

## RESERVATION OF LEADER TIME

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

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

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

The legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

Dorgan amendment No. 2276 (to the language proposed to be stricken by the committee amendment), to modify the penalty for nonenforcement of open container requirements.

The PRESIDENT pro tempore. Who seeks recognition?

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. INHOFE. Mr. President, we had a number of presentations made yesterday. There is a great deal of confusion as to what this bill is all about. I would like to go over a couple points.

First, I invite all Members with amendments to bring them to the floor and discuss them. We are rapidly approaching the point where we are going to be considering amendments. I am very proud of the staff, Democrats and Republicans, who staffed an office over the weekend to get information from Members who had amendments to offer.

For those who have not had a chance to become familiar with what we are doing, an injustice has been done to some of the members of the Finance Committee, particularly the chairman and the ranking member. They have worked long and hard. They have come up with something that meets the criteria originally put forward by the administration, such as not including a gas tax. It does not include going into the general fund. I do believe there are some areas where we have rectified problems with treatments that had been taken previously to the highway trust fund. Of course, I consider that something that should have been done anyway.

We are now in position to consider the bill. It is going to be a huge jobs bill. It is going to accomplish great work for the country.

A lot of people do not understand the formula aspect. One Member came down yesterday and talked about how one State is doing better under the formula. There are a lot of considerations to the formula, considerations such as the total lane miles of interstate, the vehicle miles traveled, the annual contributions to the highway trust fund attributed to commercial vehicles, the diesel fuel used on highways, relative share of total cost of repair and replacement of deficient highway bridges—I can identify with that, as in Oklahoma we have the worst bridges in the country—weighted nonattainment in maintenance areas, rate of return of donor States. That is one of the problems people have failed to understand, that we are getting all donor States up to 95 percent.

To do this, there have to be some who have been actually in a better position than they should have been by any formula because let's keep in mind that in TEA-21, 6 years ago, we had the minimum guarantee. The minimum guarantee was a political document. Let's look at who was in charge at that time. We had quite a disproportionate number of leaders from the Northeast. We had Senator Moynihan, Congressman SHUSTER over in the House who was driving the boat, Senator CHAFEE, Senator BAUCUS from Montana. As a result, there are some States that got up to a larger share than they would have achieved under any type of formula.

What they did was start with the same formula, using the factors I just outlined, and then, halfway through the process, went to the minimum guarantee. The minimum guarantee is the easy way out. All you have to do is count up 60 people, give them what they want, and you have 60 votes. That is not the right way to do it. We are doing it the right way.

I haven't seen anyone who really understands the formula, and everything that went into the last year we spent working on it, who is not supportive. They may not like how their State fared. Their State may have been in a position where they were getting more than they were entitled to for a period of time. That might be rectified by this. But we have the best intentions of going ahead. I am quite sure, in the final analysis, we will have a bill that is far greater and better and more equitable than ISTEA was—I was here during the ISTEA debate—and TEA-21 in 1998. I believe we have done a good job.

I refer again to the cooperation we have had on both sides of the aisle. We have had an opportunity to work with the leadership, and Senators JEFFORDS and REID have been great to work with. They have set partisanship aside. Historically, this has been a nonpartisan bill. It should be that way. A lot of the actions of the Environment and Public

Works Committee are nonpartisan. Certainly at the top of that list is this bill. I don't think anyone would accuse us of being at all partisan in this legislation.

There are winners and losers—no question about that—when compared to TEA-21. But let's go back to see what happened in TEA-21 before we are critical of where we are today.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the Senator from Oklahoma has to be gone from the floor this morning. We have our caucuses at 12:30. There are a number of people on our side who have requested time for morning business. I am wondering if it would be appropriate, in that we are in kind of a procedural tangle anyway, that we have time for debate only until the caucuses.

Mr. INHOFE. Mr. President, I propound that as a unanimous consent request, that we have debate only until after the conclusion of our conferences.

The PRESIDENT pro tempore. What is the request?

Mr. REID. The request is that we remain on the bill, but for debate only, until 12:30.

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

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, the EPW Committee has been working this bill for the past 2 years. Senators INHOFE, BOND, and REID and I have been very involved in this process. From the beginning, we wanted to accomplish a few important national goals: First, improve roads and bridges; second, move freight; third, address congestion; and fourth, improve safety.

Congestion is a growing concern all across America. Each day, Americans spend more time in their cars as they pursue routine activities, such as going to work, taking the kids to school, or picking up some groceries. As our Nation's population grows, travel demands grow as well.

The number of miles traveled annually on our Nation's roads is increasing at a substantial rate.

Many roads are at or approaching their physical capacity. In many areas of the country, it is both impractical and financially infeasible to add lanes to existing roadways.

However, we can increase capacity by actively managing the transportation network.

Intelligent transportation systems provide State and local governments the data and tools necessary to undertake time saving activities like incident management, ramp metering, traveler advisory systems, and variable pricing.

Over the past 10 years, some areas of the country have begun to implement these techniques, and they have realized numerous benefits.

Areas that employ transportation management techniques enjoy improved travel times, more timely incident management, and improved communication with the traveling public.

Crafting this reauthorization bill, we recognized the importance of enhancing State and local governments' ability to manage their infrastructure now and in the future.

S. 1072 expands Surface Transportation Program eligibility to ensure that States may use Federal highway dollars to manage their network.

The bill shifts Intelligent Transportation Systems out of the research realm and into the mainstream program. States may use core highway program dollars to fund ITS projects.

S. 1072 directs the Secretary to implement a nationwide real-time travel data network. Additionally, States are directed to develop statewide incident reporting systems.

Implementation of these systems will assist travelers and provide State and local transportation agencies the information they need to manage our current infrastructure and to plan for future improvements.

Finally, S. 1072 provides resources to examine future management technologies. The research title of the bill includes provisions to develop the next generation of intelligent transportation systems and management tools.

The research title also provides resources to train the engineers who will design, build, and manage our future transportation infrastructure.

Mr. President, I think it is clear that S. 1072 addresses congestion in a proactive manner by providing policy changes and financial resources to promote the efficient use of our Nation's transportation infrastructure.

As I have said before, passage of this bill is critical. I urge my colleagues to support this effort to provide much-needed resources to our States.

I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

#### THE COST OF HEALTH CARE

Mr. DASCHLE. Mr. President, I will use my leader time for the day. I want to talk about health care today for a few minutes. Health expenditures in this country are at the highest levels now that they have been in our Nation's history. Not only are they at the highest levels in our history, they exceed, by some magnitude, the health expenditures in other countries.

The World Health Organization, in its most recent calculation of what we spend, lists the United States at \$4,500 in total expenditures per capita; Canada, \$2,058; United Kingdom, \$1,774;

Japan, \$2,009; France, \$2,335; and Sweden, \$2,097. So we spend more than twice what other countries are currently spending for health care.

One would hope that if we spent twice as much, we would get twice the result. But just the opposite is true. We have the lowest life expectancy of any of the countries I have listed. Our life expectancy is 77 years. That is over 4 years less than Japan. I would hope that at least when it comes to infant mortality, we would get twice the result. But, again, it is just the opposite. We have the highest rate of child mortality of any country I have mentioned—eight deaths per thousand. In Sweden, it is three and a half per thousand. So one could only conclude from these numbers that we are not getting what we are paying for; that we are not getting a bang for the buck.

We will not have the opportunity to address infant mortality, life expectancy, and all of the other challenges we face in our health care system without making some fundamental changes in the system itself.

There are those who have argued it is now impossible for us to achieve universal insurance coverage. Some have even suggested that we would go bankrupt if we were to do that. What I find ironic is that these countries I have listed all have guaranteed health care. That has been the essence of their success, the secret to their success—this ability to cover everybody and, in so doing, reduce child mortality, increase life expectancy, and find ways in which to keep people healthy throughout their lives.

So we are paying more and not only do we have unacceptable results—at least measured by child mortality and life expectancy—we also have unacceptable levels of health coverage. Mr. President, 43.6 million Americans last year had no coverage. That is an increase of 2 million people over the year before. About 75,000—12 percent—of the people in my State have no health insurance. But statistics don't speak to the anguish that is felt by so many people in our country regarding an issue as personal as their health care.

Last summer, I spent a good deal of time on the road, dedicating virtually the entire month of August to talking with people as to how they feel about health care. The anguish, the stories of financial ruin, the extraordinary dilemmas and life-threatening circumstances that so many of these people face are still indelibly printed in my mind.

Yet there are those who say it is impossible to get everybody covered; it is impossible to get to 100 percent. It may be impossible to get to 100 percent, but I am told virtually every country I have listed—and I will list them again: Canada, Britain, Japan, France, and Sweden—virtually every industrialized country has guaranteed coverage today, near 100-percent coverage.

The Bush administration's chief architect on health issues, Health and

Human Services Secretary Tommy Thompson, was quoted that he does not think that administratively or legislatively it is feasible to cover everyone. I find this a remarkable statement because we have always prided ourselves as Americans on having a can-do spirit. We have always said if we can go to the Moon, if we can set out challenges for our Nation, we will achieve them because of good leadership, and because of our values, and because of our attitude.

What does it say about our leadership, our values, and our attitude if we say we can't do what every other industrialized country has done? What does it say about our commitment? What does it say about this spirit of America about which we hear so much? We can't? Or we won't? I don't think it is impossible to ensure coverage for all Americans. I think it is imperative we do it.

The United States, as I have said, is the only industrialized country that has not. In each of these countries, one does not need to be a brain surgeon to see the connection between universal coverage and better life expectancy; universal coverage and higher rates of infant survivability, lower infant mortality. That is the key, that is the essence of our need, of our success, and of finding a way to do what we have said from the very beginning: We will always attempt to do our very best.

If we say we can't, if we think we can't, we are right. If we say we can, if we think we can, we are right. It is up to us. It is a question of our leadership, our commitment, our willingness to excite and ignite an interest and a commitment and an enthusiasm about this issue as we have done on so many other issues.

Last month, the Institute for Medicine called for universal health coverage by 2010. They think we can do it.

Bob Dole, the former Republican leader, could have spoken for all of us when he said: The bottom line is, I think we have what it takes to get it done. I think we have what it takes.

I think we have what it takes as well, but we have to demonstrate what it takes is a commitment, not an "I can't." What it takes is bipartisan support for a goal shared by millions of Americans today. Let's provide universal coverage. Let's begin to address this embarrassment for our country. Let's recognize if Britain, Canada, Japan, France, and Sweden can do it, so can we, and we can do it better. Let's accept the fact that \$4,500 for every man, woman, and child with less results in infant mortality and life expectancy than other countries is unacceptable in this country. We can, and we must. I hope it starts this year.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

JOBS AND THE ANNUAL ECONOMIC REPORT

Ms. STABENOW. Mr. President, I wish to take a moment to comment about the report that was just released yesterday, the White House Annual Economic Report of the President, because I was stunned to see the statements regarding the economic report to the country as it relates to jobs.

I invite any member of the group who put this report together or anyone from the administration to visit us in Michigan and see literally every day now the headlines in the papers. It doesn't matter if you are in Detroit or Grand Rapids or in northern Michigan or southern Michigan; we have headlines about jobs that are leaving this country and going overseas, good-paying jobs, white-collar jobs, blue-collar jobs, service jobs, and manufacturing jobs.

When we look at the report of economic advisers and we hear them saying, "President Bush's top economist yesterday said the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy," I wonder what nation are they talking about. Whose economy are they talking about? It is certainly not good for our economy when people are losing their jobs.

Let me go on to some of the other statements that are quoted in today's Washington Post:

Shipping jobs to low cost countries is the latest manifestation of the gains from trade.

These were not the gains from trade I was hearing about. I was hearing that we were going to actually be creating more markets to produce more goods and services that would be increasing jobs, not losing jobs.

It says:

Just as U.S. consumers have enjoyed lower prices from foreign manufacturers, so, too, should they benefit from services being offered by overseas companies that have lower labor costs.

It is stunning to me that we would not be concerned about the outsourcing of jobs, good-wage jobs to other countries. I commend any of my colleagues to watch, as I do nightly, Lou Dobbs on CNN with the continuing critique of what is happening to our country, including service jobs.

I have friends and constituents in Michigan who have been in good-paying service jobs who are now unemployed and have lost their insurance, many of them struggling to see whether they will lose their homes as a result of having lost their job. They would not agree with this report. What we are seeing is the assumption that somehow moving out of this country to lower cost labor countries, whether it is goods or services, is ultimately better for the United States. Now think about this for a moment. They are embracing a race to the bottom that will only eliminate middle-class America.

We had a recent situation occur in Greenville, MI, a small community of 9,000 people. There are 2,700 people who work at the local refrigeration plant, manufacturing refrigerators, Electrolux. They added a third shift. They have been productive. They make money. But the company came in this fall and said even though they make money, they make a profit in Greenville, MI, and people are productive, they could make more money if they went to Mexico and paid \$2.50 an hour with no health benefits.

Well, I am sure that is true. I am sure any business could make more money if they paid \$2.50 an hour with no health benefits. I am sure they could make more money if they paid \$1 an hour or 50 cents an hour with no health benefits. My question to the management was: Who will be able to afford to buy your refrigerator? Who will be able to afford to buy our automobiles? Who will be able to afford a middle-class standard of living in this country if this is only about a race to the bottom?

When we look at what is happening in our country today, not only in manufacturing but in the service industry, we see a race to leave the country because instead of having trade policies that encourage a middle class in Mexico, in China, in India, and other places around the world so they bring up their standard of living, so they can have good wages and buy our products, we see instead pressure on our businesses and our workers to lower our standard of living, to lower our costs, and there is a race to the bottom.

This race ultimately will cost us our way of life and our middle class. But that is how we are different and strong. That is why we are the greatest country in the world—because we have a strong middle class.

I am extremely concerned when I see these kinds of statements. In fact, also quoted in this article from the Washington Post is a statement by Franklin J. Fargo, vice president of International Economic Affairs at the National Association of Manufacturers:

It is kind of a flip thing to say when people are losing their jobs.

I would agree with that. It is more than flip; it is outrageous to say we as a country somehow benefit by the outsourcing and the elimination of jobs.

In recent years, companies have shipped out software engineering jobs, data entry, customer service, hospital jobs, as well as manufacturing. We know when we pick up the phone—in fact, I picked up the phone one time to talk to a credit card representative and asked where they were. They said: A facility near you. Well, I knew it was not a facility near me in Michigan, where I was calling from, but it was a facility overseas.

I think often of a friend of mine who goes to my church in Lansing, MI. He is a trained engineer, a very competent individual who has lost his job. He told

me he is now working for \$19 an hour with no health benefits, that he is now struggling with whether he will be able to keep their home with kids in college. That is very real.

I urge those making statements that losing jobs to other countries is a good idea to talk to somebody who has in fact lost their job and may lose their home, and may not be able to send their kids to college, may not be able to buy that new car or keep the house, the cottage up north, be able to do those things that spend dollars in our economy, buy that new refrigerator. How in the world have we gotten to a point where we do not understand the basic economics of people being able to have a good wage so they can purchase goods and services and care for their families and be successful in this country? We know there are serious issues.

Looking at something else in this report, it says: Indeed, outsourcing health care jobs to lower wage countries could help control the upward spiral of health care costs. When a good or service is produced more cheaply abroad, it makes more sense to import it than to make it here.

First, as someone who has worked on health care issues and helped to lead efforts to try to move us to lower health care costs, health care prices, the idea of saying the way we are going to lower health care prices is by losing jobs rather than tackling the big issues of lowering prescription drug prices, rather than allowing Medicare to negotiate group discounts under the new Medicare bill, which we did not do because the prescription drug company wants to be able to stop us from lowering prices—instead of addressing those things that will bring costs for businesses down, the suggestion is we should export health care jobs. So maybe if all of our nurses, doctors, and health care workers were all in another country where they were making less, we would be lowering our health care costs.

I find this report and the comments in it and the public comments in the paper extraordinarily out of touch with what is happening to the people of our country and what is good for our country.

I argue instead that in fact we do need to tackle health care costs. It is a major issue for businesses, large and small. In a global economy, it is a major issue for them to be able to compete. It is a major issue for our families and workers who are being asked to pay more, take a pay cut, pay more in a premium or copays. We should tackle that by addressing what is actually causing the health care costs to go up—the lack of competition, an explosion in prescription drug pricing. If we want to lower prescription drug prices and lower health care costs, rather than having the jobs go to Canada, let us open the border and bring the prescription drugs back from Canada at a cost of 50 percent less. We could do that tomorrow if the administration

would look at what is best for our families instead of what is best for the pharmaceutical lobby.

We do not have to export jobs. We can import safe prescription drugs that are actually made here, which we help to produce, that taxpayer dollars subsidize, that are then allowed to be sold in other countries around the world for half the price.

I agree, health care costs are a huge issue for our businesses, and we need to tackle it in a way that brings down prices, that maintains our quality and does not say the way we are going to cut costs is to export our jobs.

As I mentioned earlier, I also ask all of us to rethink what we are doing on trade. We must trade in a global economy, obviously. But our trade laws need to focus on incentives and on policies that will increase the standard of living in other countries, not decrease ours.

I also would ask the administration to work with us on issues to level the playing field. We know China, Japan, and others manipulate their currency. What does that mean? It means it costs us more to sell into China. Our businesses can pay up to a 40 percent tax, essentially, for selling something into China because they want us to move the plant there. It costs us more to sell to them. It costs them less to bring in goods.

If the Treasury Secretary will simply certify that this is going on, we have, then, the authority to begin to do something about it; we have legislation that will give us an opportunity to do something about it. I am proud to be a cosponsor, with Senator SCHUMER, in that effort.

There are actions we can take to level the playing field. There is no doubt in my mind that if we give American businesses and American workers a fair shot, a level playing field, we will win every time. We can compete when the rules are fair. But instead of addressing those things, we have a report coming before us that says outsourcing of U.S. jobs to overseas workers is good for our Nation's economy. With all due respect, I think they should go back to the drawing board and try this again.

I would just say one other thing. The Annual Economic Report predicted 2.6 million new payroll jobs by the end of the year. Certainly we would all greatly love to see that be the case. But last year they reported 1.7 million jobs would be created and the year before they said 3 million jobs would be created. Instead, the Nation lost 53,000 payroll jobs last year, according to the Labor Department.

Instead of proposing, and suggesting, and proclaiming millions of new jobs without the right policies to actually make it happen, I hope we will place on our agendas the loss of jobs—manufacturing jobs, service jobs, professional jobs—happening in this country, all across our Nation, and certainly in my State of Michigan, where we have paid

dearly for policies that have not worked. I hope we make this our top priority and that we focus on those things that will stop the exodus from the United States and the exporting of American jobs around the world.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I say to the Senator from Michigan as she was commenting about this report about how sending jobs out of the United States is going to help with the cost of health care here in the United States, that is as ridiculous as the old medical practice, 200 years ago, of curing the patient of his disease by bleeding him.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. What we need to do about the cost of health care is get to the cost of health care. The cost of health care is going up. Technology has brought us miraculous new medicines and procedures. All of that is going up. But where do you have an opportunity to bring down the cost of health care? You do it by having best business practices that allow you to have the economies of scale, ergo health insurance, the largest possible pool of people. You use the principle of insurance to work for you, which is take the health risk and spread it over the largest possible group so you bring down the per unit cost.

But we are not approaching it that way. We divide up the population in these little narrow categories and then, when that category gets sick and it gets older, what happens to the costs of that health care? It goes up to the point they cannot afford it.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. Or what about what we did in the Medicare bill here, the prescription drug bill, for which the Senator from Michigan and the Senator from Florida certainly didn't vote.

Ms. STABENOW. Right.

Mr. NELSON of Florida. What it was billed as was a \$400 billion bill for prescription drugs. We now find it is \$525 billion over 10 years. And where did it go mostly? As a bailout to the pharmaceutical companies and as a bailout to the insurance companies.

Ms. STABENOW. That is right.

Mr. NELSON of Florida. Not in a way of providing a direct benefit. When the senior citizens in the State of Florida find out how meager this benefit is, when it kicks in in 2005, I predict senior citizens are going to be somewhat upset.

I thank the Senator from Michigan for her comments.

Ms. STABENOW. If I might ask a question of my friend from Florida, as a former insurance commissioner, he certainly understands the insurance side of this. I think, first of all, he is absolutely right. I think the two major drivers for health care now are the explosion of prescription drug prices and the fact that every time a person loses his or her insurance and that person

walks into an emergency room to get care and is sicker than they otherwise would be, and so on, people with insurance end up seeing their rates go up because there is a smaller and smaller group of people who actually have insurance, and they pay more and more. Wouldn't that be the philosophy?

Mr. NELSON of Florida. That is correct. There are 40 million people in this country who do not have health insurance. But they get health care. They often get it, as the Senator suggests, at the time of the emergency. Where do they get it? They get it in the most expensive place, the emergency room. Instead of treating the sniffles, they wait until it becomes pneumonia, so the care becomes so much greater.

So you have to get that much larger a group and ensure that larger group. Do it in the private sector. That is the way it ought to be done. Let there be competition to get your most efficient health insurance product, and then give the consumers, also, a choice of plan. So if they want a Cadillac plan, they can take that. If they want a Chevrolet plan, they can take that.

But mix all of those elements into it. That is how we are going to get health insurance and health reform. But we are not going to until we get to such a crisis because there are so many players who have so much at stake and there is so much money to be made.

Ms. STABENOW. If I might ask my friend another question, wouldn't he share my amazement that, in this new economic report, the proposal is that the way we lower health care costs is to export the jobs? Export the nurses, export the doctors, radiological assistants, whoever it is—that is how we should bring down health care costs? Lose our jobs to other countries? Does that make sense?

Mr. NELSON of Florida. That is exactly the opposite of what ought to be done. What was that report the Senator cited again?

Ms. STABENOW. This report actually is the new report from the economic advisers to the President on the state of the economy and jobs, where they are saying outsourcing to other countries is, in fact, a good thing and, in fact, outsourcing health care jobs will actually bring health care costs down.

I was stunned at what I was reading. Certainly, it is not something I know the people in Michigan are going to be very happy to hear about.

Mr. NELSON of Florida. What has happened to our world today? It is almost, if one person says it is white, another person says it is black; if a person says it is up, another person says it is down. Where is common sense? Where is reconciliation? Where is consensus building? Where is bipartisanship?

Take another issue. As I continue to have this dialog with the Senator from Michigan, take another issue, take the issue of the so-called independent commission that has just been appointed to

find out what went wrong with intelligence. How can a commission be independent when it is just appointed by one authority, i.e., the President, who is going to be part of the subject of the investigation of the commission? That is not independence. What we need is a commission that is truly independent, that is appointed by the Congress and the President.

Ms. STABENOW. Absolutely.

Mr. NELSON of Florida. Both parties. That is not a commentary on the people on the commission because these people seem to be—several of them are personal friends of mine—enormously accomplished people. It is the question of setting up the commission.

If I have been informed correctly, it is hard for my ears to believe what I have heard, which is that in setting up this commission to examine the intelligence that was faulty in Iraq, they are not giving this commission subpoena power.

Then how are they going to get the documents? How are they going to compel the witnesses? Is it all going to be voluntary? Our very existence is on the line in order to have adequate, timely, and accurate intelligence to protect ourselves in this era of terrorism in which we find ourselves.

Where is common sense in this country?

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

Mr. NELSON of Florida. I am happy to yield to the distinguished ranking member of this committee, as we consider this transportation bill, even though we are talking about other very timely topics.

Mr. JEFFORDS. Is my understanding correct that the Senator said there will be no authority to be able to get documents or be able to subpoena information?

Mr. NELSON of Florida. This is what I was informed this morning by the leadership of this, that this commission is not going to have the ability to subpoena. If that commission that has just been announced over the weekend doesn't have the ability to subpoena people—witnesses and documents—then how can we get at the truth?

What we want to do is get at the truth. We were told there were weapons of mass destruction and we were told there were unmanned aerial vehicles, pilotless drones, and we were told there was even a potential plan to put those drones on ships off the Atlantic coast to drop those chemical and biological weapons over eastern seaboard American cities, and all of that turned out not to be true.

We were told that was the gospel truth when, in fact, as the Washington Post reported a week ago, there was a huge dispute in the intelligence community, including Air Force intelligence which knows best about unmanned aerial vehicles, and, as reported by the Post, that those UAVs did not exist to drop biological and chemical weapons.

So why were we not told that there was a dispute in the intelligence community? It was presented to us before we voted on that resolution in October of 2002 as if it were the gospel truth.

The long and short of it is the whole point of a commission is to get to the truth so we don't make these mistakes in the future. If the commission—a so-called independent commission—is not given the power to subpoena, how in the world are you going to get to the truth?

Mr. JEFFORDS. Being one of those who never believed there was a threat of any kind and a sufficient level to warrant the war, it shocks me to find out the route being set up to verify what I believed to be the truth will have no power to find the truth. This is very disturbing for me.

Mr. NELSON of Florida. The distinguished 9/11 commission composed of well-respected and very accomplished people, headed by former Governor of New Jersey Kean and so many other distinguished citizens on that panel questioning the intelligence and trying to find out what went wrong on the September 11 attack, has been frustrated over and over again by delays and a lack of willingness to come forth with the information. If they have had that experience in the last year and a half, why are we to think this next so-called independent commission is going to have any different experience? I think, since what is at stake is the security of our homeland, raw election year politics is getting in the way much to the frustration of those members of the panel and certainly to the frustration of this Senator.

Mr. JEFFORDS. I thank the Senator from Florida for enlightening me on this very disturbing news. I will do whatever I can, working with him and with others, to make sure we get the kind of resolution for finding the information which should be ours to be able to make judgments. I thank the Senator very much for his statement.

Mr. NELSON of Florida. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant journal clerk proceeded to call the roll.

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

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

#### INTELLIGENCE COMMUNITY ASSESSMENTS

Mr. FEINGOLD. Mr. President, I rise to comment on the controversy surrounding the intelligence community's assessments of Iraq's weapons of mass destruction programs and capabilities in the months leading up to the military action in Iraq.

It has been suggested that the intelligence community failed policymakers by presenting a picture of Iraq's WMD capacities that appears to have been far more advanced than the reality on the ground. It has been suggested that,

as we have all heard, certain pieces of information were presented as certainties when, in reality, the accuracy of the information was very much in dispute among experts within the intelligence community.

I made a concerted effort to go to every briefing that was offered, and I think I largely succeeded, or maybe had entirely succeeded. I went to briefings for all Members, and I also went, of course, to the special briefings that were held for members of the Foreign Relations Committee. I am not a member of the Intelligence Committee and perhaps that committee had access to information dramatically different from what was put before the rest of us.

What I recall is that the CIA representatives who briefed us were careful and their statements were qualified. As CIA Director George Tenet recently indicated, it was made clear disagreements existed about how to interpret some pieces of information.

What I remember about the CIA is that they played it straight. I wish I could say the same about the political rhetoric that some in the administration used to characterize the content of those briefings.

Of course, I am certainly not saying the CIA is perfect or that the U.S. intelligence community is perfect. No one who reviewed the joint Intelligence Committee's report on 9/11 would make such a claim. And I am not asserting that all of the CIA's information and analysis presented in the lead-up to the Iraq war was correct. But what I am saying is, in the many briefings I attended I simply saw no evidence—no evidence—to support the accusations that the CIA was trying to spin the facts or that they were trying to lead us in one direction or another.

My sense was that they were professionals, and I remember being very grateful for their thorough and candid presentations. In fact, in those briefings, they didn't give us easy answers, and that made our decisions tougher. But the people expect us to make tough decisions.

Time and again, I came away from the briefing room concerned about the unanswered questions related to Iraq's chemical and biological weapons capacities. But I also came away each time with the conclusion that we had no evidence of any imminent threat. Indeed, Director Tenet acknowledged that the CIA never characterized Iraq's WMD programs as an imminent threat when Mr. Tenet made his remarks last week.

When the President of the United States called Iraq "a threat of unique urgency," that sure sounded a lot like imminent to many ears. When senior officials, speaking about Iraq, told us they did not want the smoking gun to be a mushroom cloud, that sure sounded like an imminent threat of nuclear attack to most Americans.

Yet just last week, CIA Director Tenet reminded the country the agency made two judgments that are too often overlooked today. They said:

Saddam did not have a nuclear weapon and probably would have been unable to make one until 2007 to 2009.

Of course, that is a serious issue certainly but not an imminent threat.

The fact that the briefings we received did not present a picture of an imminent threat certainly did not mean there was no cause for concern or that the right course of action would have been to do nothing. Those who claim the only choices before us were rushing to war or being utterly complacent are quite simply misleading the American people.

I had long supported regime change in Iraq, and I am pleased that Saddam Hussein's regime has fallen. But the facts did not suggest that we had to invade Iraq in March of 2003. That means we could have had more time to build a solid international coalition, to combat some of the most damaging misperceptions of American motives and intentions, and more time to put in place a plan of action that would address our security interests without leaving American troops and American taxpayers holding the bag at the end of the day, bogged down in a risky occupation and mortgaging our children's future to pay for it.

Director Tenet said last week: To understand a difficult topic like Iraq takes patience and care. He is right. The same is true of understanding this debate and this controversy. That is why it is so important to discuss these issues carefully and responsibly. It is important because the stakes are so very high and because the public, especially our men and women in uniform and their families, who take tremendous risks and make tremendous sacrifices to serve this country, has every right to know what happened, what the facts were, what we got right and what we got wrong.

One of the difficulties for those of us who attend classified briefings, of course, is that we have an obligation to protect the content of those briefings. So we are limited in what we can say publicly. We are left to generalize and we run the risk of characterizing the same briefings in very different ways, leading us to debates about one person's interpretation versus another's. For this reason, an independent commission is desperately needed.

I am glad the President has agreed to establish a commission to examine our prewar intelligence. But I am concerned about the specifics of the commission's mandate. It is charged with examining the intelligence community's capacity to collect, process, analyze, produce, and disseminate information concerning the capabilities, intentions, and activities of foreign powers relating to the design, development, manufacture and acquisition, possession, proliferation, transfer, testing, potential or threatened use or use of WMD, related means of delivery, and other related threats of the 21st century. All of this, of course, is useful.

In the wake of the horror of September 11, 2001, we must make every ef-

fort to ensure that America's intelligence services are as reliable and effective and accountable as they possibly can be. As I have indicated, I believe a large part of our problem in the runup to the war in Iraq was a problem of how intelligence was used, how it was invoked, sometimes out of context, and how in some cases it was used in powerful and often frightening rhetoric aimed at painting a much more conclusive picture than the actual intelligence revealed.

Intelligence, as all data, can be manipulated. I am concerned about the appearance of a concerted effort to interpret information to justify a seemingly predetermined course of action and to too easily disregard information that could not be used for this purpose. I think such an approach serves no one. I think it actually diminishes American power. I think it risks making this country far less secure.

So we must investigate matters such as the activities of the Office of Special Plans at the Pentagon, which seems to have been charged with sifting through information to assemble only those pieces that bolstered the case for going to war.

We must also address the way that intelligence was alluded to in public settings, in ways that painted a much more decisive picture than actually existed. Obviously, not all Americans could be in the briefing room, but all Americans hear the public debate.

Those of us who receive and act on classified briefings have a vitally important responsibility to ensure that we never abuse their trust. I believe we need to make sure that in our efforts to review intelligence-gathering capacities and analysis capacities we do not fail to take a hard look at how policymakers employ intelligence in public remarks. Our words and our characterizations matter. The context that it is or is not provided matters. Even now some would insist that Iraq was a threat to America because even if Saddam Hussein did not have WMD, he had the capacity to make a weapon. But chemical or biological weapons could be produced in dual-use facilities in almost every country that has any significant domestic, pharmaceutical, or chemical manufacturing capacity.

This is a serious issue to be sure, but it does not make the case for the threat of unique urgency a good case. It does not make for a threat of unique urgency directed at the American people.

Finally, I propose that we need to take a look at how people responded and prepared for things we were warned about in briefings about Iraq, some of which then became public knowledge. Given what we all heard in the briefing room about the possibility that Iraq continued to possess biological and chemical weapons stockpiles and given the administration's clear belief that such stockpiles existed, why was there no better policy planning and execution when it came to rounding up these things?

Former chief weapons inspector David Kay has suggested that we may just all have to live with, as he called it, an unresolved ambiguity about what happened, that he traces to the failure on April 9 to establish immediate physical security in Iraq.

The looting that ensued has introduced a host of alarming unknowns into our consideration of what might have happened to the materiel that may or may not have existed in the first place and, quite frankly, any assertion that the United States would not have anticipated this looting has no credibility whatsoever. From think tanks to military planners to non-governmental organizations, there were multiple, consistent, and high-level warnings about the risks of chaos and looting in the wake of the regime's fall.

There were plenty of questions about this issue which were never satisfactorily answered in the lead-up to war. In fact, I spent over 6 months, primarily in the Senate Foreign Relations Committee, repeatedly asking whatever administration witness I could the same important questions. For example, I remember asking Secretary Powell in 2002: Are you aware of any significant planning for securing weapons of mass destruction sites in Iraq in the event of a military invasion if the Government would be toppled and some degree of chaos were to rein for some period? Is there not a very real risk that WMD and the means to make them will be taken out of the country or sold off to exactly the kind of nonstate actors that the United States is worried about? Do we know enough about where WMD sites are to be confident in our ability to secure them, I asked the Secretary of State?

Secretary Powell could provide no details. He simply assured me that our military planners were making this issue their highest priority. Those military planners never provided any details, either.

In the end, we are left with video footage of the unchecked looting of the country, with unanswered questions, with David Kay's unresolved ambiguity. So we have a case of inadequate follow-up on a vitally important issue presented to us by the intelligence community and that, too, is something we need to review and address in the interest of national security.

We have a lot of work to do. Some of that certainly does involve reforms of the intelligence community. I believe our biggest problems did not come in the briefing room. In the interest of our national security, in the interest of protecting the public's trust in Government, in the interest of this country's global prestige and power to persuade, we have to avoid scapegoating tactics. We have to face some hard truths about the process and the rhetoric that led this country into Iraq in March 2003.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I came to the Chamber to speak about the highway bill, and obviously we hope to be talking about that later on today, but having taken the responsibility of serving on the Intelligence Committee, I thought I might add a few comments to the discussions begun by my colleague from Wisconsin.

Let's be clear; the Senate Intelligence Committee on a bipartisan basis has launched a massive effort to determine whether our intelligence was accurate, where it had holes in it, where are our assessments and our estimates.

In intelligence, they are all estimates. The only time there is absolute confirmation that something has happened is when the World Trade Center comes down or when the Pentagon is hit. Then one knows that terrorists have planned something and have executed it.

We were dealing with an intelligence system that provided estimates throughout the 1990s and no action was taken. The intelligence service provided estimates about the danger of Osama bin Laden. We considered all kinds of actions, and then September 11 happens.

Now, the September 11 commission goes in to try to determine why we did not act on the intelligence we had. The big charge there is that something should have been done about Osama bin Laden. Well, there are now published reports on the intelligence, and I would refer my colleagues to Richard Miniter's book "Losing bin Laden." There were many instances where it was clear that Osama bin Laden was planning to attack the United States. In several instances, it appeared that in the 1990s we might have had an opportunity to deal with Osama bin Laden in one way or another and we chose not to do it. So right after September 11 we are looking backwards and saying, Why did we not act? Now my colleagues, primarily on the other side of the aisle, are saying, Why did we act in Iraq?

Let's be perfectly clear. When people start talking about imminent threat, seeming to imply that the President said there was an imminent threat, I distinctly remember the State of the Union message in which the President said: We cannot wait until there is an imminent threat. In essence, he was saying we cannot wait until we see the second airplane heading for the second tower of the World Trade Center.

Why were we suspicious of Saddam Hussein? The same reason President Clinton, Secretary Albright, Secretary Cohen, Security Council Chief Sandy Berger had? They said Saddam Hussein was a real and great threat. He was in flagrant violation of all the U.N. resolutions which followed on the cease-fire in the first gulf war.

He kicked the inspectors out in 1998. We know he was the only despot alive, the only tyrant ruling a country, who used weapons of mass destruction, and

he kicked the inspectors out without ever saying what he had done with them.

Sure, there will be things we can find out about what we should have done differently in intelligence. There has already been public discussion about the lack of human intelligence resources. We may find that. We may find other things when we complete our work in the Intelligence Committee and submit a report to be fully declassified and discussed.

We need to make our intelligence system better. I think we have gone a long way. The PATRIOT Act broke down the walls between the CIA and the FBI, which legislatively prohibited them sharing information. That was a mistake. We have changed that.

Some of my colleagues say we ought to look at the use, look at what people said about that. You don't need to have a commission to do that. You have a Lexis-Nexis search to find out what people said. Are some people making charges? Yes, everybody has a right to make their comments about whether they believed the intelligence. A lot of that intelligence has been laid out in the public.

I was astounded at the degree to which Secretary Powell's discussion before the United Nations in February of 2003 went into so much of the intelligence we had at the time. That was out on the table. That was the best intelligence Secretary Powell had. Published reports indicate he went through that intelligence himself and asked questions and only used those things about which he was personally satisfied the intelligence estimates were accurate.

So, yes, use—we did use it. We did act. Saddam Hussein is no longer ruling a country, murdering hundreds of thousands, if not millions, of people. We pulled him out of a spider hole. He said he was a great ruler of the Iraqi people. He wanted to negotiate. Well, he is in jail.

You know something, Muammar Qadhafi in Libya took a look at what happened to Saddam Hussein and said: "Oh, I don't think I want to wind up like Saddam Hussein did." That is what he told Italian President Berlusconi. "I don't want to see happen to me what happened to Saddam Hussein." So he is coming clean based on the information we had gathered about his weaponry, his participation with Dr. Kahn of Pakistan. We knew he had weapons and was working on a weapons program and he came clean. I think that makes a great deal of sense.

There has been a tremendous change in the Middle East. There has been a change because Saddam Hussein no longer rules. It is a tragedy when we lose American lives. It is a tragedy when Iraqi lives are lost. But the Iraqis are slowly but steadily taking back control of their country.

Let's talk about what David Kay found. David Kay said when all the facts are known, it will appear, I be-

lieve, that Saddam Hussein was a far greater danger than our intelligence even knew. Our intelligence was not adequate before the first gulf war. We didn't know how far along he was at that time with his nuclear program. We did not know, apparently, according to Dr. Kay, how far along he was with his long-range missile program. It was a country, Dr. Kay said, which was attracting terrorists like ants to honey, to come to a country busily engaged in pursuing means of getting at the infidels. That means anybody who doesn't agree with them.

It is clear Ansar al-Islam had a ricin factory manufacturing that potent chemical, attempting to weaponize it, in northeast Iraq. It was under the direction of al Zarqawi. Ansar al-Islam is part of the brotherhood with al-Qaida.

By the way, you probably read in the New York Times about what we learned about the memo, from al Zarqawi. He was totally frustrated because he thinks the infidel, i.e., the coalition, our coalition, seems to be winning. We are making progress. We are turning Iraq back to the Iraqis and we have not cut and run. Their effort to conduct jihad is getting more and more difficult as we get more and more Iraqis engaged as police, as soldiers.

Danger still exists, but the danger that Saddam Hussein or the terrorist groups operating out of Iraq will be able to do so with impunity and continue to pursue their weapons of mass destruction programs is much less now that Saddam Hussein is in captivity.

You can talk about what the President said, what the President did, but I believe what we are seeing in the Middle East, what we have heard publicly from Dr. Kay, indicates we have taken a major step toward lessening the likelihood of terrorist attacks on the United States and toward stabilizing the Middle East so it will no longer be a hotbed and a haven for terrorists.

I thank the Chair.

THE PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Missouri for his remarks. Perhaps they were intended as response to my remarks or perhaps they were general remarks, but my remarks have to do with the fact there is a perception in this country that somehow the briefings the CIA gave us with regard to Iraq were distorted or inappropriate or oversold the case for the war.

My purpose here was to indicate that is not the way I saw it. I was in those briefings. As I have indicated, I felt the CIA was very measured and careful in its presentation.

The Senator from Missouri can talk as much as he wants about whether Iraq worked or not, and what the consequences are. But there are real consequences when Members of both parties decide to tell the public the misinformation or the problems were the fault of the CIA.

I think that is dangerous for the CIA. I think it is dangerous for our country.

I think it is dangerous for how we are perceived in the world.

Some of the members of the other party—including the administration, frankly—and some of the members of my own party are pointing their fingers at what we heard in the briefings. I want everyone to know that I went to the briefings. I did not hear a compelling case for the war to be conducted at that time.

Regardless of what has happened since, I would be happy to debate at any point whether it was the right thing to do and whether how we did it was the right thing to do. Regardless of all that, the point is, as one Senator who went to those briefings and did not hear the case made, I give the CIA credit for being measured and careful. And we should thank Mr. Tenet for his leadership.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I rise today to talk about a truly bad idea that has been proposed on this floor. I believe an amendment was discussed yesterday when I was not here—I didn't have an opportunity to hear it—to provide stiff sanctions on States which do not have primary seatbelt laws. The goal is to move every State up to 90 percent seatbelt use. It specifically says States would be sanctioned if they did not meet one of the following two conditions within 3 years of the enactment of this bill: Either have a primary seatbelt law which would allow law enforcement to pull over a driver if that officer sees the driver is not wearing a seatbelt without having to arrest them for any other infraction, or the State does not get up to a 90 percent seatbelt use rate.

In other words, it would require a State to achieve a 90 percent seatbelt use, and it left it up to the individual States on how to get there.

The objective of getting to 90 percent seatbelt use is a worthwhile one. As Governor of Missouri, I talked often about the need for seatbelts.

When I was young, the primary entertainment when we weren't listening to Cardinal baseball was to crawl under the fence and go out and watch the stock car races. I watched stock car races every Friday night. Sometimes I paid to get in but not often. There were horrendous wrecks every night. Yet the drivers wore harnesses and seatbelts. I saw one driver taken off. He had severe alcohol poisoning because of fuel he had taken internally. But I never saw anybody hurt.

I have been in two serious crashes in my life. Both times I had on a seatbelt.

I was shaken up and scared. In the first one, the other driver was taken to the hospital unconscious. I did not find out until the next day whether he had survived.

I am a believer in seatbelt use. I have sponsored and pushed for seatbelts and for safety seats for infants. I tried to get them on airplanes. But I don't believe taking money away from the 36 States that don't have primary seatbelt laws is a way to get there.

If the State fails to meet either of the conditions—either the 90-percent seatbelt use rate or enactment of a primary seatbelt law—the State would lose 2 percent of its general highway safety funds, and the sanction increases to 4 percent for each successive year. The sanctions approach would decrease the amount of funding available to make the necessary investment in safety for their transportation system.

States that do not enact a primary seatbelt law or do not achieve a 90-percent use rate will get less funding and fall behind other States in safety. That is not the way to encourage States to increase safety. That is a way to make some States fall further behind.

I know more lives can be saved with seatbelts. Good friends of mine who are troopers have said they have never unbuckled a dead driver from a seatbelt, although they have taken a lot of dead people out of cars in car accidents. I do not believe, however, the Federal Government should sanction States, trying to get people to use seatbelts. The Federal Government would force enactment of primary seatbelt laws. This approach is essentially Federal blackmail by Congress. It is telling the States we are not going to return the money you pay into the Federal highway trust fund because some of us in Washington, DC, think your State legislature and your Governor need to enact this law. Well, that is the purpose of the folks we elect at the State level to represent us in our general assemblies and to represent us in our Governors' offices.

I held the office of Governor at one point. I spent an awful lot of time looking at federally imposed mandates, many of which did not make any sense. They told us, for example, we had to use our clean water funds to clean up water from our major cities going back into the Missouri and Mississippi Rivers, putting in water that was higher quality than was already in the river. We wanted to use it on the pristine Ozark streams where small communities and septic tanks were seriously downgrading streams which had been fishable, swimmable, and drinkable. The priority did not make sense for Missouri.

I came up here to try to work with the States, not to tell States that we are not going to send back money you send to Washington unless you adopt our idea.

Only 20 States have decided to enact a primary seatbelt law. Other States have decided a primary seatbelt law is not the way to increase seatbelt usage.

Missouri has made great strides in seatbelt use, and this has been done without a primary seatbelt law. As you can see on this chart, the States which have primary seatbelt laws have the bold numbers. You start out with Alabama, California, Connecticut, the District of Columbia—everybody in the District of Columbia knows you get pulled over if you are not wearing a seatbelt—Georgia, Hawaii, Indiana, Iowa, Louisiana, Maryland, and Michigan, to name the lefthand side.

You can see what progress they have made. Alabama has a primary seatbelt law. In 2002, they had 79 percent usage, and it fell back to 77 percent in 2003. They went down. Other States are nowhere near that. Virginia, for example, has no primary seatbelt law, apparently, according to this chart. In 2003 it only had 75 percent seatbelt usage. The good news is, reduction in non-use, from 30 percent to 25 percent, was a 17-percent reduction.

The State of Missouri has gone from 31-percent non-use to 27-percent non-use without the seatbelt law. Why should this body say we are going to take money away from the State of Missouri because we don't like the way you are reducing non-usage of seatbelts?

I think public statements—and I certainly have made them, and will continue to make them—educational campaigns and incentives are the way to go to improve usage.

When you look at this chart, you see a lot of States with seatbelt usage that is definitely below 90 percent. For most of them, the usage is 70 and 80 percent. We are making progress. We ought to continue to do that with incentives. If you give States incentives, they have the flexibility to use their own solutions to increase seatbelt use. That flexibility would be lost. States would be limited in their ability to educate the public with regard to the importance of highway safety. They would lose safety money. That makes no sense.

The enforcement of primary seatbelt laws costs the State a lot of money, from increased law enforcement personnel, hours of work for clerical representation, and prosecutions. Is that the best way to use their law enforcement people? I think that is something that is better left to the authorities in the individual States.

We have to stop this sanctions approach and, I believe, use incentives. Under title I, under the Commerce Committee report, NHTSA would be authorized to use over \$3.5 billion in grant funding and approximately \$800 million for vehicle safety-related rules. The NHTSA programs would pay strong attention to driver safety and seatbelt use.

Under the National Highway Safety Program, section 104 grants would be administered by NHTSA in three high-visibility areas of safety: to reduce alcohol-impaired driving, drug-impaired driving, and increase seatbelt usage. I

believe that is the appropriate way to go.

The amendment that was described yesterday represents a double penalty for States that do not enact primary seatbelt laws. In fiscal year 2005 and thereafter, 10 percent of section 148 funds—those are funds for highway safety improvement—would be transferred to the section 402 program unless the State has a primary safety belt law or has achieved at least a 90-percent safety belt use rate.

Beginning in 2007, 2 percent of the interstate maintenance, surface transportation, and bridge programs would be withheld from States that do not have a primary seatbelt law or a 90-percent usage rate. The percentage withheld would rise to 4 percent in fiscal year 2008 and thereafter. If Congress enacts these sanctions, we are not likely to authorize incentives. The States have used section 157 safety belt incentive grant funding to support national safety belt mobilization and other safety belt enforcement activities. Without the incentives, the States would have drastically reduced resources for those purposes.

I believe enactment of a primary safety belt penalty mandate, forced upon the States, is premature and unwarranted. There has never been a sufficient program to convince the States to enact primary seatbelt laws or to find other means of increasing usage and decreasing nonusage of seatbelts.

Under the Senate Commerce bill, the new safety belt incentive grant program would provide the States with a grant of five times their apportionment if they enact a primary seatbelt law. We need to see if this program works and see if it is effective.

Many Governors and State legislatures oppose penalties and sanctions. There are currently 18 penalties and sanctions, 7 of which are highway safety related. Increasingly, Congress has relied on punishing the States if they do not meet safety performance objectives. As a result, I think there is an understandable revolt and reaction growing to this approach. The "Mother May I" coming to Washington is bad enough, but when "Mama Federal Government" tells us: "You have to do it this way or you don't get your supper," particularly when your voters, your constituents, your taxpayers have been the ones who have paid for that supper, that is, I think, a real problem. Typically, State legislatures being forced to do this are going to rebel, and I think it is very inappropriate.

We have a letter from the executive director of the American Association of State Highway and Transportation Officials; the executive director of the Governors Highway Safety Association; the president and chief executive officer of the American Highway Users Alliance; the executive director of the International Association of Chiefs of Police; the executive director of the Commercial Vehicle Safety Alliance; the chief executive officer of the Asso-

ciated General Contractors of America; the executive director of the American Traffic Safety Services Association; the executive director of the National Conference of State Legislatures; the executive director of the American Road & Transportation Builders Association; the president of the American Council of Engineering Companies; the vice president of Public Affairs of AAA, and the executive director of the National Governors Association, all saying:

... we oppose the use of penalties and sanctions.

Our organization supports the underlying safety goals. We believe the use of sanctions and penalties reflect an all-or-nothing approach that forces absolute and unconditional compliance with Federal safety requirements or goals while stifling innovation and redirecting funds from highway construction and maintenance projects with tangible safety benefits.

That makes the case very well.

I ask unanimous consent to print this letter in the RECORD.

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

JANUARY 30, 2004.

Hon. Senator BOND,  
*U.S. Senate, Russell Senate Office Building,  
Washington, DC.*

DEAR SENATOR BOND: The organization listed below represent a broad array of national, state and local elected leaders, policymakers and transportation and highway safety interests. Our organizations oppose the use of sanctions and penalties. We believe the use of sanctions and penalties reflect an all-or-nothing approach that forces absolute and unconditional compliance with federal safety requirements or goals while stifling innovation and redirecting funds from highway construction and maintenance projects with tangible safety benefits.

Currently states face eight highway safety-related sanctions and penalties that are designed to force compliance with various federal highway safety mandates or goals including enactment, by specified deadlines, of various types of state safety legislation. While our organizations support the underlying safety goals, we oppose the use of penalties and sanctions. In fact, many of our organizations have adopted the new United States Department of Transportation's safety goal of 1.0 fatalities per hundred million vehicle miles of overall highway travel by 2008—a one-third reduction in today's rate. Sanctions and penalties decrease the amount of funding available to the states to make necessary investments to the highway system, compromising the construction, rehabilitation, operation and maintenance of a safe highway system. Fewer resources to invest means delays in roadway and intersection improvements, fewer dollars for upgrading highway signage and markings, and less funding available for investment in safety research.

We urge you to employ incentives and positive strategies to encourage states to accomplish both public safety and transportation-related objectives rather than adopting a negative sanctions approach. Incentives from an increased overall multiyear funding program give states the flexibility and resources to find creative solutions to safety problems that fit their needs while ensuring stable funding for improving, constructing, operating and maintaining safe highways.

As you consider reauthorization of the Transportation Equity Act for the 21st Cen-

tury (TEA 21), we urge you to reject any changes to current law that would impose new sanctions or penalties on the states for failure to comply with federal highway safety mandates and goals.

Sincerely,

John Horsley, Executive Director, American Association of State Highway and Transportation Officials; Barbara L. Harsha, Executive Director, Governors Highway Safety Association; Diane Steed, President and Chief Executive Officer, The American Highway Users Alliance; David Rosenblatt, Executive Director, International Association of Chiefs of Police; Stephen Campbell, Executive Director, Commercial Vehicle Safety Alliance; Stephen Sandherr, Chief Executive Officer, Associated General Contractors of America.

Roger Wentz, Executive Director, American Traffic Safety Services Association; William T. Pound, Executive Director, National Conference of State Legislatures; Peter Ruane, Executive Director, American Road & Transportation Builders Association; David A. Raymond, President, American Council of Engineering Companies; Susan Pikrallidas, Vice President, Public Affairs, AAA; Ray Scheppach, Executive Director, National Governors Association.

Mr. BOND. I urge my colleagues to oppose any effort to mandate primary laws or arbitrary usage of seatbelts on the States.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. Mr. President, I would like to continue my discussion about key provisions of S. 1072. In particular, I would like to discuss some of the bicycle and pedestrian provisions. According to the National Highway Traffic Safety Administration, 5,600 pedestrians and bicyclists were killed in traffic accidents in 2001. Tens of thousands more were injured in traffic accidents.

In that same year, more than one-fifth of the bikers killed in traffic crashes were between the ages of 5 and 15, our Nation's children. Pedestrian and bicyclist fatality numbers have been slowly decreasing over the years, but one death is too many. We must improve our record.

S. 1072 provides resources to help States address this safety problem. Our bill reauthorizes the bicycle/pedestrian provisions found in TEA-21. We recognize the importance of these provisions. More people walking and bicycling means fewer people in cars. It means healthier communities and a cleaner environment. We should promote it. Under our proposal, States may continue to use core program dollars to fund improvements for bicyclists and pedestrians.

However, if we really want to encourage people to walk and bicycle around

our communities, we must make these activities safer. Mr. President, 5,600 fatalities is an unacceptable number.

In addition to reauthorizing current programs, our bill directs the Secretary of Transportation to make safety grants to fund an information clearinghouse and educational programs to promote bicycle and pedestrian safety. These provisions will support existing efforts to improve bicycle and pedestrian access to transportation facilities and to enhance safety for all transportation users.

I believe that these provisions in the bill, if taken into use by our States and communities, will do a great deal to protect the children presently in our system and in the future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### RECESS

Mr. BOND. Mr. President, after conferring with both sides of the aisle, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:19 p.m., recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER OF PROCEDURE

Mr. INHOFE. I ask unanimous consent that the Senator from New York, Mrs. CLINTON, be recognized for up to 5 minutes as in morning business and then for me to reclaim the floor at the conclusion of her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New York.

#### OUTSOURCING AMERICAN JOBS

Mrs. CLINTON. Mr. President, I thank the Senator from Oklahoma.

I rise today because I could not believe my eyes when I saw this headline in the Los Angeles Times today: "Bush Supports Shift of Jobs Overseas." If one reads this article, it is clear the

concern I feel on behalf of my constituents, who are finding their jobs going to other countries, is not shared in the White House. In fact, Gregory Mankiw, the President's Chair of the Council of Economic Advisers, has this to say:

Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing.

I do not think outsourcing American jobs is a new kind of trade. I do not think we should be thinking of our people as commodities, and I certainly do not believe it is a good thing. If the other end of Pennsylvania believes it is a good thing to have companies shift jobs from America to the rest of the world, then maybe they do not have a clue about what it is going to take to bring jobs back to this country and create the kind of economic prosperity that will put our people back to work again.

Of course, this goes hand in hand with the budget the President sent up, which cuts investments and workforce training of dislocated workers, which underscores the failure to push for stricter standards or real enforcement of labor and environmental standards in our trade agreements, has no plans to address rising health care costs or legacy health and pension costs that are strangling American manufacturing companies, and apparently does not care we are now outsourcing radiologists and engineers, people we told to go get a good education, get that college degree, get that advanced degree; there will always be a place for you in the American economy. If this is what the opinion is on the other end of Pennsylvania Avenue—"Bush Supports Shift of Jobs Overseas"—I certainly hope this body will join to pass a resolution repudiating this strategy. This is a strategy for decline. This is a strategy for the destruction of the American job market.

We will be presenting a resolution, a sense of Senate, to stand against this philosophy in the White House that turns a blind eye to the damage that is being done to the American economy: The loss of jobs, the loss of income, the loss of self-confidence and prestige that is now sweeping our land.

I hope both sides of the aisle, Democrats and Republicans, will join in a sense-of-the-Senate resolution saying: We don't know what they are drinking up there in the White House, we don't know what the Council of Economic Advisers is reading, but we in the Senate do not believe shifting jobs overseas is a good economic strategy and we want, once and for all, to not only repudiate that but to come together with real plans and policies that will keep our jobs here and make it possible for us to promise the American workforce that this economy will be creating opportunities for them and they will not be watching the American dream be outsourced as well.

Mr. President, I thank my colleague from Oklahoma for his kindness in let-

ting me express and vent my frustration about this headline and the words coming out of the White House at this time.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003—Continued

##### AMENDMENT NO. 2276 WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to withdraw amendment No. 2276 on behalf of Senator DORGAN.

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

##### COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE WITHDRAWN

Mr. INHOFE. Mr. President, with the approval of the committee, I now withdraw the committee substitute amendment.

The PRESIDING OFFICER. The Senator has that right.

##### AMENDMENT NO. 2285

Mr. INHOFE. Mr. President, I now send a substitute amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. INHOFE) proposes an amendment numbered 2285.

Mr. INHOFE. 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 printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The majority leader.

##### CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion on the pending substitute to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

##### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-Aid Highways, Highway Safety Programs, and Transit Programs, and for other purposes.

Bill Frist, James Inhofe, Christopher Bond, Gordon Smith, Lamar Alexander, Richard G. Lugar, Pat Roberts,