2 cents a gallon on ethanol, for the purposes of calculating inputs into the highway trust fund, the highway trust fund will grow. So, too, will the size of Michigan's and other ethanol consuming States' contributions credited to the trust fund. The bottom line is with the ethanol fix, Michigan will receive more Federal highway dollars over the life of the 6-year bill.

This legislation provides $56 billion for mass transit over 6 years, a significant increase over the prior reauthorization bill. Under the transit title, Michigan would get $656 million over 6 years, an increase of $230 million or 53 percent over TEA–21. This moves us in the right direction on mass transit.

There are few Federal investments that will have such a large and immediate impact on job creation and economic growth than investments in our Nation's transportation infrastructure. The efficient functioning of our economy depends on a reliable multimodal interstate system that is made up of highway, bus, rail, shipping and air transportation. We need to maintain and improve these systems and we need to address the costs and frustration of increased traffic congestion. This bill goes a long way to improve the operation of our transportation system and to keep us competitive in a global marketplace.

The Federal infrastructure investment of $318 billion contained in this bill, while increasing the efficiency of our transportation system, will also spur the creation of thousands of jobs in every State across this Nation. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs. With Michigan standing to gain over $7.4 billion dollars over the 6-year bill, an increase of more than $2.1 billion over the last 6 years, this bill would mean almost 100,000 new jobs in Michigan and the retention of almost 250,000 jobs. These are good paying jobs and jobs that Michigan needs for economic recovery and to replace some of the jobs we have lost in manufacturing. These are jobs that we need in Michigan and throughout our country.

Mr. CRAIG. Mr. President, I wish to express my view regarding the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, SAFETEA, S. 1072.

This legislation reauthorizes our Nation's surface transportation, freight, and mass transit programs, which are so vital to the infrastructure of my State of Idaho and to the Nation. Idaho is considered a ''donee'' State, one that receives more Federal dollars from the Highway Trust Fund, HTF, than we contribute. This is due to the low population density, reduced tax base, and several miles of interstate that run throughout the State.

Thanks to the hard and careful work of my colleague, Senator CRAPO, who serves on both the Banking, Housing, and Urban Affairs committee and the Environment and Public Works committee, I believe Idaho has received fair and equitable treatment in this bill. I applaud the committee and especially Senator CRAPO for recognizing that large, rural States have to maintain the infrastructure that our farmers, long-haul truckers, tourists—and most important, our citizens—use every day.

However, Mr. President, I would like to voice my concern with the legislation now before us.

Last year the President proposed his version of SAFETEA to Congress. Both House and Senate committees of jurisdiction quickly began their work to forge a bill that addresses our Nation's needs. Although neither was successful in bringing the bill to the floor, after a year of work, the Senate will vote on our version of the bill today.

As I have seen it, the President's proposal would authorize $256 billion in highway and transit funding over 6 years. This is a $45 billion, or 21 percent increase from the 1998 reauthorization referred to as ''TEA–21.'' The legislation before the Senate is calculated at a total cost of $318 billion, with $311 billion of the total amount under contract authority.

For obvious reasons, my concern is that this legislation sends the wrong signal to the American taxpayers. Before I go further, I must say that I strongly support the need to maintain and improve the infrastructure of this Nation. I also understand the impact this legislation has on creating jobs and its role in strengthening our economy, which continues to grow and expand.

The benefits of this bill are many, but I cannot support the funding levels proposed in this bill. Recently the Congressional Budget Office, CBO, predicted that the federal deficit will reach $477 billion this year. These figures are sure to fluctuate, but I think Congress must act responsibly by keeping spending under control.

The bill before the Senate is roughly $62 billion above the administration's request, and $24 billion over budget. We have already faced a motion to waive the budget today, which directly undermines the budget we all agreed to last year for FY2004.

It is a tough choice for me to oppose this bill. Thanks to the bill's managers, Idaho will greatly benefit from the formula's allocation for both our highway system and our transit needs. However, I cannot allow for future generations of Americans to pay for the fiscal irresponsibility of our actions now.

It is my hope that when this legislation is placed before a conference of the House and Senate, that common sense and fiscal responsibility prevails, and I will be able to cast a vote in favor of a final conference report.

Mr. GRASSLEY. Mr. President, I will respond to some criticisms of the Finance Committee package.

There is an allegation that the Finance Committee did not pay for this bill. Let me be clear. The Finance Committee adhered to the following principles in carrying out its responsibilities:

The Finance Committee funded the trust fund by increasing the amount of excise tax receipts retained by the trust fund.

The Finance Committee funded the bill at the outlay number—that is the cash flow impact on the trust fund. Some have pointed to obligations and contract authority numbers. Those numbers were not and are not relevant to the Finance Committee role. It is unfair to compare numbers for contract authority or obligation with receipts. That is apples and oranges. The Finance Committee matched receipts and outlays.

In accordance with Finance Committee members' desires, the deficit impact of matching receipts and outlays was offset with general fund revenue raisers. Those numbers match up.

That is the bottom line. The Finance Committee did its job.

I ask unanimous consent to have printed in the RECORD a summary of the Finance Committees funding title for the highway bill.

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

SUMMARY OF FINANCE COMMITTEE FUNDING TITLE

Finance Committee jurisdiction extends to the highway use-related excise taxes, the highway trust fund, and the expenditure authority of the highway trust fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office, CBO, current law trust fund receipts will total $227.8 billion over the six year period. CBO projects $196 billion in highway account receipts and $31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of $231 billion for highways and $36.6 billion for transit for the six year authorization period. That means a total of $267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by $39.8 billion over the 6-year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by $5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficit.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by $5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by $7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by $18.1 billion over the authorization period. That left a funding gap of $21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as state and local governments. Finally, the highway trust fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by $21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Finance Committee staff prepared analysis. This analysis reconciles trust receipts and outlays. It also reconciles the deficit impact of the proposal with general fund revenue raisers.

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

TEA 21 Reauthorization bill funding projections, February 2, 2004

[In billions]

Highways:	
Contract Authority	255.0
Obligation Limitation	238.0
Commerce Obligation	6.5
Outlays	231.0
Amount needed to Fund EPW/Commerce Spending	231.0
Gas Tax Baseline—Projected Gas Tax Receipts	196.0
Additional Funding Needed	35.0
Revenues additions to Highway Trust Fund:	
Fuel Fraud Compliance and Mobile Machinery	5.0
2.5 gasohol	5.0
**5.2 Gasohol	9.0
**Interest on Trust Fund balance	2.0
**Gas Guzzlers	0.5
**Amend Fuel refund mechanism in IRC	8.0
Spend down partial Trust Fund balance	5.5
Additional Revenue for Highway Trust Fund	35.0
Transit:	
Baseline 2.86 cents from each gallon taxed	31.8
Spenddown of partial MTA balance	2.0
Fuel Fraud	0.6
**Interest on MTA	2.2
Total Transit from Trust Fund	36.6
**Revenue Offsets:	
Expansion of limitation on depreciation of autos	0.03
Tax Shelters/Corporate Governance	15.8
Enrol Tax Shelters	3.2
Expatriation	3.3
Total Offsets	22.3

Mr. GRASSLEY. There has also been some mention of the use of a provision accelerating the payment of corporate estimated taxes. The provision has been attacked as a ''gimmick.'' It has been attacked as ''funny money.'' The provision is fairly straight forward. It increases the payment of the third quarter corporate estimated tax deposits by 119% for 2009. This measure has the effect of shifting $11.4 billion from fiscal year 2009 to fiscal year 2010. It makes sure the bill will be offset for the five- and six-year periods.

Let the record reflect, Mr. President, that this technique and variations on it have been used frequently over the past decade. Most of the time these things were done without complaints from either side. Sometimes complaints were raised by those opposed to a particular bill on other substantive grounds.

Let's look at the history of enacted tax laws that contained these shifts.

In 1994, the Uruguay Round Agreements Act, that is, the landmark general agreement on tariffs and trade legislation contained several changes in payment dates for excise taxes. Check it out in section 712 of Public Law 103–415 of December 8, 1994. That legislation was overwhelmingly supported by both sides of the aisle.

In 1997, the Tax Relief Act of 1997 contained a change in the percentage for the ''safe harbor'' for payment of individual estimated taxes for 1998, 1999, 2000, 2001, and 2002. Check it out in section 1091 of Public Law 105–34 of August 5, 1997.

In 1998, the Trade and Tax Relief Extension Act of 1998 contained a change for the safe harbor for payment of individual estimated taxes. Check it out in section 2003 of Public Law 105–277 of October 21, 1998.

In 2001, the Economic Growth and Tax Relief Reconciliation Act of 2001, contained the much-criticized shift in corporate estimated tax payments. Check it out in section 801 of Public Law 107–16 of June 7, 2001.

In 2003, the Jobs and Growth Tax Relief Reconciliation Act of 2003 also contained the much-criticized shift in corporate estimated tax payments. Check it out in section 501 of Public Law 108–27 of May 28, 2003.

All of the laws mentioned above are major pieces of legislation. They were all bipartisan measures. All of them contained shifts in dates of payment of excise taxes, corporate taxes, or individual income taxes. Members should also be aware that these devices or similar devices were used in partisan bills by each side that did not become law. For example, the patients bill of rights legislation considered in the summer of 2001, contained a one day shift in Medicare provider payments. Some of the harshest critics of the corporate estimated tax shift were lead sponsors of that legislation.

Now, even though the corporate shift in this bill is a conventional practice, Senator BAUCUS and I agreed to delete it before this bill left the Senate floor. Our agreement is with Senators NICKLES and CONRAD. We will attempt to carry out our agreement but are subject to the cooperation of our colleagues.

Part of the legislative process is compliance with our budget rules. The Finance Committee offset its title over the five, six, and ten year period of the bill. Contrary to the critics' assertions, the corporate shift moved real money, corporate tax receipts, from one period to the other. I ask unanimous consent that a revenue table, prepared by the Joint Committee on Taxation, on the Finance Committee financing title, be inserted in the RECORD.

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

JOINT COMMITTEE ON TAXATION
February 2, 2004
JCX-11-04

ESTIMATED REVENUE EFFECTS OF THE CHAIRMAN'S MODIFICATIONS TO THE "HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION ACT OF 2004," SCHEDULED FOR MARKUP BY THE COMMITTEE ON FINANCE ON FEBRUARY 2, 2004

Fiscal Years 2004 - 2013

[Millions of Dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Trust Fund Reauthorization - Extension of Highway Trust Fund and Aquatic Resources Trust Fund Taxes (through 9/30/09) and Expenditure Authority (through 9/30/09) [1]	DOE	*No Revenue Effect*											
The "Volumetric Ethanol Excise Tax Credit ('VEETC') Act"													
A. Alcohol and Biodiesel Excise Tax Credit and Extension of Alcohol Fuels Income Tax Credit													
1. Provide excise tax credits for biodiesel used to produce a qualified fuel mixture [2] ($1.00/gallon for agribiodiesel and $0.50/gallon for biodiesel) (sunset 12/31/06) [3]	fsoua 9/30/04	---	-41	-57	-16	---	---	---	---	---	---	-114	-114
2. Provide excise tax credit (in lieu of reduced tax rate on gasoline) to certain blenders of alcohol fuel mixtures (sunset 12/31/10)	fsoua 9/30/04	*No Revenue Effect*											
3. Provide that all gasoline excise tax revenues are deposited in the Highway Trust Fund and all alcohol fuels excise tax credits are paid from the General Fund [4]	fsoua 9/30/04	---	---	---	---	---	---	---	1,131	1,559	1,586	---	4,276
4. Repeal reduced-rate sales of gasoline for blending with alcohol and reduced-rate sales of alcohol fuel blends	fsoua 9/30/04	---	23	25	24	24	24	24	23	23	22	96	212
5. Transfer full amount of alcohol fuel excise taxes to the Highway Trust Fund	fsoua 9/30/03	*No Revenue Effect*											
6. Extension of section 40 alcohol fuels income tax credit (sunset 12/31/10)	DOE	---	---	---	---	-6	-13	-15	-10	-3	---	-6	-47
7. Provide outlay payments (in lieu of excise tax credits and refunds) to producers of alcohol and biodiesel fuel mixtures and users of neat alcohol and neat biodiesel fuels:													
a. Outlay effects [5] [6]	fsoua 9/30/04	---	-105	-114	-116	-117	-119	-121	-38	---	---	-452	-730
b. Revenue effects	fsoua 9/30/04	---	105	114	116	117	119	121	38	---	---	452	730
8. Extension of temporary additional duty on ethyl alcohol (sunset 1/1/11) [7]	DOE	*Negligible Revenue Effect*											
B. Biodiesel Income Tax Credit - provide income tax credits for biodiesel fuel and biodiesel used to produce a qualified fuel mixture ($1.00/gallon for agribiodiesel and $0.50/gallon for biodiesel) (sunset 12/31/06) [3]	fpasoua 9/30/04	*Revenue Effects Included in Item #A.1.*											
Total of The "Volumetric Ethanol Excise Tax Credit ('VEETC') Act"		---	-18	-32	8	18	11	9	1,144	1,579	1,608	-24	4,327

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Fuel Fraud Prevention Proposals													
A. Aviation Jet Fuel - taxation of aviation fuel at the rack	[8]	---	397	427	431	434	437	437	435	433	432	1,689	3,863
B. Dyed Fuel Proposals													
1. Elimination of manual dyeing of fuel	[9]	---	---	43	46	47	47	47	47	47	47	136	372
2. Elimination of administrative review for taxable use of dyed fuel	paa DOE	*Negligible Revenue Effect*											
3. Extension of penalty on untaxed chemically altered fuel mixtures	DOE	*Negligible Revenue Effect*											
4. Terminate the use of dyed diesel fuel by intercity buses	fsoua 9/30/04	*Negligible Revenue Effect*											
C. Modification of Inspection of Records Proposals													
1. Authority to inspect on-site records	DOE	*Negligible Revenue Effect*											
2. Assessable penalty for refusal of entry	10/1/04	*Negligible Revenue Effect*											
D. Registration and Reporting Requirements													
1. Registration of all pipeline or vessel operators required for exemption of bulk transfers; penalty on knowing transfers to nonregistered person; Secretary must publish list of registered persons [10]	10/1/04	---	116	124	125	126	127	128	128	128	128	492	1,130
2. Display of registration	10/1/04	*Revenue Effects Included in Item D.1.*											
3. Certain reports filed electronically; penalty for failure to report	10/1/04	*Revenue Effects Included in Item D.1.*											
4. Increased penalty for failure to register	pia 10/1/04	---	2	2	2	2	2	2	2	2	2	8	19
5. Registration of persons within foreign trade zones	10/1/04	*Revenue Effects Included in Item D.1.*											
6. Information reporting for persons claiming certain tax benefits	10/1/04	*Negligible Revenue Effect*											
E. Import Proposals													
1. Tax at point of entry where importer not registered	DOE	2	8	8	8	8	8	8	8	8	8	33	72
2. Reconciliation of on-loaded cargo to entered cargo	DOE	*Negligible Revenue Effect*											
F. Miscellaneous Proposals													
1. Tax on sale of diesel fuel whether suitable for use or not in a diesel powered vehicle or train	DOE	*No Revenue Effect*											
2. Limit ultimate vendor refund claims on sales of fuel used for farming purposes	fsfnua DOE	*Negligible Revenue Effect*											
3. Permit ultimate vendors to administer credits and refunds of fuel tax	10/1/04	*Negligible Revenue Effect*											
4. Two-party exchanges	DOE	*Negligible Revenue Effect*											
5. Modifications of tax on use of highway vehicles	tpba DOE [11]	143	119	122	124	126	129	129	131	133	135	635	1,292
6. Dedication of revenue from certain penalties to the Highway Trust Fund	10/1/04	*No Revenue Effect*											
7. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from the United States	sodma DOE	*No Revenue Effect*											
G. Total Accountability - taxation and reporting for blendstocks, transmix, and other products removed from terminals and refineries, including those in foreign trade zones	fsoua 9/30/04	---	100	106	107	108	108	108	108	107	107	421	958
H. Transfers from Airport and Airway Trust Fund to Highway Trust Fund	10/1/04	*No Revenue Effect*											
Total of Fuel Fraud Prevention Proposals		**145**	**742**	**832**	**843**	**851**	**858**	**859**	**859**	**858**	**859**	**3,414**	**7,706**

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
Definition of Highway Vehicle													
A. Exemption From Certain Excise Taxes for Mobile Machinery Vehicles	[12]	---	79	106	106	106	106	106	106	106	106	396	923
B. Modified Definition of Off-Highway Vehicle	[12]	*Negligible Revenue Effect*											
Total of Definition of Highway Vehicle		**[13]**	**79**	**106**	**106**	**106**	**106**	**106**	**106**	**106**	**106**	**396**	**923**
Excise Tax Reform and Simplification Proposals													
A. Highway Excise Taxes													
1. Repeal gas guzzler tax for limousines	DOE	-2	-4	-4	-4	-5	-5	-5	-6	-6	-7	-19	-48
2. Dedication of gas guzzler tax to Highway Trust Fund [14]	DOE	*No Revenue Effect*											
3. Repeal of 4.3-cent General Fund excise taxes on railroads diesel fuel and inland waterway fuel:													
a. Railroads	10/1/04	---	-139	-146	-149	-154	-158	-162	-166	-171	-175	-588	-1,420
b. Inland waterway	10/1/04	---	-11	-15	-15	-16	-16	-17	-17	-18	-18	-57	-143
B. Aquatic Excise Taxes													
1. Eliminate Aquatic Resources Trust Fund and transform Sport Fishing Restoration Account	10/1/04	*No Revenue Effect*											
2. LED devices exempted from sonar devices suitable for finding fish [15]	[16]	---	[17]	[17]	[17]	[17]	[17]	[17]	-1	-1	-1	-2	-4
3. Repeal of Harbor Maintenance tax on exports [7]	bo/a DOE	*Negligible Revenue Effect*											
4. Cap on excise tax on certain fishing equipment [18]	[16]	---	-3	-3	-3	-3	-3	-4	-4	-4	-4	-16	-31
5. Reduction in rate of tax on portable aerated bait containers [19]	10/1/04	---	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	[17]	-1
C. Aerial Excise Taxes													
1. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for certain fixed-wing aircraft	fuoata DOE	-2	-4	-4	-4	-4	-4	-4	-4	-4	-4	-18	-38
2. Modification of rural airport definition	4/1/04	-2	-3	-3	-3	-4	-4	-4	-4	-4	-5	-15	-36
3. Exemption from ticket taxes for transportation provided by seaplanes	ta 3/31/04	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-10
4. Certain sightseeing flights exempt from taxes on air transportation	[20]	-5	-6	-7	-7	-7	-7	-8	-8	-9	-9	-32	-72
D. Alcoholic Beverage Excise Taxes													
1. Repeal of occupational taxes relating to distilled spirits, wine, and beer	[21]	-66	-78	-78	-78	-78	-78	-78	-78	-78	-78	-378	-768
2. Suspension of limitation on cover over of rum excise tax revenues (maintain cover over at $13.25 per proof gallon and increase to $13.50 on 10/1/04) (sunset 12/31/05); require transfer to Puerto Rico Conservation Trust Fund	abiUSa 12/31/03 [22]	-67	-93	-22	---	---	---	---	---	---	---	-182	-182
E. Sport Excise Taxes													
1. Exempt custom gunsmiths from firearms excise tax [23]	[24]	[17]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-7
2. Modified taxation of imported archery products [25]	[26]	[17]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-8
3. Treatment of tribal governments as States for purposes of Federal wagering excise and occupational taxes	[21]	-1	-3	-3	-4	-4	-4	-4	-4	-4	-4	-14	-33

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
F. Other Proposals													
1. Income tax credit for distilled sprits wholesalers and for distilled spirits in control state bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits	tyba DOE	-4	-29	-33	-34	-35	-35	-35	-36	-36	-37	-135	-314
2. Credit for taxpayers owning commercial power takeoff vehicles (sunset 12/31/06)	tyba DOE	---	-25	-40	-14	---	---	---	---	---	---	-79	-79
3. Credit for auxiliary power units installed on diesel-powered trucks	ppaia DOE	-1	-1	-1	---	---	---	---	---	---	---	-3	-3
Total of Excise Tax Reform and Simplification Proposals		**-151**	**-402**	**-362**	**-318**	**-313**	**-317**	**-324**	**-331**	**-338**	**-345**	**-1,550**	**-3,197**
Miscellaneous Proposals													
A. Motor Fuel Tax Enforcement Advisory Commission	DOE	*No Revenue Effect*											
B. National Surface Transportation Infrastructure Financing Commission	DOE	*No Revenue Effect*											
C. Treasury Study of Fuel Tax Compliance and Interagency Cooperation	DOE	*No Revenue Effect*											
D. Funding for Studies of Supplemental or Alternative Financing for the Highway Trust Fund	DOE	*Estimate Will Be Provided by the Congressional Budget Office*											
E. Treasury Study of Highway Fuels Used by Trucks for Non-transportation Purposes	DOE	*No Revenue Effect*											
F. Delta Regional Transportation Plan [27]	DOE	*No Revenue Effect*											
G. Increase exclusion for employer-provided transit and vanpool benefits to $120 per month	bra DOE	-2	-9	-12	-12	-15	-17	-21	-22	-25	-27	-50	-162
Total of Miscellaneous Proposals		**-2**	**-9**	**-12**	**-12**	**-15**	**-17**	**-21**	**-22**	**-25**	**-27**	**-50**	**-162**
Proposals to Replenish the General Fund													
A. Expansion of Limitation on Depreciation of Certain Passenger Automobiles	ppisa 2/2/04	42	112	40	-52	-45	-43	-20	---	---	---	97	34
B. Proposals Designed to Curtail Tax Shelters													
1. Clarification of the economic substance doctrine and related penalty Proposals	Ta 2/2/04	341	1,163	1,282	1,156	1,197	1,323	1,472	1,673	1,906	2,172	5,140	13,686
2. Proposals relating to reportable transactions and tax shelters	[28]	30	76	119	120	124	131	139	150	164	179	469	1,232
3. Modification to the substantial understatement penalty	tyba DOE	---	---	7	15	23	26	30	34	38	38	45	211
4. Impose a civil penalty (of up to $5,000) on failure to report interest in foreign financial accounts	DOE	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	1	3
5. Actions to enjoin conduct with respect to tax shelters	DOE	*Negligible Revenue Effect*											
6. Understatement of taxpayer's liability by income tax return preparer	dpa DOE	*Negligible Revenue Effect*											
7. Frivolous tax submissions	[30]	3	3	3	3	3	3	3	3	3	3	15	30
8. Regulation of individuals practicing before the Department of Treasury	ata DOE	*No Revenue Effect*											
9. Extend statute of limitations for undisclosed listed transactions	[31]	---	---	1	1	1	1	1	1	1	1	3	8

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
10. Deny deduction for interest paid to the IRS on underpayments involving certain tax motivated transactions	tyba DOE	---	---	1	1	3	4	4	4	4	4	5	25
11. Authorize additional $300 million per year to the IRS to combat abusive tax avoidance transactions [32]	DOE	*No Revenue Effect*											
C. Other Corporate Governance Proposals													
1. Affirmation of consolidated return regulation authority	[33]	*Negligible Revenue Effect*											
2. Chief executive officer required to sign declaration as part of corporate income tax return	rfa DOE	*Negligible Revenue Effect*											
3. Denial of deduction for certain fines, penalties, and other amounts	generally apoia 4/27/03	176	10	10	10	10	10	10	10	10	10	216	266
4. Denial of deduction for punitive damages	dpoia DOE	10	29	30	31	32	33	34	35	36	37	132	307
5. Increase the maximum criminal fraud penalty for individuals to the amount of the tax at issue	uaoataoa DOE	---	---	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	5
6. Double certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements	oyo/a DOE	2	1	1	[29]	[29]	[29]	[29]	[29]	[29]	[29]	4	6
D. Enron-Related Tax Shelter Proposals													
1. Limitation on transfer or importation of built-in losses	Ta 2/13/03	128	123	136	149	164	180	198	218	240	264	700	1,800
2. No reduction of basis under section 734 in stock held by partnership in corporate partner	da 2/13/03	12	16	24	29	33	35	33	32	33	34	114	281
3. Repeal of special rules for FASITs	on 2/13/03	*Negligible Revenue Effect*											
4. Expanded disallowance of deduction for interest on convertible debt	diia 2/13/03	6	88	90	94	96	98	101	103	106	109	374	891
5. Expanded authority to disallow tax benefits under section 269	aa 2/13/03	3	9	10	10	11	11	12	12	13	14	43	105
6. Modification of interaction between subpart F and passive foreign investment company rules	[34]	23	15	8	4	5	6	8	10	12	15	55	106
E. Proposals to Discourage Expatriation													
1. Tax treatment of inversion transactions	[35]	172	137	140	168	202	242	290	348	418	493	819	2,610
2. Impose mark-to-market on individuals who expatriate	[36]	41	78	80	74	71	67	61	57	54	51	344	634
3. Excise tax on stock compensation of insiders in inverted corporations	generally 7/11/02	16	7	7	7	7	7	7	7	7	7	42	75
4. Reinsurance agreements	rra 4/11/02	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	[29]	2	5
F. Corporate Estimated Tax Payments Due July Through September of 2009 Increased to 119% of the Otherwise Required Amount	DOE	---	---	---	---	---	11,441	-11,441	---	---	---	---	---
Total of Proposals to Replenish the General Fund		**1,005**	**1,867**	**1,989**	**1,820**	**1,937**	**13,575**	**-9,058**	**2,697**	**3,045**	**3,431**	**8,620**	**22,320**
NET TOTAL		**997**	**2,259**	**2,521**	**2,447**	**2,584**	**14,216**	**-8,429**	**4,453**	**5,225**	**5,632**	**10,806**	**31,917**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

[Legend and Footnotes for JCX-11-04 appear on the following page]

Legend and Footnotes for JCX-11-04:

Legend for "Effective" column:

aa = acquisitions after
abiUSa = articles brought into United States after
apoia = amounts paid or incurred after
as = articles sold
ata = actions taken after
bo/a = before, on, and after
bra = benefits received after
da = distributions after
diia = debt instrument issued after
DOE = date of enactment
dpa = documents prepared after
dpoia = damages paid or incurred after
fpasoua = fuel produced, and sold or used, after
fsfnua = fuels sold for nontaxable use after
fsoua = fuel sold or used after
fuoata = fuel use or air transportation after
oyo/a = open years on or after
paa = penalties assessed after
pia = penalties imposed after
ppaia = property purchased and installed after
ppisa = property placed in service after
sodma = sales or deliveries made after
rfa = returns filed after
rra = risk reinsured after
ta = transportation after
Ta = transactions after
tpba = taxable periods beginning after
tyba = taxable years beginning after
tyba = taxable years beginning after
uaoataoa = underpayments and overpayments attributable to actions occurring after
30da = 30 days after

[1] The outlay effects of this provision will be estimated by the Congressional Budget Office ("CBO"). Aquatic Resources Trust Fund is to be restructured and the name changed under the Excise Tax Reform and Simplification Proposals, Item B.1. (Eliminate Aquatic Resources Trust Fund and transform Sport Fishing Restoration Account).
[2] Tax credits would be provided for on-road and off-road uses of biodiesel.
[3] This provision may also have indirect effects on Federal outlays for certain farm programs. Outlay effects will be estimated by the Congressional Budget Office.
[4] These effects result from application of the budget law for constructing CBO's baseline in the case of expiring excise taxes dedicated to trust funds. Under present law, the taxes on motor fuels dedicated to the Highway Trust Fund ("HTF") expire in 2005, and are assumed to be permanently extended in CBO's baseline, as required by budget law. The lower excise tax rates on alcohol fuels, which reduce revenue to the HTF, expire in 2007 and are also assumed to be permanently extended in CBO's baseline. The proposal would replace the lower excise tax rates on alcohol fuels with an excise tax credit that does not reduce revenue to the HTF and that expires in 2010. If this bill is enacted, CBO's subsequent baseline would not assume extension of the excise tax credit beyond its expiration because the requirement to assume extension only applies to excise taxes dedicated to trust funds. For purposes of this cost estimate, therefore, CBO assumes that the credit would expire as scheduled. This treatment generates changes in revenues and outlays beyond 2010.
[5] Estimate provided by the Congressional Budget Office. Negative numbers indicate an increase in outlays.
[6] The outlay payments for ethanol expire after December 31, 2010, and the outlay payments for biodiesel expire after December 31, 2006.
[7] Estimate provided by the Congressional Budget Office.
[8] Effective for aviation fuel removed, entered into the United States, or sold after September 30, 2004.
[9] Generally effective 180 days after the date on which the Secretary issues the regulations, which are required on or before June 30, 2004.
[10] Secretary must publish the list by June 30, 2004.
[11] The display and electronic identification device provisions are effective October 1, 2005.
[12] Generally effective after the date of enactment, except for fuel taxes, effective for taxable years beginning after the date of enactment.
[13] Negligible revenue effect.
[14] The gas guzzler tax, as amended, would generate between $71 million and $75 million per year in Federal tax receipts.
[15] Provision will result in a reduction in outlays of approximately $4 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.
[16] Effective for articles sold by the manufacturer, producer, or importer on and after October 1, 2004.
[17] Loss of less than $500,000.
[18] Provision will result in a reduction in outlays of approximately $52 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.
[19] Provision will result in a reduction in outlays of approximately $1 million over 10 years from the Sport Fish Restoration Trust Fund, successor to the Aquatic Resources Trust Fund.
[20] Effective with respect to transportation beginning on or after the date of the enactment, but shall not apply to any amount paid before such date.
[21] Effective on July 1, 2004, but shall not apply to taxes imposed for periods before such date.
[22] The transfer to the Puerto Rico Conservation Trust Fund is effective October 1, 2004.
[23] Provision will result in a reduction in outlays of approximately $7 million over 10 years from the Federal Wildlife Restoration Fund.
[24] Effective for articles sold by the manufacturer, producer, or importer on or before the first day of the month beginning at least two weeks after the date of enactment.
[25] Provision will result in a reduction in outlays of approximately $9 million over 10 years from the Federal Wildlife Restoration Fund.
[26] Effective for articles sold by the manufacturer, producer, or importer after the date of the enactment.
[27] The proposal has outlay effects which will be provided by the Congressional Budget Office.

[Footnotes for Table #04-2 016 R are continued on the following page]

Footnotes for Table #04-2 016 R continued:

[28] Effective dates for proposals relating to reportable transactions and tax shelters: the penalty for failure to disclose reportable transactions is effective for returns and statements the due date of which is after the date of enactment; the modification to the accuracy-related penalty for listed or reportable transactions is effective for taxable years ending after the date of enactment; the tax shelter exception to confidentiality privileges is effective for communications made on or after the date of enactment; the material advisor and investor list disclosure proposals applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment; the failure to register tax shelter penalty applies to returns the due date for which is after the date of enactment; the investor list penalty applies to requests made after the date of enactment; and the penalty on promoters of tax shelters is effective for activities after the date of enactment.

[29] Gain of less than $1 million.

[30] Effective for submissions made and issues raised after the first list is prescribed under section 6702(c).

[31] Effective for taxable years with respect to which the period for assessing deficiencies did not expire before October 1, 2003.

[32] Estimate is subject to review by the Congressional Budget Office.

[33] Effective for all taxable years, whether beginning before, on, or after the date of enactment.

[34] Effective for taxable years of controlled foreign corporations beginning after February 13, 2003, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

[35] Effective for certain transactions completed after March 20, 2002, and would also affect certain taxpayers who completed transactions before March 21, 2002.

[36] Generally effective for U.S. citizens who expatriate or long-term residents who terminate their residency on or after February 2, 2004.

Mr. JEFFORDS. Mr. President, section 4(f) of the highway bill provides important protections for historic sites, parks, recreation areas, and wildlife and waterfowl refuges throughout the country. With the increasing demand for transportation projects, it is important that we not lose sight of our natural treasures. We need to balance the growing need for transportation with responsible stewardship of our history and natural resources.

In my State of Vermont, we have a wealth of history and natural beauty. To see the wildlife that populate the Missisquoi Wildlife Refuge or the covered bridges used by our forefathers is to experience a heritage that we all want preserved for future generations.

Section 4(f) has helped preserve these treasures. The Revolutionary War site at Fort Vehemence on Route 7 in Pittsford, Vermont, was avoided as a result of 4(f).

An excellent collection of historic metal truss bridges across the Connecticut River were rehabilitated, not replaced, as a result of 4(f).

A road in the Danville Historic District was narrowed in order to keep the historic characteristics of the historic village because of 4(f).

While constructing a new highway in Vermont, we have discovered a significant archeological site containing artifacts from Native Americans, providing us with a piece of history that until now was not known. By documenting this site, we will expand our knowledge of Vermont's Native Americans. Also, because of 4(f) protections.

An amendment to 4(f) is included in this legislation. The objective of this amendment is to allow transportation projects and programs to move forward more quickly, while maintaining the protections of 4(f). Those protections assure that there will be public notice and opportunity for public review and comment on proposed de minimis determinations for transportation projects, and that affected agencies will concur in the decision of the Secretary of Transportation that there will be no adverse impact on a historic site, recreation area, park, or wildlife or waterfowl refuge.

The amendment would require the Secretary of Transportation, when making a finding that a transportation project or program will have a de minimis impact, to consider all avoidance, minimization, mitigation, and enhancement measures that have been incorporated into the project. This provision allows project sponsors to incorporate environmentally protective measures into the project from the beginning, in order to support a finding of de minimis impact. These mitigation measures must be backed by enforceable agreements and post-construction monitoring of the effectiveness of these impact mitigation measures, with identified contingency measures to backstop the primary mitigation measures. In other words, the mitigation measures must be carried and be shown to have the intended impact. If they are not having the intended impact, other measures must be used to ensure no adverse impact.

In addition to the 4(f) provisions, this contains some modest, common-sense provisions to assure the transportation planners will consider the location of important habitat, wetlands and other natural resources at the earliest stages of planning for new roads.

These provisions will make project delivery faster and more efficient. Currently, transportation projects are often planned without detailed information on core conservation areas, sensitive resources or important habitat that might lie within the selected corridor. These conflicts do not come to light until the environmental review process, which then becomes more expensive and time-consuming as transportation and resource officials try to reconcile infrastructure and conservation activities.

These provisions will help transportation planners in avoiding unnecessary impacts on wildlife habitat and in mitigating for unavoidable impacts of a project.

These provisions encourage States to utilize available wildlife habitat data and maps to inform the long range transportation planning process. Planners would be able to identify potential concerns at the earliest stage of planning, when options for minimizing impacts are greatest and costs of doing so are lowest.

Over 200 Americans die each year in wildlife-vehicle collisions, many more are injured and more than 1 million animals are killed on our roadways everyday.

State and Federal agencies spend considerable time and money both protecting natural areas and building transportation infrastructure. Unfortunately, conservation and growth efforts often happen independently and then come into conflict during the permitting and construction phases of a transportation project. These investments need to be coordinated. If conservation efforts are taken into account at the earliest stages of transportation planning, both priorities can be realized, in less time and at less cost.

The most significant threat to the biodiversity of this country is habitat loss. However, thoughtful, forward-looking transportation planning can go a long way towards reducing negative impacts and mitigating for unavoidable impacts.

Over the next few decades, the decisions we make regarding highways and the ensuring loss of habitat will determine the fate of species and America's biodiversity. These provisions are aimed at helping to preserve that biodiversity through coordinated planning.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I congratulate the managers for their hard work and efforts. Following the vote, there will be no further votes until after the Presidents Day recess. Therefore, the next vote will occur on Tuesday, February 24. I will have more to say on the schedule before we close this evening. I do thank all Members for their cooperation over the last 2 weeks.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Nebraska (Mr. NELSON) would each vote ''yea.''

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

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—76

Akaka	Daschle	Lincoln
Allard	Dayton	Lott
Allen	DeWine	Lugar
Baucus	Dodd	Mikulski
Bayh	Dole	Murkowski
Bennett	Domenici	Murray
Biden	Dorgan	Nelson (FL)
Bingaman	Durbin	Pryor
Bond	Enzi	Reed
Boxer	Feinstein	Reid
Breaux	Fitzgerald	Roberts
Bunning	Frist	Rockefeller
Burns	Grassley	Sarbanes
Byrd	Harkin	Schumer
Campbell	Hatch	Shelby
Cantwell	Hollings	Smith
Carper	Inhofe	Snowe
Chafee	Inouye	Stabenow
Clinton	Jeffords	Stevens
Cochran	Johnson	Talent
Coleman	Kennedy	Thomas
Collins	Landrieu	Voinovich
Conrad	Lautenberg	Warner
Cornyn	Leahy	Wyden
Corzine	Levin	
Crapo	Lieberman	

NAYS—21

Alexander	Graham (SC)	McConnell
Brownback	Gregg	Miller
Chambliss	Hagel	Nickles
Craig	Hutchison	Santorum
Ensign	Kohl	Sessions
Feingold	Kyl	Specter
Graham (FL)	McCain	Sununu

NOT VOTING—3

Edwards	Kerry	Nelson (NE)

The bill (S. 1072), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BOND. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I am going to make this very brief, but I do want to make a comment. This bill that we passed is a good bill. We heard all kinds of criticism. It is always difficult when you are dealing with formulas, but this is the first time in the history of this process that we have done it without going into something such as a minimum guarantee program that is purely political. I would like to have had all the States get up to 95 percent sooner. We just could not make it happen.

We have a safety portion of this bill that we never had before. We have environmental streamlining. I would have liked to have gone a lot further on that issue. Hopefully, we will be able to do it. Maybe we can do some good in conference. Nonetheless, we will get a lot more miles, literally, for the dollar than we ever have before.

I thank, one more time, Senator REID, Senator JEFFORDS, and Senator BOND. We worked very closely together. This certainly was not a partisan effort.

I thank our staffs, too. I am going to name my staff: staff director, Andy Wheeler; Ruth Van Mark; Marty Hall; James O'Keeffe; Nathan Richmond; Greg Murrill; Mitch Surrett; Laura Berry; Genevieve Erny; Frank Fannon, Angie Giancarlo; Loyed Gill; Ryan Jackson; Michele Nellenbach; John Shanahan; Jonathan Tolman; Brydon Ross; and Cori Lucero.

I say this very sincerely. I know it sounds mundane, but the public should know the hours people work up here on something like this. I am talking about all night long, several nights, and I just applaud them for doing it. I know other staff and Members have worked equally hard, so let me thank all of them for their dedication and the effort. I think we made history in terms of the length of time in which we were able to get a bill of this magnitude passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first I want to commend my good friend from Oklahoma for all of the effort he put into this bill. I know, having been in the position of being the chairman at one time, the incredible effort that goes into the production of a bill of this size. I know what his staff did, and I will give my commendation to the staff as well.

I emphasize also the importance to the Nation. This is a jobs bill. In fact, there is no other jobs bill that will do so much for different workers of this Nation. Everyone benefits. Those who are in the manufacturing area of all the tools and equipment that are necessary to provide the work all benefit by the tremendous effort that goes into improving roads throughout this Nation. Also, there is a tremendous effort put into it which requires machinery. Therefore, the companies that make the machinery benefit with increased production, increased utilization of workers, right on down through to the people who do the minimal things which are also so very important.

As far as the staffs goes, I would like to thank the staff of the Environment and Public Works Committee, on both sides of the aisle, for their efforts.

From my staff, I thank Ken Connolly, Ed Barron, Jeff Squires, Erik Steavens, Liz Ryan, Alison Taylor, and Carolyn Dupree; Catharine Ransom, Jo-Ellen Darcy, and J.C. Sandberg with Senator REID's staff. Chairman INHOFE's staff, I would like to acknowledge and recognize Andy Wheeler, Ruth Van Mark, Marty Hall and James O'Keefe; from Senator BOND's staff, Ellen Stein and Trevor Blackann.

These staffers have made tremendous sacrifices, working long hours and many days, to bring about the fruition of this bill. We are all proud of it, and the country is going to be proud of it. The more they see of it, the more they will like it, and the more people will benefit from having better jobs.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I join in the commendations particularly to Chairman INHOFE of the Environment and Public Works Committee, and the ranking member, Senator JEFFORDS, and my cohort on the Transportation Subcommittee, Senator REID, who also had the double pleasure of being the floor manager and probably deserves a day off before he sees his new granddaughter.

I join also in thanking all of the staff, and I will submit their names for the RECORD. I want my colleagues to know I had a tremendous staff working with me, Trevor Blackann, Ellen Stein, Heideh Shahmoradi, Kent Van Landuyt, and John Stoody. It was a major effort. I think we have crafted a good bill. This was a group effort. I thank each for their very hard work and dedication.

Senator INHOFE's staff: Ruth Van Mark, James O'Keefe, Gregory Murrill, Andy Wheeler, Nathan Richmond, Mitch Surrett, Angie Giancarlo, Marty Hall, Michelle Nellenbach, Laura Berry, Brydon Ross, Cori Lucero, and John Shananhan.

Senator JEFFORDS' and Senator REID's staff: Ed Barron, J.C. Sandberg, Jeff Squires, Erik Steavens, Elizabeth Ryan, Ken Connolly, Jo-Ellen Darcy, Chris Miller, and Alison Taylor.

There are many provisions in this bill that make me proud to have been a part of drafting SAFETEA. Some of which include:

Safety. For the first time in our recent transportation legislation history, safety is given a prominent position, being elevated to a core program. We have accomplished this by providing much needed funding to reduce highway injuries and fatalities. I am pleased to say we have accomplished this without the use of mandates.

We have heard numerous testimony from the administration that nearly 43,000 people were killed on our roads and highways last year. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

Equity. Our bill moves to carefully balance the needs of the donor States while also recognizing the needs of donee States. While many people did not think it was possible to achieve, all donor States will receive a 95 cent rate of return at least by 2009. I am anxious to return to my home State of Missouri and report that we will now receive 95 cents back on every dollar, each year of this Act.

Like many of the donor States, Missouri has some of the worst roads in the Nation and the second worst bridges in the Nation. This bill will allow Missouri, as well as the other States, to address many of the Nation's major transportation infrastructure needs.

Furthermore, I am proud to announce that all States will grow at not less than 10 percent over TEA–21.

I am very pleased to report that this bill follows the Bond/Reid amendment by providing a 31 percent increase in funding over TEA–21.

This bill also addresses several environmental issues by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays.

And most importantly, our comprehensive 6-year bill at $255 billion will sustain over 2 million new jobs. These funds will support the much-needed jobs and economic stimulus that our nation currently needs.

In closing, I want to again thank my colleagues, Senators INHOFE, JEFFORDS, and REID for their leadership and support in moving this vital piece of legislation that is focused on the needs of our Nation's transportation system. I also want to thank the other Members of the Senate for their overwhelming bipartisan support and helping move this bill forward.

The PRESIDING OFFICER (Mr. KYL). The assistant Democratic leader.

Mr. REID. Mr. President, I will be brief. I know the distinguished Senator from Georgia wishes to speak. We have spoken on the floor at some length over the last 2 weeks about the cooperation that bound the four of us together. It really has been one where we have grown closer as friends and Senators.

We have a lot more work to do on this bill. I want to again express my appreciation to the Senator from Oklahoma. We have both served in the House. We have been in the Senate for a long time. During the past year, I have gotten to know the distinguished junior Senator from Oklahoma and

have developed a great deal of respect I did not have. The reason is that even though there are only 100 of us, on most occasions we do not work on a very close basis. We come through and vote, have committee hearings, and hear each other talk, but here we had no alternative but to sit down in the trenches and try to work out tremendous differences that we began with. We were able to do that.

Legislation is the art of compromise. Had Senator INHOFE stuck to his guns and I stuck to my guns, we would not have a bill. That is nothing bad. That is what legislation is all about, consensus building. I deeply appreciate the ability I have had to get to know my friend from Oklahoma much better.

I express my appreciation, of course, to my counterpart on the subcommittee, Senator BOND. I appreciate his good work. They both have excellent staffs. I have gotten to know them also.

Of course, Senator JEFFORDS and I, everyone knows of our close and longstanding relationship and how much we care about each other. I appreciate very much his work on this bill and his allowing me a little bit of freedom on a bill that normally but for the closeness of our relationship would not have occurred.

The other Senators have spoken about their staffs and how much they appreciate them and that they would submit the names for the RECORD and they ran off a lot of names. I have one staff person. No one knows this bill better than he does. No one knows the numbers better than he does. I am so well served by J.C. Sandberg. I appreciate so much the tireless efforts on his behalf. He was up until 3 in the morning this morning, last night, and many nights during the past 6 months. He has worked very long hours. I wish I could rattle off the names of lots of other people who worked with me on this bill, but the only person who did great work on my staff was J.C. Sandberg, which was exemplary. Not only has he rendered great service to me and the people of the State of Nevada, but I believe this entire country.

Also, my legislative director, Lisa Moore, has done good work. She has been around all the time helping J.C. and helping me, and I want her to know how much I appreciate her good work.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate now be in a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

DIVERSITY VISA LEGISLATION

Mr. CHAMBLISS. Mr. President, today I am introducing legislation to fix a problem some of my colleagues have experienced in serving their constituents. Immigration case work is one of the top issues my State offices handle on a regular basis. Occasionally, people who are in the country legally and playing by the rules can slip through the cracks as they wait on the immigration process to run its course. With the massive caseload handled by Immigration Services, there are bound to be mistakes and this legislation allows the agency to remedy those mistakes in the limited situation of the Diversity Visa Program.

The case of an Atlanta couple, Charles Nyaga and his wife Doin, recently came to my attention. Charles Nyaga, a native of Kenya, came to the United States with his family as a student in 1996. He is currently pursuing a master's degree in divinity.

In 1997, he applied for the fiscal year 1998 Diversity Visa Program and the Immigration and Naturalization Service selected him. In accordance with the diversity visa requirements, Nyaga and his wife submitted an application and a fee to adjust their status to legal permanent resident. A cover letter on the diversity visa application instructed Mr. Nyaga as follows:

> While your application is pending before the interview, please do not make inquiry as to the status of your case, since it will result in further delay.

During the 8 months the INS had to review his application, Mr. Nyaga accordingly abided by what the INS told him to do and never made any inquiry. He unfortunately never heard back. His valid application simply slipped through the cracks because at the end of the fiscal year Mr. Nyaga's application expired, although a sufficient number of diversity visas remained available.

Mr. Nyaga and his wife took their case all the way to the Eleventh Circuit Court of Appeals. In a decision last year, the court found that the INS lacks the authority to act on Mr. Nyaga's application after the end of the fiscal year, regardless of how meritorious his case is. The court even went so far as to note that a private relief bill is the remedy for Mr. Nyaga in order to overcome the statutory barrier that prohibits the INS from reviewing the case in a prior fiscal year. The U.S. Supreme Court recently refused to take up the case.

My legislation would overcome this statutory hurdle for Charles Nyaga, his wife, and others who are similarly situated. The legislation would give the Department of Homeland Security the opportunity to reopen cases from previous fiscal years in order to complete their processing. The bill would still give the Department of Homeland Security the discretion to conduct background checks and weigh any security concern before adjusting an applicant's status.

I look forward to working with my colleagues and with homeland security officials to pass this legislation this year. We must provide relief in these cases. I believe this targeted legislation strikes the proper balance to provide thorough processing of diversity visa applications while not compromising the Department's national security mission.

I yield the floor.

Mrs. MURRAY. Mr. President, I rise this evening to introduce an important piece of legislation called the Guard and Reserve Enhanced Benefits Act of 2004. This bill is at the desk.

I ask unanimous consent to add the following cosponsors: Senator LEAHY and Senator REID of Nevada.

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

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 2068 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Rhode Island.

THE STATION NIGHTCLUB FIRE

Mr. REED. Mr. President, I rise today to recall one of the most tragic events in the history of the State of Rhode Island. It was almost 1 year ago, on February 20, 2003, that a devastating fire destroyed the Station nightclub in West Warwick, RI, killing 100 people and injuring nearly 300 more. The impact of this horrific incident on our small State is beyond measure, as most Rhode Islanders either suffered a direct loss, or knew someone who died or was injured in this blaze.

The first anniversary of the fire will bring back painful memories for many in our community. I want to express my heartfelt condolences to the families of those who perished and to let them know that our thoughts and prayers remain with them and with the survivors who continue to struggle with the physical and mental toll of this horrible event.

Looking back on the West Warwick fire and its aftermath also reminds us that it brought out the best in our people. In the first minutes and hours of this tragedy, our firefighters, police, and emergency medical personnel performed heroically under terrifying circumstances, as did many of the patrons who were at the scene and helped to save others. Nearby small businesses like the Cowesett Inn restaurant were turned into triage centers, and first responders from throughout southern New England descended upon West Warwick to do whatever they could to help.

I visited victims at all of our hospitals and in Boston as well. I was inspired by their courage and the extraordinary skill and compassion of countless doctors, nurses and health professionals.

As our Nation continues to fight the war on terror, the response to the West Warwick fire provides a good illustration of the progress we have made—and