

the rug from beneath the components that make education a success—parental involvement, a strong culture supporting education at home, local control, the ability to change things that are failing, and the ability to adjust at the local level. A national bureaucracy cannot get that done. It is something that we must not embrace. National federalized testing is a concept that must be rejected if we are to save the opportunity for the future for our children.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. I appreciate being recognized.

#### INS PURSUIT OF CRIMINAL ALIENS

Mr. ABRAHAM. Mr. President, I would like today to speak briefly about an issue that pertains in large measure to the Subcommittee on Immigration, which I chair.

In the last several months, a number of incidents have come to our attention involving the pursuit by the Immigration and Naturalization Service of aliens, sometimes legal immigrants with American citizen spouses and children, for deportation based on one crime committed years ago. These crimes have on occasion been crimes like forgery, and some individuals have apparently been pursued where they did not even have a conviction.

I would like to make a few brief remarks on this because I, along with Republicans and Democrats, made efforts last Congress through the illegal immigration bill to improve the INS' poor record of removing deportable criminal aliens.

Our goal was to deport convicted criminal aliens starting with the thousands currently serving in our jails and prisons. I believe that law-abiding people, not hardened criminals, should be filling our priceless immigration slots. Yet, until last year's bill, only a tiny percentage of deportable criminal aliens were actually being deported.

This happened because of a number of weaknesses in the immigration enforcement system. First, there were only very limited efforts to identify deportable criminal aliens, particularly in our State and local prison systems. This meant that the INS was not even learning about the vast majority of deportable criminal aliens.

Second, where deportable criminal aliens were identified and where deportation proceedings were begun, those aliens were frequently released into the community and, not surprisingly, were never heard from again.

Finally, in those rare instances in which deportation proceedings were begun and criminal aliens were detained, they were able to take advantage of delaying tactics and loopholes in our immigration law to significantly increase their chances of staying in the

country or, at a minimum, lengthening their stays. In addition, the INS was often limited in its ability to remove criminal aliens due to the definition of deportable crimes under the old laws. Given the reality of the plea bargaining process, we wanted to broaden INS's ability to deport serious criminals who should be deported where they might have pled down to a lesser offense.

We took steps to address each of these flaws in the system. We increased INS's resources so they could identify deportable criminal aliens. We enhanced detention requirements to reduce the risk of flight. We removed criminals' abilities to delay deportation, and we closed loopholes in our immigration laws. We also increased the number of crimes for which criminal aliens could be deported, both to reflect the realities of our criminal justice system and to enhance the INS's abilities to go after hardcore criminals who should not be permitted to remain in the country.

Through all of this, we had assumed that the INS would focus their limited resources and manpower on deporting more serious criminals who had more recently committed crimes, especially those currently in prison. However, either because of an inability to set priorities, difficulty in interrelating the many different sections of the new immigration bill, or a combination of both, the INS seems to be pursuing some seemingly minor cases aggressively—by even, we are told, combing closed municipal court cases and old probation records—while letting some hardened criminals in jail go free.

Accordingly, I will be conducting investigative hearings of the Immigration Subcommittee to determine why this is happening and what is needed to clearly establish the right priorities. This particularly concerns me given the INS's continuing inability to detain and process deportable criminal aliens despite all the enhanced enforcement authority we gave them in last year's immigration bill.

Let me speak for a moment about a report issued just last month by the inspector general of the Department of Justice, which provides just one example of the troubling concerns about the INS's handling of criminal aliens. The inspector general's report dealt only with the Krome detention facility in Miami, which has attracted a great deal of attention and which ought to be one of the better run detention facilities at this point. While the IG's report covered a wide range of issues at that facility, what he found with respect to the release of criminal aliens is quite disturbing.

For example, the inspector general found that from a sample of 28 criminal aliens released into the community in June of 1997, 9 of the 28 had "known criminal records or indications of potential serious criminal history" and 4 of the 28 had "insufficient evidence in the files to indicate a criminal history

check was even performed before release," something the INS's written policies require.

Here are some of those aliens that INS released:

A criminal alien who was convicted in 1994 of conspiracy to commit aggravated child abuse and third-degree murder in connection with the killing of a 5-year-old child. She had committed bank fraud in 1982, and her INS file clearly indicated that she had been convicted of an aggravated felony. She was released by the INS this past June without deportation proceedings being initiated.

Another alien was convicted in 1988 of cocaine trafficking, an aggravated felony, and was imprisoned in Florida. In 1994 the alien was processed by the INS and released on his own recognizance. Deportation proceedings were never completed. Although the INS served him with a warrant for arrest in June of 1997, they released him on bond the next day.

Yet another alien had several convictions in 1992 related to drugs, tax evasion and engaging in a continuing criminal enterprise. In 1982 the alien had entered the country without proper documentation and was placed into exclusion proceedings but was not detained. He only came to the INS's attention again after the 1992 convictions. As a result of those convictions, he was initially sentenced to 12 years in Federal prison, which was later reduced to 88 months. In June of 1997 he was taken into custody by the INS upon his release from Federal prison. Unfortunately, once again the INS just let him go. He was released the same month.

These are just a few examples, but they highlight the urgent need for oversight into the identification and removal of deportable criminal aliens. We simply must ensure that our immigration priorities are set properly so we can guarantee that dangerous and deportable criminal aliens are not permitted to remain on our streets and in our communities.

I look forward to working with my colleagues on the Immigration Subcommittee to address these issues.

I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Chair recognizes the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, Senator BYRD from West Virginia had, through a unanimous consent request, reserved time for himself and for two other authors of a major amendment to the transportation bill to speak.

In the interim, Senator BREAUX, I think, was scheduled to speak for 7 minutes. Senator BREAUX is not here. So, rather than hold up the Senate, what I would like to do is to go ahead and speak out of order, and I ask unanimous consent to be able to do that.

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

## HIGHWAY FUNDING

Mr. GRAMM. Mr. President, when the distinguished Senator from West Virginia reaches the floor and is recognized, he will introduce an amendment that he and I are introducing with Senator WARNER and Senator BAUCUS. It is a very important amendment. It is the culmination of a long debate about highway funding and about using trust funds for the purpose that the trust funds are cumulated. My colleagues have heard a great deal about this debate to this point. They are going to hear a lot more about it in the next few days. But I wanted to outline how we got to the point of offering this amendment. I think it is a very important vote. I think it is important that it be an informed vote. So let me go back to 1993. What I want to do is outline how we got to the point that we find ourselves today. I then want to talk about the amendment, and I will leave the great preponderance of the details up to Senator BYRD.

In 1993, as part of the initial budget adopted with the new Clinton administration, the Congress adopted a 4.3-cent-a-gallon tax on gasoline. For the first time in the history of the country since we had the Highway Trust Fund, this permanent gasoline tax did not go to build roads or to build mass transit. Unlike any other permanent gasoline tax that we had adopted since the establishment of the trust fund, it went to general revenues.

When we had the debate, obviously much objection was raised to the fact that we were taxing gasoline and not funding roads. On the budget resolution this year, I offered an amendment that called on the Senate to do two things: One, to take the 4.3-cent-a-gallon tax on gasoline—which is an annual revenue, by the way, of about \$7.2 billion—to take that money out of general revenue and put it into the Highway Trust Fund, where historically permanent gasoline taxes have always gone. The second part of this amendment was to require that the money be spent for the purpose for which it had been collected as part of the Highway Trust Fund, and that is that the money be spent to build roads. That amendment was adopted with 83 votes in the Senate. Every Republican except two voted for the amendment; 31 Democrats voted for the amendment. It was a strong bipartisan declaration of the principle that when you collect money from gasoline taxes that that money ought to be used to build roads as part of the user fee concept which has always been the foundation on which we have had gasoline taxes.

When we passed the tax bill this year, I offered an amendment in the Finance Committee to take the 4.3-cent-a-gallon tax on gasoline away from general revenue and to put it into the Highway Trust Fund. That amendment was adopted in the Finance Committee and that amendment was part of the tax bill both times it was voted on in the Senate. Those who opposed the

amendment contemplated offering an amendment to strip away that provision and, after looking at the level of support in the Senate, decided not to offer it. As a result, in the new tax bill the transfer of the 4.3-cent-a-gallon tax on gasoline became the law of the land and it now is going into the Highway Trust Fund where historically our gasoline taxes have gone.

Now, in this last month, the transportation bill, the highway bill, was reported out of committee, but that highway bill did not provide that any of the funds from the 4.3-cent-a-gallon tax on gasoline be spent for roads. What would occur if in fact the bill as written by committee were adopted is that we now have—if you will look at this chart—we have \$23.7 billion of surplus in the Highway Trust Fund. What that really means is that over the years we have collected \$23.7 billion to build roads, but rather than building roads with those funds we have allowed that money to be spent for other purposes. And as a result, Americans have paid taxes on gasoline but that money has not been used for the purpose that they paid the taxes. Now, as a result of the adoption of the amendment that I offered on the Finance Committee bill, the 4.3-cent-a-gallon tax on gasoline is now going into the trust fund and, if we don't amend the transportation bill before us, by the year 2003 we could have a surplus in the Highway Trust Fund of \$90 billion.

What does that surplus mean? It is simply an accounting entry to say that we have collected \$90 billion that we told the American people would go to build roads, we have collected it by taxing gasoline, and yet every penny of that \$90 billion will have been spent but not on roads. It will have been spent on many other things—some worthy, some not so worthy—but it will not have been spent for the purpose that the money was collected in the first place. And that purpose is to build roads.

The amendment that Senator BYRD and I are offering will basically do this. It will take the 4.3-cent-a-gallon tax on gasoline and it will allow it to accumulate for a year. And then, after the accumulation has occurred for 1 year, it will commit that revenue for the purpose that it was collected: To build roads. What it will mean is that over the period of our bill it will authorize about \$31 billion of additional funds to build roads, and the actual expenditure will be about \$21 billion.

If we don't pass this amendment, what will happen is this \$90 billion will be collected, it will not be spent for roads, and every penny of it will be spent for something else. Senator BYRD the other day likened this procedure to the story of Ananias in the Bible, where, in the book of Acts, Ananias has sold his worldly goods to give the money to the new, fledgling church, only Ananias holds back part of the money. And God not only struck Ananias dead but struck his wife Saphira dead.

In a very real sense, what we have been doing on the Highway Trust Fund is we have been engaged in an action which is basically deception. We have been telling people that they are paying taxes to build roads when they pay at the gasoline pump, and we have not been building roads. We have, in fact, been spending that money for other purposes. The amendment that Senator BYRD will offer for himself and for me, for Senator WARNER, and Senator BAUCUS, will simply take the 4.3 cents of revenues and assure that they are, in turn, spent for the purpose that the tax is now collected, and that is building roads.

I would note that even under our amendment, the unexpended balance of the trust fund will grow from \$23.7 billion today, to at least \$39 billion by the year 2003.

The issue here is, should money that is collected for the purpose of building roads be authorized for expenditure for that purpose? Or should we continue to allow it to be spent for other purposes?

Let me address the issue of the budget. Nothing in our amendment busts the budget. Nothing in our amendment increases expenditures by one thin dime. Nothing in our amendment will allow the budget deficit to grow. All our amendment does is require that the funds that are collected on the gasoline tax to build roads be authorized to be expended on building roads. Obviously we cannot require, in the transportation bill, that the Appropriations Committee appropriate the money each and every year to fund the authorization. But I would remind my colleagues that 6 years ago we wrote a highway bill and we set out in that highway bill the authorization levels that would allow appropriations, and that highway bill, through 6 long years, was never changed.

Some of our colleagues will argue, "Well, let's not authorize the building of roads with taxes collected to build roads now, let's wait a couple of years and write another budget and make a decision."

Our decision today is about whether or not we are going to be honest with the American people and whether or not we are going to spend money collected to build roads for the purpose that they are collected.

That basically is the issue. This is not an issue about total spending. Nothing in our amendment changes total spending. It is an issue about truth in taxing, and that is, when we tax people on a user fee to build roads, do we build roads with the money or do we allow it to be spent for other purposes?

In our amendment, we say that we are not raising the total level of spending, but we make it clear we are serious about funding highways. We say that if savings occur in the future relative to the budget agreement and if Congress decides to spend any of those savings in the future, that those savings must be used to fully fund highways and meet the obligation that the