

Lott amendment No. 1318 (to Amendment No. 1317), to strike the limitation on obligations for administrative expenses.

Mr. BYRD. Mr. President, with reference to the highway bill, on yesterday I, on behalf of Senators GRAMM, BAUCUS, and WARNER, introduced an amendment for printing only and also for the purpose of having that amendment appear in the CONGRESSIONAL RECORD. And I was not offering the amendment in the usual sense that I was calling it up, and so consent was granted.

At that time I indicated that there were several Senators who wished to be added as cosponsors of that proposed amendment. And I wish to add these names today to those that I stated yesterday: Senators BROWNBACK, CAMPBELL, CONRAD, CRAIG, GLENN, HELMS, LEVIN, and KEMPTHORNE. And I wish to remove the name of Mr. COATS. That name was included in error yesterday. And so I ask unanimous consent that the RECORD show that the name of Mr. COATS was removed and also to indicate the additional cosponsors.

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

Mr. BYRD. Yesterday I indicated that I would present for the RECORD the history of the Federal gasoline excise taxes since the inception of the highway trust fund. I ask unanimous consent that I may have printed for the RECORD such history.

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

HISTORY OF FEDERAL GASOLINE EXCISE TAXES  
SINCE THE INCEPTION OF THE HIGHWAY  
TRUST FUND

The enactment of the Federal Aid Highway and Highway Revenue Act of 1956 (PL 84-627), called for all Federal gasoline excise taxes to be placed in the newly established Highway Trust Fund. Between 1956 and 1990, the Congress, on numerous occasions, voted to extend these gasoline excise taxes with all of the revenue being devoted to the Highway Trust Fund.

The Omnibus Budget Revenue Reconciliation Act of 1990 (PL 101-508) increased the Federal gasoline tax by 5 cents, with 2.5 cents being dedicated to deficit reduction and 2.5 cents being dedicated to the Highway Trust Fund. Of the amounts transferred to the Highway Trust Fund, 2 cents of the tax was deposited in the Highway Account of the Highway Trust Fund and 0.5 cents of the tax was deposited in the Mass Transit Account.

The 2.5 cents dedicated to deficit reduction under OBRA 1990 was scheduled to expire on September 30, 1995. Instead, the Omnibus Budget Reconciliation Act of 1993, (PL 103-66) stipulated that this 2.5 cents gasoline tax be deposited into the Highway Trust Fund, beginning on October 1, 1995, and divided in the same manner as the 2.5 cents placed in the Trust Fund in 1990.

OBRA 1993 simultaneously levied a new, permanent gas tax of 4.3 cents dedicated solely to deficit reduction.

The Taxpayer Relief Act of 1997 (PL 105-34) stipulated that the entire 4.3 cents gas tax would be deposited in the Highway Trust Fund beginning on October 1, 1997, with 3.45 cents of the tax being dedicated to the Highway Account of the Highway Trust Fund and 0.85 cents being dedicated to the Mass Transit Account.

Source: CRS Report for Congress: Federal Excise Taxes on Gasoline and the Highway Trust Fund, September 15, 1997.

Mr. BYRD. Mr. President, it was my intention to move at this time to waive all points of order pursuant to the budget act affecting the amendment that I had introduced on yesterday for printing on behalf of myself and Senators GRAMM, BAUCUS, and WARNER.

Mr. President, having the floor, I have a perfect right to move at this time to waive such points of order; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I am not required to wait until such time as that amendment is pending before the Senate, nor am I required under the rules to wait until such time as the so-called tree, consisting of several amendments, has been dismantled, nor do I have to wait until such time as such a point of order is actually made against the amendment; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

So I am perfectly within my rights at this point to move to waive such points of order. Such a motion would be debatable. And it would also be amendable, would it not, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Now, Mr. President, I had intended to ask unanimous consent that that motion not be amendable. But I thought I should let Mr. CHAFEE know that I intended to make such a request. He might want to object to it. I had a right to make the motion. He could not keep me from doing that. But I wanted to get consent that it not be amendable, and I thought he had the right to know about that. And I realize he could object to that, and he will. He has told me he will object to that.

Now, my purpose in wanting to get such consent is simply this: 60 votes are required for me to waive the points of order under the Budget Act. However, my motion would be amendable, it would be open to amendment, and such an amendment to my motion would require only a majority of votes, so that if all 100 Senators were present and voting, only 51 votes would be required to amend my motion, which, standing alone, would require 60 votes.

If the motion to amend my motion to waive were to carry, then a simple majority could add the authors' motion to amend my motion. That would put me at a disadvantage in that it is my understanding that Mr. DOMENICI might make a motion, the purpose of which would be—and I don't know that he is going to do this—he would repeal the gas tax, the 4.3-cent tax. That may or may not be based on rumor. I haven't heard Senator DOMENICI say that, but I anticipate that such a motion or some other motion might be made. If that were the case, if that were to be adopted by a majority vote, I would be put at a great disadvantage in trying to get

60 votes for my motion, so I do not intend to make that motion at this time.

But it may be that at some future time we can work out something whereby I could get a vote on a motion to waive points of order under the Budget Act against my amendment. That is a motion that is made quite frequently here. Sometimes it carries, sometimes it doesn't. So I intended to make that motion because I feel that the sponsors of our amendment have 60 or more votes in support of such motion and in support of such amendment.

Several Senators have indicated to me and have indicated to my three cosponsors that while they will not cosponsor the amendment, they will support it, so that we feel we would have more than 60 votes. But I am not at this time going to make the motion for the reasons I have stated.

#### HAPPY BIRTHDAY, SENATOR CHAFEE

Mr. BYRD. On another matter, I'm informed that on yesterday the distinguished, the very distinguished, Senator from Rhode Island reached his 75th birthday. Oh, to be 75 again! I experienced that happy occasion 5 years ago. Today is the 23rd of October. In 27 more days I will reach my 80th birthday. Hopefully the Senate will be out of session because I don't want anything said about it.

But I must congratulate this crusty New Englander, whom I admire hugely, on his having reached his 75th birthday. He is a great American. He is truly a fine Senator. As a man he is a real man. He is honest, and he is one who deals fairly with his colleagues right up on the board, straight across the board, nothing under the board, and he says what he thinks. If he agrees with one, he will agree; if he doesn't, he will say so, but he won't go out of this Chamber in any fit of dis-temper. It is a matter to be stated, and that is it.

So I admire JOHN CHAFEE. The people of his State are fortunate in having a man like JOHN CHAFEE here. I think we are all fortunate in having a Senator like JOHN CHAFEE. I greatly admire him.

Let me just recall a few lines to a little poem titled the "Multiplication Table of Happiness." I hope I can repeat it, having focused my thoughts on the line-item veto, the highway bill, and on the various other matters today.

Count your garden by the flowers,  
Never by the leaves that fall;  
Count your days by the sunny hours,  
Not remembering clouds at all.  
Count your nights by stars, not shadows;  
Count your life by smiles, not tears;  
And on this beautiful October afternoon,  
Count your age by friends, not years.

Now, after the distinguished Senator makes a response, if he feels that he has to—he doesn't—but if he wants to say anything—I saw him start to rise—

then I have a question back on the highway bill I wish to ask him.

Mr. CHAFEE. Mr. President, I want to say that when one receives complimentary remarks, the merit and the weight of those remarks depend a great deal who they come from. When I receive such generous comments as I have just received from the distinguished Senator from West Virginia, whom he knows I long have had not only great admiration for but great affection for, and we have been in harness here together on many issues on the same side—on some issues we have been on the other side.

To the Senator from West Virginia, I just want to say thank you very much for those very, very kind remarks. As he knows, one of the great pleasures I have had in this Chamber in serving in the U.S. Senate is the relationship I have had with ROBERT BYRD. I count myself very, very lucky. So I will treasure the kind comments he made.

I further will say I think I'll believe them all, and if my children have any doubts about their father, I will tell them, "Here is what ROBERT BYRD said about him." I will make sure they all get copies of it.

I want to thank him very, very much.

Mr. BYRD. I can guarantee the Senator, I will never be in his State advocating that his people not vote for him, and if I'm up in his State, I will be glad to say what I have just said today about him.

#### INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. BYRD. Now, Mr. President, back on the highway bill, I understood the distinguished Senator from Rhode Island to indicate yesterday that Mr. DOMENICI's amendment, which he, Mr. CHAFEE, was going to cosponsor, was going to be entered at the desk. I have inquired there now, and I don't believe it has been entered up to this point.

Mr. CHAFEE. It was filed this morning before 10 a.m. was my clear understanding.

The PRESIDING OFFICER. There have been a number of amendments submitted, any one of which might meet that description.

Mr. CHAFEE. Mr. President, I'm informed it is amendment No. 1522.

The PRESIDING OFFICER. That amendment, the Chair understands, is being processed and was just recently submitted.

Mr. BYRD. So it is now being processed and will be available.

The PRESIDING OFFICER. It is at the desk.

Mr. BYRD. I want to have the opportunity to study it and perhaps be able to comment on it if need be.

Mr. CHAFEE. I think we will certainly get the Senator a copy of it, and we can do that this evening.

Mr. BYRD. I thank the distinguished Senator. I don't have anything else to say at this point.

I yield the floor.

Mr. CHAFEE. Now, Mr. President, I just want to say one other thing to the Senator from West Virginia. He said some kind things about me being up front and so forth. I want to thank him very much for being so candid with us. There are no tricks, there are no games here. We are each proceeding and doing everything we can, as was mentioned, to keep everything aboveboard so there are no unfair surprises. I thank the Senator very much for that. I greatly appreciate it.

#### CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, on behalf of myself and the minority leader, the Senator from South Dakota, I would like to correct the statement made by the majority leader in the RECORD. The majority leader indicated that he and the Senator from South Dakota had an understanding with regard to how to bring back the campaign finance reform issue.

But the fact is that the agreement had not been reduced to writing, and that when it was reduced to writing, his understanding, that is, the understanding of the Senator from the State of South Dakota, my understanding, and the understanding of every member of our caucus was that the vehicle by which this would happen would be that we would bring back Senate bill 25, as modified.

The agreement did not include that language. And there simply was no additional or new request made by anyone on our behalf. So I would like to correct that statement as well. That did not happen. We are hopeful that an agreement can be reached. But I do have to say, for the record, that it simply was not a correct representation of what happened with regard to the negotiations today.

Thank you, Mr. President.

#### ORDERS FOR FRIDAY, OCTOBER 24, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. on Friday, October 24. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted. I also ask that the cloture vote occur on the modified committee amendment to S. 1173, the ISTEA reauthorization bill, at the hour of 9:45 a.m.

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

#### PROGRAM

Mr. CHAFEE. Mr. President, tomorrow morning, the Senate will conduct a cloture vote on the committee amendment to the ISTEA legislation. If cloture is invoked, the Senate will proceed to the consideration of the ISTEA legislation. In addition, the Senate may turn to any available appropriations conference reports—possibly the Interior conference report. As earlier announced, the Senate is expected to vote on the nomination of Algenon Marbley to be U.S. District Judge on Monday, October 27 at 5 p.m. As a reminder to all Members, the next roll-call vote will occur at 9:45 a.m. tomorrow morning.

#### ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:43 p.m., adjourned until Friday, October 24, 1997, at 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate October 23, 1997:

##### DEPARTMENT OF DEFENSE

PAUL J. HOEPER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE GILBERT F. DECKER, RESIGNED.

##### DEPARTMENT OF ENERGY

LINDA KEY BREATHITT, OF KENTUCKY, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2002, VICE DONALD FARLEY SANTA, JR. TERM EXPIRED.

CURT HERBERT, JR., OF MISSISSIPPI, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1999, VICE ELIZABETH ANNE MOLER.

##### INTER-AMERICAN FOUNDATION

FRANK D. YTURRIA, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2002. (RE-APPOINTMENT)

#### CONFIRMATIONS

Executive nominations confirmed by the Senate October 23, 1997:

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

KEVIN L. THURM, OF NEW YORK, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES.

##### DEPARTMENT OF STATE

PETER L. SCHER, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL TRADE NEGOTIATOR.

EDWARD E. SHUMAKER III, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TRINIDAD AND TOBAGO.

##### DEPARTMENT OF THE TREASURY

ELLEN SEIDMAN, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF FIVE YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.