

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 Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States:

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, Tom Daschle, and Carol Moseley-Braun.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Henry W. Foster, Jr., to be Surgeon General, shall be brought to a close?

The yeas and nays have been required.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 280 Ex.]

YEAS—57

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Frist	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Gorton	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Heflin	Packwood
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Campbell	Jeffords	Reid
Chafee	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Simpson
Dorgan	Kohl	Snowe
Exon	Lautenberg	Specter
Feingold	Leahy	Wellstone

NAYS—43

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the nomination is returned to the calendar.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers wish to report steady progress on this bill. However, we have an amendment now being reviewed by all parties involved in the Stevens-Murkowski amendment. We are awaiting a report back on their negotiations, which I am hopeful will resolve these issues.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. WARNER. Mr. President, I believe we can now proceed.

Once again, I wish to inform the Senate on behalf of the managers that we are making progress. The one remaining amendment which is yet to really be fully reconciled is that regarding the issues in Alaska, the amendment proposed, of course, by the senior Senator and junior Senator, Mr. STEVENS and Mr. MURKOWSKI.

Until that matter is further refined, I have nothing further at this time and I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1464

Mr. CHAFEE. Mr. President, on behalf of Senator SMITH and Senator GREGG, I send an 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 Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself and Mr. GREGG, proposes an amendment numbered 1464.

Mr. CHAFEE. 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:

At the appropriate place on the bill add the following new section:

SEC. .

The State of New Hampshire shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

Mr. GREGG. Mr. President, I rise in support of this amendment which allows New Hampshire to meet the safety belt use law requirements under section 153 of ISTEA. Under this amendment, highway safety funds would not be transferred from highway construction projects to highway safety programs if the safety belt use rate in fiscal years ending September 30, 1995, and September 30, 1996, is not less than 50 percent. In fiscal years thereafter safety belt rate shall not fall below the national average as determined by the Secretary of Transportation.

It is my belief that the Federal Government should not mandate seatbelts; those decisions should be left to the States. I believe all individuals should wear seatbelts whenever they ride in a vehicle. Furthermore, I believe that local government, not the Federal Government, should continue to play a role in educating people regarding the need to take every precaution when operating a vehicle.

As a former Governor, I realize firsthand the frustration local government experiences when the Federal Government attempts to micromanage public policy. Americans no longer want big brother looking over their shoulder attempting to force compliance with regard to seatbelt compliance.

I am pleased that this amendment, which allows New Hampshire to be judged on its safety record for safety belt usage, has been adopted. This amendment will remove the current unfair mandatory penalties forced on New Hampshire without regard for its excellent seatbelt compliance record.

Mr. CHAFEE. Mr. President, this is an amendment that takes care of a particular situation that has arisen in New Hampshire and addresses the desires of the Senators there. They are doing extremely well as far as their seatbelt usage goes. This makes them continue in that path and move up to the national average as time goes on.

It is an amendment that has been cleared by both sides, and I think it is a good one.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. May I ask the distinguished chairman of the committee, is this the same version the chairman showed me not too long ago, maybe about an hour or so ago?

Mr. CHAFEE. Yes.

Mr. BAUCUS. Mr. President, we have examined this amendment and we think it is acceptable.

Mr. SMITH. Mr. President, I want to thank the managers of this bill, the Senators from Rhode Island, Virginia,

and Montana, for working with me on a compromise amendment that would provide relief to the State of New Hampshire from certain highway-related penalties. The issue we have been debating for the last 2 days in section 153 of ISTEA, which sanctions States that have not enacted mandatory motorcycle helmet and seatbelt laws.

This section of current law penalized the State of New Hampshire by diverting its scarce highway maintenance and construction funds to its safety program—whether or not this makes any sense. In other words, the penalties are assessed regardless of whether New Hampshire already has an adequately funded safety program directed toward helmet and seatbelt usage, and irrespective of New Hampshire's safety record. States constantly tell us that they are in a better position to address these types of issues than the Federal Government is, and I strongly agree.

Yesterday, the Senate voted to repeal the penalties for noncompliance with motorcycle helmet laws. Today, we have reached an agreement on an amendment that would provide an incentive for the State of New Hampshire, which does not have mandatory seatbelt law, to maintain its 50 + seatbelt use rate and strive to reach the national average within 2 years. If they do not meet these goals, then the sanctions will be imposed as current law dictates.

This is a very reasonable amendment and it does not compromise the Senator from Rhode Island's objective of achieving a higher percentage of individuals wearing seat belts. In fact, it creates a more effective incentive, without being punitive or infringing on States rights.

New Hampshire will continue to educate its citizens on the benefits of seatbelt use. Educational programs like those we have in New Hampshire certainly play an important role in increasing highway safety. States do have the expertise and know-how to develop their own programs without Federal intimidation.

In conclusion, I strongly believe that it is through education, not necessarily a mandatory law, that we will achieve higher rates of seatbelt use. New Hampshire is capable of ensuring the safety of its citizens without the paternalistic arm of the Federal Government dictating to us how we should accomplish this goal.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, is there an amendment pending before this, the Exon amendment?

The PRESIDING OFFICER. There are two amendments pending at the present time, the Smith amendment—

Mr. CHAFEE. Is the Smith amendment ready for consideration?

The PRESIDING OFFICER. It is.

Mr. CHAFEE. All right. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1464) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, if there is no other business to come before us immediately, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, I wonder if the Senator will withhold just for a comment or two about the bill?

Mr. CHAFEE. I certainly will.

Mr. COCHRAN. Mr. President, it is my understanding it would be in order for comments to be made about the bill, not necessarily about the amendment that is pending. Is that correct, as a parliamentary inquiry?

Mr. WARNER. Mr. President, the Senator is correct. The managers of the bill are awaiting reconciliation of several amendments. At that point in time, we will move toward final passage, but we welcome the comments of our distinguished colleague from Mississippi beforehand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me commend the managers of the bill for the good work they have done in bringing this legislation to the floor. It is an important contribution to the infrastructure of this country for the Congress to take action on this bill in a timely fashion so States and localities who depend upon these allocations of funds can make plans to do it in a systematic way and to carry forward some of the important road and bridge projects that would be funded in this legislation.

I know in our State of Mississippi hardly a bill is passed by the Congress that is more important to the continued economic progress and development of our State than this legislation that is before the Senate today.

I know that there is also a continuation of a study called corridor 18. That may very well provide a new major corridor and interstate type highway which could go through Mississippi, and it may very well, I am sure, traverse many States in the central part of the country, from Ohio down to Houston, TX, and maybe beyond. There are many communities along this potential corridor that would benefit substantially in an economic way from the opportunities to grow and develop, providing jobs, producing economic activity and business activity along the way. We hope that study can be successfully completed, and the feasibility of it established so that in a timely way we can see the ultimate construction of that.

There are other parts of the bill in which we are interested as well. It was brought to the attention of the manager that there is some language that we would like to see included in a man-

agers' amendment at the appropriate point to permit our State to have access to a visitors center just south of the Tennessee line. This was something that was provided for in the 1994 appropriations bill but has not yet been finally resolved. We hope that this bill can include some language that would help that situation be resolved in a satisfactory way.

But all in all, this is a good bill. It is an important bill. It is a restrained bill. The Senators have been encouraged not to get involved in new demonstration type projects in the bill. I know we cooperated in that.

We want the managers to know that we appreciate the way that they have maintained discipline in this process and have shown that restraint.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

I wish to bring this to his attention. He said we have asked them not to add projects. We have not added any. I think this bill can meet whatever test as a clean test in terms of demonstration projects. The American public does not want to see these anymore. The various Governors and highway commissions in the several States do not want to see them anymore. I think this bill is a landmark bill in terms of its absence of that type of project. That is owing to the full cooperation of the Senate on both sides of the aisle.

So I thank the Senator for bringing it up. I was fearful when he said add not a lot, some might in turn interpret that as that some had been added.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Virginia for his comments. I certainly agree with him. I recall in my early days in the Congress. I served in the other body, and I was assigned to the Public Works and Transportation Committee. I served on the Surface Transportation Subcommittee. I had some good experience in working with Senators, like Senator CHAFEE, and other members of committee over here on this side of the Capitol.

This is important work. I think it is work that has been well done, and I commend all Senators who have had an active role in the development of the bill and the managing of it on the floor of the Senate.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the Senator from Mississippi for his very generous comments. I appreciate the kind words he had to say about the work we have done.

I discovered that I have come to the conclusion after a while around here that there are a few bills that attract more attention than highway bills. Everybody shows up when there is a highway bill. And I must say the Senators have exhibited tremendous restraint. Maybe the restraint came about because we did not adopt any. I do not

think there is a single demonstration project in this bill. I would not know. Because if there was one, I would have one in there for Rhode Island.

But the distinguished chairman of the subcommittee has resisted any such demonstration grants or specific authorizations for projects within this State or that State. And, so far, we are not through yet. We are not across the finish line. But we have done pretty well so far. If the word should get out that we did any, if we did, I am sure that we would have not four amendments left but 100.

So, Mr. President, I hope we can continue the restraint we have shown. I appreciate the wonderful support of the Senator from Mississippi who has been long interested in these matters.

Mr. WARNER. Mr. President, I say to our distinguished chairman of the committee, I wish to reiterate it has been a bipartisan effort. There has been complete cooperation. Many Senators thinking this was an appropriate piece of legislation, as it has been in the past for such projects, came up and, when we acquainted them with the policy decision, they accepted it; indeed, in many respects endorsed it knowing that history shows that so many projects of that type that were adopted by the Congress have gone back to the States and have proven not to be in terms of priorities what the States really need. Now the States are given greater discretion and the money with which to exercise that discretion.

I thank the distinguished chairman.

Mr. CHAFEE. Mr. President, I want to echo what the Senator from Virginia said about the bipartisan effort, that the senior Senator from Montana has been tremendously helpful in this. It is not easy. We all have friends that come up and want to remind us of what we want from their committee; and, two, what a modest little item it is that they are requesting. So far, so good. I hope we can continue in that regard.

Mr. DOLE. Mr. President, I wonder if the Senator from Rhode Island—I know there are four amendments. Are they going to be offered? Should we move on to another bill and come back to this next week? We do not want to sit here in a quorum call for a couple of hours while Members are floating around the Capitol.

Mr. WARNER. If I could most respectfully address our leader, I would urge that he give us a brief period of time within which to urge the presentation of these amendments.

Mr. DOLE. Which four are they? Maybe we can identify the players and have them get over here.

Mr. WARNER. The principal amendment for which there could be some concern is the amendment of the two Senators from Alaska. Within the hour I have consulted with them on it. Frankly, they are questions in my judgment, and very legitimate ones. It is a problem involving State rights. It goes back many years in Alaska. I left one of the two Senators with the clear

impression that he was going to present the amendment, and unless he is able to effect a resolution of the matter—I am prepared to accept the amendment from the Senator from Alaska. I would have to allow the other side to speak for itself on this issue.

Mr. CHAFEE. I wonder if we might have a quorum?

Mr. DOLE. Is it a managers' amendment? I do not know which amendments they are. I am serious.

Mr. WARNER. There is a managers' amendment.

Mr. DOLE. Is that one of the four?

Mr. WARNER. Yes.

Mr. DOLE. An Exon amendment.

Mr. WARNER. Mr. President, that amendment has been resolved, the Exon amendment. At this time, I ask unanimous consent that that amendment be deleted.

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

Mr. DOLE. So that would leave Stevens-Murkowski.

Mr. WARNER. That is correct. That is one amendment.

Mr. DOLE. Chafee-Warner, a managers' amendment. That is the second amendment. Are there two others? Smith?

Mr. CHAFEE. That is resolved. There are only two.

Mr. WARNER. Mr. President, there is a remaining one from the Senator from Maryland [Mr. SARBANES]. I have spoken with him within the hour, and indicating—and I will take responsibility—that I cannot accept the amendment. It relates to the Baltimore-Washington Parkway. I am fearful it would be construed by other Senators as being in the nature of a—even though it is authorized already—project. And I felt that I could not accede to his request, regrettably. So that amendment would not be accepted on this side.

Mr. DOLE. I certainly want to thank the managers. I do not have any quarrel with the managers. But those who have amendments, you know—people are going to be wanting to get out of here for an August recess. They do not want to be here late at night. But they do not want to be here in the afternoon. We cannot have it both ways.

Mr. CHAFEE. We would prefer not to be here in the morning either.

Mr. DOLE. They do not want to be here in the morning either. It is very difficult for the managers who are down to three amendments. They have been on this bill long enough—last week, and 4 days this week. The bill was supposed to take 2 days. It has taken almost 5. Because we want to go to securities litigation next, the only thing I know, without prejudicing the managers, if we cannot conclude it by 3:30, then we would move to another matter and this would come back sometime when we finished the next bill.

Mr. WARNER. I would say to the distinguished leader that the managers' amendment is prepared in the nature of a technical amendment.

Mr. DOLE. Sure.

Mr. WARNER. There really is only one amendment, and that is the one by the two Senators from Alaska. I will go back to them immediately to determine what their desire is.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

#### PRIVATE PROPERTY RIGHTS

Mr. GRAMS. Mr. President, I would like to engage in a short colloquy with the Senator from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, the manager of this bill.

Mr. President, I had intended to offer an amendment which would broaden the definition of like-kind property that would allow affected landowners to defer the capital gains tax after the forced sale of property which is taken for use in various infrastructure projects. I simply do not believe it is fair to expect property owners who do not wish to sell their property to be unable to defer their capital gains tax if they are not able to reinvest the amount of the gain in an expanded like-kind property. It is my desire to work with you in your capacity as a member of the Finance Committee to achieve a broader definition of like-kind property.

I have discussed this matter with the Finance Committee staff. However, I would respectfully ask your assistance in ensuring that the Finance Committee will examine this issue when it considers reconciliation this year.

If that is possible, I would be pleased to withdraw my amendment from consideration.

Mr. CHAFEE. I understand the problem the Senator from Minnesota has raised. I will ask the chairman of the Finance Committee to examine this issue when the committee considers reconciliation, and specifically to consider the problem highlighted by the Senator's amendment.

Mr. WARNER. Mr. President, there is on the list of amendments an amendment by the Senator from Maryland [Mr. SARBANES]. That amendment, regrettably, cannot be accepted and, therefore, it will not be considered as a part of this bill.

That leaves on the list the only amendments being that of the Senators from Alaska and the managers' amendment. I understand there is an amendment by the Senator from Oklahoma [Mr. NICKLES] that is still on the list, and I am not prepared to act on that right now.

I ask my comanager if this is a time and moment to go to the managers' amendment.

Mr. BAUCUS. Mr. President, if the Senator will yield, it is, I think, very timely. I might say, I do not know what progress we are going to make, if any, on the Nickles amendment. This side does not know what it is. I see the Senator from Oklahoma on the floor right now. Maybe he is in a position to tell us.

Mr. NICKLES. Mr. President, I will be happy to inform my colleagues. The essence of the amendment is to allow States that do not have Amtrak service to use some of their mass transit moneys to subsidize Amtrak service. Senator D'AMATO indicated some reservations about it. We are trying to work with him. Hopefully, we will have that worked out in a few moments.

Mr. WARNER. So I understand, a few moments could be a few minutes?

Mr. NICKLES. That is correct.

AMENDMENT NO. 1465

(Purpose: To improve the bill)

Mr. WARNER. Mr. President, I send to the desk now the managers' amendment on behalf of myself, Mr. CHAFEE and the Senator from Montana, Mr. BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. CHAFEE and Mr. BAUCUS, proposes an amendment numbered 1465.

Mr. WARNER. 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:

On page 22, between lines 2 and 3, insert the following:

**SEC. 1. . . . . APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.**

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

“(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

“(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real prop-

erty or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

“(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).”

On page 26, between lines 8 and 9, insert the following:

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

On page 26, between lines 13 and 14, insert the following:

(c) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.”

On page 30, strike line 14 and insert the following:

**SEC. 119. INTELLIGENT TRANSPORTATION SYSTEMS.**

On page 30, lines 15 and 16, strike “INTELLIGENT VEHICLE-HIGHWAY SYSTEMS” and insert “INTELLIGENT TRANSPORTATION SYSTEMS”.

On page 31, lines 1 and 2, strike “INTELLIGENT VEHICLE-HIGHWAY SYSTEMS” and insert “INTELLIGENT TRANSPORTATION SYSTEMS”.

On page 31, lines 10 and 11, strike “intelligent vehicle-highway systems” and insert “intelligent transportation systems”.

On page 31, between lines 20 and 21, insert the following:

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2048) is amended—

(A) in item 10, by striking “(IVHS)” and inserting “(ITS)”;

(B) in item 29, by striking “intelligent/vehicle highway systems” and inserting “intelligent transportation systems”.

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2176) is amended by striking “intelligent vehicle highway systems” and inserting “intelligent transportation systems”.

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

**“PART B—INTELLIGENT TRANSPORTATION SYSTEMS”;**

(B) in section 6051, by striking “Intelligent Vehicle-Highway Systems” and inserting “Intelligent Transportation Systems”;

(C) by striking “intelligent vehicle-highway systems” each place it appears and inserting “intelligent transportation systems”;

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking “intelligent vehicle-highway” and inserting “intelligent transportation systems”; and

(ii) in the subsection heading of subsection (b), by striking “INTELLIGENT VEHICLE-HIGHWAY SYSTEMS” and inserting “INTELLIGENT TRANSPORTATION SYSTEMS”;

(E) in the subsection heading of section 6056(a), by striking “IVHS” and inserting “ITS”;

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking “IVHS” and inserting “ITS”;

(G) in the paragraph heading of section 6059(1), by striking “IVHS” and inserting “ITS”.

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103-331; 23 U.S.C. 104 note), is amended by striking “intelligent vehicle highway systems” and inserting “intelligent transportation systems”.

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103-311; 23 U.S.C. 307 note) is amended—

(A) by striking “Intelligent Vehicle-Highway Systems” each place it appears and inserting “Intelligent Transportation Systems”;

(B) by striking “intelligent vehicle-highway system” and inserting “intelligent transportation system”.

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking “INTELLIGENT VEHICLE-HIGHWAY” and inserting “INTELLIGENT TRANSPORTATION”;

(B) by striking “intelligent vehicle-highway” each place it appears and inserting “intelligent transportation”.

On page 33, line 19, strike “intelligent vehicle-highway systems” and insert “intelligent transportation systems”.

On page 36, line 12, strike the quotation marks and the following period.

On page 36, between lines 12 and 13, insert the following:

“(24) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.”.

On page 38, beginning on line 2, strike “and shall not” and all that follows through “program” on line 4.

On page 40, strike lines 1 through 3.

On page 43, between lines 14 and 15, insert the following:

**SEC. 1. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.**

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

On page 57, line 4, insert “and” at the end.

On page 57, line 8, strike “and” at the end.

On page 57, strike lines 9 through 11.

Mr. WARNER. Mr. President, this amendment makes technical changes to S. 440 and minor modifications that have been cleared on both sides. Such modifications include, first, streamlining the enhancements program and the traffic monitoring program; second, changing the name of “intelligent vehicle highway systems” to “intelligent transportation systems”; and, third, require a report on effectiveness of accelerated retirement vehicle programs, and other purposes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is basically, as most managers’ amendments are, an amendment which contains minor modifications and technical corrections. One I would like to point out to the Senate is the change in reference to the “intelligence vehicle highway systems” to “intelligent transportation systems.”

The theory of the ISTEA legislation that this is the heart of is that we are trying to broaden the definition of “transportation” to include intelligent functions; that is, more advanced technologies in highway travel to include not only highways but other transportation modes. It, obviously, includes seaports and also intermodal connectors.

I urge the adoption of the managers’ amendment.

The PRESIDING OFFICER. Is there further debate on the managers’ amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1465) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the two remaining amendments are being very actively worked on by their sponsors. The managers hope to be able to report to the Senate in a very brief period of time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to describe what I think is the result of the discussions that we have been having these past few days.

First of all, let me say that I support passage of legislation to designate the National Highway System as directed by ISTEA, the Intermodal Surface Transportation Efficiency Act of 1991. I was, in fact, an original cosponsor of legislation in both the 103d and the 104th Congresses to accomplish this task. This \$6.5 billion bill authorizes critically needed funds, and I would like to consider just a few of the facts.

Almost one-fourth of our highways are in poor or mediocre condition, while another 36 percent are rated in the fair category. One in five of the Nation’s bridges is structurally deficient—20 percent—meaning that weight restrictions have been set to limit truck traffic.

On urban interstate highways, the percentage of peak hour travel approaching gridlock conditions increased from 55 percent in 1983 to 70 percent in 1991, costing the economy \$39 billion.

Experts indicate that an additional annual investment of \$32 billion is needed to bring our highway and bridge infrastructures up to date, and failure to make those investments increases the costs, both in the short and long term.

For example, failure to invest a dollar today in needed highway resurfacing can mean up to \$4 in highway reconstruction costs 2 years from now.

The ability of our country to sustain higher productivity is the key to economic growth and a higher standard of living.

Higher productivity is, in part, a function of the public and private in-

vestment. Recognizing that reality, over 400 of our Nation’s leading economists have urged Government to increase public investment. They urged us to remember that public investment in our people and in our infrastructure is essential for economic growth.

Clearly, the National Highway System program was designed to be part of a comprehensive program of public investment.

However, as much as I support moving this legislation forward, I will vote against the NHS bill.

Provisions in this bill are totally inconsistent with, and as a result radically undermine, the goal of increasing investment and productivity.

My concern here is that specific provisions, amendments to this bill, undermine safety and will substantially increase human and economic costs.

While one amendment to the bill was excellent and requires States to institute zero tolerance laws—that means almost no acceptance of any presence of alcohol behind the wheel is accepted. It is .02, very low, and that is the way it ought to be. That is very positive. It is a proposal that I strongly supported, having been the author or father of the 21-age drinking bill and seeing how successful we were over the last 10 years. It was a very positive step. It will save lives and reduce expenditures. But in total, as a result of this bill, more lives will be lost than will be saved.

Opponents of speed limits and motorcycle helmet laws—which passed this body—argue that decisions in these areas should be the responsibility of the State. I could not agree more. I want to give some decisions to the States that would increase their flexibility in using Federal transportation assistance. But I cannot buy into the concept that removing speed limits, increasing speeds across our Nation’s highways and roads, is going to help anything except to create mayhem. More people will die and more expenses will be incurred.

The same thing is true with the helmet laws. To remove helmets is, in my view, positively ludicrous. I do not understand what it is that motivated this body to say take off your helmets, let the wind blow in your hair, and God help you if someone runs over you. I supported the concept in ISTEA for flexibility for States and, again, allowing the States to use NHS funding to support intercity rail service. This is human rights, the right of the individual to be safe. It is the right that all of us have not to have to spend money because people do foolish things in our society.

Mr. President, one-third of all traffic accidents are caused by excessive

speed. The National Highway Traffic Safety Administration estimates that total repeal of Federal speed limit requirements will increase the number of Americans killed on our Nation's highways by about 4,750 persons per year.

In addition, there will be substantial financial consequences associated with a repeal. Death and injuries will increase as a result of ending Federal speed limit restrictions. But it is going to cost taxpayers \$15 billion more each year in lost productivity, taxes, and increased health care costs.

This loss would be on top of the \$24 billion we already lose as a result of motor vehicle accidents which are caused by excessive speed.

So, Mr. President, I want to restate that this bill is a \$6.5 billion investment in our Nation's infrastructure, our highways. But, at the same time, we have added an amendment that is going to cost us \$15 billion more over the life of this bill than we are presently spending. The total investment for the whole bill is \$6.5 billion.

Mr. President, the same argument applies to the helmet provisions in the bill. More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclist. Head injury is the leading cause of death in motorcycle crashes. Now, compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury when involved in a crash.

The NHTSA estimates that the use of helmets saved \$5.9 billion between 1984 and 1982. Now, repeal of mandatory helmet requirements will increase the death rate projected for motorcycle riders by 391 persons per year and will increase the costs to society by \$389 million each year. And all of us chip in to pay for those expenses.

The American public supports a strong Federal role in transportation safety initiatives because they understand the benefit of mandatory helmet and safety belt laws, mandatory 21 drinking age laws, and maximum speed limit laws.

Unfortunately, the Senate has chosen to ignore the majority will and the public, and all of the empirical data on the value of transportation safety measures.

As a result, Mr. President, this bill gives with one hand and takes away with the other. It authorizes \$6.5 billion worth of spending in infrastructure investment, while adding almost \$15.5 billion in additional costs to our society.

My colleagues recognize this fact as evidenced by the rejection of the amendment by the Senator from Texas, Senator HUTCHISON, which would have, in effect, required States to directly absorb medical costs associated with motorcycle riders who were not wearing helmets and were injured in an accident.

She said, very simply—and I agreed with her and we got lots of votes—if a State does not want to take prudent

measures to have people protect themselves on our highways, they ought to pay for it when accidents and expenses are incurred.

I want the Congress and the country to understand what is at stake in that debate—4,900 lives, tens of thousands more injuries each year, hundreds of millions of dollars in added health care costs and economic opportunities foregone.

Very simply, this bill takes one step forward but three steps backward.

Mr. President, it pains me to say that I am not going to support this bill, because I believed for all of the years that I have been in the Senate that we do not invest enough in our highways, bridges, and our transportation system, in transit and in intercity rail. So I hate to be one of the people who is going to say no to this bill. But as the underlying legislation dictates, it says that we are going to take more away than we give.

It is painful to witness what has happened to what was a program intended to do our country some good. But when each of the interests raised their heads, we wound up taking care of a few at the expense of the many, and that is, unfortunately, what happened to the NHS bill which so many worked on so diligently for so many years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, I am very optimistic that we will reach within the next few minutes final passage of this bill, and therefore I would like to give some closing remarks.

As we approach the end of our debate on the designation of the National Highway System, I am pleased to have a bill that will keep America moving, moving ahead with progress.

This is a big day. The National Highway System is intact and America will move forward with another very important chapter.

Last year, the Senate, under the able leadership of my colleague, Senator BAUCUS, passed a clean bill, that is, a bill with no demonstration projects. Today, and again this year, the Senate has spoken likewise—no projects. Let our States direct their funding on their own priorities, not those of the Congress.

Throughout these proceedings, my own goal has been simple: To see that this measure moved ahead in a timely manner to meet the deadline of September 30, 1995, to ensure the States would receive the \$6.5 billion in National Highway System and interstate maintenance funds that they deserve.

With our actions today, we are well ahead of schedule.

But, Mr. President, I am concerned. While I applaud our inclusion of the zero alcohol tolerance, Mr. President, that noise does not disturb me. It is good noise. It is the noise of settlement. I accept it and tolerate it.

The PRESIDING OFFICER. We will, nonetheless, withhold so it will not interfere with the Senator giving his remarks.

Mr. WARNER. Mr. President, if I may continue, I would like to repeat myself. But I am concerned, Mr. President. I say that in all seriousness. While I applaud the Senate's inclusion of the "zero alcohol tolerance" for minors, I am concerned that the safety, which I strongly support, of the public may be placed in jeopardy as a result of the amendments to this bill; namely, the lifting of the Federal law on speed limits and opening the door for dual speed limits on trucks and automobiles.

States rights, a clarion call that I almost invariably support, prevailed throughout the debate on this bill. But the wisdom of experience failed to prevail. Experience has clearly demonstrated that uniform national speed limits reduce the daily tragic losses of life and limb and economic resources on our highways.

Likewise, experience has demonstrated that different speed limits for trucks and cars contribute to highway accidents. Our future, our fate now rests with the State legislators, not the Federal Government. States rights now means States responsibilities, as well as the burdens now on the individual States. Legislators of those States are now on the firing line. I urge them in the name of safety to hold the line. Speed can be as intoxicating as alcohol.

A future Congress, when ISTEA is reauthorized in 1997, will closely examine the results of our actions on this bill. I would hate to see the Congress once again on a roller coaster, enacting and repealing and enacting and then repealing these laws as the constant lobbying between the Congress and the States drives these legislative initiatives.

Mr. President, I would like to commend and thank the chairman of our committee, Senator CHAFEE, as well as the distinguished ranking member, Senator BAUCUS. They are both splendid working partners, and Senator BAUCUS has helped immeasurably as a full partner and as a manager with this Senator in seeing that this bill will be adopted.

With their strong support, this bill moved promptly through the committee to the floor. Their cooperation and skill may soon help me to complete action on this bill.

My colleagues on the Environment and Public Works Committee have also my great respect and appreciation for their commitment and their hard work.

I would also like to thank a very able professional staff for their efforts. From the beginning of our work to designate the National Highway System

there has been a great deal of cooperation on both sides of the aisle. So I thank Jean Lauver, Ann Loomis, Linda Jordan, Larry Dwyer, Ellen Stein, Tom Sliter, Kathy Ruffalo, Alex Washburn, and the one and only Steve Shimberg, staff director.

Mr. President, the National Highway System will, indeed, keep America moving toward our next generation of transportation challenges. For these reasons, I support the bill and urge my colleagues to vote for passage of this important legislation.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am pleased the Senate is nearing completion of S. 440, the National Highway System Destination Act of 1995. And I want to thank all my colleagues for their cooperation on this legislation. The passage of this legislation brings us a big step closer to the deadline we must meet of September 30, if we are to receive a very substantial distribution of some \$6.5 billion—that is “b” for “billion”—of needed highway funds.

And I want to commend the manager of the bill, the chairman of the Transportation and Infrastructure Subcommittee, Senator WARNER, for the wonderful job that he has done during the consideration of this legislation. He worked diligently to develop it and to secure the committee's approval by a vote of 15-1.

I also want to thank Senator BAUCUS as a member of the Environment and Public Works Committee, who is also ranking member of this subcommittee, for the excellent work that he has done on this bill. He has been very cooperative in moving it forward. In fact, he provided the leadership in beginning this process, as mentioned by Senator WARNER, in that Senator BAUCUS last year brought this legislation to the floor of the Senate. It passed, but unfortunately we were unable to reach an agreement with the House before Congress adjourned.

So I am pleased the Senate has approved the National Highway System as the Secretary of Transportation and the local and State officials presented it to us. I think this underlines the fact that the process to designate this system has worked well and resulted in a high degree of consensus among Federal and State and local officials.

Under this bill the cooperative process will continue. State and local officials, with the Secretary of Transportation's approval, will have the ability to continue to make changes in the National Highway System as long as the total mileage of 165,000 miles is not exceeded. This is a dynamic entity with which we are involved.

This legislation preserves the important principles that the Intermodal Surface Transportation Efficiency Act of 1991, the so-called ISTEA legislation, put in place, emphasizing flexibility. I regret that we were not able to provide the States more flexibility with re-

spect to the Davis-Bacon provisions. As you know, it emerged from the committee with a revocation of the Davis-Bacon language as it pertained to highway construction. That was removed on the floor of the Senate due to the presence of a filibuster on that item. I hope we will be able to deal with this Davis-Bacon situation in the future.

I deeply regret that this legislation, in my judgment, represents a giant step backward in a particular area; that is, highway safety. I am extremely disappointed that the Senate made the decision to repeal the Federal speed limit as it pertains to automobiles. It was maintained as to trucks. That was a half a victory. As to automobiles, it was not maintained. And as for the motorcycle helmet requirements, they were repealed. Again, it was half a victory, if you would, or half a loss, in that of the two items, seatbelts and motorcycle helmets, the seatbelts were retained and the motorcycle helmet provision was repealed.

I think that is a bad decision and will result in extremely unfortunate consequences. I believe lives will be lost that could have been preserved otherwise. I believe there will be more serious injuries that could have been avoided. And I believe the cost to Federal and State governments will go up. But that is life. We had a long debate on it. There is no question that the will of the Senate was expressed. Nothing went through in the dark of night on that one. Everybody knew the issues and a vote was held. The vote was very, very clear to repeal the helmet provision.

I want to take this opportunity to thank the Secretary of Transportation, Mr. Peña, and Mr. Rodney Slater, the Administrator of the Federal Highway System. They did a splendid job in working with the States to develop this whole system. The system was adopted by the Senate as was proposed, as it came up to us. That is a testimony to the effective job that was done by the States and the Federal officials, particularly Mr. Slater, who has been very helpful to us not only during the designation of the National Highway System, but in the consideration of this measure on the floor, and his Deputy Administrator, Jane Garvey, and their staff. The staff they have was working with us over the past several days.

Finally, I want to join in thanks to the staff who worked on this legislation. On our side, Steve Shimberg, Jean Lauver, Ann Loomis, Linda Jordan, and Larry Dwyer. And for the Democratic side, Tom Sliter, Kathy Ruffalo, and Alice Washburn. All have been absolutely splendid. There is no question we rely to a great degree on them, because we have confidence in them built up over the years.

So I want to thank the Chair and thank all my colleagues for their assistance in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am pleased today the Senate is finally about to pass S. 440, the National Highway System Designation Act of 1995. I want to thank particularly the chairman, Senator CHAFEE, for his outstanding leadership, and also Senator WARNER, the chairman of the subcommittee, who has done an excellent job shepherding this bill to this point.

This is a critical bill for our States. Billions of dollars in highway funds are at stake. We need to enact this bill, and I remind my colleagues, by September 30; that is, passed by both Houses and signed into law. Otherwise, the State highway programs will be seriously disrupted.

I hope the House will take this bill up soon so we can resolve our differences and get a bill to the President by that deadline.

The National Highway System is the backbone of our transportation system today and the framework for its growth in the 21st century. The NHS is designed to have a seamless transportation network of roads that link all modes of transportation between airports, seaports, and rail yards with our population and economic centers. It will make our businesses more competitive in our global economy. And by choosing the most important roads, it will help States to determine the most appropriate transportation investments.

That is particularly true in the rural West, like Montana, where highways are often the only mode of transportation. Whether it is in the transporting of goods and services, traveling for family vacations, business, or taking our kids to college, our highways always play a vital role in our lives and our jobs. We do not have the mass transit or water transportation systems like other States have. So highways are critical to the lifeblood of our State's economy, which increasingly depends on travel and tourism, and it is our way of life.

The bill includes nearly 4,000 miles of roads in Montana. That is 23 percent or about 800 miles more than the Bush administration's original proposal. The additional routes include Highway 200 between Great Falls and Missoula, and from Lewistown going west to Winnett, Jordan, Circle, Sidney, and Fairview. Highway 12 from Helena to Garrison Junction; Highway 59 from Miles City to Broadus; Highway 87 between Billings, Roundup, and Grassrange; and Highway 212 from Crow Agency to Lame Deer and Alzada.

That is good news for Montana. And the other roads in the bill mean just as much for the entire region across the Great Plains and down the Rocky Mountains. All these roads are included in the bill the Senate is considering today.

Mr. President, this bill also makes major reforms by lessening the regulatory burdens on our States, giving



them more flexibility. It allows States to set their own speed limits for passenger cars and also repeals Federal mandates on motorcycle helmets, management systems, use of the metrics on highway signs, and crumb rubber. These are all good changes.

As I said before, this bill is not only in our State's interest, but in our national interest. It means jobs; it means growth. So I congratulate the chairmen of our committee and subcommittee for their leadership, for their diligence, and for their extreme patience in managing this bill. And I particularly want to thank the staffs on both sides, particularly on the minority side, Tom Sliter and Kathy Ruffalo, who have done a wonderful job; and on the majority side, Jean Lauver and Ann Loomis, who have done an equally good job.

Particularly at this point, Mr. President, I want to thank the Federal Highway Administrator, Rodney Slater. He has been here. He has been in the wings helping advise us. There were technical problems we had as amendments came up. Jane Garvey, who is the Deputy Administrator, has been just very valuable, along with other FHA staff, and I must say that were it not for their expertise, this legislation would be in pretty rough shape. Again, I thank all concerned, and again particularly the chairman, and the subcommittee chairman, Senator WARNER. They have done a great job.

Mr. WARNER. Mr. President, I thank my colleague for his kind remarks. I join him in acknowledging the positive, constructive contribution of the Administrator of the Federal Highway Administration. Indeed, he has been here keeping watch, and any Senator could speak with him at any time. He has done an excellent job, a very, very commendable job for this Nation.

I see the distinguished Senator from Oklahoma. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1466

(Purpose: To permit States to use assistance provided under the mass transit account of the highway trust fund for capital improvements to, and operating support for, intercity passenger rail service)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will report.

The legislative clerk read as follows: The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1466.

Mr. NICKLES. 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:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.”

Mr. NICKLES. Mr. President, one, I wish to thank my colleagues, Senator WARNER and Senator BAUCUS, as well as Senator D'AMATO and Senator SARBANES, for their supporting this amendment and cooperating with us in the drafting of this amendment.

This amendment, basically, would allow States to use their mass transit funds to subsidize Amtrak. Many States, as you know, have had reductions in Amtrak. There happen to be 3 States in the lower 48 that do not have Amtrak. We have narrowed this amendment to apply to those three States that do not have Amtrak where they could use mass transit funds to subsidize Amtrak acquisition.

I am pleased this amendment is supported. This will help us in our State to regain Amtrak. We are the only State in the Nation that has had Amtrak and lost it. It will allow us to use mass transit—we only receive \$3 million now, we contribute \$30 million but only get \$3 million back—this will allow us to use part of that money to subsidize Amtrak and bring about the day when we have restoration of Amtrak in my State.

I wish to compliment my colleagues for management of this bill. They have shown great patience and forbearance. A lot had different ideas.

I introduced legislation some time ago to allow the States to set speed limits, thereby repealing the Federal national speed limit. That was adopted by this body. I think it is a giant step in the right direction. I am pleased it is part of this package. I look forward to the final action and completion of this bill.

Mr. BAUCUS. Mr. President, the substance of this amendment is, frankly, not within the jurisdiction of this committee. Rather, it is in the jurisdiction of the Banking Committee. I have been in contact with Senator SARBANES, who is the ranking member of the Banking Committee. I have been assured he agrees with this amendment and has no problem with it.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. So the amendment (No. 1466) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, many commendations have been paid to the managers of the bill. I also would like to pay a commendation to the distinguished majority leader and the Democratic leader who have given us full, complete support and, indeed, has shown great patience and indulgence in the last hour and a half as we bring this matter to a close.

Mr. President, there is one remaining matter.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join in saying we are happy the highway bill is being passed. As one who has a very pressing problem, I know this bill presents an opportunity to raise an issue and have it decided by the Congress and have it to the President next week. I see nothing wrong with that. That is part of the history of the Senate. In a few minutes, we may work out a situation—or we will postpone the decision—but we cannot work it out now and, as far as I am concerned, we will stay on this bill until we can get a decision from the Senate as to whether we are right about this issue.

So let me respond to my friend from Rhode Island—and he is my friend—Senator CHAFEE and I stood behind one another in the line going into law school more than 50 years ago, Mr. President, so we know each other very well.

We do have some differences. I have heard my friend talk about the fact that there is a limit of 165,000 miles in the Interstate Highway System. How would you like to be from a State one-fifth the size of the United States and have a thousand of those miles, Mr. President, and have the post office keep telling you, “You have to find some way to deliver the mail up here, we can't pay the subsidy for flying mail?” Then you find that Federal agencies are denying you the right to use rights-of-way across Federal lands that were developed by the miners in 1866 and have been used since that time.

What happened? In 1976, we decided that we would repeal revised statute 2477, which provided every State in the West the right to use established, public rights-of-way across Federal lands as continued rights-of-way for use by the public. They became the basis for the State highways, the Federal highways and the interstate highways in what we call the south 48.

Has that happened in Alaska? No. Why? Because of arrogant bureaucrats.

In 1976, we passed a law which absolutely stated, without any question, that the action of Congress in repealing the revised statute 2477 would not affect our rights-of-way that had been established prior to 1976. That law said in section 701(a), which was signed on October 21, 1976:

Nothing in this act or in any amendment made by this act shall be construed as terminating any valid lease, permit, patent, right-



of-way or other land use right or authorization existing on the date of approval of this act.

We interpreted that in past Congresses and past administrations have interpreted that to mean that the rights-of-way that were established pursuant to State law before 1976 were valid, if the State determined they were valid.

As a matter of fact, there have been specific holdings by the Federal courts of appeals, particularly the Ninth Circuit Court of Appeals, that those rights-of-way were to be established and determined on the basis of State law.

Now the Department of the Interior says, "Oh, wait a minute now, we have established since 1976 a whole series of wilderness areas, and in those wilderness areas are some of these rights-of-way which, in fact, access privately held lands, Native-held lands, and State-held lands in our State. Other States have similar problems.

I want to point out, Utah has the greatest problem of all the Western States as far as the Bureau of Land Management is concerned. The last schedule I saw showed they had 3,815 claims pending to be validated. Validated by whom? There is no administrative process required to validate these claims. Now the Department of the Interior says they are going to determine whether these rights-of-way are valid. This is not what we said in 1976. If they were valid in 1976 under State law, they were to be valid forever.

The language was very simple—very simple. Congress said in 1866:

The right-of-way for the construction of highways over public lands not reserved for public uses is hereby granted.

That became revised statute 2477. It was part of the original highway act of the United States. The managers of the bill are saying, "What are you doing out on the floor raising this now?" This is part of the highway system. The highway system in the western United States came into being because of revised statute 2477. And now in my State, unfortunately in other States now, the Department of the Interior has decided it is going to determine what is valid, and why? Because it has made reservations of lands since 1976 that it says have validity and have prior rights over the rights established by the people of those States over Federal lands before that date.

This to me is not a simple issue. My distinguished friend, Senator MURKOWSKI, the other Senator from Alaska, is here and he knows just how important this is. It is a matter that we both have tried to figure out what to do with.

We have no way to have construction of the highways proceed that we get money for under this bill if the Department of the Interior is to tell us that the rights-of-way we are going to use now are subject to their interpretation of whether they are valid or not.

To me it is a simple matter of States rights. But it goes beyond States

rights. It is the incessant determination of people downtown to try to reverse a decision that the Congress made in 1958 when it allowed Alaska to become a State. If we are a State, we should have the same rights as the other States did under this statute, and in 1976 we preserved that. I helped work on that section. We wanted to make sure we had the rights that were there. We knew we were not going to establish any new rights across Federal lands after that time, but certainly the rights we had established prior to that time were valid pursuant to State law, and there is no question that they continue to be the basic right for the expansion of the highway system in Alaska and other western States.

Someone said to me once, "Why do you worry about that? Is there that much Federal land out there?" I just wish more people would come up and see the amount of Federal land we have in Alaska. You cannot get anywhere in Alaska without crossing Federal land. The Federal Government controls access to almost every piece of land that is in private, State, or Native ownership in Alaska.

Now, I do believe that there is no question about it that there are a lot of forces out there which, if they had their way now, would reverse statehood. They would take away from us the right to be a State. Not having that ability, what they do is take away from us the right to have the same access to our land mass that other States in the lower 48 have had.

The Interior Department has now come up with some very narrow terms to define "highways" for the purpose of revised statute 2477. That is none of their business. Our rights existed in 1976 or they do not exist at all today. But if they existed in 1976, no Secretary of the Interior is going to tell me what those rights were or what they are going to allow us to claim today. We had the right in 1976 and he has no business being involved in this.

I know that there are very powerful groups in this country that would like to find ways to invalidate those claims. And in the past these groups have taken the claims to court. These groups have lost, because a right established prior to 1976 for public access across Federal lands continues to be our right.

Alaska law defines highways in terms of roads, streets, trails, walkways, bridges, tunnels, drainage structures, ferry systems, and other related facilities. Obviously, nobody is going to get in our way on ferry systems. We have the right to navigable waters.

Protection of the RS 2477 grant of right-of-way is essential to the preservation of statehood for my State. And it is one of the reasons that I come to this floor at times just a little bit excited, because I do not believe many people take much time to learn much about our State. You crisscross the continental United States, but not many of you even come to our State. When you do, we welcome you, we are pleased to have you. But you do not

take much time to learn some of the problems that exist there. Our problem is transportation, transportation, transportation. We have to have access to our lands.

There is one other item I will mention to the Senate. When we were seeking statehood, we first sought 30, 40 million acres of land. Congress at that time kept saying: But you cannot survive as a State unless you have more land. You have to have a land base in order to survive. So we ended up by getting the right to use 103.5 million acres of Federal lands as State lands.

Mr. President, having received the right to select 103.5 million acres of the Federal domain in Alaska, we proceeded to do that. Our rights pertain to Federal lands that were vacant, unreserved, and unappropriated as of 1959. A subsequent Congress decided that there ought to be a limitation on our rights. So we had a process which lasted about 7 years and led to the enactment of a law in 1980, the Alaska National Interest Land Claims Act, which withdrew a substantial amount of lands that were vacant, unappropriated, and unreserved in 1959. In effect, they took away from us the right to select a portion of the lands that we originally had the right to consider in exercising rights under the Statehood Act. Similarly, the Alaska Natives received some 40-plus million acres in settlement of their historic claims against the United States, and some of those lands were to be taken from vacant unappropriated, unreserved lands. And they also were faced with the prospect of having to select lands that were not reserved, because the Congress had reserved lands.

We ended up by selecting lands that were less valuable, did not contain minerals, and were not timbered. Most of the valuable lands of Alaska was set aside and not available to either the State or the Natives, as originally intended. That is going to lead, in my opinion, to a historic lawsuit by my State against the Federal Government. I am informed we must complete our land selections before we can bring that case. But I do think it is a valid case against the United States. And the perpetrators of the wrong were right here on the floor of the Senate. Some of them continue to be here, Mr. President. Some Members of the Senate continue to try to deny Alaska access to the lands that Congress gave us a right to when we became a State, in order to try and support the new State.

Now, we come down to 1976 when we decided to repeal revised statute 2477. Mr. President, without that law, the West would never have been settled. Without that law, we would not have the Interstate Highway System. Without that law, we would not really have the unity we have as a nation.

Now, it is sad, in my opinion, to see this penchant of some members of our society to deny our new State the same rights, to say that we have no right to

establish a network of highways in our State. As I said, we have one major highway in our State. It is the system that connects Alaska to Canada. It goes from Seward, AK, up to Fairbanks, and out to the border.

I see the leader here. I will yield.

Mr. DOLE. I wonder if we can move on to the next bill and not, in any way, undercut any of the rights of any of the Senators. As soon as you get the language and agreement, we can come back to this bill. In the meantime, let us go ahead and start the other bill, the securities litigation bill. And then, hopefully, you will have the language. The first vote would be on this, back-to-back with final passage of this bill, plus the amendment on litigation.

Mr. STEVENS. I might say to my friend, we had an agreement last night that I would have the opportunity to offer an amendment to this bill. Now there has been a suggestion that we have an amendment that is being reviewed by the Senator from Arkansas, as I understand it. That would delay the urgency of this amendment of mine. I am happy to agree to cooperate with our leader at any time. I would not want to see us be put in the position that we are limited as to what we might do when we get back on this bill.

Mr. DOLE. I assume, in talking with Senator BUMPERS, it is something everybody can agree on. You can offer the amendment when we bring the bill up. If it is not satisfactory, you can do what you want. In the meantime, we can go ahead with the litigation bill. When you have it worked out—

Mr. STEVENS. There may be more amendments before we are through.

Mr. DOLE. Well, amendment or amendments.

Mr. STEVENS. Under the circumstances, I am happy to continue my comments at a later time, if the leader wishes to go on the other bill at this time.

Mr. BAUCUS. Mr. President, if the majority leader will yield, it is my understanding that the amendment has been agreed to.

Mr. STEVENS. That was this Senator's understanding, too, but that is not the case.

Mr. MURKOWSKI. Mr. President, we are currently waiting to hear from Senator BUMPERS with regard to the pending agreement. I assume that he will be forthcoming.

Mr. STEVENS. If my colleague will yield, we have not been able to check that out with the Senator from Utah because we have not seen the final version that is agreeable to Senator BUMPERS yet.

The leader is right. There is nothing we can move ahead on now. That is why this Senator is venting a little air, to try to make people understand why we feel so strongly about this amendment.

Mr. BAUCUS. I wonder, Mr. President, if the majority leader will yield, if we can wait maybe 1 minute here. There is a possibility we can get this cleared right now.

Mr. DOLE. Then it has to be reviewed by the Senator from Utah.

Mr. BAUCUS. If we could just withhold for a few more minutes? Maybe the other Senator from Alaska could speak for just a few more minutes. We are just that close to getting this thing wrapped up. I would want to do it now rather than later.

Mr. DOLE. We were going to move on to something else at 3:30. Now it is 4:30. I would like to finish the bill. I know the managers would. They have done an excellent job. I certainly want to accommodate the Senators from Alaska. I understood the Senator from Arkansas, Senator BUMPERS, thought he had a satisfactory resolution.

Mr. BAUCUS. Mr. President, if the Senator will again yield, it is my understanding Senator BUMPERS has not yet personally seen the language and he does want to see it.

Mr. DOLE. That could take a while and we could be halfway down the trail on the litigation bill. As soon as it is worked out, we will come right back and finish it. I am not going to lay it aside for a day or even an hour. We will come back, finish it, get the yeas and nays on final passage and have that vote occur along with the first vote on any amendment on the litigation bill. Is that right?

Mr. BAUCUS. Fine.

Mr. MURKOWSKI. Mr. President, I wonder if I could inquire of the manager and the leader, if, indeed, it is set aside and not taken up for a time, if Senator STEVENS and I may have a time to be recognized at that time certain, right after the leader calls up the bill? I wonder if the leader could indicate when he intends to do that?

Mr. DOLE. I think what we would do is make certain you have agreed or disagreed on whatever has been offered. Both Alaska Senators are on the floor, obviously, and the Senator from Utah—

Mr. STEVENS. If I may interrupt, the Senator from Utah has as great a stake or greater in the immediate outcome. We have been willing to clear this with them, but we have not been able to get an agreed version yet on this tentative moratorium.

Will the leader yield to the Senator from Utah so he might get involved in this, Mr. Leader?

Mr. DOLE. Yes.

Mr. BENNETT. I have just had a quick opportunity to review this. Clearly I will want to talk to my senior colleague, Senator HATCH. But my first reaction to this is that this would be agreeable. It would delay the implementation, as I understand it, of the present rules until December and give us that much more time to try to work things out with the Department of the Interior.

Our Governor made it clear to Secretary Babbitt that the proposals, as they currently stand, are not acceptable and cannot be fixed. We have to start completely from scratch. So that is the position we have taken and I take on behalf of the Governor.

But I obviously want to check with Senator HATCH before I give a final signoff on this issue.

Mr. STEVENS. Mr. President, does the leader still have the floor?

The PRESIDING OFFICER. The leader has the floor.

Mr. DOLE. I think from what I see developing here, it is just going to take a little time. I think it can be worked out. But if we need to contact the senior Senator from Utah, Senator HATCH, and the Senator from Arkansas, Senator BUMPERS, I know that is not going to happen in 2 minutes or 5 minutes or 30 minutes. In the meantime, we could be started on the litigation bill. Then, as soon as you get the agreement, we can come back to this bill, wrap it up, and have a vote on final passage.

Mr. STEVENS. The question is, if we do not get the agreement, do we have the understanding this will come back and be the regular order after we finish the securities bill?

Mr. DOLE. That is right.

Mr. STEVENS. I would have no objection to that proceeding.

Mr. MURKOWSKI. Then, if I could ask the leader again, roughly, he anticipates being back on the securities bill on Monday?

Mr. DOLE. Yes. We hope to finish the bill tomorrow night. If not, we will be on it Monday. But we could finish this bill, the present bill, before then, in particular if we get an agreement.

Mr. MURKOWSKI. Mr. President, if the leader gets an agreement, then it is my understanding that he will potentially come back to this bill, the highway bill, at which time we would be recognized and pursue our amendments with no time limitation and try to resolve the differences that we currently have been unable to clear. Then there would be final passage. Is that correct?

Mr. DOLE. But if you can reach agreement with all parties and it can be done very quickly, we will do it at any time you get the agreement, like 30 minutes from now or an hour from now or 2 hours from now.

Mr. MURKOWSKI. Mr. President, we should know very soon.

Mr. DOLE. Right. That is what they told me at 3:30. Let me get the consent. There will be one additional amendment here and then we will go on.

Let me ask unanimous consent that the Senate, after adoption of the managers' amendment, turn to the consideration of Calendar 128, S. 240, the securities litigation bill, and that no call for the regular order bring back S. 440 except one call by the majority leader after consultation with the Democratic leader.

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

Mr. DOLE. I further ask, when the Senate resumes S. 440, the only amendments remaining in order to the committee substitute be the following: They are going to offer the managers' amendment, and then the only following amendment would be the Stevens-Murkowski amendment or amendments. And that would also include the

Senators from Utah, Senator BENNETT and Senator HATCH.

Mr. WARNER. Mr. President, reserving the right to object, I shall not. We also have an understanding that the closing statements of the managers appear in the RECORD as the last.

Mr. DOLE. I did get consent you could offer the managers' amendment right now.

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

AMENDMENT NO. 1464, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a technical amendment to be added to the managers' amendment.

Mr. STEVENS. Has the agreement been entered into?

The PRESIDING OFFICER. Yes, it has. Without objection, the agreement is entered into.

Mr. WARNER. Mr. President, this is a technical amendment which includes the State of Maine as covered by the amendment of the Senator from New Hampshire.

I ask that it be accepted. It is to a previously agreed to amendment.

The PRESIDING OFFICER. Without objection, amendment No. 1464 is modified and is agreed to in that form.

The amendment (No. 1464), as modified, was agreed to, as follows:

At the appropriate place in the bill add the following new section:

SEC. .

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

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

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

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MEMBERS OF THE CHILEAN SENATE

Mr. DODD. Mr. President, I wanted to take a moment, if I could, to say that we just had a very wonderful opportunity in the Senate Foreign Relations Committee room to have a very healthy and productive discussion with a group of our colleagues, Senators from Chile, who are here in the United States, to meet with their counterparts in the Senate and some Members of the House and the administration on a variety of subject matters, not the least of which—and it will not come as a great surprise—is NAFTA.

I know many colleagues share the view that Chile would be a welcome partner in the NAFTA agreements. That is a matter we will address in the future.

I would like to take this opportunity to introduce to my distinguished colleagues four Members of the Chilean Senate. With us today are Senator Arturo Alessandri, Senator Sebastian Pinera, Senator Hernan Larrain, and Senator Jaime Gazmuri.

We are pleased to welcome four of our colleagues from Chile to the U.S. Senate. We are delighted you are here on an important visit to our country.

[Applause]

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.

Sec. 102. Securities class action reform.

Sec. 103. Sanctions for abusive litigation.

Sec. 104. Requirements for securities fraud actions.

Sec. 105. Safe harbor for forward-looking statements.

Sec. 106. Written interrogatories.

Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.

Sec. 108. Authority of Commission to prosecute aiding and abetting.

Sec. 109. Loss causation.

Sec. 110. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.

Sec. 202. Proportionate liability.

Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933."

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party."

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party."

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds."

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds."

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order