

provide an opportunity for my children to get an education. They got their education. Now they are raising their families. I want to see my grandchildren have the same future that I have enjoyed, and my children have enjoyed.

I think what the President is doing to hold down taxes creates lots of opportunity for young people to get their own business started. That is the strength of America, our small business sector. That is where innovation starts and that is where growth begins.

Madam President, I am curious to know how much time we have left on this side.

The PRESIDING OFFICER. The Senator has 11 minutes 56 seconds.

Mr. ALLARD. I want to talk a little bit more about the housing issue. As our economy was going through an unprecedented decline, we saw housing stay up. That was the one part of our economy that actually sustained us.

It was a pleasure for me to be able to work with the President on the American Dream Downpayment Act, to allow for young people in all areas of the country to begin to be able to make that downpayment on that first home.

In studying what was happening in the last several years, even though we had dropped interest rates and it was easier to qualify for loans, there were a lot of people who should have but did not own their own homes. Historically the barrier was that downpayment. So the American Dream Downpayment Act provides a way for families who run up to this barrier, where they look at their rental rates they are paying that are exactly the same as what their mortgage payment would be, this provides them an opportunity to get past this downpayment barrier in order to own a home.

It is working. It is going to work. As it moves forward—it is just getting started—it is going to do even more to create home ownership.

I am proud of this President. I am proud of his economic policies. I am proud to be able to work with him in a partnership in cutting taxes and encouraging the economy to grow.

As a small businessman, I know how that works. If anything affects a job, or growth, it is when taxes get too high and rules and regulations take over your business. As a small businessman, I have had to suffer through down economies. I have had to lay people off because our small business was not doing very well because of a down economy. It is not fun.

But we always recovered and after we recovered we were more productive and we were more efficient and we generally provided a better service. I think that has happened in this country. I think a lot of companies have taken the downturn and streamlined their operations, improved their services.

The bottom line is that we are going to have more jobs in this country. Our economy is going to continue to grow.

The bottom line is the consumers in this country are going to be better served.

This President has done the right thing for America. It is unfortunate that, in an election year such as this, the political rhetoric gets so negative because it really does not reflect what has been going on. To repeat, unemployment rates have dropped to 5.6 percent. The gross domestic product is growing at phenomenal rates. Job growth is happening. It is occurring today.

Other countries have looked at what we have done in America to create jobs, and they are updating.

Competition is going to be tough in the international market, and we need to be prepared to compete. Trade restrictions is not the way to do it. We historically have been able to compete throughout the international community without trade restrictions. In fact, the trade agreements we pass actually make it possible for the United States to cut down the trade tariffs that are applied against American products.

One of the things that gets thrown out here is the trade deficit. The trade deficit has been the worst in this country during the Depression and during the recession we had at the end of the Carter years in the 1970s. When our economy goes down, trade deficits get better. When our economy goes up, trade deficits change because consumers are buying more goods. When you have them buying more goods, it creates more jobs. I don't see where the trade issue is one that really reflects what is happening in the economy.

I shared these issues with you this morning because that is really what is happening in the economy. Employment is rising, unemployment rates continue to fall, gross domestic product and productivity continue to grow strong and at a sustainable rate, business activity continues to strengthen, consumer confidence and spending grows, the Fed is holding interests rates at a steady 1 percent, and the housing market looks really good. It has been good for a while and continues to look good. When you compare the dollar to the yen or to the euro, its value is going down, which is good for exports. It is good for business. It means we will be able to move our products overseas. I think it looks good.

I am proud of this President. He has the right solution, and it is working.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

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

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of S. 1072, which the clerk will report.

The assistant 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:

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

Warner modified amendment No. 2286 (to amendment No. 2285), to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I commend the Senator from Colorado, Mr. ALLARD, for his remarks on the economy. I want to get into the pending amendment. At that point, I hope the managers will allow me to continue and talk about this seatbelt amendment.

I commend my colleague from Colorado, Senator ALLARD, for his comments. Tax cuts are working because individuals, families, and small businesses have greater freedom. They are investing. More jobs are being created, and there is more economic activity which makes our country more competitive.

Our tax laws and regulatory policies—and any policy we have in this country—needs to ensure that there is more investment and more jobs in America. We ought not ruin opportunities for businesses to provide their employees with broad-based stock options. The People's Republic of China has technology companies that promote themselves because they have stock options for their employees. I hope in America we would not deny that opportunity. Internet taxes matter. We need not be imposing higher taxes on access to the Internet, particularly broadband. Energy is important. We need to have energy sufficiency and reliance, domestic production of natural gas or clean coal or oil, as well as advancements in new technology. And this highway bill is a part of that, it is also for infrastructure, jobs, and the movement of people to and from work with less congestion. I hope we will get to it.

In the midst of this, we have an amendment. I have a tremendous amount of admiration and respect for my colleague, the senior Senator from Virginia, Mr. WARNER. His service to Virginia and to our Nation makes him a true American hero, in my view, and a great patriot. It is an honor to serve and partner with him.

However, I am compelled to voice my opposition to an amendment that Senator HILLARY CLINTON and he have proposed to the underlying highway bill. The amendment that is before us, while certainly well-intentioned, should not, in my view, be the purview of this body or the Federal Government. The proponents argue that it is a good idea to wear seatbelts. In most cases, that is

true. But there is really no assertion nor persuasive reason that has been proffered for Federal jurisdiction in this case. This certainly is not interstate commerce. Without a Federal interest, I think this cause or this claim or this idea ought to be dismissed in the Senate and remanded to the place where this ought to be adjudicated; that is, in the State legislatures because this is clearly a State interest.

Beyond the lack of Federal jurisdiction, I have long detested nannyism that emanates from the Federal Government. I believe legislating common sense is an ill-fated course that will result in countless mandates and directives imposed upon the American people.

No one in this body or around the country will argue that wearing a seatbelt is not a good idea. I wear them. I make sure my kids are buckled up. Of course, there are laws that have to do with children, but we are dealing with adults with this amendment.

The point is whether or not the Federal Government or any government ought to be legislating or coercing sensible behavior. There will be all sorts of ideas where people will say: Gosh, it is in government's interest—not just seatbelts but, gosh, you should not be drinking hot coffee, you should not be talking on the cell phone, and you should not be changing the radio station or trying to find your Alan Jackson CD while driving. You should not be eating a hamburger while driving. You ought not be looking at your Blackberry and replying while driving.

If there are going to be laws in this area—which I do not advocate—it ought to be at the State level.

Any of these examples I cited, obviously, endanger not only the driver but others.

I thank my colleague from Missouri, Senator BOND, for his great leadership on the highway bill, and also his support for the principles I will continue to espouse to my colleagues on this mandatory seatbelt dictate amendment.

I don't think this body wishes to dictate mandates on a lot of things because they make good sense. Let's look at law enforcement. I am sure there are some in law enforcement officers who like this idea of primary enforcement rather than secondary enforcement. In my view, law enforcement has a lot of important things to do, especially on safety of the highways.

For example, there is a driver on the road without his or her seatbelt on but otherwise driving the speed limit in their lane safely, not impaired by drugs or alcohol; meanwhile, law enforcement stops them, pulls them over, and it takes 20 to 30 minutes for them to cite someone who undoubtedly will be miffed by such pestering. At the same time, down the same stretch of highway there could be a drug-impaired or alcohol-impaired driver weaving down the road undetected because the sheriff's deputy or the State trooper or the

police officer is bothering someone who is otherwise driving safely.

This amendment clearly tramples on the rights, the prerogatives, and the jurisdiction that have long been the purview of the people in the States. I don't believe mandates such as this initiative should come from any level of government. I was not for it as a State legislator or a Governor of the Commonwealth of Virginia. However, if governments are to be making a decision on this, it ought to be the State governments, not the U.S. Congress.

The logical regression is that somebody could make an argument that people riding motorcycles are safer wearing helmets than not having helmets. There are many States that do not have helmet laws. It is the right of the people of South Dakota, or whatever State it may be, to have such helmet laws. The logic, of course, would be that the Federal Government could say all motorcycle riders have to wear helmets.

In my view, our State legislatures provide a much closer representation of the views, the beliefs, and the will of the people in their respective constituencies, in their respective States all across our country. I am a firm believer that the laws of a particular State do reflect the principles and the views of its constituents and how they want to be governed.

I hope my colleagues realize that many States do not have primary seatbelt laws. In fact, 30 States do not. While New York and New Jersey have primary enforcement, as do Maryland, Delaware, and California, there are 30 States, from Maine to Virginia, to South Carolina, to Florida, to Missouri, to Nevada, Idaho, Arizona, and Alaska, that do not. If such seatbelt laws are desired, the citizens in these States will elect representatives and State legislators who share this belief and who want to pass such a petty law.

A minority of the States currently have the primary enforcement of seatbelt laws. I am sure it has been considered by State legislatures. It has been considered in Virginia for many years and debated as to the benefits of primary seatbelt statutes. Never, though, has it been agreed to be the law of the Commonwealth of Virginia. In fact, just last week the Virginia House of Delegates Transportation Committee tabled a measure that would have established a primary seatbelt law.

Again, I am often puzzled by the scant Federal nexus on this issue. Is it that State roads go through other States? For the Federal Government to usurp State authority on an issue that does not concern the safety of the public but only the individual in my view is Federal meddling at its worst, especially when coupled with repressive extortion.

When these issues are decided by State legislatures, all sorts of interesting things come up. There is naturally the libertarian streak, which my good friend, the senior Senator from

Virginia, and I will discuss from time to time. That is an issue. But, interestingly, some other issues will come up. Last year in the debate in the Virginia General Assembly and the House of Delegates, Delegate Ken Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating: I know what happens when you are stopped by police, as a black man in this country and in Virginia, in particular. He explained how his son was harassed and pulled over numerous times for no apparent reason.

So we end up with concerns of driving and persecution of people on account of their race. That is something to be decided in a State legislature. I am not sure if every State has it. I am sure most places in Virginia do not have this problem. Nevertheless, that is the discussion that was held on the floor of Mr. Jefferson's capitol in the Commonwealth of Virginia.

The Virginia Legislature and the legislatures of other States, from Alaska to Florida and South Carolina, can discuss the impact of this on the people of their States rather than have the Congress hold hostage desperately needed funds for highways to make them comply with the one-size-fits-all edict and agenda.

Proponents will say this initiative provides States with supposed options. The reality is, by withholding highway funding, it is a de facto mandate. I do not believe in blackmailing the people of the 30 States, or any State with primary seatbelt laws for funding that their citizens have paid into the Federal highway trust fund.

I have watched this debate very closely on the reauthorization. We have heard the vast majority of Senators, thank goodness, laud the potential of this measure to create thousands of jobs in their States and obviously alleviating aggravating congestion in metropolitan and suburban areas of our country. If that is the case, why should we, as a Federal Government, withhold any portion of this funding, given its great prospects for jobs and also its ability to improve the quality of life? Our Commonwealth of Virginia would lose tens of millions of dollars until enacting a primary seatbelt law or convincing the federal government ninety percent of Virginians are wearing seatbelts.

Given the congestion in Hampton Roads, northern Virginia, and the number of Virginians seeking employment, I cannot support a measure that would reduce the amount of benefits available to Virginia.

I commend my friend and partner, Senator WARNER, on what he has been able to do over many years in getting Virginia's share of Federal dollars up from 79 cents to 80 cents to 90 cents and, in this measure, up to 95 cents. But Virginia is already paying in more than we get back. In addition, punishing the people of Virginia by withholding until they are coerced in the

legislature into passing a primary enforcement of a seatbelt bill, to me, is wrong.

I know what they will have to do; they will have to pass it, just as they had to pass in all the States raising the beer drinking age and the .08 blood alcohol content maximum. The latter did not have an impact in Virginia because as Governor I advocated .08 and we enacted into law.

States need the funds for roads and transit. It is contrary to the best interests of Virginia to force primary seatbelt mandates in exchange for funds. We ought to be making the most funding available for highways rather than returning less of Virginia gasoline taxes to them until they pass such an officious measure as this.

There are more effective ways to convince Americans to wear seatbelts when driving or traveling in an automobile or pickup truck. But meddling into every aspect of our citizens' lives, usurping the authority of the people through their legislatures, holding hostage infrastructure funds that are so needed, to me, is not the appropriate method to realize these salutary goals.

As I said, I have a great deal of respect for Senator WARNER. I know he cares passionately about this issue, but I don't believe this is in the best interests of the Commonwealth of Virginia or 49 other States. In my view, it continues a dangerous precedent that allows the Federal Government to further encroach on an issue traditionally determined by the States by withholding these infrastructure funds. This is simply not an issue for the Senate. It is not an issue for Congress to decide. It is clearly properly reserved to the people in the States.

I hope my colleagues will join me in opposing this amendment, tabling it, however it comes before the Senate. I certainly do not want to play the role of "father knows best" or senatorial nanny to coerce or reverse the decisions clearly made by my State's legislature or, for that matter, 29 other States.

Let there be no mistake. I strongly support greater seatbelt usage. I believe it can save lives on our roads and highways. But I do not support that usage coming as a result of a dictate and blackmail from "Federales" here in Washington, DC.

Let's not meddle with the laps of drivers driving safely down the road as adults. Let's trust free people to make these decisions and their State legislatures as to what they think the laws and enforcement ought to be, whether it is helmet laws or whether it is seatbelt laws. Let's also pass this otherwise beneficial bill that will help reduce congestion and help create jobs in our country.

Mr. WARNER. Mr. President, will the distinguished Senator, my dear friend, yield for some questions?

Mr. ALLEN. I would be happy to.

Mr. WARNER. I think as the two of us are here on the Senate floor, I am

reminded that when Ben Franklin emerged from the Constitutional Convention, a reporter asked him: Well, what have the delegates to the convention rendered America? He said: A republic, if you can keep it. And this is the very essence of the Republic, if we can keep it, because here we are, two of the best of friends, proud to represent the Commonwealth of Virginia, and 90 percent of the time we are aligned. Yet our system allows the two of us to debate opposite positions on a piece of legislation I offered. I think that is magnificent, not only for our State but for the country.

Mr. ALLEN. If I may, I would much rather be debating this issue with your colleague on this, the junior Senator from New York. It would be much more enjoyable than with someone who is such a great partner. I yield back.

Mr. WARNER. I believe there would be somewhat greater notoriety, but I think some of the folks down in Virginia would be rather amused that here we are, the two elected Senators, having an honest and forthright debate, and in a friendly spirit.

But I picked up on one or two of your words. I know you love that word, Congress being the "nanny." But, first, I ask my junior Senator, have I ever been a nanny toward you?

Mr. ALLEN. Of course not.

Mr. WARNER. Fine.

Mr. ALLEN. I wouldn't allow it, and you wouldn't either.

Mr. WARNER. So be it. Let's put that to one side.

Mr. ALLEN. I would say for the record, Mr. President, no, the senior Senator from Virginia has given me guidance but never in a sense of being an officious nanny whatsoever.

Mr. WARNER. Nor will I ever because I have tremendous respect for the Senator. We come to the Senate with different career backgrounds: You, a very distinguished State legislator, then Governor, and now U.S. Senator. How well I know that. I campaigned as a U.S. Senator when you were a State legislator, when you were running for the governorship, and then for the Senate. I am privileged and delighted that the Senator is here.

But you used one word I have to ask you to reconsider: This will establish a dangerous precedent. I ask my good friend—Virginia has the .08 drinking law, which has been very effective. It has saved lives. That is the purpose of this legislation, to save lives. To me, a little less concrete, a little less asphalt, and we may save a life, and we may save thrusting expenses on the local communities—whether it is the small community of Hopewell, VA, or the large community of Richmond. When an accident happens, they are the ones who bear the cost of sending out the police, the rescue squads—fortunately, Virginians volunteer in many instances—to attend to the wounded, the sick, and, indeed, the dying as a consequence of the accident.

That is costly, and it is clearly documented that we save lives with the in-

crease in the use of seatbelts. The Secretary of Transportation, on behalf of the President, wrote this body a letter, addressed to the distinguished chairman, Mr. INHOFE, which is in the RECORD. It explicitly says the increase in the use of seatbelts saves lives. I do not think throughout this debate—I have been here throughout this debate—not one single Member of the Senate has taken the floor and addressed this legislation that it does not save lives. That is a given.

So let's go back to the .08 law. Is that not a direct precedent for this piece of legislation? This legislation is drawn, sentence by sentence, comparable to the .08 law. That was my objective.

Mr. ALLEN. I say to my colleague, the senior Senator from Virginia, it is similar in some respects.

Let me make a few points. Talking about cost—local rescue squads, volunteer fire departments, and so forth, having to work accidents—well, it is not as if the State legislatures do not care about these costs because, after all, if it is State police or if it is local supervisors or whoever it may be, they all care about that as well. And that is the proper forum for this because I think the people in the States do care just as much if not more and are much more in tune with what they would like to do in their laws than the Federal Government.

The difference on .08—I did allude to it, and it is a good, probative question—the .08 blood-alcohol level for drunk driving, or driving while under the influence of alcohol, is something that I advocated when you were alongside of me campaigning for Governor in 1993. There was opposition to that. But I thought, as well as you do, that at .08 most people are going to be impaired and, therefore, a danger, in that case to themselves, but what I cared most about was the danger to others.

In the case of somebody's lap, whether they are wearing a seatbelt or not, if it is a danger, it is only a slight increase in danger to themselves. It is not a danger to others on the road. Whereas, for somebody who is a drunk driver, clearly it is going to be a danger to themselves, but what might they do to an innocent pedestrian, somebody else driving on the road? So even .08, while we had it—and so the dictate and the extortion, whatever term you want to use on .08, it did not matter to Virginia because we had already passed that law, imagine that, without the wisdom of Washington. We actually did that. The point is, in this case, unlike a drunk driver, not wearing a seatbelt is not a danger to others, while a drunk driver is. And that is a distinction I would make.

But in either case, just personally—this is just philosophical to me, and maybe it is because of my experience serving in the State legislature and as Governor—I think the people in the States are perfectly capable of making these judgments themselves. And to restrict or take away funds unless you

follow the dictates of the Federal Government in something that while desirable is not really the proper jurisdiction of the Federal Government, to me, is just wrong.

Mr. WARNER. Mr. President, I say to the Senator, I full well know, having had the privilege of working with you throughout much of our public service careers, your strong feeling about States rights. And I have mine also. But I have to tell the Senator, the facts do not bear out the assumption that that individual driving without the seatbelt is of minimal danger to an innocent person, be it a pedestrian or one in another car, for this reason: It is very clear that if an accident occurs with an individual driving under the restraint of a seatbelt, he or she has, in that split fraction of a second, better control over the car than one who is totally jostled out of the driver's position and loses the ability to operate the controls of the car because of the absence of a restraint to keep that individual in the position of the driver.

Now, the record is replete with those facts. Secondly, yes, you think the people of Virginia—and we love them dearly and they will be on your side, not on mine; they will be on your side—should make the decision. But, tragically, for children, 6 out of 10 die who do not have the seatbelt put on them.

By the driver putting on his or her seatbelt, there is more of an inclination, then, to do the same with the other passengers in the car. The death on our highways today cuts into the young people, the younger generation coming along behind us far more deeply than our age group. The main category of deaths in this country, on the highways, is between the ages of about 17 and 30. There is the preponderance of deaths.

How well you know and I know when we were that age, you know: The laws be damned; we can handle anything.

That is the magnificence of youth, the exuberance, to meet the challenges, whatever they are, and "don't tell me." I always admire that flag of New Hampshire that says: Don't tread on me. But now and then we have to tread ever so lightly upon our citizens to induce them to take those fundamental steps, not only to protect themselves but to protect that innocent victim on the streets or in another vehicle.

This formula is drawn up, yes, that some funds are withheld if the State does not go ahead. We only lost by one vote in the Virginia General Assembly on two occasions to get this very piece of legislation. You acknowledge that fact.

Mr. ALLEN. It has failed for many years.

Mr. WARNER. One vote. All I am saying to you is, if you just require the State, all right, if you don't do it, you will have to give up a little asphalt, a little more concrete, but in return we are saving lives, not only the lives of the young people in that car but the innocent victims, the passengers of an-

other vehicle, or the pedestrian. For a very few cubic yards of concrete and asphalt, we may well save a life.

Mr. INHOFE. Mr. President, may I make a parliamentary inquiry.

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

Mr. INHOFE. Which of the two distinguished Senators from Virginia has the floor?

The PRESIDING OFFICER. The junior Senator.

Mr. WARNER. I can answer that, the distinguished junior Senator has the floor.

The PRESIDING OFFICER. The distinguished junior Senator.

Mr. INHOFE. I thank the Chair.

Mr. ALLEN. Mr. President, I imagine the manager of this measure, the chairman, Senator INHOFE, may want to speak on this. I will just say I very much enjoyed listening to the arguments of my esteemed senior colleague from Virginia, Senator WARNER. I was just thinking, this is the sort of argument that ought to be made in Mr. JEFFERSON's capital. If you look at all the rest of the States, folks care about kids. There are laws requiring children under certain weights and ages to be in car seats and they do have to be buckled up.

Here you have the States of Maine, New Hampshire, Vermont, according to the Advocates for Highway and Auto Safety, Massachusetts, Rhode Island, Pennsylvania, West Virginia, Virginia, Ohio, Kentucky, Tennessee, South Carolina, Florida, Mississippi, Arkansas, Missouri, Wisconsin, Minnesota that don't have primary enforcement of seatbelt laws, they probably have secondary enforcement laws like Virginia. Additionally, North and South Dakota, Nebraska, Kansas, Colorado, Wyoming, Montana, Idaho, Nevada, Utah, Arizona, and Alaska.

Those folks, if they want to pass these laws, I guarantee, none of them have anyone as articulate and persuasive and passionate and caring about this issue and America than John Warner. I am not suggesting the Senator join a State legislature. But those folks can come to these conclusions. They can look at their statistics. They also could make these decisions.

In addition to that, to say States that are sending Federal gas tax money up to Washington are going to get less back unless they comply with an issue that is their purview, I think is wrong. It is an honest disagreement, a difference in philosophy. I very much respect and appreciate Senator WARNER's true and sincere beliefs. I still respect him and always will. This will probably be a close vote. It is just to me a place we should not be dictating a course to the States in matters that are rightfully their prerogative.

Mr. WARNER. Will the Senator yield for one further point?

Mr. ALLEN. I surely will.

Mr. WARNER. He enumerated a number of States that still do not have it.

If you go back, as I have done, and studied the .08 law, it was vigorously resisted here on the floor of the Senate repeatedly for the very same reasons you have given. But once it was passed and it became mandatory, suddenly the States joined up. There are now 49 States that have the .08 law as a direct consequence of the Congress having given the impetus for those additional States that were hanging out, all of which you just enumerated; in this instance they joined.

Lastly, I think it is also important in the debate to mention your own personal experience of an individual who was concerned that it would begin to have cars pulled over by virtue of race. But one of the most interesting individuals who attended a press conference the day before yesterday was a black legislator from Arkansas who is chairman of the National Conference of Black State Legislators. He brought with him that organization's endorsement of this bill. So I do believe there is some legitimate difference within one minority with respect to the question of how this law will be felt.

Five States had 21 minimum drinking age, when President Reagan, your idol and mine, signed that into law. So I am just telling you, .08 is an example of how Congress finally acted, and then all the States, save one—I won't mention the one; somebody can do their homework; it is rather curious which State it is—have accepted the .08 law.

I say to my good friend, we have had a marvelous debate. I have enjoyed it. My respect for him as a consequence of the debate has increased, my dear friend.

Mrs. CLINTON. Will the distinguished Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. ALLEN. What is the question?

The PRESIDING OFFICER. The Senator from New York is asking the Senator to yield for a question.

Mr. ALLEN. I will yield, but before I do, I want to make a statement. After that I would be happy to answer a question.

This is the fundamental difference. On .08, as Governor, as a candidate, I thought it was a great idea. The reason all the States have the .08 but for one is because you are withholding or the Federal Government is saying we are going to withhold some of your highway funds for it. It is blackmail. It is extortion, raising the beer-drinking age in Virginia because of that. Ronald Reagan is my hero. He is the one who motivated me to get into organized politics. I think he was wrong to do that. I think for people who are 18, the States can make these decisions. They can enter into binding contracts. They can vote for President, vote for Members here, and they can also theoretically be drafted to fight and potentially die for their country. I think the people of the States can make those decisions.

On this issue, in particular, the .08, I am with you, I am for it. I think that

should be done at the State level. The mandatory seatbelt law and primary enforcement is something that when I held Mr. Jefferson's seat in the House of Delegates I voted against. So if I have voted against it and was opposed to this nannyism when I was in the State legislature, I know the air is more rarified up here, but I still have some of those senses. I certainly do not want to do something in the Senate I would not want to do as a legislator and, moreover, tell the folks in other States to do it.

With that, I yield to the junior Senator from New York.

Mr. WARNER. If I could just make one reply to my colleague and then we will yield the floor. This bill is carefully crafted, that, yes, there is a withholding of those yards of concrete and asphalt, but once the State complies, what has been withheld by way of funds comes back to them to go right into the mainstream of their funding, not unlike .08.

Mr. ALLEN. Understood. I yield to the Senator from New York.

Mrs. CLINTON. With respect to this legislation that I am a proud cosponsor of, along with the key sponsor and advocate, the senior Senator from Virginia, I ask unanimous consent that Senator CORZINE be added as a cosponsor as well.

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

Mrs. CLINTON. With respect to the debate that has been occurring, I understand the concerns raised by the Senator from Virginia, but under this amendment States would have the option of either enacting a primary seatbelt law or bringing their seatbelt usage rates up to 90 percent without such a law. Therefore, it is an option provided today. Would the Senator from Virginia agree that the lack of seatbelt usage causes up to 30,000 people a year to die in automobile accidents that occur on our highways and byways in this country?

Mr. ALLEN. Mr. President, I say to the junior Senator from New York—her question was do I agree that not wearing seatbelts causes 30,000 deaths? No. Not wearing them doesn't cause death; death is caused when somebody is drunk or impaired by drugs, not paying attention, or speeding, or taking a turn too quickly. The sole fact of not wearing a seatbelt is not the proximate cause of the death. Whereas, if you look at the statistics, impaired driving is clearly the No. 1 cause of fatalities, and not just of drivers but also those who are not.

Having said that, I do think it is a good idea to wear seatbelts. I have no objection to it. I think airbags are a great invention. There were those in previous years wanting to dictate to the manufacturers to put airbags on their cars. People realized that airbags could save lives. Whether somebody is wearing a seatbelt or not, of course, the maximum safety is the airbag. Car manufacturers are using that accessory

as a selling point rather than a Government dictate. But not wearing a seatbelt does not proximately cause death.

Mrs. CLINTON. Mr. President, I clearly have a fundamental disagreement with the views of the junior Senator from Virginia. I hope our colleagues will look at the facts. The facts are that failure to enforce seatbelt laws, to make it absolutely clear that there are penalties associated with not wearing seatbelts, causes deaths from accidents that would otherwise not cause fatalities.

This amendment will help us encourage States to adopt stricter seatbelt laws. We give them an option. I hope our colleagues will join with us in voting for this very important safety measure.

I thank the Senator for yielding the floor.

Mr. ALLEN. Mr. President, I do yield the floor.

#### AMENDMENT NO. 2311

(Purpose: To express the sense of the Senate concerning the outsourcing of American jobs)

Mrs. CLINTON. Mr. President, I also rise today to offer an amendment that is a sense of the Senate on an issue I spoke briefly about on the floor yesterday. I know the majority leader and several others touched on it this morning. It is regarding the issue of jobs and the administration's economic policies.

This sense-of-the-Senate amendment is on an issue that is of critical importance to New Yorkers and all Americans, the loss of jobs in our country. We have lost 2.2 million jobs since the beginning of this administration. This sense of the Senate is not about cutting or raising taxes; it is about protecting the jobs that Americans have today, because these 2.2 million people are not statistics; they are factory workers, office workers, laborers, engineers, radiologists—people holding down jobs in every sector of the economy throughout our Nation.

Why are they losing jobs? Because this administration has failed to provide the leadership or put forth an economic plan that inspires confidence in our markets and inspires investments by our companies in the United States.

So where are these dollars and investments going? They are going overseas, where companies don't have the same environment and labor standards, and where they don't have to pay the wages that are necessary to support a middle-class lifestyle in America.

Now, these lost jobs are a tremendous concern to those of us in this Chamber. I hear about it everywhere I travel in New York. You would think if there could be a consensus on anything in this Nation, it would be on how we keep jobs in America, how we prevent jobs from being outsourced, sent overseas. But apparently there is no consensus. That is what is troubling me.

According to the Los Angeles Times yesterday, "Bush Supports Shift of Jobs Overseas." I did a double take. I could not believe that was the head-

line. The L.A. Times wasn't the only newspaper surprise. The Seattle Times headline read: "Bush Report: Sending Jobs Overseas Helps U.S." The Pittsburgh Post-Gazette reported: "Bush Economic Report Praises 'Outsourcing' Jobs." The Orlando Sentinel said: "Bush Says Sending Jobs Abroad Can be Beneficial?"

Where did this come from? It came right from the White House. According to Gregory Mankiw, the President's chair of the Council of Economic Advisers:

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 know the Presiding Officer shares my concern about lost jobs. He sees it in his State, as I see it in my State. I don't think losing American jobs is a good thing. The folks at the other end of Pennsylvania Avenue apparently do. Maybe that is because they have no real strategy of creating jobs in America. Maybe that is why in this budget they have sent up they are gutting investments in workforce training and dislocated worker help, and they are not pushing for stricter standards in trade agreements on labor and the environment. They are really coming forward with no plan to help control health care costs or pension costs facing American companies.

The only economic policy they have is to cut taxes, cut taxes, cut taxes. The more, the merrier. Give those CEOs and wealthy folks at the top even more money to take jobs and move them out of our country.

It is all starting to make sense. The administration thinks moving jobs overseas is a good thing. This is part and parcel of a set of economic policies that are out of touch with the needs of America's working people.

I now send this amendment to the desk. I hope this Congress will take up this issue as quickly as possible, because we need to send a clear message to Americans of all political persuasions, in all regions of our country, that we care about jobs. If the administration doesn't have a strategy, then this Congress will have a strategy. I ask for immediate consideration of this amendment, and I ask that Senator BINGAMAN be added as a cosponsor.

I yield the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself and Mr. BINGAMAN, proposes an amendment numbered 2311.

Mrs. CLINTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ SENSE OF THE SENATE CONCERNING THE OUTSOURCING OF AMERICAN JOBS.

(a) FINDINGS.—The Senate finds that—

(1) the President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas "as a good thing" and said, "outsourcing is just a new way of doing international trade";

(2) the President's economic policies have either failed to address or exacerbated the loss of manufacturing jobs that our country has experienced over the last 3 years;

(3) American families are facing an economy with the fewest jobs created since the Great Depression;

(4) 2,900,000 private sector jobs have been lost since January 2001, including 2,800,000 manufacturing jobs;

(5) on several occasions the Senate has supported reforming our tax laws to eliminate policies that make it cheaper to move jobs overseas; and

(6) job creation is essential to the economic stability of the United States and the Administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should—

(1) oppose any efforts to encourage the outsourcing of American jobs overseas; and

(2) adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas.

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

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

#### AMENDMENT NO. 2286

Mr. WARNER. Mr. President, yesterday I had an opportunity to offer the amendment which is now pending before the Senate and to engage in debate with my colleagues on the important issue of increasing the use of seatbelts in this country.

At the request of my colleague, the manager of the bill, Chairman INHOFE, my amendment was modified last night to give States a full 2 years before it takes effect.

I wish to take a few moments to summarize this amendment and be sure that my colleagues understand precisely what this amendment is and what it is not.

To the point, this amendment is not a mandatory seatbelt law.

This amendment sets as our national policy that States are to reach a 90-percent seatbelt use rate by 2006—a full 2 years from now.

States can meet this goal in two ways. First, they can meet this goal by any means or programs they devise. They can implement new programs or modify their existing occupant protection programs. Funding is also provided to assist States with implementing or expanding their existing programs. This language is identical to the provisions recommended in the administration's bill, but it is not included in the bill before us.

States can also meet the requirements of the amendment by enacting a primary seatbelt law.

This 90-percent belt use rate is not a number that I have invented. It is the figure recommended in the President's highway reauthorization bill.

Wearing seatbelts is a critical public health and safety issue. For the first time in a decade, highway deaths are on the rise. In 2002, nearly 43,000 persons were killed on our highways and over half of these deaths involved people who were not wearing their seatbelt.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible if we take action today.

That is why over 130 organizations are endorsing this amendment. The support includes major national organizations such as the American Medical Association, law enforcement officials, major insurance companies, the Alliance of Automobile Manufacturers, Mothers Against Drunk Driving, and the list goes on.

These are the people who deal every day with the wasteful and avoidable deaths on our highways. They are on the front lines in responding to a crash. They are in our hospitals providing care to those who have sustained serious injuries because a seatbelt was not worn. They are the ones who see ever-increasing insurance costs for all Americans because seatbelts are not used. They are the ones who know that safety devices in our cars—such as air bags and enhanced bumpers—are less effective when seatbelts are not worn.

My colleagues who do not support this amendment have read letters of concern from State groups and others. That is no surprise. At every turn in our Federal transportation policy for the past 15 years these same groups have opposed every public safety initiative. They opposed raising the minimum drinking age to 21, they opposed the zero tolerance for minors alcohol program, and they opposed the .08 BAC drunk driving level.

My only interest is to ensure that this critically important legislation contains some meaningful protections for drivers and passengers.

In TEA-21, there was a 40-percent increase in construction funding, which I proudly supported, to make our roads safer. Yet, traffic deaths are increasing. In SAFETEA, there is a \$65 billion increase for highway construction, yet inadequate protections for our drivers. No engineering features of our roads will protect against reckless driving behavior. That is what causes a majority of our accidents.

Unbelted drivers, speed, and alcohol remain the three biggest safety problems on our roads—not unsafe roads. We are taking meaningful steps to get tough on those who irresponsibly use alcohol and drive. Now it is time to do what we know works to address the other major problem—unbelted drivers.

For the benefit of my colleagues, let me summarize the amendment. States

are to achieve a 90 percent belt use rate by 2006—2 years from now—or have a primary seatbelt law enacted.

If a State does not meet either of these two provisions, 5 percent of one category of their construction funds are transferred to their highway safety programs. The purpose of this transfer is to provide States with additional funding to dedicate to their own programs to encourage drivers and passengers to wear their seatbelts.

If by 2008—4 years from now—a State has not met the 90 percent belt use rate or has not enacted a primary seatbelt law, 2 percent of a portion of their construction funds are withheld. For each of the following years, 4 percent of a portion of their funds are withheld.

States will receive any funding that is withheld when they reach the 90 percent belt use rate, or enact a primary safety belt law. This is the same provision that is law today for the .08 BAC drunk driving standard. Since it was enacted in 2001, 47 States now comply.

There is a solution to the tragic deaths that are occurring on our highways every day. This amendment is the beginning. Let's do what we know works to save lives on our highways.

Let's not pass the buck by believing that it is the responsibility of others to take action. It is our responsibility. I urge my colleagues not to support the motion to table.

Mr. INHOFE. Mr. President, as always, the Senator from Virginia was very courteous yesterday to modify his amendment to give States more time to comply with the requirements of his amendment. I sincerely appreciate his willingness to do so. Unfortunately, my underlying concern with imposing sanctions still requires that I oppose the amendment.

Two days ago, the U.S. Department of Transportation released a statement on sanctions and withholding Federal funds from States which do not have a primary seatbelt law. The statement reads as follows, and I quote:

The Bush Administration's continuing efforts to increase local enforcement and education have boosted safety belt use to the highest level in U.S. history. The Administration opposes sanctions and withholding state funds, both of which would jeopardize important state-level safety programs and infrastructure maintenance programs already in place.

The Administration is working hard to help pass primary safety belt laws throughout the country, and we're seeing results. Twenty states and the District of Columbia already have primary laws. And many other states, including Florida, South Carolina, Ohio, Arizona and Virginia are currently considering primary laws—with our help, not with mandates.

The Administration calls on Senator Warner to join us in helping Virginia state legislators understand the need for a primary safety belt use law.

As I said yesterday, I support the use of seatbelts, and I would suggest that instead of threatening the states with a stick the better approach would be to



induce them to achieve better performance in this area with some kind of incentive. Title IV, Surface Transportation Safety, of the pending substitute, contains an incentive grant program. As proposed by the Commerce Committee, this \$100 million per year incentive grant provision would go a long way to achieving the goals that I believe my colleague from Virginia is trying to accomplish in his amendment.

Offering incentive grants to States that pass a primary seatbelt law or increase their seatbelt use rate is a much better approach to this problem than combination of mandates and penalties. History has also shown that so far, no State has been able to achieve the benchmark level of a 90 percent seatbelt use rate without enacting a primary law. Ultimately we all know that the decision to pass a primary law is up to each state individually. Although neither a sanction, nor an incentive approach is guaranteed to prod every State to produce results, the incentive method is the much better option. In a bill where money is tight, I am grateful that the Commerce Committee saw fit to apply some of those limited funds to this purpose. With that in mind, I question what the benefit would be of having both an incentive and a penalty, where just an incentive would do.

Currently, only 20 of the 50 States meet the requirements laid out in the mandate offered by the good senator from Virginia. I can't get over the fact that 30 States would be immediately thrust into noncompliance and subject to a possible cut in Federal funding under this plan.

As I have said before, my home State of Oklahoma is already in compliance with the requirements proposed in this new sanction, but I fundamentally oppose any imposition of new sections. As much as I personally agree with using seatbelts, I have to recognize that the only proper place for this decision to be made is in each State legislature, not in Washington, DC.

Mr. President, I move to table the Warner amendment No. 2286, as modified, and ask for the yeas and nays.

THE PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2286, as modified. The clerk will call the roll.

The legislative clerk called the roll.

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

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

THE PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—57

Alexander	Daschle	Leahy
Allard	Domenici	Lott
Allen	Dorgan	Lugar
Baucus	Ensign	McConnell
Bennett	Enzi	Miller
Bond	Feingold	Murkowski
Brownback	Graham (FL)	Nelson (NE)
Bunning	Graham (SC)	Nickles
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Chambliss	Harkin	Santorum
Cochran	Hatch	Snowe
Coleman	Hutchison	Specter
Collins	Inhofe	Stevens
Conrad	Jeffords	Sununu
Cornyn	Johnson	Talent
Craig	Kohl	Thomas
Crapo	Kyl	Voinovich

NAYS—41

Akaka	Dole	Mikulski
Bayh	Durbin	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Pryor
Boxer	Frist	Reed
Breaux	Hollings	Sarbanes
Cantwell	Inouye	Schumer
Carper	Kennedy	Sessions
Chafee	Landrieu	Shelby
Clinton	Lautenberg	Smith
Corzine	Levin	Stabenow
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden
Dodd	McCain	

NOT VOTING—2

Edwards Kerry

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. ALEXANDER. Mr. President, on rollcall vote 9, I voted nay. I intended to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

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

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

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER. (Ms. MURKOWSKI). The Senator from Missouri.

Mr. BOND. Madam President, I rise to discuss a second-degree amendment that I intend to offer. It deals with a very important problem in the national interest—assuring that rental and leasing car operations can be performed in all 50 States.

Right now there are several States which have something called unlimited bicarious liability. Under this, if a leasing company leases a car or a vehicle to a person who appears to be a reasonable and responsible driver who meets all of the requirements, and that person goes out and has a horrendous accident, in a few States the victims and the personal injury lawyers are enabled to sue the leasing company which had no control over the car or truck or van and had no evidence of negligence or shortcomings in their procedures in leasing that vehicle. There have been hundreds of millions of dollars of judgments.

We have seen in a small number of States liability being imposed on rental and leasing companies without fault. It has cost car and truck renting and leasing companies more than \$100 million annually. The problem is these costs don't just come out of the pockets of those in that State; they are paid nationally.

When any of us go to rent or lease a car, we are paying far more than we otherwise would because they have had to cover the costs of outrageously high judgments imposed by a few States which allow this bicarious liability language and bicarious notion to apply.

In other words, if you are in New York, for example, and you have leased a car, if you go out and hit somebody, it doesn't matter whether the leasing company is at fault. The leasing company is the one that is sued. If there is \$100 million judgment against that company, guess who pays for it. Not the people who lease the car in New York but all of us as consumers who may go out to lease a car in all of the 50 States.

Therefore, the amendment I am proposing says provided there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle by reason of being the owner of such motor vehicle.

In other words, if the owner of the vehicle hasn't done anything wrong—there has been no negligence, no criminal wrongdoing—but the person who leases that car goes out and has a horrendous wreck, the person who has leased the car is the one who ought to be held responsible.

We should not have to finance jackpot judgments against leasing companies that pass those costs on to all of us across the Nation whenever we go to lease or rent a car or a van. Consumers nationwide are being hurt by these higher rates—not just consumers in the bicarious liability States.

These laws apply where the accident occurs. It does not matter whether the car or truck was rented or leased. Since companies cannot prevent their vehicles from being driven to a bicarious liability State, they cannot prevent their exposure to these laws, and they have to raise their rates for all of us accordingly.

In addition, we have also seen that these higher costs drive many small companies out of business. Actually, a small company trying to engage in the business of renting or leasing may find itself caught in one of these bicarious liability States and wind up with a judgment that puts them out of business. This is a death knell for small

businesses in the leasing and rental business. That is why we have to do something about it.

Accident victims in bicarious liability States would not be left out in the cold. They would be compensated according to the same standard used by the vast majority of States which do not have bicarious liability laws.

More importantly, accident victims in the same bicarious liability State would no longer be treated differently based solely on whether a vehicle involved was rented or leased instead of individually owned. In other words, if you are hit by a negligent driver in any State, file suit against that driver and collect a judgment against that driver logically to be paid by the insurance company of that driver, or if it is self-insured then that driver would have to pay out of his pocket.

That same standard still applies. What we are saying is you can't reach out and bring in somebody who had nothing to do with the accident and was not at fault. When we do that, we are going to provide relief for small businesses. We are going to provide relief to the people who lease cars and rent cars and vans across the Nation.

This provision would not allow a company to escape liability if they were at fault or negligent in an accident in any way.

I ask that it be supported by my colleagues.

AMENDMENT NO. 2327 TO AMENDMENT NO. 2311

Mr. BOND. Madam President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2327 to amendment No. 2311.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit liability with respect to the owners of rented or leased motor vehicles)

In lieu of the language proposed to be inserted, insert the following:

**SEC. 1409. RENTED OR LEASED MOTOR VEHICLES.**

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§30106. Rented or leased motor vehicle safety and responsibility**

“(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

“(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State

law in the State in which the vehicle is registered.

“(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

“(d) DEFINITIONS.—In this section:

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ shall have the meaning given the term under section 13102(14) of this title.

“(2) OWNER.—The term ‘owner’ means a person who is—

“(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

“(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

“(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

“(3) PERSON.—The term ‘person’ means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

“(4) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30105 the following:

“30106. Rented or leased motor vehicle safety and responsibility.”.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise today to talk about the 2.4 million jobs that have been lost in this country. As we discuss investment in infrastructure, we need to keep in mind that investment in human infrastructure is just as appropriate. There are families out there who are continuing to struggle to put food on the table, make sure they can take care of their mortgage payment, and make sure they can take care of individual hospital and insurance needs. I ask my colleagues to put themselves in the position of working men and women who have lost their jobs and now have no means to take care of their family needs.

We have been before this body dozens of times now in the last several months asking for an extension of unemployment benefits because the economy has not truly recovered—certainly has not recovered from the 2.4 million jobs that have been lost. Yet dozens of times my colleagues on the other side of the aisle have objected. They have objected to this extension because they say we are in fine economic shape.

I will bet you that families trying to figure out how they meet those mortgage payments would disagree with the kind of shape my colleagues think the economy is in.

In fact, in December, 90,000 people per week started exhausting their unem-

ployment benefits and had no Federal program to pick them up. That is ½ million people who have gone without aid since the program stopped accepting new applicants. Put yourself in that position and understand that if unemployment benefits are not extended—and the economy grows at a very slow pace—by the end of the year, 2 million people will be cut off from this program. For people without a paycheck or an unemployment check, that means their families will continue to be forced to make very tough decisions.

A recent poll showed that over one-half of the unemployed adults found they had to postpone medical treatment or cut back on food. One in four has had to actually move out of their house because of the cuts in unemployment extension programs. More than one-third have had trouble paying gas or electric bills. I am sure in my State the number would be more than one-third, given our high energy rates. My amendment reinstates the Federal Insurance Unemployment Benefit Program and provides 13 additional weeks of benefits to all States, carrying us through June.

My colleagues ask, Why should we do this? The economy is recovering. If we look at the facts and figures and compared them to the last time we had a recession, this point where we are in our economy is still very disappointing. Last Friday, economists came out, for example, with a report on our job growth and said it was “well below market expectations,” and confirmed that jobs in the markets in the United States are still weak. While the economy created about 110,000 jobs last month—and that is a step in the right direction—it is a pretty small step in the direction we need to go.

My State of Washington, obviously, has faced a lot of downturn because of Boeing, because of high tech, and because many workers throughout the State have been laid off as subsidiaries to those large corporations and interests.

I hear colleagues on the other side of the aisle saying once the economy starts to recover, that is when we need to cut off unemployment benefits because people can still find jobs. The point is during the 1990s, we had an extension of unemployment benefits to take care of the downturn we were facing in the economy, both started by the first Bush administration and then by the Clinton administration, to help take care of unemployment problems.

During that time period in the early 1990s recession, we were offering unemployment benefits for a 27-month period of time. During that 27-month period of time, we actually saw an increase in 2.9 million jobs. The program worked well as the economy continued to rebound and add more jobs. In the 1990s, under two administrations, a Republican and a Democrat, we said, let's extend unemployment benefits for 27 months. The net result was 2.9 million



jobs were created and we curtailed the benefit program.

We have had this recession and downturn and we have only been going for 22 months of this program. We have only been giving people who have been affected by this downturn in our economy 22 months of unemployment extension. During that same period we have actually seen a net loss of 2.4 million jobs.

My colleagues on the other side of the aisle say when the economy picks up, we should curtail this program. What they should really ask is how many jobs have we created during this time period, and are Americans finding jobs? If they are not finding jobs, how can we cut them off from unemployment benefits that are actually a stimulus to the economy in helping to pay the mortgage payments, covering health insurance, keeping families in their home, and not deterring us from economic growth? Every dollar spent on unemployment insurance generates an additional \$2 into local economies.

Let's look at it a little differently during this time period of unemployment benefits. The line on this chart during 2002 continues to go down into the red. This is where we are thinking about cutting off unemployment benefits. Yet we have had no job growth. Juxtaposed to what we did in the 1990s, we continued to increase the unemployment benefits as the economy grew and we did a better match of keeping Americans with some paycheck or unemployment check, thereby keeping our economy at a more steady rate.

I say to my colleagues on the other side of the aisle, it is time to stop denying working Americans who have lost their jobs, through no fault of their own, from some sort of help and assistance when they can actually find no jobs.

I will point out a few of my constituents who have written to me. One from Camano Island said he cashed out every dime of his 401 saving plan, with significant penalties, and does not know how he will make his mortgage payment, does not know what he is going to do, as the benefits are expiring. Another constituent from Everett, WA, in the manufacturing area, applied for over 200 jobs and received 4 interviews in the last year. They are trying to find opportunities but they do not exist. Another technology worker from Seattle has 25 years' experience and has been laid off since 2001 and is unable to find a job. Another worker from Seattle was working at a print company and over 500 people were laid off in 2 years as their company was sold overseas to a multinational company. In his individual situation he has tried to cover both the health insurance for himself and his wife. Unfortunately, he had some very severe health problems and had to get a kidney from his wife and ended up with some severe health problems and he does not know how he will address those problems in the future because of these benefits being

curtailed and his inability to cover health insurance.

Many people in my State ask what we are going to do about these unemployment benefits and whether we are going to remember the working men and women in our State who have continued to deal with this issue.

There are many constituents who ask, what will it take to get the other side of the aisle to own up to the responsibility that there are not jobs being created at a fast enough pace to put Americans back to work. Our past bipartisan efforts by two administrations, a Republican and a Democratic, did far better in addressing this issue than we are doing today.

I ask my colleagues to support a temporary emergency employment compensation program through June. It is the only responsible thing to do, to recognize that men and women of this country would rather have a job than an unemployment check. Without a check and without opportunities for jobs, we are doing neither them nor our economy any service. We need to do the responsible thing and put them back to work. That is why I am asking my colleagues to do the fair thing and expand this program through June with 13 weeks going to each State. Until then, we will not have the necessary tools to help Americans. Let's help them with the unemployment benefits and put them back to work.

I ask unanimous consent we lay aside the pending amendment and consider this amendment.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. INHOFE. Reserving the right to object, could you repeat this unanimous consent request?

Ms. CANTWELL. I move the pending amendment be set aside and that this amendment be considered.

Mr. INHOFE. I object.

The PRESIDING OFFICER. The objection is heard.

Ms. CANTWELL. Madam President, let me be clear to my colleagues what just happened in the Senate. That is, that for about the dozenth time now, the Senate is not going to consider unemployment benefit extensions. We are not going to consider whether working men and women in this country who have been unemployed, through no fault of their own, but a general downturn in the economy, many who have been impacted by September 11, many who have been impacted by the recession hit by many companies that have been impacted by September 11, are not going to get our help in the extension of this program, that if these same men and women happened to have been unemployed in the 1990s, their plight would have been different. They would have gotten help from the administration. They would have gotten help from my colleagues on the other side of the aisle.

So what we have done today is continue to say to unemployed Americans,

while the economy is just barely beginning to produce jobs, we expect you now to move out of your house, deal with not being able to cover health insurance, not being able to meet your family obligations, while we continue to struggle to find jobs in this country.

I think it is irresponsible. I think my colleagues should make sure we have a vote on this amendment. We will continue, on this side of the aisle, to offer this amendment until we get a vote on it.

I yield the floor.

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

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

Mr. KENNEDY. Madam President, most of us who had an opportunity to get home to our own States and perhaps travel around the country recently have found a number of concerns of working families. It is pretty uniform. I certainly have found it so in my travels in the State of New Hampshire and Iowa, out in the Southwest, Midwest, over recent weeks.

One of the enduring issues, I find, that is uniform across the country is the state of our economy. It is reflected in a variety of different ways. It might be reflected in one family which finds that increased college tuition is putting an extreme burden on a family budget. Maybe another family has the high cost of prescription drugs that is putting an extraordinary burden on those under Medicare and Social Security and the savings of other members of the family. It may be those who have lost jobs and have gotten back in the job market and actually found a job, but they are concerned because their incomes are generally 23, 24, 25-percent less with the new job than the old job.

By and large, the state of our economy is an ongoing concern, and it doesn't have to be this way. We have seen when we have had strong Presidential leadership—and the most recent case was with President Clinton where we had extraordinary economic growth, price stability, virtually free from inflation, and we had the creation of 22 million jobs. I don't think an administration can continuously say that jobs are going to be better, that we are having a military conflict, we inherited a recession, and there is nothing more we can do. I reject that, and I think most economists do, and many political leaders do as well.

We have to look at what we can do in a very temporary way in the Senate. One of the mechanisms that we can provide is to extend the unemployment compensation for men and women who have paid into that fund over the years, and now we are seeing that Republicans are blocking having even a

temporary extension of unemployment compensation funds, even though the fund itself is in surplus of some \$17 billion. That is being rejected.

As a matter of fact, we are seeing parliamentary gymnastics being used on the floor of the Senate to even prohibit a vote in the Senate to get accountability by Members of the Senate on this issue. Those on the other side say: No way; we are going to use the parliamentary gymnastics so you will not even get a vote, Senator CANTWELL, on your unemployment issue, and, no, Senator CLINTON, on one of the glaring economic policy issues of this administration, and that is shipping jobs overseas. Can you imagine that? The administration's spokesperson said shipping jobs overseas is to the advantage of the American economy.

Why don't we debate that on the Senate floor and find out who on the other side wants to defend shipping jobs overseas? You cannot travel around this country and go to any community and not hear workers' fear about outsourcing and shipping jobs overseas. You cannot do it. Here, the Senator from New York wants to get a debate and discussion about what we ought to do about that. Members of this body have ideas on what we ought to be doing and they want to express their views. But, no, they are cut off. No. No, you cannot do it. We are going to use the rules of the Senate to prohibit that kind of discussion and debate and prohibit some kind of resolution, some accountability by Members. Maybe there are those who want to do it.

I think the American people would have more respect for us if we vote up or down on that resolution. But, no, our Republican friends say, no, we don't want to—I say this—embarrass our Members by having to take a tough vote on it. I don't blame them. But it is poor solace to those workers when they find out at last what the economic policies of this administration are and they value sending the jobs overseas. That is what we are going to attempt.

Madam President, I want to review what the job situation has been over the period of these recent years and measure where we are with what was actually predicted by President Bush and the Bush administration. I think by looking at this at least we can begin to understand why the Senator from Washington, Ms. CANTWELL, wanted to have an extension of the unemployment compensation. Ninety thousand workers a week are losing their unemployment compensation.

I don't know how they get by. You are going to see that real wages have gone down. Most families are having a tough time, and they live from paycheck to paycheck. They are paying the mortgage, putting food on the table, and clothing their children, perhaps putting something aside for higher education. How are they going to deal with the fact that when they lose jobs, through no fault of their own,

they are going to be denied a helping hand to deal with the cyclical factors that impacted our economy?

Look at what this chart shows. This says: "Every year, job growth falls short of the Bush promises." This goes back to the year 2001. The difference between what this administration promised in 2001 and where we are today is represented by 5.2 million jobs. Do you understand that? The promise in 2002 was that we would have 5.2 million jobs more than we have today. We missed the prediction by 5 million jobs. Now, in 2003, the President makes a different judgment about where we are going to be in 2003. He is only off by 2.5 million jobs for 2003. This line represents what was predicted by the Bush administration in 2002. This line here is what they predicted in 2003, and this orange line is the reality.

Let's look at it in another way. This chart shows a purple line, what was actually predicted by the Bush administration for 2002 promise. These are the number of new jobs predicted. We heard the other day about the administration predicting new jobs. All you have to do is look at their predictions over time and you can see how much value we ought to give those predictions. Here it is: 2001 is the purple line, and 2002 is the green line, 2003 is the blue line, all going up there. The actual jobs are represented by the red line, showing that we have lost 2.5 million jobs. Those are the facts.

As a result of the fact that we have lost those 2.5 million jobs, let's just look at what has happened in terms of the average wages for the jobs that we have retained in the United States. The jobs gained do not pay as much as the jobs lost, this chart says. This is the average wage—the national average for 2001, which was \$44,570. Today, it is \$30,410. That is a reduction of 21 percent for average wages for workers in this country.

Not only have we seen the loss of jobs, but even for the jobs that have been retained, we have seen the income going down, headed south. Not only is this the reality of what is happening in the job market, but also our Republican friends want to eliminate any opportunity for these families to gain additional funds with overtime. That is what is happening out there across this country.

Now we hear, well, we have had a recession, but we have come out of the recession and everything is going to be OK. Everything is just going to be hunky-dory in terms of the labor market area and wages for American workers.

Look at this chart. If you compare what happened in the 1990s, up through 1998, and to the year 2000, in the fourth quarter of each of the recessions that took place during that period of time, you will find in the last quarter of the recession during that period of 8 to 10 years, the job was paying \$18.30 an hour. The old jobs were paying \$16.31 an hour. Now in this last recovery that

this administration says is so great, look at this: The average job was paying \$16.92 an hour, and the new jobs are paying \$15.65 an hour. The new jobs are paying a good deal less. It says just what the other chart says.

So not only are we not reaching the job goals, they missed it by 5 million. Even the jobs that are being created, the pay is 20, 25 percent less.

Let's look at what has happened in terms of the number of those who are long-term unemployed. Look at this chart. Compared to what it was in January 2000, when we had 680,000 people unemployed, it was 1.9 million people in January of 2004. These are the long-term unemployed. These are the men and women who have been looking for jobs, trying to get jobs. This doesn't even measure the number of people who have become so discouraged, they are not even looking any longer.

We have an enormous number of people who are looking for jobs. This chart is probably more reflective of the problem. From 1973 to 2003, the average number of unemployed in January: 151,000. That is through good times and recessions. Today it is 375,000. These figures are from the Center for Budget and Policy Priorities. It is 375,000, more than double the average. That is why we are asking: Why can't we reach out to these workers? These are hard-working Americans who paid into the fund over a long period and are entitled to those payments.

The fund is \$17 billion in surplus. The proposal of Senator CANTWELL would cost \$7 billion. We have 90,000 workers a week who are losing out on this amount. Look at the contrast between this administration and the previous administration on unemployment compensation to workers. Let's look at the difference.

In the early 1990s, when we were facing a recession, coming into 1990, 1991, and early 1992, we had an increase in unemployment. The previous administration, the Clinton administration, kept the extension on unemployment compensation until we had grown 2.9 million jobs. Then they terminated it, as they should; we were in a period of very significant expansion.

Look at where we are now. We have lost 2.4 million jobs, and we have terminated unemployment compensation.

Do you see the contrast between the two administrations and how they reached out to working families? Nonetheless, we are denied the opportunity to even consider an amendment that was going to be offered by the Senator from Washington to permit some 6 months and have the temporary workers.

This is what is happening as a result: We have a decline in purchasing power for workers; we have an administration that is against overtime, an administration that is against extending unemployment compensation, against any kind of increase in the minimum wage.

There are 7 million Americans who would benefit from an increase in the

minimum wage, and this is what has happened:

More than half of the unemployed adults have had to postpone medical treatment—that is 57 percent—or cut back on spending for food. That is happening in America. They had to postpone important medical treatment or cut back on food. One in four has had to move to other housing. We are talking about workers who have worked hard, played by the rules, struggled for their families, and this is our answer to them: Let's do a parliamentary trick so you can't have a vote on extending unemployment compensation. That is the answer of the other side. We are not even going to give you a vote on the issue.

This is what is happening to fellow Americans: 38 percent have lost telephone service; 22 percent are worried they will lose their money; more than a third have trouble paying gas or electric bills. These are real problems. The list goes on.

What is the impact? We have been talking about dollars and cents, but we haven't talked about the quality of life of these workers and what they go through: 77 percent of unemployed Americans say the level of stress in their family has increased. That is understandable. We don't think about it. I don't know how you put a dollar figure on that.

Two-thirds of those with children have cut back on spending on their children. This is an issue not only for workers, it is an issue for their children as well. It is a children's issue. It is a family issue. We heard a great deal on the other side about family issues, family values. We have one right here on unemployment compensation. This is a children's issue, a family issue.

Twenty-six percent say another family member had to start a job or increase hours; 23 percent had to interrupt their education. That is nice, isn't it? The children of these workers had to drop out of school because a member of their family—their father or mother—has been laid off and cannot get the resources to go to school.

We hear a good deal from the other side: Senator KENNEDY, you don't just understand. We have a recovery. It is on the way. It is taking place today. You just don't understand it. These problems will all be resolved. Right? Wrong.

Look at this chart. The Bush economy corporate profits ballooned compared to workers' wages. Look in the early 1990s—this chart is 1993—when we were recovering. When we had the recovery, workers' wages represented 60 percent of the economic expansion during this time. The percent that went to corporate profits was 39.74 percent; 60 percent for wages, 39 percent for corporate profits.

We all heard at the time of the President's State of the Union Address those descriptions about how the economy was doing so well, profits were up, expanding the American economy. Look

at today's recovery: 87 percent in profits, 13 percent in wages.

I don't know how many other indicators we need to understand what is happening to workers in America. They are hurting, and hurting badly. Many of them need the kind of help that unemployment compensation provides.

At other times, with different administrations, with a Democratic administration, we were prepared, particularly when the fund was in surplus and particularly when these workers have paid into the fund—we were willing to extend that unemployment compensation. There have been 11 times in the last few weeks that Members of this body on this side of the aisle have requested we have an extension of unemployment compensation. The House of Representatives voted for it, including 39 Republicans. But this Republican leadership says: No, no way; fill up the tree; get all kinds of procedural blocks to make sure we don't even bring it up and we don't have a vote.

American workers ought to understand this point. That is against the background of the leading economic advisers explaining to the President of the United States that we are better off if we ship more jobs overseas. And this institution, that should be debating national policy, is being shut down by those who don't want to hear the debate and don't want accountability. That is a great mistake. It is a mistake, most of all, for our workers and their families, it is a mistake for our economy, and it is a mistake for our country.

I join with others who will say these issues are not going away. You may be able to get a little block here and a little block there, but we are going to bring these issues up time and again.

We have that responsibility to these workers and their families, and they should recognize that we are not going to retreat; we are not going to step back. We are going to do everything that is necessary to make sure we are going to get the economic justice these workers deserve.

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. TALENT). Without objection, it is so ordered.

#### INDEPENDENT COMMISSION TO INVESTIGATE IRAQ INTELLIGENCE

Mr. REID. Mr. President, I was relieved that the President decided he was going to appoint an independent panel to review what took place in our going to Iraq, but after he made the decision to do that and appointed the panel, it was obvious it was just a hoax. This panel is laughable—if it were not so serious. All one needs to do to understand how this panel is not serious is to look at who is the cochair of

this panel. One of the most partisan people in all America is a man by the name of Judge Silberman. Judge Silberman is a person who proudly wears the label of a partisan, even though he hides it as often as he can from the public.

As I said, I was glad President Bush realized we needed a commission to investigate what went wrong, although I would have preferred that Congress appoint members to ensure its independence. If this commission is going to do its job, it must be free of political influence. It must be above even the appearance of partisan bias. Throw those things out the window because there is not only the appearance of partisan bias, there is political and partisan bias because the cochair of this commission is a man by the name of Laurence Silberman.

He is a long-time political operative in the far right of the Republican Party. He has served in a number of different capacities over the years. He has been involved in many partisan matters over the years. To show how well reasoned and thinking people feel about this man, I quote a professor of law at American University by the name of Herman Schwartz:

He [Laurence Silberman] is fiercely partisan, pugnacious and very political. He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen. It is a thumb in the eye to those who were looking for a real investigation.

That is who we have as cochair of this independent commission, a man who is politically partisan and the appointment is brazen. As I indicated, he is a long-time political operative, far right of the Republican Party. He served in many capacities. He was an aide in the Reagan-Bush campaign. One of his assignments then was to serve as liaison to the Islamic regime in Iran where Americans were being held hostage. There is some question as to whether a deal was made that the crisis would not end until after the election. One can read lots of information about that, but as soon as the election was over and the hostages were released, it is interesting to note that Laurence Silberman was appointed by the President to the Court of Appeals in Washington, DC.

It speaks volumes to indicate that one of his early decisions came in the case of LTC Oliver North, a principal figure in the Iran-contra affair, which involved the release of Iranian hostages. There is the documentation of many meetings of Silberman with the people in the White House, including Colonel North, prior to this all taking place. Even though North and Admiral Poindexter were convicted of lying to Congress, their convictions were voided in 1990 by Judge Silberman.

It is also interesting to note that another one of the appointees there on that court, who joined with Silberman in overruling the North and Poindexter

convictions, Mr. Sentelle, who became a judge, was largely responsible for the 1994 decision to remove Whitewater prosecutor Robert Fiske and replace him with the more partisan Kenneth Starr as an independent investigator. We know that investigation cost \$60 million or \$80 million and accomplished nothing.

Silberman worked as an attorney in the Justice Department. He took the No. 2 job under President Ford when Rumsfeld and Cheney had top jobs in the White House of President Ford. I repeat, in the fall of 1980 when Ronald Reagan was running to unseat President Carter—and this is from the L.A. Times, a direct quote:

... Silberman and two other Reagan advisors met secretly with a man who claimed to have ties to the government in Iran, which is holding 52 American hostages. The brief meeting later led to unproven allegations that Reagan's aides sought to delay the release of the hostages until after the November election.

Well, it is interesting to note that he had not done enough, it appears. In 1987, when Reagan was under investigation by an independent counsel, Silberman did away with the Independent Counsel Act, saying it was unconstitutional. Of course that one was followed up on by the Supreme Court, which overwhelmingly reversed him just a month later. But Silberman had the last word. His opinion, joined by fellow Reagan appointee David Sentelle, voided North's conviction and also spared Reagan's National Security Adviser, John Poindexter.

During the Clinton years, Silberman was one of President Clinton's most aggressive tormentors. In 1998, he was part of a Federal appellate panel that rejected the administration's claim of executive privilege to block the Secret Service from testifying about Clinton's relationship with former White House worker Monica Lewinsky. Silberman's opinion, to say the least, was very political. He ripped the Attorney General for acting in the personal interest of President Clinton and questioned whether the President, by allowing aides to criticize independent counsel Kenneth Starr, was "declaring war on the United States." Not very judicious, I would think.

There was a book that was a best seller called "Blinded by the Right," written by David Brock. It is a very interesting book. It talks about how this young man, who was a student at one of the universities of California, decided to join with the far right, and he made it through even working for the Washington Times. In his book, he explains how that was an interesting experience and how unfair they were in almost everything they wrote. But David Brock, during his tenure as a spokesperson for the right, and writing all these very damaging, misleading articles and even books, said in the book, "Blinded by the Right," that his adviser, the person who directed him where to go, what to say, and even

went through books and articles he had written to proofread them to see if he could be more hard-hitting than Brock was, this is the man who is going to be the cochairman of the independent commission. The term "independent commission," used along with Laurence Silberman, is like many of the things in George Orwell's book, "1984." Many of the things are just the opposite. Laurence Silberman cannot be independent. The commission cannot be independent as long as he is there.

As Brock indicated, he wrote articles about President Clinton, an article on Travelgate, which was charges by Arkansas State Troopers about the former Governor Clinton and extramarital sex. Silberman was, and I quote, "his faithful advisor."

"The judge," according to the LA Times, Brock said, "encouraged him to be aggressive, and even on one occasion, suggested a specific tip involving the President's sex life to pursue."

When David Brock, at the direction of many in the right wing, wrote critically about the late Senator Paul Simon, he sent an advance copy to Judge Silberman's home. Brock wrote that Silberman was "ecstatic about the case he made against Simon. . . ."

During this period of time, Brock said he was introduced to leading conservatives who met regularly in the judge's home even with him and his wife. They were friends and close companions of Vice President CHENEY and his wife.

Mr. President, people have a right to be as partisan as they choose but not if you are a judge. Judges not only have to do away with what is wrong, but with what appears to be wrong. Just with the little bit I set forth here, doesn't it seem wrong that this man, Laurence Silberman, is the cochairman of a bipartisan, independent commission when it has been acknowledged by most everyone that this is one of the most partisan people in our community? An American University law school professor says:

He is fiercely partisan, pugnacious and very political. . . . He is an odd choice for a panel that is supposed to be above suspicion on a matter that is very important and potentially very partisan. Picking Silberman verges on the brazen.

I agree with that, the "brazen." Let's see if that means what I think it means, "brazen." I have a little dictionary here. Let's see what it says.

Brazen: Boldness.

Yes, he is pretty bold.

For the President to pick this man to be cochairman of this commission is, as Professor Schwartz says, "brazen." I continue the quote.

It's a thumb in the eye to those who were looking for a real investigation.

This is no real investigation. This is going to be Judge Silberman, in an aggressive way, making sure that nothing gets out of hand. He is there to protect the President, not to get fair information. He is there to protect him.

Sitting judges are not supposed to do what Silberman does. But he has a life-

time appointment and the canons of judicial ethics mean nothing to him. He is bold, he is brazen in what he does. He does not hide his partisanship. But, in spite of that this administration, knowing everything there is to know about this man, selects him to be the cochair of this independent commission.

Brock says, in his book: "Larry"—that is Laurence Silberman—"would often preface his remarks to me with the wry demurrer that judges shouldn't get involved in politics. 'That would be improper,' he'd say—and then he'd go ahead . . ." and give this information that was partisan and, even, according to Silberman, would be improper. But he would just go ahead and do it anyway.

Most recently, to show his partisanship, after a lower court unanimously ruled that Attorney General John Ashcroft had exceeded his authority in assuming broad wiretap powers, Silberman was the judge involved in the decision that overturned it. By engaging in partisan activities while he was a sitting judge, Silberman has raised questions about his impartiality, and that is an understatement.

So I hope we continue to talk about the need for an independent, bipartisan commission because as long as Laurence Silberman is attached to this commission, it will be tainted. This crucial investigation as to what went wrong with our intelligence operations cannot be tainted with any hint of bias or prejudice—and it is. It is not tainted, it is smeared with partisan prejudice because of this man.

There is already a distrust of the intelligence gathering surrounding weapons of mass destruction. The Silberman appointment only makes matters worse.

I call upon the President to replace Judge Silberman on this commission. There are many respected Republicans in public service who have demonstrated an ability to put their ideological and partisan views aside when it comes to what affects our Nation. Silberman cannot meet that. This is such an issue and demands such a person. Laurence Silberman is not such a person.

To show how skeptical the country is about our intelligence-gathering operations, even Bill O'Reilly—even Bill O'Reilly, reports Reuters News:

Conservative television news anchor Bill O'Reilly said on Tuesday he was now skeptical about the Bush administration and apologized to viewers for supporting prewar claims that Iraq had weapons of mass destruction.

The anchor of his own show on Fox News said—

This is Bill O'Reilly—

he was sorry he gave the U.S. government the benefit of the doubt that former Iraqi leader Saddam Hussein's weapons program posed an imminent threat, the main reason cited for going to war.

Appearing on TV, O'Reilly said:

I was wrong. I am not pleased about it at all, and I think all Americans should be concerned about this.

We have a committee, a commission appointed by the President, in the guise of being independent, in the guise of being bipartisan. It simply is not true. As long as Laurence Silberman has anything to do with this, it cannot be a fair, independent, bipartisan commission.

The scope of this so-called independent commission was determined by the President through Executive order. There was no discussion with the legislative branch of Government; it was just a fiat. Despite the fact that numerous questions have been raised about the actions or statements of both the intelligence and communications community in the days before the war, the President's Executive order specifically rules out an examination of the administration's actions.

Can you believe that? Instead, his Executive order makes clear the only issues the commission can address are related to the performance of the intelligence community, precisely the same issues, in many cases, that the Republican-controlled intelligence committees in the House and Senate are already exploring. Unfortunately, this will not be a real commission that can answer the main question we believe needs to be addressed; namely, the administration's role in all of this.

On top of all this, they have appointed Laurence Silberman to co-chair. This is a gross mistake. I can't imagine how the President and his people think he can get away with this.

Mr. DORGAN. Mr. President, I wonder if the Senator from Nevada will yield? I wonder if he would yield for a question?

Mr. REID. I am happy to yield to my friend. He and I have had discussions. I would just preface it for this—

The PRESIDING OFFICER. The Senator from North Dakota is not recognized. The Senator from Nevada yields for a question.

Mr. REID. I would say through the Chair, the Senator and I have discussed this on many occasions off the Senate floor.

Both agree that this issue has to be talked about publicly.

This is a disgrace to a determined, independent, bipartisan commission. It is just wrong.

I would be happy to yield to my friend from North Dakota for a question.

Mr. DORGAN. Mr. President, I have visited the Senator from Nevada and others following the announcement of the co-chairs of this commission.

First of all, I believe there should be an independent commission. I believe very strongly that the question of intelligence—both the gathering of and use of intelligence—is critically important to this country because it, and only it, will provide protection for this country against the next terrorist attacks. We have to get it right.

When Mr. Kay comes before a committee and says it was all wrong, it was wrong and it failed the President—it

also failed the Congress and the American people—we had better figure out what happened, what was wrong. There needs to be a commission. But it needs to be an independent commission.

Now what we have is the President announcing a commission to investigate the intelligence. But more than that, the point the Senator from Nevada just made about the cochair, Mr. Laurence Silberman, a judge—I read this book from a while ago, "Blinded By the Right." I was aware when I read this book by David Brock of Mr. Silberman's activities in other venues as well.

I must tell you that having read this book and seen that a sitting Federal judge was involved in the sort of things Mr. Brock says he was involved in with respect to a series of things that it seems to me would go well beyond what would be acceptable activities by a Federal judge, I think it is just Byzantine that the President would appoint a cochair to this commission who doesn't meet the test of objectivity or the test of common sense at all. There can be nothing independent about a commission that is cochaired by a sitting Federal judge whose discussions and activities in this book disclose that there is nothing at all impartial about this judge.

I will not read into the RECORD these passages. I assume perhaps the Senator from Nevada has. I know many of my colleagues are talking about the same thing.

I ask the Senator from Nevada: Can there be a presumption of impartiality by a cochair of this commission, appointed by the President to investigate this issue of the executive branch—by the way, without subpoena power or anything of the sort—when the President has chosen a very strident, aggressive, partisan supporter as the co-chair?

Mr. REID. Mr. President, I do not understand how the President and the people around him could do this. Do what? Have a commission with an outline that is very weak and won't contribute very much to find out what our intelligence community did or did not do. But maybe he could get by with it a little better by not having a person who has been proven to be one of the most partisan people in all of America as cochair of this commission. Here is a man who is violating the canons of judicial ethics and responsibilities that judges have. Yet he is on this commission as cochair. I have trouble articulating how irresponsible and unfair and brazen this is.

Mr. DORGAN. Mr. President, again, inquiring further of the Senator from Nevada, aside from the fact that this is not an independent commission, it is not what is needed to be done at this point to evaluate and investigate the "failures" Mr. Kay described in our intelligence. This so-called commission cannot possibly be a commission held in much respect if the selection as the cochair is a fierce partisan whose ex-

ploits are described at least in part in this book.

Incidentally, I think the question should rest with the judicial system. Why has this not been investigated? I know of no investigation in the judicial system with respect to what is alleged with respect to the activity of Mr. Silberman.

This country needs an impartial, independent, aggressive investigation of what happened with respect to our intelligence.

As I indicated, our safety and security depend on intelligence getting it right with respect to protecting us against the next terrorist attack. That is why this is so important.

I personally plan to support and aggressively speak in favor of a truly independent commission. I am assuming one will be offered by perhaps Senator CORZINE who has offered it on the floor of the Senate. We will have this debate at some point. We need a commission. It needs to be independent. It needs to be cochaired by people who do not have a partisan agenda. That is simply not the case with the independent commission that has been announced now by the President.

I ask the Senator from Nevada: Is that not the case?

Mr. REID. It is absolutely the case.

I also ask the Senator from North Dakota, through the Chair, to respond to a statement by David Kay given to me yesterday. He said there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community.

Will the Senator agree that David Kay is right, there should be an examination of how the intelligence was used by the administration—not simply the failings of the intelligence community?

Mr. DORGAN. Mr. President, if I might respond, there is no question that any evaluation of this should be an evaluation of what kind of intelligence existed and how it was used. That is not an attempt to put any one person under a microscope; it is an attempt to evaluate what happened here. What on Earth happened?

Again, I say there are some who want to say nothing happened. They want to allege nothing has happened. Clearly, something has happened.

The top weapons inspector came back to this country and said our intelligence community has failed the President, and in fact the intelligence community failed, and we now believe that to be the case. The Secretary of State went to the United Nations and he said: We know, we know, we know, on point after point after point, slide after slide, intelligence pictures, satellite photos, we know this, we know this, we know this. It turns out we didn't know that.

This is important business. This country needs to act on what we know—not what we think we know. If our intelligence community failed us,

as Mr. Kay indicates it did, and he says failed the President—I say failed all of us—then the question is, Why? How did that happen? How was intelligence gathered? Where did that failure exist? And how was that intelligence used? I believe only an independent commission will get to that answer. I think it is urgent that we get there.

As you know, in England they are now having such an investigation, with an end date I believe of July. They understand the urgency. They are saying let us do it, and let us do it quickly but thoroughly.

In this case, we have a so-called independent commission, cochaired by a strident partisan, and at the same time we are told it is fine to have that commission report sometime after next year. I just do not think that is the right thing.

Mr. INHOFE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. REID. I am happy to yield for a parliamentary inquiry.

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

Mr. REID. I have the floor. I will yield for a question.

Mr. INHOFE. I think we are in a highly charged political season right now. Everyone is talking about this, and the subliminal picture that is trying to be painted here is that somehow this President may have not known something he should have known or knew something and he didn't act appropriately.

Let us remember what David Kay said. He said, when he came in, we all thought there were weapons of mass destruction. We acted accordingly. And, quite frankly, I contend there were weapons of mass destruction. I asked him that question. I don't think either one of the two Senators in the Chamber—I am about to finish my question—were at that hearing.

I asked him this question: I said, If in January, 13 months ago, they found 11 chemical rockets with a capacity of a warhead of 140 liters, and they had enough VX on hand to do that, and that one chemical rocket with 140 liters of VX could kill a million people, and subsequent to that, 3 months later, they found 36 more—that is 47 weapons of mass destruction that were found—I asked him: Aren't they truly weapons of mass destruction? He said: Well, yes, if they put the chemicals in the warheads.

The other thing people keep talking about, What did they know or what did they not know about a connection between Saddam Hussein and Osama bin Laden. That should have been put to rest about a month ago when there was a leak to the Weekly Standard. They specifically drew that connection and said, yes, in fact, there is a connection. In fact, two of the passports of the pilots were gotten by Saddam Hussein and his people.

Just this morning in the New York Times there is an article stating the connection is there. This is the New York Times, not a Republican operation. It says: "Found, Smoking Gun." That is the name of this article.

We are enjoying this very much, but the political season is on us. I hope we will keep cool heads and do the best we can to improve our intelligence.

Right after September 11 we had the bicameral commission look at this. We came a long way. I ask the assistant leader if that is not correct.

The PRESIDING OFFICER. Before the Senator from Nevada responds, the Chair feels constrained to remind all Senators, Senators may yield for questions but not for speeches.

The Senator from Nevada has the floor.

Mr. REID. Mr. President, I know the Senator from Oklahoma says this is political season. We are in the Senate. Every day of our life is political season. That is what we do. That is what we do for the American people. That is what we do for the people of the State of Nevada, the people of Oklahoma, the people of North Dakota, and the people of Missouri.

I agree with my friend's statement, there is no showing of weapons of mass destruction. True. The point is, this is serious business. This is not trying to determine what happened at half time at the Super Bowl. This is looking at the situation involving the security of this Nation and actually the security of this world. We should have an independent commission, bipartisan in nature. Everyone agrees with that.

I personally do not like the parameters of what the President set forth. It does not establish what needs to be done. But the purpose of this discussion today with Senator DORGAN and this Senator from Nevada is the commission, as set up as an independent bipartisan commission, is tainted. As I indicated earlier, it is not only tainted, it is smeared. Why? Because the President chose as the cochair of this commission a man who is one of the most partisan zealots in the history of this country. So this commission can never render anything of substance that will be accepted in this country because of this man being the cochair. I suggest, get him off. If he had any care about this country, he would resign.

The Senator from North Dakota hit the nail on the head: Where is our judicial system? There could be hearings and proof established, for example, that David Brock went into this man's home, time after time after time while he was sitting on important cases. What was Brock doing—getting advice as to how he could berate, denigrate, lie, cheat about the President of the United States?

These are facts.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DORGAN. Let me respond briefly to my friend from Oklahoma, and I will

phrase it in the form of a question to the Senator from Nevada. There is no question the world is better off because Saddam Hussein was found in a rat hole and no longer runs the country of Iraq. The world would be better off if Kim Jong Il were not running the country of Korea. That is not the issue. An interesting point, but not the issue.

The issue is, the top weapons inspector says that which we said we knew, which we told the world we knew, was not the case. Why? Because he said our intelligence system failed.

No one here should sleep quite as soundly as they used to sleep, understanding that our intelligence system failed.

We all ought to demand on an urgent basis to understand what happened and how it happened. That is the point the Senator from Nevada and I are making. I hope the Senator from Oklahoma believes in the urgency of this, as well.

I ask the Senator from Nevada if it is not the case that the question by the Senator from Oklahoma about the September 11 commission moving in the right direction, is it not the case that yesterday we saw this headline: "9/11 Panel Threatens to Issue Subpoenas for Bush's Briefings"? In fact, they have already had to issue subpoenas. This commission investigating the September 11 attacks had to issue subpoenas against the FAA and others and is now threatening to issue subpoenas against the White House and said this morning they had more cooperation.

Is it not the case that any administration, Democrat or Republican, ought to say to this commission and any commission: Here are our records. They are open. We want you to get to the bottom of this.

Mr. REID. I say through the floor to my friend from North Dakota, the Senator makes the point. The other body which is doing the investigation, no one raises any question about the Members of that commission. They are Democrats and they are Republicans. Very conservative Congressman Tim Roemer is part of that. But no one questions what they are trying to do to get to the facts of this matter.

My point is, and the point of the Senator from North Carolina is, this so-called bipartisan independent commission can never render anything the American public will accept because of the person that is cochairing it. Laurence Silberman is a partisan zealot.

Now the New York Times article the Senator pointed out is a group of people, including Tim Roemer, and Governor Kean of New Jersey. No one questions his integrity. He believes we should move forward and get this done as soon as possible.

I repeat, the independent commission President Bush has appointed to look at the failure of intelligence in our country will never, ever be accepted for a number of reasons, not only the breadth and scope of the investigation but because of the cochair, Laurence Silberman.



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. 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, let me reiterate how important this bill is to our country's infrastructure and our country's economy.

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

Mr. JEFFORDS. This bill will provide desperately needed funds to rebuild decaying roads and bridges and to improve transit systems across the country. It will pump billions of dollars into real, lasting improvements in physical infrastructure.

In the process it will provide new, quality jobs for hundreds of thousands of people. These are jobs that cannot be outsourced. I repeat—these are jobs that cannot be outsourced.

The President says that this bill is too expensive. He also apparently believes that outsourcing American jobs is a good thing. He is wrong on both counts.

If we can spend billions rebuilding Iraq's physical infrastructure, surely we can find the money to maintain America's transportation infrastructure. Without well-maintained roads, bridges, and transit systems, our economy will inevitably suffer.

Let's keep the big picture in view here. This bill spends money to pay Americans for work done in this country. This work translates directly into improved roads, bridges, and transit systems. Better infrastructure reduces transaction costs and makes the economy more efficient. This is an economic fact.

This bill also reduces congestion on our Nation's roadways by enhancing public transportation and promoting intermodal solutions to regional transportation problems.

As we all know, less congestion means shorter commute times. Shorter commute times means more time for productive activity. This too is an economic fact.

But this bill goes far beyond simply improving the infrastructure in this country. It also enhances our ability to move goods across our borders in trade with Canada and Mexico. By enhancing freight capacity and improving binational transportation planning efforts, the bill reduces the transactions costs associated with cross-border trade.

That means that American consumers will pay lower prices for imports from Canada and Mexico. It also means that our exports will be less expensive for Canadian and Mexican consumers, and that's good for American manufacturers. This too is an economic fact.

Finally, as several of my colleagues have noted, this bill will also enhance

safety on our Nation's highways. With improved safety we can reduce injuries and loss of life from highway accidents. That's obviously good for the American people in a deeply personal sense. It is also good for the country as a whole because it reduces the social costs associated with injury and loss of life.

Our country needs this bill and it needs it now. I urge my colleagues to help pass this bill before the Senate concludes its business this week.

I yield the floor.

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 (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, yesterday when we were discussing the seat-belt law, quite frankly, I was opposed to it. I am opposed to any kind of mandate. I cannot find anyone in this body who has either been a former Governor or mayor of a major city that won't oppose mandates. Of course, that would have been a great one, with three penalties. That is behind us now.

During that time, the assistant minority leader had a suggestion that we might want to consider what they have done in Nevada. They had this requirement just for the babies and small children, which was interesting. I commented that I am very familiar with that, having 11 grandchildren. I know all about the seatbelts and all these little requirements they have and how expensive they are. In an attempt to outdo me, as sometimes happens on the floor of the Senate, the Senator from Nevada commented that, yes, you have 11 grandchildren, but I have 14. I got a phone call after that and found out that I in fact have 12 now. So I want to get the record straight that we are still working on it and we are going to catch the Senator from Nevada. A new Swan will be born; that happens to be my daughter's name.

Mr. REID. If the Senator will yield, I say to my friend that under the rules the distinguished Senator from Oklahoma has established, he is counting those children who are in gestation and not having been born. If that is the case, I can still up him one. I will have 15 because we have a new baby who will be born a month from now. So I am still two ahead of him.

Mr. INHOFE. Reclaiming my time, I observe we are both still working on that, and when they are conceived they are babies.

Mr. TALENT. Will the Senator yield? I hope the Senator's child and in-law have already announced this expected occasion and you have not revealed it to the Senate and the world.

Mr. INHOFE. I did get that permission. I made that mistake once. I was

commenting back when a little boy was born to my older son and his wife. My older son is James Mountain Inhofe II. He kept having baby girls. The years went by and they kept cranking the girls out. I always wanted to have a boy, selfishly, James Mountain Inhofe III. So we found out—and this happened a couple years ago—that in fact my daughter-in-law was unexpectedly pregnant—Jimmy's wife. I respond to the Senator that what we did is for 8 months we prayed every day it would be a boy. I figured if Abraham could do it, I could do it. Sure enough, we were up in the waiting room and the nurse came in while I was doing a 30-minute talk show with Ollie North. Right in the middle of that, she came in and said, "Senator, how did you know? You are the only one who knew it was going to be a boy." I said, "Ollie, James Mountain Inhofe III has been born." On the way back it occurred to me they had not yet named that child, and I announced the name on the radio. So I learned that lesson.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I am sure sons and daughters-in-law have been forgiving proud grandparents of a lot worse things than that. I congratulate the Senator from Oklahoma and the Senator from Nevada on the additions to their families.

We are really talking about a subject today that is important to all of our families. That is why we are here. That is why those who have worked so hard for transportation, including my friend from Oklahoma, have done what they have done. I am here to rise in support of the bill, and also in support of an amendment I am now offering at this time with my friend from Oregon, Mr. WYDEN, and also on behalf of Mr. CORZINE and Mr. COLEMAN.

This is an amendment that has broad support within the community of those who are particularly interested in transportation, including the support of the American Association of State Highway and Transportation Officials, Associated General Contractors of America, Chamber of Commerce, National Heavy and Highway Alliance, which represents the labor unions, operating engineers, carpenters union, iron workers union, cement masons, the teamsters, and bricklayers, and many others. We call it the Build America Bond Act of 2003.

We think it is one of the most important things we can do on behalf of the Nation's transportation infrastructure. I am here to explain the amendment and the idea and argue on behalf of it.

First, however, I want to say thank you to my friend from Oklahoma, Senator BOND, Senator REID, and Senator JEFFORDS for their efforts on behalf of the underlying bill. Those efforts have been heroic. They have done a great job to get the level of spending in the bill up to where they got it. I am going to

make the point in a couple minutes that it needs to be a lot higher than that. In making that point, I don't wish to be understood as criticizing them for their work. They have done the best they can do with the traditional methods of funding.

I would also like, before I begin discussing the amendment, to thank my friend from Oregon, who may or may not make it to the floor this afternoon to talk about this amendment. I know he wants to. We have had the pleasure of working together for almost a year now on the Build America Bond Act. For me, it has been a personal as well as professional pleasure to renew an acquaintance and working relationship we had together in the House during our years when we were there together.

I thank our friends who are handling this bill, especially my senior Senator, KIT BOND, for his great work on behalf of the underlying bill. I am pleased they have gotten the measure to where it is right now. Yet I have to tell the Senate the measure is not big enough. I say that because it bothers me when critics of this bill say it spends too much. The truth is it does not invest enough. It bothers me when critics of the bill say spending on transportation infrastructure is irresponsible, when actually the opposite is the truth. Not spending enough on transportation infrastructure is what is irresponsible, because we have a transportation deficit in this country. It is growing every day we fail to take the necessary steps in the Congress.

The Department of Transportation studied the Nation's highways, bridges, and transit systems, and reported back to Congress. They filed a long report and concluded we needed a highway bill that was about \$375 billion. This is the report of the expert agencies on behalf of the Federal Government. It says \$375 billion, not \$311 billion. I am glad we got it to that point, but it will not take \$311 billion, not \$300 billion, not \$280 billion, not \$250 billion, but \$375 billion—or something close to it—if we are going to begin paying back the transportation deficit we have.

I don't believe what I am saying about the status of our Nation's transportation system is seriously contested by anybody. A lot of people don't want to remedy it and pay what we need to pay to do something about it, but they are not contesting that there is a serious problem.

Thirty-two percent of the Nation's roads are poor or mediocre; 36 percent of our urban roads are poor; 37 percent of our bridges are obsolete. We lose \$67 billion a year in wasted time and wasted fuel costs because of congestion caused by inadequate roads. We lose 4.5 billion man-hours from people around this country who are stuck in traffic. Those are hours they are not at the office or the factory producing things. Those are hours they are not at home with their families.

We spend \$49 billion a year on extra vehicle repair costs because mainte-

nance costs are higher than they should be because the roads are no good. Those are the overall statistics. And everybody has their own anecdotal stories about the shocks they had to replace because of the potholes, the time they lose getting to work in the morning.

There are so many examples of poor infrastructure that my friend Senator BOND and I could give. I called back to Missouri and asked for a picture of the bridge over the Missouri River leading into Hermann, MO. Don Kruse, who is the editor of the *Advertiser-Courier* in Hermann, did me a favor and went out and took a picture of it. This is a bridge not over some small river or not over the Missouri River where the river begins where it is narrow. This is over the Missouri River in east central Missouri. This is the bridge you take to get into Hermann, MO, which, by the way, is a great town. It is a bustling town, a town with a future if we can get the proper infrastructure.

I don't know if most Members of the Senate can see this picture or if the people in the Galleries can see it that well, but the rails are rusted. We can see how narrow the bridge is. That is a Mack truck coming one way, and that is a car trying to go the other way. You don't have to be a transportation expert, you don't have to work for the Department of Transportation to say: I don't think that bridge is adequate. It isn't.

You have to either laugh or cry over it. When I drive over it, I say: We ought to tell Hollywood if they ever want a crumbling bridge or a poor bridge to use in a movie, they don't have to build one; come here and use this one outside Hermann.

We have blood alleys all over Missouri. I have driven on them—roads that are so dangerous people regularly die because the roads are no good. We also have interchanges in our growing communities, such as Springfield, the I-44 and I-64 interchange that are inadequate.

There are many opportunities around Missouri for economic growth of which we cannot avail ourselves because the transportation system isn't what it should be.

North Missouri has been in economic trouble for a long time, long before the existing recession. It is not because of the people there. They are productive people with a vision. A big part of the reason is the roads are not good enough.

If we could turn Highway 36 in north Missouri into a four-lane road, it would link up Hannibal to St. Joseph, which links up Chicago to Kansas City, and the jobs would follow that corridor. We don't have the money.

There are too many first-tier, urgent projects in the State of Missouri and in States all over this country that are not being done, not because they shouldn't have a priority, but because there isn't enough money. So they get pushed further and further behind, and we are all familiar with that situation.

We are all familiar with the departments of transportation saying: We are going to do that; we are going to widen that road; we are going to do the system maintenance; it is on the books for 2020. Everybody in the communities knows what that means. It is never going to be done.

If that isn't enough—and it should be enough—in Missouri, we lost 1,028 people to highway fatalities in 2002 alone. The statistics show that one out of three accidents are related to the fact that the roads are no good.

When you travel around Missouri, one of the things you notice—and I wonder if they have this in other States. I should ask some of my colleagues; I never have. But the highway department allows people, grieving families to put little white crosses on the side of the road where they lost a loved one, and they will write the names of those loved ones on the crosses, sometimes the age. You might see "Jennifer, age 7" as you whiz by and see that little white cross.

Every one of those people who died on one of those roads has a family who loved them. Tell those families that this highway bill is too big. Tell them we don't need to spend more on transportation infrastructure. Tell them that.

What can we do about it? We can do something. We have a mechanism available that is used in States and localities all over this country, a mechanism that will produce dollars immediately to help us remedy this transportation deficit. We can do it responsibly. It has the support of groups involved in transportation from all over the country. It is bonding, and that is why the Senator from Oregon and I in the spring of last year sponsored the Build America Bonds Act.

We argue that it is the only way we can address this issue quickly, in combination, of course, with the traditional methods of funding that we also support. This is a way to jump-start this effort. This is a way to make up for this deficit in transportation, for this work that we should have done in the past and did not.

Basically, the amendment, if and when we get a chance to offer it, would create a federally chartered nonprofit corporation that would raise \$56 billion in tax credit bonds that could be immediately invested in transportation infrastructure. According to our amendment, \$40 billion could go to highways, \$10 billion to public transit, and \$6 billion to rail. It could be invested right away, not even over the life of the bill, the 6 years, but as fast as we can raise it and get it out to the States, and the work could be done in the course of the next year or two.

It is a great job creator. Every billion dollars in transportation investment creates about 47,000 jobs. Build America Bonds have the potential to create over 2 million jobs. It is one of the reasons the trade unions are so strongly in support of it, because their members

have to drive on these roads and use this transportation system, too. Our amendment also has the potential to generate over \$300 million in economic activity.

There is a feature to it that my friend from Oregon and I particularly like. The amendment would require that a percentage of the bonds be issued in small denominations, \$25, \$50, so that moms and dads and grandmas and grandpas could go out and buy a Build America bond and give it to their kids or their grandkids for their birthdays and know that they were investing their moneys in American roads and creating American jobs and protecting the future of their kids as they grow up in this country.

The bill has the potential to save us up to \$67 billion that we now spend or waste in traffic congestion and the \$50 billion spent in extra vehicle repair.

This kind of financing is done all over this country. The funny thing is, there is a certain irony to it. This Government will borrow—and everybody here is going to vote for this highway bill or has voted for one at one time or another—hundreds of billions of dollars in long-term debt to pay for operating expenses. Nobody else in the country does that. Yet unless this amendment passes, we will not borrow money for long-term capital expenses, which routinely happens all over the country in public and private life. We will not borrow the money for the items we should finance—investments in capital goods that pay off over time.

What is the cost? The way we have set this mechanism up and given the international bond markets and their sophistication, we estimate that under current market conditions, the total cost to the taxpayers would be \$2.5 billion a year, for 30-year bonds. It would be \$2.5 billion a year. For that we get about 2 million jobs. We actually get this bill up to the level which the Department of Transportation says we need to really begin remedying this transportation deficit. It is, quite simply, the cheapest way of addressing the problem.

What is the most expensive way?

Mr. WYDEN. Mr. President, will the distinguished Senator from Missouri yield for a question?

Mr. TALENT. I will be happy to yield to my friend.

Mr. WYDEN. Mr. President, I so appreciate the Senator's leadership on this issue and opportunity to be a bipartisan partner in this effort. Isn't it fair to say the Federal Government is now essentially the only entity on the planet that isn't going with the kind of approach that the Senator from Missouri has been advocating? It is being done at the State level, it is being done at the local level, and it is being done through various private initiatives.

It seems to me what the Senator has identified is essentially a case for saying the Federal Government ought to join the rest of the world in its approach to this logical way. Would the

distinguished sponsor of this amendment, my partner, address that briefly?

Mr. TALENT. I thank the Senator for his question. He is absolutely correct. I have been to ribbon cuttings and ceremonies in Missouri, and I bet the Senator has been to them in Oregon, where localities have financed local bond issues in order to do transportation infrastructure, because there is not enough money coming from the State and Federal Government. States also do this.

The Senator and I are not talking about shifting over to bonding as a way of replacing other highway dollars, or taking over the job of financing transportation, because we do not want that. But bonding should be part of a package that will give us the ability to do the big projects, the one-time projects. We are not suggesting the States should build this into their regular maintenance budgets because this money is going to come in and is going to be invested. It is not a regular stream. It is part of an overall financing package absolutely, and it is done all over this country. Given the deficit transportation situation we are in, the fact that we have this terrible problem with transportation, I think it is foolish of us not to consider it.

It is one of the reasons I have appreciated so much working with my friend. I say to my friend, through the Chair, what is the most expensive way of dealing with this? If we were looking for the most expensive and risky way to pay for the transportation problem we have to fix the roads, rail, and transit that we need in this country, what would we do? We would wait. I submit that is what we are proposing to do with this bill, as heroically as the sponsors have worked to get it up to the level where they have gotten it up to.

If one were a homeowner and had a hole in their roof, they would consider how to fix it. They might try to do it out of their current income. They might take another job to fix it, which would raise their income. They might decide that the best thing to do would be to take out a home equity loan and pay for it that way.

What they would not do is say: "Well, this is optional. I am going to let this go because it would be irresponsible for me to spend on this. I would be mortgaging my kids' future if I took out a home equity loan to fix the hole in the roof." They would know eventually they were going to have to fix this hole, because if they waited, what would happen? Was the problem going to get better? No. Holes in roofs do not get smaller if they are not fixed, they get bigger, and if one waits long enough, the roof collapses, and then they do have to spend some money, don't they?

My wife called me the other day about this cold weather we have been having in Missouri, as well as in Washington. We have had ice storms and the driveway has been under ice because I

did not get out quickly enough to scrape it off when the snow and the ice started, which she and I had a little discussion about. But she is noticing now that some of it is melting, that part of the driveway is beginning to chip. She is upset about it, and so we are going to fix that and seal that driveway. What would happen if we waited and we did not do that? The cracks in that driveway are not going to get any better. They are going to get worse.

This highway bill is a lot bigger than the last highway bill—if we can get the number my friends from Oklahoma and Missouri have worked so hard to get. It is a lot bigger. It is 30 percent higher than the last highway bill we passed. It is a lot bigger because the problems have gotten a lot worse.

One thing I will guarantee is, if we do not do something decisively to fix this problem now, we are going to have a highway bill 6 years from now and it will be even bigger. It will be much bigger. The gap between the size of the bill and what we will need to do then to fix the problem is going to be a lot bigger, too. We are trying to bail out a boat and we do not have a big enough bucket. Bonding will fix that. We have a chance to do that in this Congress. We have strong bipartisan support.

This is one of the few things we may be able to do on a real bipartisan basis. We have support from the transportation community. We have support from the bonding community. There is precedent for this all over the country. The cost is extremely small relative to the gain and relative to the risk of doing nothing, because if we do not do this now, we are going to pass the bill for our poor transportation system on to the next generation. Let's not kid ourselves that we are doing them any favors by not investing. We are passing it on to them and we are guaranteeing that their bill is going to be a lot bigger than it needs to be. The economic growth they are going to need to be able to pay that bill when we give it to them is going to be undermined if we do not act now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Before my friend from Missouri leaves, I again say how much I have enjoyed working with him on this legislation. I think it is fair to say that nothing important in the Senate gets done unless it is bipartisan.

What the Senator from Missouri has done is lead the Senate in an area that I think is bold and innovative. In my view, it is an opportunity to provide a real turboboost to our economy. I represent a State that consistently is suffering high unemployment, loads of working-class families facing extraordinary economic hurt, and as we have talked about now for a good part of the day, there is no initiative before the Senate that will do more to create good-paying jobs than this particular legislation.

I think it is important for the Senate to say on this bill, at this critical time, that we are not going to stand pat, that the status quo is not good enough. Let's not have a business-as-usual transportation bill. I like the idea of getting our citizens excited, for example, about buying a child or a grandchild a Build America bond, something where kids can save and families can engage in an effort to strengthen our country's infrastructure, rebuild our critically neglected transportation systems, as the Senator from Missouri has noted, and particularly get the American people involved in the exercise.

I have just come from a round of town meetings at home across Oregon and talked about Build America bonds. As we have said, this is to supplement the good work that has been done by the Senator from Vermont and the Senator from Oklahoma and all of the Senators who have been part of our leadership. This is not to supplant existing funds; it is to supplement them, and to supplement the transportation sector at a very critical time.

I have long believed we cannot have big league economic progress with little league transportation systems. The pictures that have been shown today by the Senator from Missouri could essentially be pictures that could come from any of our communities, the communities of Vermont or New Hampshire or any of our individual States. In my State, there are traffic jams and backlogs in communities where no one could have even dreamed there would be a traffic jam even a few years ago. So it is for that reason that the Senator from Missouri and I come to offer a bipartisan and fresh approach involving a tax credit and an opportunity to address our country's transportation needs.

I will say to my colleagues that we are very much aware of the situation on the Senate floor with respect to this topic and the administration's views on it. My own belief is that at the end of the day, when the Senate and the House get together, led by the distinguished Senator from Vermont, Mr. JEFFORDS, and the distinguished chairman of the Environment and Public Works Committee, Senator INHOFE, when they are in that room at the end of the day negotiating between the Senate and the House, I think they are going to be looking for opportunities to do a lot of good in the transportation area where the pricetag is pretty modest. When you use that as a definition in a conference committee, where you are trying to wring out the maximum in terms of value for job creation in meeting our country's infrastructure needs, if that is your measure, I think the legislation that Senator TALENT has authored, with the help of myself and Senator CORZINE and Senator COLEMAN of Minnesota—we have been very pleased on our side to be joined by Senator DURBIN and Senator DAYTON and others—I think when the Senator from Vermont and the distinguished

whip, Senator REID of Nevada, and others are in that final set of discussions with the House, this proposal is going to look pretty darned good. It is going to look very attractive compared to a tax increase, which certainly some have debated. It is always a non-controversial topic to discuss tax increases in the Senate.

But I think to go with an approach like this, the Build America Bonds Initiative, where, as I learned in the course of the discussion, and the Senator from Missouri has just confirmed, the Federal Government is the only entity now that has not figured out how to do this, it seems to me we have an opportunity to address that deficiency and to do it in a responsible way.

The administration has indicated they want to cut the Senate bill. That has certainly generated concern in many quarters. It seems to me, when we can find hundreds of billions of dollars for various kinds of international challenges and concerns around the world, we can do some rebuilding here at home. I think this bonding proposal is a very innovative approach to, in effect, think outside the trust funds, think outside the box, and because of the various opportunities for transportation services to be addressed, this legislation lets the country think outside the gas tank.

As we have indicated, we call on this legislation for issuing federally backed bonds to pay for new transportation construction projects. A very broad coalition of groups has come together, groups representing business organizations, labor organizations, and all of them are united around the proposition that at a time when workers and communities are reeling from layoffs and getting pounded economically, we ought to look for opportunities to responsibly get the dollars that are needed for the transportation sector.

The Build America Bonds Program is a stimulus that will generate funding for our economy today. It is a chance for the Federal Government to hold up its end of the bargain with our States. I am hopeful Congress will finish the critical work on this legislation quickly, but more than anything, let us pass a transportation bill that is not business as usual. These are not standpat times. This is not a time, based on the meetings I just had in Oregon, where folks will say let's just keep doing what we have been doing and we can stand pat because everything is hunky-dory. I think they are looking for bolder and more creative ways to get our citizens and our economy going where we need to go.

The legislation Senator TALENT and I have sponsored will help America get going in the right direction by providing additional funding to meet our country's transportation and economic needs.

I understand the situation with respect to the floor and the Senate today. I hope our colleagues will continue to work with Senator TALENT

and me as we go forward in the Senate, as it is debated with the House, because I am absolutely convinced that in the last hours of this discussion, when the Senate and the House are looking for a way to meet this country's transportation needs and looking for a way to do it in a cost-effective fashion, they will say the legislation that Senator TALENT and I have put together is an opportunity to do a lot of good in a fashion that is fiscally responsible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I am not going to inflict myself much more on the subject, but my friend spoke so eloquently on it, and I wanted to add a little bit to what he was saying, particularly with regard to cost.

The thing he and I emphasized that I believe is so important is that these problems we have in transportation are problems that are not going to go away if we don't do anything. If the Federal Government were a private company and its capital infrastructure were in the condition that America's capital infrastructure is in, you would have to list that somehow on the books as affecting the valuation of the company. I am no expert on these things, but that inadequate capital infrastructure of that company would be an ongoing obligation of the company. It would be a debt that the company has to pay because everybody in the commonsense world, if I can say that, understands that eventually you have to deal with this issue.

It is also common knowledge, uncontested, that in particular with regard to transportation, when you delay, costs go up a lot because there are so many inputs to transportation costs: Material costs; wages, of course, go up, one hopes, periodically; costs of right-of-way can go up. There are a lot of things affecting those costs. Everybody knows it is dangerous to put off projects because costs can escalate far beyond the rate of inflation, far beyond what you are earning on the money you are not spending because you didn't want to pay for the transportation.

Under current market conditions we estimate this proposal of ours would cost about \$2.5 billion a year, which is about, not 1 percent, but one-tenth of 1 percent of the entire Federal budget. It is considerably less than other proposals which have been made for new kinds of spending, and which I have generally supported, but which were not paid for by any other new stream of revenue. For example, the global AIDS bill, which received wide support in the Senate and which I certainly supported, costs more every year than this costs.

This kind of spending empowers us. This kind of spending gives us the opportunity to create jobs. The Senator from Oregon and I have not even talked about the dynamic impact of transportation investment. But if you Members

don't believe that investment in roads and highways and rail and transit has a dynamic impact, go and talk to the economic development people in your State—in the urban areas, in the smaller towns. They are all for this.

I remember when I was traveling around Missouri in support of Build America Bonds and I went to Springfield, one of our dynamic cities in Missouri. I had a meeting at the Chamber of Commerce. The head of the chamber came rushing up to me and he said: "You know, I like the tax cut. But this," he was waving the one page we had for Build America Bonds, "is a jobs stimulus."

He understands that.

This is a proposal whose time has more than come. I want to reiterate what the Senator from Oregon said. I know the problems the bill faces. We certainly do not want to imperil the underlying bill for this. I would not do that. I don't want to suggest that those supporting this bill have not done great work. I am looking forward to supporting this highway bill. But at some point in this process we need to be able to confront this because this is not a problem that is going to get any better if we don't do anything about it.

I yield the floor.

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. HOLLINGS. 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 MOVE OVERSEAS

Mr. HOLLINGS. Mr. President, I will address the most important subject we have confronting us in this country. It is brought about by a headline yesterday in the Los Angeles Times, "Bush Supports Shift of Jobs Overseas." I know the distinguished Presiding Officer, as well as this particular Senator, was shocked to see that. But it is the truth. It is unfortunate because of the policy of this particular body, the Senate, we are as guilty as the President of the United States.

I hear my colleagues weeping and wailing, how could he say such a thing? Heavens above, how could you pass fast track? It's just shipping jobs overseas faster. There's all this free trade, free trade whining; all of this level the playing field, level the playing field but we're shipping jobs overseas.

What really happens is the distinguished President—I don't know what his situation is with respect to being AWOL in the National Guard, but I make a categorical statement—and many others are AWOL from the trade war. Now let's talk about the Afghanistan war, the Iraq war, the terrorism war, but more than anything else, a trade war.

Senator, let me tell you how to start one. It was in the earliest States, the

colonies that are great forefathers started. That is the greatest generation. We sit around here, a few of us, veterans from World War II being called the greatest generation. But the real heroes are not here. The real greatest generation was Madison and Jefferson and Washington and Hamilton and Adams. That was the real great generation of our time.

The colonies had just won their freedom when the mother country corresponded back and proposed exactly what we hear today, economists running around all over the land yelling "comparative advantage." Today, we read in the Los Angeles Times article about the comparative advantage. But the doctrine started with David Ricardo, when the British suggested what to do is trade back to the mother country what you produce best—your comparative advantage—and they will trade back with you what they produce best. Free trade, free trade, free trade.

Alexander Hamilton wrote a little booklet, "Report On Manufacturers." I say to the Senator, there is one copy in the Library of Congress. I have been allowed to make a copy of it, but that is the only original copy I know of. But, in any event, rather than wasting the time of putting it in the RECORD here, in a line, Hamilton told the British: Bug off. We are not going to remain your colonies, shipping to you the rice, the cotton, the indigo, the timber, the iron ore, and the natural produce of the land, and continue to import the manufacturing.

There was a law before we won our freedom that you could not erect a manufacturing plant in the Colonies. It was against the law to produce. Oh, yes.

So how do you start a trade war? On July 4, 1789, the second measure that passed the Congress in its history—the first was the Seal of the United States—but the second, on July 4, 1789, was a tariff bill. It was protectionism. It was a 50-percent tariff on over 60 articles. That is how we started to build up our economic strength.

Our economic strength, I say to the Senator, is the vital leg in the three-legged stool of a nation's security. You have the one leg of a nation's values. That was unquestioned until we started preemptive wars. But we are known the world around—they do not hate us. They do not like this policy, but they do not hate Americans. I have traveled the world for the last 37 years, and I can tell you they love America. They revere our stand for individual freedom, democracy, and human rights.

We have sacrificed the world around; and we still are. We have, counting in Afghanistan and Iraq and Kuwait, 14 peacekeeping forces around the world right now. So we have sacrificed.

But there is no sacrifice for this war in Iraq back home, and there is no sacrifice in this Congress. We need a tax cut so we can get reelected. So we tell the poor fellow in downtown Baghdad: We hope you don't get killed. And we

really hope you don't get killed because we want you to hurry back so we can give you the bill.

But, in any event, the second leg is the military, unquestioned as the world's superpower. We have the fine soldiers we have deployed in both Afghanistan and Iraq and elsewhere in those peacekeeping outfits. More particularly, the economic leg, that third leg is what has been fractured.

Now how did we build it up? How do you build an economy? Every country in the world is engaged in this trade war. You have to compete. You have to protect your economic interests.

After the forefathers came Abraham Lincoln, the father of the Republican Party. When they came to President Lincoln and said: We are going to build the transcontinental railroad, and we are going to get steel, he said: We are not going to get the steel from Britain. We are going to build our own steel mills. When they were completed, they not only had a transcontinental railroad but a steel capacity under Abraham Lincoln.

In the darkest days of the Depression, Franklin Delano Roosevelt protected America's agriculture. It is still the envy the world around. But we put in import quotas, subsidies for agriculture, and they should be protected unless we want to lose that. They jump all over poor Trade Representative Zoellick. He finally got a free trade agreement with Australia. There were exemptions—dairy exemptions, farm exemptions. You get what you can. We don't have just one agreement and that is the end of the world. If you cannot get an agreement with Australia, our best ally—and their standard of living, they have labor rights, environmental rights galore in Australia—if we cannot get a free trade agreement with that group, we are not going to get a free trade agreement with anybody. So we got it. I would support that because we have the same standard of living.

Not only President Roosevelt, but Dwight David Eisenhower was a protectionist. He put on oil import quotas—back in the mid-1950s.

And John Fitzgerald Kennedy—he had import quotas on textiles. He had a seven-point program to protect textiles. I helped write it. I can see me down in the press room now with Pierre Salinger and Andy Hatcher, the assistant in the press room in the White House. I will give you an original copy of the seven-point program. But we saved, with the multifiber arrangement, textile production in America until we started giving it away willy-nilly in yarn. We gave away \$2 billion to Turkey in Desert Storm. We gave away \$1 billion here and \$1 billion there. They continue with the African, the Caribbean agreements, and everywhere else.

President Reagan came down to South Carolina, and he committed to protect textiles. We passed the textile bill through the House and the Senate just to enforce the multifiber agreement. He vetoed it. We passed it under

"Papa" Bush through the House and the Senate just to enforce the multifiber agreement, and "Papa" Bush, who had committed to textiles, vetoed it.

They keep coming in to Greenville, SC, promising, promising anything during an election. I have to come up here to Washington and watch them go back on their promises. So don't give me any of this stuff about protectionism.

Let me tell you, fair and square, we are in a trade war. That is how you build up your economic strength. Before you open your front door, I say to the Senator from Vermont, for "Jef-fords Manufacturing," you will need to pay minimum wage, Social Security, Medicare, Medicaid. You will need to have clean air, clean water, plant closing notice, parental leave, safe working place, safe machinery—I can keep going down the list.

So what happens? You can go to China and open a plant for 58 cents an hour—and none of that, none of that. Still, let's talk "cents." If your competition goes, you have to go. If you continue to work your own people, you go bankrupt. So, you see, they have given dignity to this dilemma with this headline: Supports the Jobs Overseas. We in the Congress are responsible for setting the trade policy. We are the guilty parties around here. We have to change the culture and say: Don't worry about this free trade and that you might start a trade war. We are in the war.

We started unilaterally disarming for a wonderful purpose after World War II. Let me tell you where we were before World War II. This is the most interesting thing because this is not a politician speaking. This is none other than the famous author Edmund Morris in "Theodore Rex." I will just read you a few short paragraphs about where we were at the turn of the century. I am quoting from "Theodore Rex":

The first year of the new century found her worth twenty-five billion more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history.

Indeed, it could only consume a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said, "the nation that makes the cheapest steel has other nations at its feet." More than half of the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one third of all steel, iron, silver and gold.

Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of the world markets. Current advertisements in the British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, Maxwell House coffee, commuted in a Westinghouse tram (body by

Fisher) rose to his office in an Otis elevator and worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. "It only remains," one Fleet Street wag suggested, "for [us] to take American coal to Newcastle." Behind the joke lay real concerns. The United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.

Now we import all of it. And why? Because at the end of World War II, in order to prosper, we had to spread prosperity, the Marshall plan. We sent over not just the money of the Marshall billions, we sent over the expertise, the equipment. And it worked. We industrialized Europe and the Pacific rim and capitalism has defeated communism. So it worked. But in that 50-year period, we more or less unilaterally disarmed.

I can remember back as a young Governor in 1960, I testified before the old international tariff commission, and Tom Dewey was the lawyer for the Japanese. He was chasing me around, and I was attesting to the fact that if this continued, with imports of textiles, 10 percent of the American consumption in textiles would be represented in imports. Over two-thirds of the clothing I am looking at now is imported, not 10 percent. Over 86 percent of the shoes are imported. And so it goes with automobiles and steel and hand tools and everything else.

I have been watching Lou Dobbs. He has had a series on how the world is sending us their architects; then they are sending over medical personnel, and doctors in America are sending mammograms to be read in India. And then I find out that my utility in South Carolina—SCANA—was administering my light bills in downtown Bangalore, India, and my Food Stamp Program at the State capital in my home State had moved to India. I said: Heavens above.

The other night I turned on the series, and now we are moving our law work to lawyers abroad. Instead of hiring paralegals for \$75,000 to \$80,000 a year in New York to do the background work on a brief or an appeal—they are moving the work to lawyers overseas. They are going to move everything overseas except politicians. We are already too cheap, I can tell you that. They will be importing everything except us politicians. And we keep sitting around whining and beating the desks and showing charts how we are leveling the playing field.

How do you think you level the playing field? You raise a barrier against a barrier and then remove them both. This proposition of the Golden Rule doesn't work in business, I can tell you that.

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

Mr. HOLLINGS. Yes, sir.

Mr. REID. I would like the Senator to comment on the Los Angeles Times headline: "Bush Supports Shift to Jobs Overseas."

Mr. HOLLINGS. Show that to the viewing public, please. That is the theme here.

Mr. REID. You are aware, of course—that is why you are here—of "the loss of work to other countries, while painful in the short term, will enrich the economy, his report to Congress says." This is the man who succeeded Lawrence Lindsey, who had such a great career in the Federal Government. You are familiar with Lawrence Lindsey, are you not?

Mr. HOLLINGS. I surely am.

Mr. REID. This is his successor. I think he will maybe fit in the same shoes as Lawrence Lindsey did. So the Senator doesn't think this is such a good philosophy, that we are shipping all the jobs overseas?

Mr. HOLLINGS. I tell you, it has been ship, ship, ship. And who is financing this extravagance we have going? Let me bring you up to date. In 2003, as of the end of November, the Chinese had borrowed, in the People's Republic \$143.8 billion and at Hong Kong \$55.5 billion. So they have financed your and my extravagance to the tune of \$199.7 billion—they are financing our debt.

Treasury Secretary John Snow goes to China and he says: How about floating your yen here so we can do away with that advantage you have? And the fellows in Beijing say: Bug off, boy. Go on back home. We might start selling your bonds rather than buying them, if you don't think that will wreck your economy and get the Democrats elected in November. That is what they told Snow. And Snow put his tail between his legs and came home. This is what controls the trade policy. We don't control it because we abdicate. Just like President Bush is AWOL in the trade war, we have been AWOL in the trade war—we have, this Congress.

Article I, section 8, of the Constitution reads that the Congress of the United States shall regulate foreign commerce. What do we do? We bug out. We want the money from the big guys and the rich guys and the multinationals, so we bug out and say, oh, no, you take it, Mr. President, we will give you fast track so we cannot even amend trade agreements and you have the responsibility. With that responsibility, he goes AWOL. Here is the headline. And we are AWOL.

You have the candidates running all over the land weeping and wailing about jobs. Let me tell you one thing, Mr. President. If you are going to try to rebuild an economy, you have to do one thing. I am going to give you our jobs omnibus bill and we will draw it up and I will get the distinguished Senator from Vermont to look at it and see what he thinks of it.

No. 1, what we have to do is immediately quit financing the move of jobs overseas. I will never forget, I called Walter Allen Drissi. In Lexington, SC, I helped him with the water and sewer lines. He went out and got himself organized and started a high-tech company, Avenax. He got involved with Bill Gates and MCI. So 4 or 5 years ago, when his stock was up, I called Walter



out in California and I said: Now, when you expand, I want a plant somewhere in South Carolina. We were good to you and you still have a home in Columbia.

He said: I will keep my home. I love South Carolina, but I don't make anything in this country. He said: I got my research and sales out here. He said: I go right to China for my product. I get a year-to-year contract. I don't have to build a plant. They have the plant and the workforce. I got a quality man and I am sitting here with the Internet. I watch it every day. My good and trusted man watches the quality. I make two or three visits a year. At the end of the year, I have made a wonderful profit. If I haven't, I haven't lost anything really because I don't have to renew the contract. If I have done better than expected, I get another contract. It is a sweetheart deal.

That is what is going on with American business. Do you know who the enemy within is? The enemy within is our best organizations—the Business Roundtable, the Conference Board, the National Association of Manufacturers, the U.S. Chamber of Commerce, National Federation of Independent Business. They are running all over the floor saying: free trade, free trade, free trade. Are you for free trade? And we jump like monkeys and say, yes, I am for free trade, but I want to level the playing field. This is nauseating. I have been watching this for years.

Even the newspapers are against it. They make a majority of their profits on retail advertising, and the retailers buy all their products overseas.

I used to sit right where the Senator is standing, talking about how retailers have 100,000 articles at Christmas-time, and when they run out of supplies and need another 10,000 dozen quick they would get it from New Jersey. But now they make a way greater profit on the imported article than on the New Jersey production. So the retailers make all their profits on the imported articles, and they advertise and they call up and they give the already canned editorials to the newspapers, so all the newspapers are hollering free trade, free trade, saying it creates jobs. It loses jobs.

I have lost 58,000 jobs since President Bush has taken office. Come on. My State is in trouble. That is why all the candidates were running around there making promises. They started a movement. But they have to understand that we have to change the culture.

How do you change the culture? You change the culture by, No. 1, quit financing them, and letting them keep the profits they make overseas. They don't have to pay income tax. That has to stop. We have a bill in that takes those benefits from overseas production and gives it to the particular domestic manufacturer that continues to work his own people.

No. 2, we have to start enforcing our laws. I have worked with the private community over the years in customs law and enforcement of trade laws, and

it has been left to the manufacturer and the private entity to enforce it.

I will never forget the final climax of this so-called enforcement in customs laws occurred back when President Reagan was President. If you had a problem, you had to go first before the International Trade Administration, prove a dumping violation, come before the International Trade Commission and prove an injury, and then go to the U.S. Supreme Court and prove the legality; and then you have one final step, where the President of the United States, on national security provisions, can vitiate the whole thing.

In the Zenith case, they won it all. They won before the Trade Administration and the International Trade Commission. They won before the Supreme Court. Then the Cabinet was gathered around the table and they agreed unanimously to enforce the finding. In walked President Reagan and he said: I have talked to Prime Minister of Japan and we are going to have to reverse that. That was the end of it—three years, millions of dollars, all kinds of motions and pleadings and everything else, and it didn't get anywhere.

So the real trial bar in trade cases has just about disappeared because it is not worth the billable hours to go through the exercise. We need an Assistant Attorney General on textile laws. We have an Assistant Attorney General on antitrust. We need an Assistant Attorney General on trade laws and on dumping.

We ought to start enforcing our dumping or selling lost leaders below cost. That is against the law in the domestic economy and the capitalistic society that we have, to have lost leaders and sell below cost. That is exactly what they are doing.

That Lexus that costs \$32,000 in America sells for \$42,000 in Tokyo on the main street there. They have been selling below cost here, financing with the banking system to get market share. They don't care about profits. Market share is the competition.

They say it is not WTO compatible. Well, if it is not World Trade Organization compatible, we have to change that or get out of the World Trade Organization. After getting that, in addition to enforcing our laws, we have to make sure we have the customs agents.

I got an office in the Customs house in Charleston, SC. I used to go to them on textiles and they said: Senator, wait a minute, we are shorthanded. Do you want me to enforce drugs or textiles?

I said: No, no, let's be sure we get the drugs.

Now I go to them and they say: Wait a minute. Do you want me to enforce homeland security, or drugs, or textiles?

I say homeland security and drugs, forget about the textiles.

The Treasury Department and Customs testified that they got 5 billion in transshipments—illegal transshipments of textiles into this country. We could save thousands of jobs if we could just get that law enforced.

We need specifically to fully fund the Manufacturing Extension Partnership and the Advanced Technology Program. We need a list of the critical materials in the Defense Department that are necessary to our national security. We must make sure we aren't running a deficit in the balance of those critical materials.

Do you know why we waited that long to go into Desert Storm? We couldn't get the flat panel displays for the lookdown, see-down, before we could go in and decimate Saddam. Now, for much of that defense materiel we have to depend on allies whom this administration has made generally unfriendly.

Come on, in this terror war, might doesn't make right; right makes might in the war on terror. Don't worry about a big old defense budget. Get me a big old State Department budget. Let's start making friends. We can't do this by ourselves. We are whistling "Dixie" running around with an atom bomb and a bunch of GIs killing.

The question is: Was it really worth the invasion of Iraq to get rid of Saddam with 530-some American dead, over 3,000 injured, \$160 billion in costs, and creating more terrorism rather than less terrorism? We actually, this minute, have more terrorism rather than less terrorism. We hope—and we want to support our effort in Iraq to bring it to as quick a conclusion as possible—we hope we have democracy, but right now, if you had to call the hand, it would be a loser because we were misled into this war.

Saddam Hussein didn't have any weapons of mass destruction, but when the President—and I want to explain that vote—when the President on October 7, 2002, said there is clear evidence of peril—those are his words, "clear evidence of peril"—we cannot wait until the smoking gun is a mushroom cloud.

Mr. INHOFE. Will the Senator yield?

Mr. HOLLINGS. Wait a minute. That was on October 7. On October 11, we voted. Once the Commander in Chief says there is clear evidence of peril, and 4 days later we have a vote, anybody reasonably sane and prudent would vote to support his Commander in Chief. We thought there was clear evidence of peril. There was not clear evidence of peril.

I will be delighted to yield.

Mr. INHOFE. Mr. President, is the Senator aware that 13 months ago they found 11 chemical rockets with warheads that would hold 140 liters of any kind of chemical? They found with that VX gas enough to load these 11 rockets. Subsequent to that they found 36 more. That is 47. Each rocket, with 140 liters of VX gas, can kill a million people; is the Senator aware of that? Would the Senator call that a weapon of mass destruction?

Mr. HOLLINGS. We ought to make my colleague, Senator INHOFE, the inspector rather than David Kay, who didn't find any of what the Senator was

listing. In other words, I don't think there is any more argument. There might have been a little bit here, a little bit there, but there was no imminent threat. There was no clear evidence of peril. You can find stuff that could have killed anybody. We could all get the chicken flu, but we are not trying to eliminate the State of Delaware because they have a little chicken flu there. Come on.

Mr. INHOFE. Will the Senator yield further?

Mr. HOLLINGS. Yes.

Mr. INHOFE. If they found 47 chemical rockets, rockets that would hold 140 liters of chemicals, why would they have them if they didn't intend on using them against somebody? Would you inform the Senator?

Mr. HOLLINGS. Why didn't they use them? Excuse me, why didn't they use it? You found them, why didn't they use them? Why didn't you call Saddam and say use them?

Mr. INHOFE. Why did they have them if they weren't wanting to use them at some point?

Mr. HOLLINGS. What is the excuse? You should have called him, you found them, and Saddam didn't use them. The proof of the pudding is in the eating. You are running around on the floor of the Senate finding all kinds of things, but we had inspectors upon inspectors, and they have pretty well proved there was no clear evidence of peril.

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

Mr. HOLLINGS. Yes.

Mr. JEFFORDS. I commend the Senator for his accurate statement relative to the purported threats. There was no way to deliver. I think 900 miles was the furthest rockets could carry, and there was no threat really ever given anyway. I want to clear that up from my perspective.

I thank the Senator from South Carolina more so for the wonderful economic history of this Nation he has given us and how we came to the incredibly strong positions we were in but now find ourselves dissipating all those great triumphs we had in the past and watching them all march overseas.

I think what Senator HOLLINGS has given us today ought to be put in marble so everybody can read and better understand the situation of this Nation at this time. I thank him for that wonderful contribution to our history.

Mr. HOLLINGS. The Senator from Vermont has been overgenerous to me, but I think what we both agree we are at fault as much as the President in shipping jobs overseas. We are the ones under the Constitution, article I, section 8, the Congress, not the President, not the Supreme Court, the Congress shall regulate foreign commerce, but we have abdicated our responsibility, and we have gladly done so. Why? Because the Conference Board and the Business Roundtable and the United States Chamber of Commerce gives us

money, and we need the money to run. So we take the money and run and avoid our responsibilities.

We have to change the whole culture. We are into a dynamic trade war. We had a plus balance 10 years ago with Europe. We have a negative balance now. NAFTA hasn't worked. We had a \$5 billion-plus balance before NAFTA. Now it is a negative \$15 billion balance, and the average Mexican worker is not making less. What we really need is a Marshall Plan for our neighbor, the country of Mexico. That is what we ought to have rather than going back and forth.

We had last year a \$500 billion trade deficit, and about \$500 billion in a budget deficit. So we have infused—infused—\$1 trillion in the last year into the economy, and we created no jobs. That should worry everybody in the Congress. And what the President proposed for next year's budget is not a \$521 billion deficit. Look on page 392, and you will find it's a \$726 billion budget deficit that he proposes, and he doesn't include anything for Afghanistan and Iraq and the cost of the alternative minimum tax, which is another \$200 billion.

We are in real trouble. We have to sit down in a bipartisan way and quit running around with the signs saying the President is AWOL, because the Congress is AWOL. That is my beef. I fought these trade bills. I couldn't get anybody's attention, but now we have their attention. Baloney with that Business Roundtable, and profits, and downsizing and moving overseas. Let's make it profitable for manufacturers to do business in the United States. That is common sense. I say to the Senator from Vermont, doesn't he want to do that? I am sure he does. I thank the distinguished Senator for his kind attention. These are the most important issues we have ever had. There isn't any question about that.

The January 27th New York Times reports that at a business meeting in Davos, Zhu Min, an economic adviser to the President of China, was met with silence when he asked Americans how their country planned to finance its economy with both blue collar manufacturing and white collar service jobs going elsewhere.

The world has changed. Come on, wake up and start working out a good jobs policy in this Congress and quit blaming each other. There is plenty of blame to go around for all of us. But when it gets so bad that the economic adviser to the President of China, is asking how you pay your bill with all of these jobs going over here, and the economic adviser to the President of the United States says, "Right on, we need more of them overseas, it is good for the country," we are in real trouble.

I thank the distinguished Senator.

I yield the floor.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 30 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right.

#### THE FUTURE OF SCIENCE AND TECHNOLOGY IN AMERICA

Mr. BINGAMAN. Mr. President, for the last 2½ years the primary efforts of the President and much of official Washington have focused on: How do we meet the threat of terrorism? Clearly, that is a threat we need to meet as a country, but there are other threats and other challenges that demand our attention as well. The first, most important of those, in my view, is the need to create high-wage jobs. Others have spoken about that. The Senator from South Carolina spoke about it. Others in the Senate have spoken about it in the last few days.

High-wage job creation requires, as a precondition, that we adopt sound monetary and fiscal policies. The monetary policy we leave up to the Federal Reserve, but the responsibility for maintaining sound fiscal policy rests with the President and with the Congress. Both this President and this Congress have failed miserably in carrying out that responsibility.

Much has been said about that failure, and I am not going to repeat those arguments again today. But even if the President and the Congress come to their senses and pursue a policy that is responsible with regard to fiscal affairs, the problem of how we are going to create high-wage jobs is still unaddressed.

So the question is: What actions can we take to achieve that goal? Each of us can list at least some of the building blocks for a high-wage society, fair and equitable tax structure, an educated and skilled workforce, an efficient, robust transportation infrastructure, a modern communications infrastructure, and so on.

I would argue that any discussion of high-wage job creation should start with what military strategists refer to as the point of the spear, the tip of the spear, and I firmly believe that in the economic competition for high-wage job creation, this point of the spear is science and technology. Just as in the case of our national security, our economic future depends on our remaining the world leader in science and technology. If that leadership is lost, then our capacity for high-wage job creation will soon atrophy.

Joseph Schumpeter, who taught all of us about the creative destruction that is inherent in our capitalist system, the competition that is brought on by new technologies and new markets destroys companies, it destroys entire industries. Jobs that existed in those industries are lost, only to be replaced by new jobs in other industries, in new companies that are nimble enough to take advantage of the dynamic change that is ongoing at all times.

As Andy Grove of Intel has said, only the paranoid survive. If we want the United States to lead in the 21st century, we need to recognize that the world of the future is being shaped by new technologies and their rapid diffusion. Entire industries may disappear in the process or be utterly transformed, and there are many examples. One is the entire industry of recorded music that is being reshaped by the ease of downloading music from the Internet. Sales of recorded CDs have been dropping each year for the past few years. Today, blank CDs for making recordings at home substantially outsell recorded CDs. When one walks into Staples or Office Depot, one sees a big display of blank CDs for sale, and one can be certain that most of those CDs are not destined to be used to store spreadsheets of data. Even the small number of high-profile lawsuits against individuals who burn disks of music without regard to the copyrights have not substantially altered this phenomenon.

The music industry still is in search of a mechanism to adapt to this fundamentally new business environment brought about by the diffusion of two new technologies; that is, the Internet and, secondly, cheap CD-burning drives.

Another example: The biotechnology industry. This is an industry that has sprung up in a very short period of time. The basic patent for genetic engineering, the Cohen-Boyer patent on making recombinant DNA, was issued 30 years ago. No one at that time could have predicted we would one day have a biological industry rivaling the chemical processing industry that was already a century old at that point.

The United States has reaped enormous economic benefits from being the first country to lead in the development of the Internet and the harnessing of biotechnology, but these revolutions are far from being the last technological revolutions we have seen or will see in the future.

So the key questions at this point in time for us are: Which countries will win the competition to develop these new industries, these new jobs, based on future technological changes? Which countries will benefit overall from those changes? Which countries will lose out? After the current wave of technological change has passed, which countries will be best positioned for the next inevitable wave of change?

We ignore these questions at our peril. After reviewing the President's proposed 2005 budget for science and technology, I am persuaded that this administration is ignoring these questions now. It is clear that we are, in fact, in the middle of a set of inter-related technological revolutions that are both reshaping existing industries and leading in a number of cases to entirely new industries.

A short list of those ongoing revolutions would include the following: Microelectronics, particularly the con-

tinued miniaturization and diffusion of data processing power; secondly, high-end super computing; third, telecommunications technologies; fourth, man-made materials, including materials in which the structure has been designed and built at the atomic or the molecular level.

This is, in essence, nanotechnology. Another example is robotics. Another is biotechnology, which I have referred to before. Also, technologies to increase energy supply such as renewable energy technologies that are as inexpensive as traditional fossil fuel sources of energy and that use hydrogen as an energy carrier, and also technologies for increased energy conservation. We know that these technologies are crucial to our future.

The question is: Will America play a leading role in their continued development? The answer is not that self-evident. In the 60 years since World War II, other countries and other regions of the world have built science and technology capabilities that rival ours today and in many cases are destined to rival ours in the future. The Governments of China and India and Japan and the European Union have all targeted advancements in their research and innovation system as key elements of their plans for future national and regional economic prosperity. Even if we have a strong science and technology policy in this country, these other countries and regions will give us stiff competition.

Unfortunately, though, just as this international challenge is becoming very clear, this administration appears to be sticking its head in the sand. A look at the budget proposal for fiscal year 2005 submitted by President Bush on February 2, shows the serious gaps in support of the kind of basic science and engineering that will be the most important to the development of technologies and industries of the future. Let me give some examples:

The budget proposes \$660 million in cuts for basic and applied research at the Department of Defense, the sort of research that has the greatest potential for dual use and effective spinoff to the civilian high-technology industries.

There is a proposed \$68 million cut for the Department of Energy's Office of Science, which is a major supporter of basic physical sciences and engineering research.

There is a \$63 million proposed cut for energy conservation research and development at the Department of Energy.

There is a proposed \$183 million cut for fiscal year 2005 for agricultural research.

There is a proposed \$24 million cut for transportation research.

There is the proposed total elimination of the Advanced Technology Program in the Department of Commerce. That is a loss of \$171 million for new technologies that would otherwise have been enabled and brought to com-

mercial reality. This termination of the Advanced Technology Program is particularly egregious in light of the circumstances we face.

The rationale for the termination in the President's own budget document deserves to be enshrined as some sort of classic wrongheaded reasoning. Let me read this for anyone who is listening to understand what was said. This is word for word out of the President's budget document. The heading is "Advanced Technology Program—ATP." This is a description:

The ATP endeavors to help accelerate the commercialization of high-risk, broad-benefit enabling technologies with significant commercial potential. ATP is a merit-based, rigorously competitive, cost-shared partnership program that provides assistance to U.S. businesses and joint R&D ventures to help them improve their competitive position. The President's 2005 Budget proposes to eliminate the program and, therefore, no funds are requested for FY 2005.

So that is it. I did not add a single word. I did not subtract a single word from the President's rationale. Literally it says ATP is a great program; it helps our competitiveness; it is effective. Therefore, we propose to kill it.

There is another aspect to President Bush's budget that makes the point that science and technology policy is a low priority for this administration. That is the underfunding of important R&D programs that Congress has recently authorized by overwhelming margins and that the President has signed into law.

One example is cybersecurity research and development. Every American knows that computer viruses and worms can cause serious damage to the economy. In November of 2002, Congress passed, and the President signed, the Cyber Security Research and Development Act. That bill authorized a significant program of research and development on computer and network security in the National Science Foundation. For fiscal year 2005, those R&D authorizations amounted to just over \$122 million.

After signing the bill, the President had a complete budget cycle to develop a budget request incorporating the authorizations that he signed into law. There appears to be no proposed funding in 2005 in the National Science Foundation to carry out the law. In essence, the President's signature on a law to increase R&D investment in cybersecurity meant nothing when it came time for the administration to put together a proposed budget for 2005. In fact, the budget element for the National Science Foundation budget that would fund this activity is proposed for a decrease of \$40 million.

A similar situation has occurred in the area of nanotechnology. Again, last year Congress passed, and the President signed, a major research authorization bill for nanotechnology. The contents of the bill were well known during the bulk of the budget cycle. For fiscal year 2005, the bill provide for nanotechnology spending across five agencies adding up to over \$800 million.

The President chose to hold a formal signing ceremony at the White House on this bill, and this is unusual for a bill dealing with research and development legislation. The White House press release for the signing ceremony noted that the President had previously requested a 10-percent increase in nanotechnology funding for the 2004 budget. In the fiscal year 2005 budget request, after the signing ceremony, after the photo opportunity, the President asked for a 3-percent increase for the national nanotechnology initiative as calculated by the Office of Management and Budget.

Before we passed the legislation, he asked for a 10-percent increase. After we passed the legislation, he asked for a 3-percent increase. When you compare the President's nanotechnology request for fiscal year 2005 to the authorized levels that he signed into law, it turns out that he has requested \$200 million less for nanotechnology R&D in the budget that he sent us on the February 2, compared to the authorization that was signed a few months earlier.

Finally, there is a total disconnect between science and the administration's plans for the space program. At the same time that the President is cutting and terminating or failing to fully fund R&D programs with demonstrated effectiveness in creating jobs and wealth in the country, he is proposing a manned Moon-Mars initiative at NASA. That is likely to yield some benefit to the Nation. There is a lot of debate about how much benefit.

Most of the alleged technology spin-offs of past space exploration activities have not been as great as was advertised. We did not invent Teflon or Velcro or even Tang, as part of the space program, contrary to the belief of many.

To pay for the new Moon-Mars initiative, the President proposes to take funds from other parts of NASA during the next few years. Beyond that, future Presidents will have to direct substantial funds to manned space flight in order to keep the program on schedule.

We have already seen the first wrong-headed move at NASA in the area of diverting resources and that is the proposed abandonment of the Hubble space telescope, which is one of the premier assets of NASA at this time. The Hubble telescope is still in its prime. It is capable of continuing to make major discoveries about our universe and its formation. The proposal to abandon the Hubble telescope to find money to plan for a manned mission to Mars is a clear example of the low value that seemingly is placed on real science by the administration.

Because of the outcry from the scientific community and from some colleagues in the Congress, notably Senator MIKULSKI of Maryland, this proposal is now getting a second review, but it is too soon to say that it will, in fact, be withdrawn. The fact that this termination was proposed in the first place illustrates the lack of priority

given to science in the administration's thinking about our Nation's future.

There are other policies as well that this administration has put forward related to science and technology that are also deleterious to our future, just as these cutbacks in funding are, to which I have referred.

One example is the visa and other immigration restrictions that have been put in place over the past 2 years related to science and engineering students in this country. Foreign-born students coming to this country have for decades been an important asset to the United States. After completing their training, many have stayed here to make significant contributions to both basic science and innovation. They are a great source of strength in our innovation system and to our country.

We have only to look at the current Director of the National Institutes of Health, Dr. Zerhouni, who was born in Algeria and came to the United States in his early twenties to train in diagnostic radiology at Johns Hopkins University in Baltimore. Today, in the name of increasing our national security, we are making it extremely difficult for the best and brightest foreign students to come to the United States and be educated and to remain in this country and become citizens as Dr. Zerhouni was able to do.

Instead, the effect of our policies and the ham-handed way we are implementing those policies is driving away from the United States some of the scientists and engineers who want to come here to build a better life for themselves and for our society. This is an issue we need to look at seriously, and we need to begin to make rational decisions with regard to it.

The end result of these policies that have been implemented today is that the brightest students from around the world will increasingly choose non-U.S. educational institutions for their advanced education, and major scientific meetings will increasingly take place outside the United States. Our policies could have the effect of strengthening the innovation systems in other countries. As a result, we might well be encouraging high-wage job growth to take place overseas instead of the United States.

What can we do about these issues? We in Congress can do several things. Let me mention a few.

First, Congress can put more pressure on the President to beef up the White House Office of Science and Technology Policy, or OSTP. One of the basic reasons there seems to be so little leadership on science and technology issues coming out of the White House may be that the Office of Science and Technology Policy appears to be significantly and severely understaffed. The current Science Advisor is authorized under law to have six high-level deputies and most previous Science Advisors were extremely well

qualified people in all of those positions. Under this administration, only two of those six positions have been filled. No attempt was made to adjust that staffing strategy after the events of 9/11.

Clearly, this is an issue that deserves attention. The President's Science Advisor appears to have spent the bulk of his energy on terrorism-related issues since 9/11 with the result that the overall health of our science and technical foundations has not gotten the attention it otherwise could have received from a fully functioning OSTP.

A second action item we could address in Congress is require the President to actually prepare and make public a science and technology policy. We have a lot of speeches about how we need a national energy policy in the country. Why don't we need a national technology policy? Having such a document is not a panacea, but the discipline of having to sit down and write such a document will force the White House to give some thought and examination to the technological opportunities and revolutions we face and on which we are in danger of missing out. Previous Presidents have had explicit policies in this area. The value of such policies has only increased in recent years.

A third action we can take in preparing this new budget resolution is to insist that the entire Federal science and technology budget get better and more unified consideration. It would be valuable to have some joint hearings across the relevant committees in the Senate on the overall shape of our science and technology spending. It might be worth considering whether the functional structure of the budget itself should be revised to put the entire Federal S&T budget in one place so that there is more transparency as to what the real trends are in the national budget for science and technology.

A final action item I would mention today is Congress needs to take a strong role in resisting the cuts that are being proposed by this President to the research and development budget, particularly to programs such as the Advanced Technology Program. Frankly, instead of terminating the ATP, we should be looking to duplicate its strategies and successes in other Federal agencies.

For example, both in the Department of Energy and in the Environmental Protection Agency, we could benefit from having programs structured along the lines of the Advanced Technology Program as part of the overall mix of programs in each agency to spur the development of new technology.

One thing I hope Congress does not do is what the administration unfortunately has done; that is, to lose focus on where the real source of our future national wealth and high-wage job creation opportunities lie. Our future economic security crucially depends on innovation and genius as reflected in our

scientists and engineers, particularly universities and major laboratories that are supported by the Federal Government. Our long-term economic future depends upon us making well-reasoned choices about what our real priorities are, and science and technology needs to be recognized as a priority that it in fact is for the country.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I want to take a few moments to respond to the Senator from New Mexico and some of the thoughts and ideas he has presented. I appreciate his interest in this topic and his interest in science and technology. But I strongly disagree with some of the conclusions he draws.

I think the reason for some of those conclusions is that all too often when Members of the House or the Senate talk about issues of science and technology, we assume that all programs having to do with science, technology, or research that carry that label in the Federal Government are all created equal; that they all have the same goals, motives, and effects in areas of science or research and the same effect on our economy. They simply do not. I think it is important that we draw a distinction between the various types of research and technology programs that have been discussed.

The Senator from New Mexico mentioned NASA's program. He touched very briefly on National Science Foundation programs, many of which fund some of the nanotechnology initiatives. He mentioned the Advanced Technology Program, and that in particular is the one I wish to talk about.

If there is one program in the Federal Government that ought not to be expanded, it is the Advanced Technology Program. It is for the reasons that are described or listed in the description read by the Senator from New Mexico. He described a program that invests in or subsidizes commercial research for private companies to develop new products to sell in the market. This isn't investing in research that subsidizes or supports basic physics or chemistry or computational mathematics. This is new product development for private—and in most cases profitable—companies. The description he read of their commercial applications means that someone somewhere has to assess the value of these new products. I think the description also mentioned the risk involved.

Those who have worked in manufacturing, engineering, and product development understand there are risks involved in developing new products. But there are also rewards to be gained. That is why many of these companies are quite profitable.

What this program in particular—not all federally funded research, and certainly not the work of the National Science Foundation that provides support for physics and chemistry and

computational mathematics but the advanced technology program—is doing is subsidizing product development for private sector companies. That naturally begs the question, What companies? What companies are benefiting from these subsidies? As I said, they are profitable. But these are companies that have competitors. That means someone in the Federal Government—a man or woman somewhere in the Federal Government—is looking at a number of different firms in a given industry and picking one or two to provide a taxpayer-funded subsidy for the development of a new product that they are going to sell in the marketplace and make money from.

The Federal Government doesn't get an equity position. We don't get royalties. We are not benefiting from the fruit of these subsidies, but we are certainly taking the taxpayers' money from families who might be earning \$30,000, \$40,000, or \$50,000 a year—middle income or low income. We are taking their tax money and giving it to some private corporation to subsidize their new product development. That is simply wrong. It does not matter if there is a merit review. It does not matter if the man or woman on the board evaluating these programs is being very thoughtful about it and very judicious in trying to be fair and balanced and pick the right technology or the most promising technology.

It is wrong to be subsidizing the product development of a private company selling its goods into the marketplace, trying to make a profit. It is certainly not an efficient way to run an economy. It certainly is not fair to those competitors who are selling similar products who have to compete with the company getting the big government subsidy or the small government subsidy. It does not matter to me if they get \$100,000 or \$200,000 or \$2 million. It certainly is not the role of the Federal Government to try to manipulate or micromanage markets for commercial products. That is not the role of the Federal Government.

I do not take issue with a lot of the concern and interest shown in encouraging our children to dedicate themselves to areas of science or technology or mathematics. I certainly enjoyed math and science as a student, and although I don't know how well I performed, I performed well enough to go to engineering school and work at least at one time in the real world helping to develop new products and helping to bring them to market. Maybe it is that personal experience, having worked at the very type of firm that may be applying to the Federal Government for these subsidies, that makes me so concerned this is not the right role for the Federal Government. This is not the best way to spend taxpayers' money.

That is precisely the reason the administration has said we ought not to be spending \$150 million in this way. We can find a better use for this money. We can find a better way to

utilize it for the public good in a way that does not, in my opinion, sap our economic strength by trying to manipulate or micromanage these markets.

There are many areas of the Federal Government where we might be providing support—through the National Science Foundation, through the National Institutes of Health—the basic research in medicine or physics or chemistry or mathematics or some of the other areas I mentioned which might be very worthwhile, to expand our understanding in these areas of basic science and mathematics. But helping some company develop a new air conditioning system or new control system or write a new software code they can sell into the marketplace is not the way to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me respond briefly to the comments of my colleague. I respect his background and knowledge in engineering and science. He is, I believe, the only qualified engineer we have serving in the Senate at this point. I certainly respect that.

I believe strongly the Advanced Technology Program which he has discussed is a very good use of taxpayer dollars. It is not, as he describes it, subsidizing product development by individual companies. It is, in fact, assisting with generic, broad-based, high-risk, precompetitive technology development.

I suggest to my colleague much of our ability to compete in world markets depends upon our remaining world leaders in the various generic technologies we are talking about. In microelectronics, in nanotechnology, in a whole range of areas, we need to have Government support for continued development of generic technologies so our companies can, in fact, pick up on that and hopefully be competitive in the world markets. That is what has happened in biotechnology.

Maybe the genome project is a terrible use of taxpayer dollars, funding the development of the genome product. There are a lot of commercial benefits coming out of that and many more in the future. But that was a government-funded research effort, and that was an extremely good investment. That is one of many examples.

The Advanced Technology Program—and I do not have all the examples with me today, but I will bring them to the Senate in the days ahead. But to say the rest of the world can do what it wants in the way of pursuing generic-enabling, precompetitive technologies, we are doing nothing in those areas, is shortsighted in the extreme. Essentially, that is what this administration has done. We do not want an Advanced Technology Program in this country. The Japanese can do what they want, the Europeans can do what they want, the Chinese can do what they want, along with every other major country.

I just returned 2 months ago from a trip to Taiwan. I urge my colleague to go to Taiwan—maybe he has been to Hsinchu Science Park near Taipei—and talk to them about how it is inappropriate for government to be involved in any way assisting in the development of precompetitive technology that might benefit some of these companies. They do not understand what language you are talking in that kind of discussion.

We are in a severe competition with the rest of the world to remain the world leader in science and technology. The advanced technology program is an essential part of us maintaining that leadership. It is wrongheaded for this administration in this day and time to be coming to the Congress and saying, let's eliminate this program. Sure, we want high-wage jobs to be created, but the answer to that has been, Let's cut taxes some more.

That is not an economic strategy that is going to get the job done. We need various elements of an economic strategy. One of those is to remain the world leader in generic precompetitive technology development. That is what the Advanced Technology Program is intended to do. I strongly favor continued and increased funding of it.

We have a basic disagreement on this issue. I wanted that on the record.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I appreciate the comments of the Senator from New Mexico.

To reiterate what I hope I was clear in saying before, I am not talking about National Science Foundation funding, which was the funding principally used to support the development of the human genome project. I have been quite supportive of the NSF funding and the National Institutes of Health funding research, which is where the human genome funds came from.

Talking about the Advanced Technology Program, I am not quite sure what "precompetitive" means. I would like to use the definition that is just behind the Senator from New Mexico. It says "commercial potential." That means products that are commercially viable that will be sold in the marketplace, in a competitive marketplace, in that description behind the Senator from New Mexico.

It says the grantees of this program are businesses—businesses and joint R&D partnerships that are funded by, I assume, I hope, American businesses. In fact, at one time some of the largest grantees of this program were those in the automotive industry, automotive manufacturing industry. We were using these ATP funds for the partnership for the next generation vehicle. This was an initiative driven originally by Vice President Al Gore at the time to develop a hybrid car, hybrid electric and combustion engine. After spending about \$2 billion in all with the Advanced Technology Program, that effort was abandoned. It simply is a case

in point as to why it is not a good idea to take taxpayer money and try to subsidize the product development—in this case, of cars—that is a product sold in the marketplace, and in a competitive marketplace at that.

One final anecdote, and I think it is an important anecdote. The Senator from New Mexico mentioned Taiwan. I have been to Taiwan before; not to this particular office park. I do not believe in a national economic policy that says: Let's do what the Japanese are doing. Let's do what the Germans are doing.

In Germany right now they have over 10 percent unemployment. In Japan right now they are still in the throes of a deflationary spiral and a stock market collapse that began several years ago.

I do not want to be Japan. I do not want to be Germany. I want to be America. I want the strongest, most competitive, most vibrant economy in the world. That is what we have today. I do not want to lose that, certainly. But if we look back just a little bit, back to the late 1980s, industrial policy wonks within the Senate and the U.S. Government were insisting if we wanted to be a competitive economy, we had to subsidize the development of the high-definition TV standard, and they did not talk about putting \$100 million or \$200 million or \$150 million, as we have in the Advanced Technology Program today, into subsidizing the development of a TV standard. They were talking about billions—\$2 billion, \$5 billion, \$10 billion—to subsidize the development of a commercial application.

Fortunately, the United States did not do that. But Japan, the model cited by the Senator from New Mexico, did do it. They put roughly \$20 billion of their federal taxpayer resources into the development of that commercial standard. As a result, they have a high-definition TV standard that cannot rival the standard that was developed by the private sector, the competitive marketplace here in the United States.

It is a small example.

We might be able to point to an example where a technology or venture in ATP did result in a good commercial product that enabled the owners of that product to make a lot of money. But, as I often point out to my constituents, if you let me spend \$150 million a year, I can certainly create a few jobs with it; the question is, is it the role of the Federal Government. Should we be micromanaging private sector, profitable companies in the private marketplace? Should we be subsidizing one company at the expense of its competitors? Is it the right thing to do? I think in this case it simply is not.

I yield the floor and very much appreciate the Senator from New Mexico engaging in this discussion and difference of opinion.

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I first of all extend my appreciation and my apolo-

gies to the Senator from Wyoming, Mr. THOMAS, for allowing me to go before him. I will be as brief as possible. I wanted the discussion to be in keeping with what has been said by the Senator from New Mexico and the Senator from New Hampshire.

I am not a scientist, but I am a historian. I understand history. I know, for example, in 1844 Congress was approached by a man who said: I want to revolutionize the communications systems in this country. He asked Congress to appropriate \$40,000 for an experiment he did not have the wherewithal to do. He had been trying for many years to get the money to do this.

The experiment was to build a telegraph line between Washington, DC and Baltimore, MD. For \$40,000 they did it. The Federal Government did not ever have to put another penny into that project. It revolutionized the way we communicated in America—the telegraph system. The Federal Government did the right thing by doing the research and development on this issue.

Let's fast forward now more than 100 years from 1844 when two scientists from MIT, by the name of Danby and Powell, were stuck in traffic in New York. They were both professors at MIT, scientists. They said: This is ridiculous. We shouldn't be stuck in traffic like this. We should figure something out that would stop this.

They went back to the laboratories, and they, within a short period of time, invented magnetic levitation, which is the ability of these huge trainlike vehicles to speed through the air, but the vehicle is less than a quarter of an inch off the guideway. It goes 300 miles an hour.

The Federal Government, the United States of America, for 5 years paid for research and development for this new technology. There were cost-cutting issues that came forward and it was eliminated. There was no more research and development. But the Germans and the Japanese picked up from where we left off, and now they are in the process of finalizing their experimentation of magnetic levitation.

We are going to have magnetic levitation in this country, no question about it. It is only a question of when. The bill that is now before this body will spend hundreds of millions of dollars on magnetic levitation. The bill before that did not spend that much. It is going to happen, but we are going to have to import the equipment and the technology from Germany and Japan.

I believe the Senator is right. I believe the Federal Government has to be very careful in picking and choosing where we help with research and development on a scientific project, but we have an obligation, I believe, to the taxpayers of this country to develop the telegraph or magnetic levitation.

I underscore the need for this and applaud and congratulate the Senator from New Mexico for his usual far-sightedness.



The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just continue, if I can, for another 2 minutes before yielding to my colleague. I promise it will be very short.

I thank the Senator from Nevada very much for the examples he cited. I think there are many other examples, and in the coming days and weeks I will try to bring some of those to the floor, as I am sure my colleague from Nevada will.

The truth is, we would not have an Internet if it were not for Government-funded technology development. The President himself has identified some areas where he believes we need to put additional resources into research and development—developing hydrogen-operated vehicles, for example.

There are a great many areas where the Government does have a legitimate role to play in underwriting generic, precompetitive technology our companies can then take to be competitive and remain competitive. That is what the Advanced Technology Program has done. There are many examples we can point to over the years of successes they have had, and we will get those examples out for the Senate.

But it is shortsighted in the extreme for us to be saying, in this day and time, when we are worried about high-wage job creation in this country, that the way to start dealing with that is to eliminate this kind of program, to eliminate our support for science and technology development in the Department of Commerce. That is a very shortsighted approach. I hope this Congress will not agree with this President and go along with this kind of cut.

Mr. President, with that, I yield the floor. Again, I thank my colleague, Senator THOMAS, for his courtesy in allowing us to continue this debate as long as we have.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I enjoyed listening to the debate.

I do rise to talk some more about the issue that is before us, the issue we have been talking about now for 10 days, and that hopefully we will be able to complete within the next couple of days, and that, of course, is the highway transportation infrastructure bill that is now before us.

I thank the chairman of the EPW Committee and the ranking member and the staff for continuing to move forward with this important bill.

Sometimes we take for granted what is out there, whether it be electricity—we have been working on the electric bill—whether it is energy. Because it is there, we just sort of forget all that goes into making sure it is there.

But our previous transportation infrastructure bill, the Transportation Equity Act for the 21st Century, expired on September 30 of the past year. Now we are nearly half a year beyond the bill expiring to take care of our infrastructure needs. For some time,

then, the transportation system has been operating under a 5-month extension, which expires at the end of this month, by the way, and which doesn't fund nearly to the present needs because it is a CR from before.

So the infrastructure is in great need. All of us recognize that. There is an increasing use of it, increasing numbers of cars on the road, increasing numbers of trucks.

Our whole economy depends on this transportation infrastructure. The Interstate Highway system is almost 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. You can see that, particularly when we have had the rain and the storms, you drive around and bump into the potholes.

But more importantly, we don't have the kind of expansion to handle the increased traffic. Twenty-nine percent of our bridges are structurally deficient, functionally obsolete. Thirty-six percent of the Nation's urban rail vehicles and maintenance facilities are in substandard condition. Twenty-nine of the Nation's bus fleet and maintenance facilities are substandard or in poor condition. We really have a challenge with one of the most important aspects of our economy being in poorer shape, certainly, than we would like to see it or even imagine that it is.

I am very pleased that we are working on this bill. I happen to be a member of the EPW Committee as well as the Finance Committee. Those are the two main committees involved. I have been involved for some time—in fact, 6 years ago I was involved in the previous program from the EPW Committee. I feel strongly about this issue, very strongly about it in terms of the infrastructure, very strongly about it in terms of the jobs that it creates. Quite frankly, it creates more jobs more quickly than any other kind of activity we could undertake.

We are in the process of seeking to get that resolved, of course. This legislation would result in thousands of jobs. In my State of roughly half a million people, one of the smallest States in the country, 20,000-plus jobs mean a lot. We would have those very quickly. In fact, for every \$1 billion in highway construction, we can expect 47,000 new jobs to occur. This means creating opportunities for people to work.

In my State, again, we have nearly 20,000 people who are employed as truckers and move more than 31 million tons of manufactured freight and earn more than \$674 million in wages. So this is part of the economy that is impacted and affected. Without good, safe roads, of course, these people can't get their jobs done.

The highway system is almost 50 years old. You don't think about all the things that are involved in that. It is terribly expensive to have roads fixed. Last year we had 20 or 30 miles of roads being fixed over the mountain into Yellowstone Park. This is a U.S. road. This is an interstate highway

that people were using. Of course, it is very expensive. So there are a lot of dollars involved in doing this. But we can't allow these kinds of things to continue to deteriorate.

I just came from a meeting for an hour or so with the Director of the National Park Service. I happen to be chairman of the Park Service Subcommittee. One of the issues important to the Park Service is maintenance of highways in national parks. Of course, here again it is very expensive but absolutely necessary to have it done. There is a great deal of discussion about what we ought to do. The expenses are high. We are all concerned about the budget and the deficit, of course. We want to work to change that. But we have had that in mind as we have gone along on this whole program.

Of course, the basic source for funds for highway funding is the tax on gasoline that each of us pays, 18.5 cents each time we put in a gallon of gas. That goes into this fund. It goes into the fund for highways, partially for mass transportation as well. The funding actually was done in the Finance Committee, and there has been a considerable amount of talk about the fact that there was some sort of trick being pulled in order to get money in there that didn't belong there. Quite frankly, I followed it as closely as I could. I keep hearing these incorrect allegations.

I encourage critics to read the Finance Committee title. Under the committee title, the highway trust fund will maintain more of the excise taxes that were intended to go into that fund originally but have not been there. This accomplishes partial elimination for the ethanol blend of fuels. These fuel users now pay the full excise tax, and the trust fund under this plan will receive the money. It has not in the past. The benefits will be taken as a tax credit against the general fund as are all other energy production incentives.

Likewise, the trust fund will retain excise taxes collected from certain users such as State and local governments using the highways and paying into that fund. Currently, these users get a refund. Under the committee amendment, the refund is not charged to the highway trust fund. What we have done is made some changes in the funding that should have been going into the trust fund but has not been going into the trust fund, and then finding some others to replace these so that there is not a reduction in the general fund but that the highway trust fund has more body to it.

The committee changes have been called gimmicks. We hear the allegation that the Finance Committee used accounting gimmicks. This is unfair and incorrect. What the Finance Committee did do was ensure that the trust fund keeps more of the excise tax, which is what it was designed to do in the first place.

Then, for instance, the Finance Committee recognized that the trust fund should earn interest on the balance. It is a huge amount of money, and the interest is a significant amount. It has not gone into the trust fund in the past. It would do that.

So there are a number of aspects that have been changed here. We find a good deal of complaint on the floor that these were gimmicks and criticisms of the Finance Committee. Unfortunately, interestingly enough, the Commerce Committee is also a part of this. They have been able to spend \$7 billion in their programs, but they don't ever mention that. All they do is complain about what the Finance Committee is doing.

I can't emphasize enough the need to move this bill and to move it now. This idea that we would have a CR for a year simply doesn't deal with the issues we have, the problems we have, keeping up this infrastructure in the way it needs to be kept up. We have solved these issues. What we need to do is pass this bill this week and go into conference committee. Get the House to do what they are going to do with it, go into the conference committee, work with the House and the White House and with the Senate and come up with a bill that is appropriate for everyone and will be accepted by others. That is the system we have.

Increasingly, if someone disagrees with the system, instead of debating and discussing their differences, they just look for ways to hold up the bill. Quite frankly, that is a high price to pay for all Americans to not have these jobs, to not have this infrastructure kept up, to not be able to do what is needed on one of the most important aspects of our economy. We have the opportunity to do that.

I am certainly hopeful that we can come to some agreement. No one in this Senate is more concerned than I am about the spending level. I think you have to take a look at what we are seeking to do to balance the budget, to reduce the deficit, and to help increase the economy.

These are the issues we have been dealing with. Of course, in addition to that, as a cause of the deficit, we had September 11. So it is not easy. But we can do it. I certainly hope we do and that we move forward as quickly as possible to be able to do this.

I yield to my friend from Missouri.

Mr. BOND. Will the Senator yield?

Mr. THOMAS. Absolutely.

Mr. BOND. Mr. President, the Senator made a very good point about the need to move this bill. He raised the question about a 1-year extension. Is it the understanding of my colleague that the major projects that would generate the kind of work that is needed to improve our Nation's infrastructure, the major highway and bridge projects, cannot be undertaken on a 1-year extension because these are multiyear projects and they need a multiyear extension?

Mr. THOMAS. The Senator is absolutely right. These are large projects. They are contracts. They take a while. If you are going on a 1-year extension, our highway department, for example, couldn't put the contracts out on some of the most important jobs because they wouldn't be finished in that length of time and they don't have the dough. It is that simple. That is a very important aspect to continuing to resolve this question now.

Mr. BOND. If the Senator would further yield, I know the Senator is from a Western State in the north, and the time during which significant highway construction can go forward is limited by the weather.

What is the timeframe for summer construction in your State?

Mr. THOMAS. Well, of course, in order to have summer construction, it is necessary that now the Transportation Department be able to know what their funds are going to be, what their ability to contract will be, so that they can do it very soon, so that these contractors can get in place in April and begin to work for a longer summer. If they have not gotten the contract until late in the summer, they are all faced with a couple of months of work, and they go into winter, which they cannot do. Seasonal is very important. We have a chance to take advantage of the summer construction system now.

Mr. BOND. Mr. President, I ask that question because some people talked about a 3- or 4-month extension. I wonder if my colleague agrees that that simply would miss an entire season, even in Missouri, where our weather may not be quite as harsh but we would not be able to really undertake any construction projects. Is that similar to the condition in the Senator's State?

Mr. THOMAS. Absolutely. We have heard a great deal from our transportation people before Christmas, wanting this. This was supposed to have been done in September, when the fiscal year began. They wanted to be in to make the contracts then so that these contractors could get ready. It is going to be quite close now. Still, if we can move in February, it will give us a pretty good shot.

Mr. BOND. Mr. President, I thank my colleague.

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

Mr. THOMAS. Certainly.

Mr. REID. Mr. President, I think the picture here says it all. We have on the floor now two of the majority party and two of the minority party, representing diverse areas of this country, including Wyoming, Missouri, Vermont, and Nevada, and I also see my friend from New Jersey in the Chamber. Each State is so reliant and dependent upon doing something about this highway bill that all of us in the Chamber are doing everything we can to move this ball down the field.

The State of Wyoming is an example that doesn't have a lot of people com-

ing there to pay enough money into the trust fund to take care of the needs of that great big State. Not only is it large area-wise, but having spent some time there myself in the cold winter, I know maintaining the roads in Wyoming, compared to a place such as Nevada, is more expensive because of the tremendous variation in temperatures.

My point is that this legislation is bipartisan. It is legislation that is for every part of the country, as evidenced on the floor.

I was speaking here, off the record, with the distinguished Senator from Missouri. We are going to pass this legislation now in a matter of hours. It is imperfect, but it is a really good piece of legislation to allow the director of the Department of Highways in the State of Nevada to have some ability to look down the road, as they have a continuum for money, so we can complete projects we have to do in Nevada. We are a big State area-wise. We have problems in the southern part of the State that are totally different from in the northern part of the State. It rarely freezes in the southern part, but in the northern part, for instance, we have Wild Horse Reservoir that, on various occasions, is the coldest place in the country. So we have our own problems, as do Missouri, New Jersey, Vermont, and Wyoming. I am so happy there has been this cooperation on this bill. I hope it sets a tone for the rest of the year. It is a Presidential election year and some Senate seats are up.

For the first bill this year, I think the distinguished majority leader and the distinguished Democratic leader picked a good one to show that we can work together on matters and set aside our partisan differences. We have done it on this bill. I appreciate the comments of the Senator from Wyoming.

Mr. THOMAS. I thank the Senator.

I yield the floor.

Mr. BOND. Mr. President, very briefly, this is a difficult bill, as the distinguished Senator from Nevada has said. There is a lot of work that goes into it. If anybody was completely 100 percent happy with it, we would not have done our job, because there are too many interests. The only way to accommodate them is to work on a bipartisan basis.

I want to say this while the Senator from Nevada is here. The Senator from Nevada and the Senator from Vermont and, obviously, my good friend from Wyoming, on both sides of the aisle, with Senator INHOFE as chairman of the committee, have worked well together, including the occupant of the chair. This is probably one of the most important economic stimulus infrastructure bills we are going to act on this year, or maybe for quite a few years. I hope we can get a solid vote to move forward tomorrow. There is a lot more work to be done, as I believe several have already said. We are waiting for the House to act. When the House acts, we will take it and work with them and we will take into consideration what the White House has said to

see if we can—and we must—craft a good bill that takes care of the crying needs of infrastructure.

I have said before on this floor so many times that it is not just a question of convenience, of cutting down on idling time, it is a question of long-term economic growth as well as immediate jobs. In Missouri, it is a question of saving lives by having adequate highways. When we have two-lane highways carrying 15,000 or 20,000 cars a day, that is too many. We should have divided highways. The fact that we don't means that wherever you travel in Missouri on heavily traveled two-lane roads, you see little white crosses where grieving families and friends have indicated the place where a loved one was lost.

This bill isn't going to solve all the problems in Missouri. If we pass this bill, many of the problems in Missouri and around the country will be solved. I urge my colleagues to work together and move forward on the bill. Our staffs are working now on a cooperative basis with a very large number of amendments that have been filed to see how many we can accept, how we can move it along.

Tomorrow is going to be a very busy day. We will try to accept as many amendments as we can on a bipartisan basis. If you want more money, please tell us where you are going to find it because we are strapped for money and major new spending sources without revenue are going to be difficult to accommodate.

Within those parameters, I urge everybody to work together. The filing deadline for first-degree amendments is past. I know what we have in front of us. I hope we can resolve as many as possible.

I yield the floor.

Mr. JEFFORDS. Mr. President, I thank the Senator for his statement. I want to reassure all of our Members that we will be working together and have been working together, and we will find a solution to many of those amendments. We won't unless they are filed. The sooner they are filed, the sooner we may even have a chance to get home for the weekend. That might be incentive for some.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment that was cosponsored by Senator DEWINE from Ohio. We would like to have had this considered in this important transportation bill.

I want to say this to those who are managing the bill and who have developed it. We see a piece of legislation that has a lot of good aspects to it. My State of New Jersey is doing better in this bill than it has on occasions in the past, with some adjustments here and there that give us some more funding in transit as well as highways. We appreciate that.

The subject we want to discuss is one that deals with safety, which is an in-

tegral part of this legislation and certainly should be, and that subject is the result of drunk driving.

Drunk driving cost the lives of 17,419 people in 2002. It is an increase for the third straight year in a row. This is unacceptable in our society by any measure. This is evidence that we are not doing enough to win the war on drunk driving. In 2000, I was proud to team up with Senator DEWINE to standardize our Nation's drunk driving blood alcohol concentration level at .08. That is a critical step toward reducing drunk driving, but that measure alone will not end this crisis.

During my career of public service, I promoted many legislative initiatives to help curb drunk driving in our country. In addition to .08, I wrote the law that established a minimum legal drinking age of 21. Most Americans have responded to these laws by drinking responsibly and reducing fatalities and injuries on our highways.

At one point it was estimated that we saved 1,000 young people a year from dying on the highways as a result of that change in the age of drinking.

The most feared category of drunk drivers who have failed to mend their ways is also the most shameful: the hardcore drunk drivers. These are the problem drinkers. These are the ones who ignore the dangers and have no concern for the safety of those of us on the road, including our families and our friends.

It is estimated that hardcore drunk drivers are responsible for as many as 40 percent of all alcohol-related deaths on the road, and that means about 6,000 to 8,000 people a year die at the hands of a hardcore drunk driver. That is not an acceptable situation.

Many of us have terrible, tragic stories involving lost loved ones due to drunk driving crashes. A young woman on my staff recounted a moment in her life when she was a teenager, when five of her close friends, all juniors in high school from southern New Jersey were hit by an SUV. Four were killed and one was badly injured. This was in broad daylight at 3 o'clock in the afternoon. A heavily intoxicated 29-year-old woman had plowed her SUV into the girl's car. One police officer described the scene as "an explosion with glass everywhere."

The driver of the SUV is what safety experts term a "higher-risk" or "hardcore" drunk driver. In fact, her blood alcohol content was found to be .21 nearly 5 hours after the crash, and usually that diminishes significantly. This is almost three times the legal limit of .08. Perhaps the most disturbing part of this story is the fact that this driver had two prior charges of driving while intoxicated in 1991 and 1996.

Some States have adopted laws that try to get hardcore drunk drivers off the road. It is something we heard a lot about when we put in place the .08 blood alcohol concentration standard. They said you have to get to the hardcore people; they are the ones who are

really dangerous on the road. That is true, but anybody who is impaired while driving is a problem.

A TEA-21 program that we put into place resulted in 36 States and the District of Columbia passing repeat offender laws, but currently only 13 States have enhanced penalties based on blood alcohol concentration levels of .15 and above. Thirteen States and our own District of Columbia still do not have laws mandating alcohol assessment and treatment by a professional. Fourteen States do not have laws mandating that a drunk driver's vehicle be impounded.

We have to take action to keep these hardcore drunk drivers off our roads. The costs we pay are too high. We can save thousands of lives by passing this bipartisan commonsense amendment that I would like to offer along with Senator DEWINE.

Victims rights groups, such as Mothers Against Drunk Driving, have brought to our attention the need to change our laws to make our roads safer. It is my great pleasure to work with the dedicated, thorough, and caring people of MADD.

This hardcore drunk driving amendment takes advantage of research and policies that have been proven effective to fix what is wrong with this current repeat offender program.

First, it builds on the excellent work done by Senator INHOFE and Senator JEFFORDS in the bill by allowing the use of ignition interlocks, a popular and effective tool. Forty-two States have laws allowing for ignition interlocks to be used so that in case of hardships, a conditional license can be granted.

Our amendment also fixes the loophole that currently exists to allow States to spend Federal funding designated for driver safety programs on construction projects. While road construction is certainly a worthy ambition, this loophole defeats the purpose of the Federal program in the first place and must be addressed.

Our amendment cracks down on very high blood alcohol concentration drivers. Drivers with a .15 percent or greater blood alcohol concentration are almost 400 times more likely to be involved in a fatal accident than a sober driver.

I believe the Federal Government needs to continue strong leadership in relation to reducing alcohol-impaired driving. Not all States have dealt with this safety crisis in a comprehensive manner. Loopholes still exist, loopholes so large that drunk drivers continue to drive right through them.

Now is the time to take the next step in getting these hardcore drunk drivers off our roads. I look forward to working with Senator DEWINE, Senator DORGAN, and Senator CORZINE, all of whom joined with me in trying to reduce the 17,000 alcohol-related traffic fatalities that occur each year.

It is regretful that we cannot have an opportunity to offer our amendment. It

is relevant and germane to this bill, but not having the chance to offer the amendment, frankly, hurts our work and our interests in keeping our highways safer, saving lives wherever we can.

This is something I hope we can work out with the managers of the bill to see if there isn't something we can do to show that we are seriously interested in getting drunk drivers off the road. Remember, over 17,000 deaths a year on our highways, 40 percent of which are due to the antics of the repeat drunk driver.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, before the distinguished Senator from New Jersey leaves the floor, I want to make this comment. I am sure we all wonder, having served in legislative bodies, what has been accomplished, what have we been able to point to that we have done that changes the lives of people in our country. Let me say to my friend from New Jersey, he need not worry about that because his legacy has already been established.

I owe so much to the Senator from New Jersey, as does my whole family, and I speak for most families—I should say the vast majority of families in America, many of whom don't realize what the Senator from New Jersey has done to make their lives more pleasant.

When we used to travel back and forth from Las Vegas and Reno to Washington with my family—they were little children at the time—my daughter and my boys, especially two of them, could not stand cigarette smoking in an airplane. It really made them physically ill. We would pacify them and say, well, that is in a different section; do not worry about it. As we know, when one person smoked on an airplane, we all smoked on an airplane. The Senator from New Jersey is more responsible, by far, than any other one person, or group of people, for being persistent and pushing that there would be no smoking on airplanes. The Senator from New Jersey did that.

When he started out on this issue, people thought he was tilting windmills. No one believed with the very powerful interests that favored smoking on airplanes, including the airplane owners and, of course, the cigarette manufacturers, that the Senator from New Jersey could accomplish what he did. But he did.

In addition to that, we all owe a debt of gratitude to the Senator from New Jersey for pushing to make sure all States had a .08 standard for blood alcohol. The Senator from New Jersey did this.

The reason I mention these two things that are the legacy—and I have only mentioned a couple of things because they stick out in my mind that the Senator from New Jersey has done, that I know. With the tireless efforts of the Senator from New Jersey on the things that he believes in, that he is

talking about, this will get done. This will be accomplished for a number of reasons, not the least of which it is the right issue but, No. 2, because the Senator from New Jersey is the one who is pushing this.

I want the Senator from New Jersey to know how much I—and I speak for millions of Americans—recognize his great contributions to making our lives healthier, better, and safer in America.

Mr. LAUTENBERG. Mr. President, I take this moment to respond to my good friend from Nevada. He has always been interested in the safety and well-being of our people at the basic level, where we can make a difference. Senator REID from Nevada is always there, and I appreciate his support. I like working with him. When he says this is going to be done, my colleagues can take it to the bank because we are going to keep on working on it.

If we ever forget what it is we are talking about today, just continue to read the papers, and there will be stories about the intoxicated driver who went way over the limit and took a life.

I will never forget a young woman who came in from Maryland to talk to us one day. She was waiting with her daughter for the schoolbus, child in hand. Someone driving a car at 8 in the morning jumped the curb and killed this child whose hand she was holding.

Then there was the man in Hawaii who was driving with his wife behind a car that his son and daughter had rented. They were struck by a drunk driver. It killed them both.

These things happen all the time, enough to kill over 17,000 people a year. That means that in less than 4 years, there will be as many people killed on our highways as were killed in Vietnam. So this is not a trivial thing, and we are going to have to keep on working on it.

I am willing to do it, and I know the Senator from Nevada is willing to do it. We just have to hope that the opportunity arises.

The PRESIDING OFFICER (Ms. COLLINS). The minority whip.

Mr. REID. The Senator from New Jersey was responsible for one of the most memorable debates that I ever was present for in the Senate, and I am sure the Senator from New Jersey will remember it. It was a debate on drunk drivers. The very articulate Dale Bumpers, former Senator from Arkansas, gave many great speeches but none more memorable than when he spoke about his being a law student at Western University and he received a call from his brother. He knew it was bad news. He did not know how bad it was, but a drunk driver had killed his parents when he crossed over the line.

The Senator will also remember the distinguished former chairman of the Budget Committee, now the ranking member of the Budget Committee, the Senator from North Dakota, KENT CONRAD, who was made an orphan as a lit-

tle boy by a drunk driver who killed his parents.

So we have to continually do more to keep these higher-risk drunk drivers off the road. They are a menace to society. In my opinion, the only thing they understand is force, power. They have to be put in jail. They have to be prevented from driving their cars.

As the Senator knows, we are in a parliamentary quagmire and maybe there is a short-lived victory for those who oppose what the Senator is trying to do but it will not last long.

Mr. LAUTENBERG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise to speak about the highway transportation bill which we are on right now. I will discuss basically two general points. The first has to do with the amount of funding in the bill and the administration position on that matter. Then secondly, I will talk a little bit about the funding formula in the bill.

As everyone knows, we are talking about a bill that would authorize and pay for the highway transportation and mass transit needs of the country over the next 6 years, financed historically by the gas tax. The 6-year bill that has been offered intends to be more generous than that by taking in some additional revenues, providing a lot more funding, and extending the authorization that currently exists for a period of 6 years.

I ask unanimous consent that at the conclusion of my remarks this Statement of Administration Policy be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KYL. I am quoting now from a February 11, 2004, Statement of Administration Policy from the executive office of the President, Office of Management and Budget. As my colleagues know, these Statements of Administration Policy are issued with respect to important legislation and they set forth the administration's position on the legislation.

After noting that the administration supports enactment of the 6-year highway funding bill, the letter says the following:

The administration's proposal, as modified by the President's FY 2005 budget, would provide \$256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a \$45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The administration goes on in this Statement of Administration Policy to say the following:

The administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles.

Now, let me digress before I state what those principles are. The reason

the administration is talking about spending restraint is because the bill that is before us is far larger in its amount of spending than what the administration's proposal and the President's budget provide for, and it is far larger than is necessary. Frankly, in view of the status of our excess spending and our Federal budget deficit, it is more than we can afford.

Moreover, it is greatly in excess of the funds we collect with the gas tax, which in the past has been the funding that has been used to pay for this highway bill. So this is what the President and the administration is writing in this letter.

The administration believes the legislation should exhibit spending restraint and adhere to the following three principles: One, transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. Two, transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true costs to the Federal taxpayers. And three, highway spending should be financed from the highway trust fund, not the general fund of the Treasury.

It goes on:

All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on the highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

Madam President, how does the administration's position and the articulation of the three principles under which it believes the bill should be funded compare with what we are considering on the floor here? I am going to go on and quote the administration's characterization of the legislation on the floor.

However, the bill pending before the Senate authorizes \$262 billion on highway and highway safety, which is \$50 billion above the President's request, and \$56 billion on mass transit, which is \$12 billion above the President's request. In total the Senate bill authorizes \$318 billion in spending on highways, highway safety, and mass transit over the next six years, a full \$62 billion above the President's request for the same period.

The Administration's proposed authorization level of \$256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these three principles—such as this legislation which authorizes \$318 billion—were presented to the President, his senior advisors would recommend that he veto the bill.

There is more in the letter, but I think you get the gist of it. The administration is trying to tell us it would prefer a bill that, No. 1, adheres to the President's budget, to spend no more than \$256 billion, and, No. 2, does not violate the three sensible funding principles the President lays out in the bill.

But the statement of administration policy notes that the bill before the Senate is a full \$62 billion above the President's request, and it concludes in this part by noting that:

The administration, therefore, opposes Senate bill S. 1072 because the "spending levels are too high" and because "they violate the principles discussed above."

And if we end up passing legislation such as this, then the President's senior advisors will recommend he veto the bill.

I think the President is getting the same message the rest of us should be getting from our constituents, the American people: Congress and the President have been spending too much money.

In defense of the President, he has reached agreements in the past year with the leaders of the House and the Senate over spending limits and has said he would not support any legislation—and I presume he would have vetoed legislation—above that level. We have sent him bills at those levels. So in that regard, it is not the President's fault.

But I take responsibility as a Member of this body, and all of my colleagues should as well, that we as the body that initiates the spending proposals and sends them to the President must act more responsibly in ensuring that we do not exceed revenues, that we send the President bills that are fiscally restrained and that will not add to our budget deficit.

Alan Greenspan, the Chairman of the Fed, has made the point many times in recent months that the biggest threat to our economic growth and to our fiscal stability is profligate spending, and he has urged us to rein in our appetite for spending.

Some of my colleagues on the other side have expressed great dismay that when the Office of Management and Budget was finally able to calculate the cost of the Medicare prescription drug bill from last year, instead of \$395 billion of cost over 10 years, as calculated by the Congressional Budget Office, the administration's people found that it actually would be far higher than that, over \$500 billion.

Some of our Democratic friends have said—I gather they seem to suggest that therefore it is the President's fault. The President's people are the folks who found out that the spending was more than the \$400 billion and have brought that forth and told us that. What should we do?

Later on I am going to give my colleagues an opportunity to bring the spending back in line with the \$400 billion of which they seem so enamored. I think that is plenty. I think we can live within that \$400 billion limit. So we will all have an opportunity to decide whether we really mean it when we say the spending on that bill should be limited to \$400 billion over 10 years.

My point in digressing from the discussion of the highway bill is to note

that there has been a focus on a lot of the spending the Senate and House have engaged in recently, and certainly the prescription drug and Medicare funding bill is one of the largest. Another we have had before us is the energy bill, which has a subsidy of about \$30 billion. The administration budget request was \$8 billion. That is another bill that, were we to pass in excess of \$8 billion in subsidies, would exceed the administration's request.

Here is a third example where the Senate is poised to pass a bill way in excess of the President's request. My point is it is not the White House that is doing the spending, it is the Congress that is passing the bills that have the spending in them. The President is sending us a signal that he is tired of this and his advisors are saying, to be precise about it, that they will recommend a veto to the President if we don't get this bill more in line with what the President's budget is. He is sending us a message.

I urge my colleagues to read that message, to listen to what the President is saying. He means business. He is right. We are spending too much money. This bill is an over 40 percent increase in highway spending. We all know roads and bridges need to be built. We all understand some jobs are produced. That is fine. But do we, in this era of budget deficits and excess spending, have to increase spending in this one area by over 40 percent? Isn't a 21 percent increase over last year sufficient?

The President's budget is almost flat. It has about a half a percent increase—except for homeland security and defense—for the discretionary part of our budget. We know it is going to be difficult to live within that, but we should try. But how can we in good conscience pass a budget that has virtually no growth in it, except for homeland security and defense, and then with regard to highways say that is an exception; we are going to increase spending by 21 percent? The income of how many people in this country will grow 21 percent this year? Not very many. Not, certainly, for the average working man and woman.

I daresay, at a 21 percent increase, we can do just as well, in terms of building our roads and highways, and then if we need to adjust it later on because we are rolling in dough, we can do that. But for this year at this time with this kind of deficit, we should not do it. That is what the President's advisors are saying in this letter.

What I would like to do is talk for a little bit about how the bill before us violates those three principles. Let me just cite a couple of examples.

The first principle is that the transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. It doesn't rely on an increase in the gas tax, but it will rely upon Federal taxes because we will be taking money from the general fund. That gets us to the

second and third points. Transportation infrastructure should not be funded through bonding—we are not going to do that—or other mechanisms that conceal the true cost to Federal taxpayers. I will show you in this bill how that happened. And the third principle is highway spending should be financed from the highway trust fund and not from the general fund of the Treasury.

No. 2 and No. 3 go together here. Let me give a couple of examples from the highway part of this; not mass transit but the highway part is funded from the gas tax. We are going to collect \$196 billion in gas tax revenue. That is how much we should spend on highways. But, no, we are going to be spending much more than that. How do we make up the difference? Obviously, Members of Congress are pretty creative in figuring out how to pay taxpayer dollars. So, a lot of new ways of deeming money to be in the trust fund have been thought up here. Some of them actually I suggest have some merit.

Just to give one example: Interest in the highway trust fund. The highway trust fund is a fund that has maybe \$9 billion or \$10 billion, give or take \$1 billion, in it at any given time. You have to have some money in the bank. It is like a bank account, to pay the checks when they come due. There is always money coming in when people buy gasoline and pay the tax, and one thing we could do is attribute to the trust fund interest which is otherwise attributed to the general fund. That is between \$1 and \$2 billion. I am perfectly happy to have that attributed to the trust fund.

If you go through some exercises like that, you can get up to \$214 billion, more or less, in revenue you say is somewhat legitimately attributed to gas tax revenues.

Let me give you two examples of revenues that are being attributed to the highway trust fund that really are not revenues in any sense of the term, and, therefore, would violate both principle No. 2 and principle No. 3.

One of these concepts has to do with the fact that counties, cities, towns, churches, and schools are by and large exempt from paying a gas tax. What we are going to do in this bill is pretend like they actually paid the tax. That is worth, I think, \$8 billion. That is a nice thing, if you can get away with it. But I don't think it reflects reality. That is \$8 billion. We are simply going to treat this as if the trust fund had received all of the money from counties, cities, towns, and so on.

Is the general fund going to collect that money from the schools, churches, cities, and towns? No. There isn't going to be any new revenue. Your school district is not going to have to pay money for the gasoline that it buys for the schoolbuses that are driven. They will not have to pay the Federal gasoline tax, but we will pretend like it does. That \$8 billion is pretend money.

There is another part of this which they calculate at \$9 billion that is attributed to the highway trust fund. What is this? The gas tax is 18.3 cents. But for ethanol users, we provide that they don't have to pay 5.2 cents of that. There is an exemption for that of 5.2 cents on each gallon. In this bill, we are going to pretend like they paid that to the trust fund. We are going to actually collect their money. The revenue will actually be collected. But when people ask for a refund, we will send it right back to them. Assuming that most people will ask for a refund because they can get it, we are going to be sending the money right back to them.

As a result, we take with one hand and we give back with the other, and the fund is no better off. There is no real money in the fund except what was there before. We haven't added to the fund. We have collected the 5.2 cents and then we give it back when the people apply for the refund.

Since Federal contractors actually have to pay their people, buy asphalt, and run their road graders, how are we going to make up this \$17 billion?

As I have indicated, in both cases this is not real money. We are going to get it from the general fund. We are going to just spend that money from the general fund.

How are we going to do that? It is not in the budget. The Finance Committee has come up with a variety of tax law changes which will close certain corporate loopholes and in other ways raise revenue that is not currently raised. We had hoped and anticipated that additional revenue would be applied to a reform which has to do with corporate tax relief that will have to be passed this year because the WTO—the World Trade Organization—has ruled against the United States in a case in which we have been providing some tax relief to American manufacturers abroad. We are going to have to take that tax relief away in order to make these companies whole. We will have to pass a different kind of tax relief. To do that, you have to have the ability to pay for it. That is what this money was going to be used for. Instead of using it for that, we will use it to build bridges and highways. We will take that money, put it in the general fund, and send that over to the highway trust fund.

We are violating the principles laid down by the administration that none of this bill should be paid for by either a mechanism that conceals the true cost to the taxpayers or financed from the general fund of the Treasury.

This bill, both by being in violation of at least some of the principles laid down by the President and by being \$62 billion in excess of what the President said the bill should cost, is going to create a situation in which the senior advisers of the President are going to recommend a veto. We should not be passing a bill under those circumstances or be passing this bill under those circumstances.

What do we do about it? There are a couple of different options. One of the options is that we could simply modify the bill to take out that \$62 billion, get it back down to the level of the President's budget, and support that. I have an amendment that would do that. In effect, it will say the President's budget of \$256 billion—that represents a 21-percent increase—ought to be enough, and, therefore, we would finance only that amount of money.

I think we should vote on that and express our will in that regard, support the President, and be willing to begin exercising some fiscal restraint.

Some people say they do not want to reduce the 6-year funding by that much money. They would actually be able to spend over 40 percent more than last year and, therefore, maybe what we should do instead is simply reauthorize the existing law for 1 year, get past the election, and then do another 6-year authorization bill that will spend 40 percent more than last year, since, obviously, that is going to cost more money than we are taking in in gas tax revenues, since there are objections to taking it from the general fund because that creates a horrible precedent, and therefore we will raise the gas tax.

We don't want to tell people that because, of course, in an election year we wouldn't want anybody to really think we intend to raise the gas tax. So let us be real quiet about this and not discuss this alternative too much because it assumes that next year we will come in and provide this large amount of money and raise the gas tax. We could do that. It certainly is at least better than what we have before us, because it simply reauthorizes at existing levels the highway authorization bill for 1 year and we can decide to do it next year at the time. Some of us would oppose the gas tax increase.

I suggest that either of those alternatives are better than the third alternative, which is to pass the bill that is before us.

I want to make this clear. There are not very many people in this body for whom I have greater respect than the chairman of the EPW Committee, the Senator from Oklahoma. I don't mean to suggest in anything that I am saying here that the effort of the committee and the chairman of the committee is anything other than an attempt in good faith to try to satisfy the demands of our country's infrastructure and provide the best possible highway transit funding program they can. I will say they have been very unfair about the way they treated my State, but that is another matter that I will talk about in a minute. I want to make it clear that the chairman has a tough job. He has done his very best in this regard. I want that to be very clear.

But the third alternative is to pass the bill before us. The argument made is that we know it is way too much money but we will get into the conference committee because the House



will pass a bill and then you will have the House and the Senate bills. We will get together and figure out an appropriate amount of money. We will get the President's people in there to negotiate to make sure it won't be too much so the President won't veto the bill.

That is another way to do it. I can't support that because we would be supporting a bill out of this body that is far too big in spending.

The House bill presumably will be above the President's request. It is a little hard to figure out how we are going to start with a bill that is \$62 billion over what the President wants, and the House bill is—I don't know how much but let us pick a number—say, \$50 billion more than the President wants. And somehow they are going to compromise at a number closer to what the President wants. That is ordinarily not the way things work around here. I think it will be close to \$256 billion. They are playing with fire and risk sending the bill to the President which he is going to veto. That will demonstrate that we are not very responsible. I think that would be the wrong thing to do.

Let me address the other subject I said I would address, and that is the fairness of this bill.

I say to my colleague from Oklahoma that he would be the very first to say it is almost impossible to get a bill that spends this amount of money and divvy it up among over 400 Members of the House of Representatives and 100 Senators and have everybody think they have been treated fairly, especially given the historic unfairness of the way the formulas have worked.

Again, he has a tough job. I make the point right up front that I know he has tried his hardest to do this right. In fact, one of his guiding principles was to try to get all of the States up to a level of funding equal to 95 cents out of every dollar that they send to Washington for the highway gas tax. The minimum level today is 90.5 cents.

There are a lot of us who represent donor States such as Arizona. We are donors. We send \$1 and we only get 90.5 cents back in highway revenues. The chairman wanted to try to do something about that to try to remove some of that unfairness. I commend him for that. For the most part, he has gotten States up to 95 cents out of every \$1.

A lot of States are donee States, and they are way above a dollar. Obviously, the reason only some States get 95 cents back is some States get more than \$1. But I commend the chairman for trying to get at least to 95 cents.

The problem is, as has been explained to me, there are some fast-growth States, such as Florida, California, Colorado, or Arizona. We have been at such a low level in the past in terms of the amount we were reimbursed, the 90.5 cents, and we are growing so fast in order to keep up with our growth, it would require so much money to catch us up to the 95-cent level that basically

it cannot be done. So they will bring other States up to 95 percent, States that already for the past 5 years have done very well, for the past 10 years have done very well. For those States that have continually lagged behind, such as the "growth" States I mentioned, since it is so darned expensive to catch them up, we just will not try to do that for 5 years.

So here is the result we get, demonstrated on this chart. I note the dark blue represents on the chairman's chart a green color which he demonstrated the other day when we were discussing this, saying: Arizona actually will increase its spending over this period of time. Then in 2009—assuming the money is there—you will go back up to 95 cents like everyone else.

In 2004, the State of Arizona, which is in the dark blue, would get a little bit more—it gets 90.5 cents. That is what is guaranteed. In 2005, we get 90.5 cents. In 2006, we get 90.5 cents, as well as in 2007. In 2008 it goes up a little bit but is still under 91 cents. Then if there is enough money in 2009, hopefully we get to go back up to where everyone else is, guaranteed 95 cents.

We just took a State perhaps roughly comparable to Arizona, and this State happens to be Missouri, but I could pick any number of States that illustrate the same idea. Missouri, on the other hand, is guaranteed 95 cents each one of these years.

Here is the point: During this 5-year period of time—because there was not enough money, some State had to sacrifice or be sacrificed and that happens to be my State of Arizona. I don't like that, and I don't think it is fair. I would have rather had, in this case, Missouri brought down to 93 and raise Arizona up to 93 rather than taking some all the way up to 95 and leaving the rest of us down at 90.

My colleague from Oklahoma says, but you are getting a substantial percentage increase and even a dollar increase, because you are growing so fast. That is true. But in terms of the total amount of money Arizona would lose during this period of time, it is over \$160 million. So during this 5 years, Arizona will lose out on over \$160 million it would have received if it had been treated the same as the other States and gotten the base of 95 cents.

Remember, there are a lot of States that are way up here that are getting over 100 cents, 110 cents; some are getting several dollars back. I will not name names.

The bottom line is some States are treated very well and States such as my State of Arizona are not treated so well. I obviously cannot be expected to support a bill that picks on a few States such as mine and says, look, we just did not have enough to go around so you have to be the one that does not get paid what everyone else gets paid. We are sorry; be happy with the fact you are getting more money than you have ever gotten before.

My answer is, we are growing faster than anybody and therefore, of course,

we are getting more money than we got in the past, but we are not getting the same relative amount other States are. We are not getting 95 cents on our dollar contributed. We are still stuck down here at this 90.5 cent level. That is not fair.

I want to be clear about this. My opposition to this legislation is based upon the first two points I made. It is too much money and we are going to fund it now out of general revenues rather than the highway trust fund, as a result of which there will be no logical constraint on how much we spend in the future. At least pegging it to what we received in Federal gas revenues in the past was a break-loss, a check and a balance, and it prevented us from going beyond that amount of money. But once you begin to dip into the general treasury, there is no logical end to how far you can dip. As I said, you could double the amount of increase the administration has asked for, you could go to over 40 percent increase and say, we are just going to make part of that up through general revenues. Why not 50 or 60 percent? There is no logical end once you get away from the highway trust fund. That is why I oppose this bill.

The sponsors of the bill were not able to equalize the States, as hard as they tried, in terms of the funding formula, and therefore there are some Members from some States that obviously have to point this out, have to demonstrate the unfairness and inequality of it and ask the bill be amended to provide a more fair result.

The amendment I spoke of that funds the bill at \$256 billion over 6 years does not address this problem. So I make it clear, the amendment I have offered that allows people to vote for an amount in the highway spending that is consistent with the President's budget request does not fix this. I am willing to support that amendment. I am willing to send the bill to conference with that amount of money, but I am also hopeful my colleague from Texas will be offering an amendment tomorrow—has filed it and will offer tomorrow—that will to some degree at least fix this problem for those states such as Texas and Arizona which are not guaranteed the same 95 cents everyone else is guaranteed.

I am hopeful we will be able to vote on that and support that tomorrow.

There are other amendments which I will speak to later, one that my colleague Senator McCain has offered that represents a good compromise in the way we fund highway revenue and reimburse the States. We will talk about that tomorrow. There may be an additional amendment offered tomorrow we will want to support.

I am hoping I will have a chance to vote on these tomorrow. The way this bill has procedurally come before the Senate, we will vote on a cloture petition tomorrow at 9 o'clock. That is a vote which presumably will pass. It means we then have only 30 hours of

debate on the bill and opportunity to offer amendments and have those amendments voted on. My understanding is there are over 400 amendments that have been filed. On a bill of this importance and this magnitude, I don't think it is right we only have 30 hours to dispose of 400 amendments. It obviously cannot be done.

I ask for my colleagues' understanding that when this debate begins after the cloture motion is approved tomorrow—assuming it is—we will have an opportunity to offer these amendments, have a brief period of time to discuss them, have a vote on them, and go on to the next amendment. It is not my intention to try to garble up the works or slow things down. I hope we can speed things up to the point we can get these amendments considered within that period of time. If not, because there are actually two different cloture motions here, we may have to have a second cloture vote and then have another 30 hours so we can continue to try to get the amendments adopted. That is something we are just going to have to work through. I ask for my colleagues' cooperation so that perhaps we can avoid that second 30 hours. But if necessary, obviously, we will have to use that.

Now, if there are questions or refutation of anything I have said, I am happy to hear that and I can stay for a few minutes to try to answer or respond to questions.

If my colleague from Oklahoma would like to speak, I yield the floor to him.

#### EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, February 11, 2004.

#### STATEMENT OF ADMINISTRATION POLICY S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide \$256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a \$45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes

imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: \$262 billion on highways and highway safety, which is \$50 billion above the President's request, and \$56 billion on mass transit, which is \$12 billion above the President's request. In total the Senate bill authorizes \$318 billion in spending on highways, highway safety, and mass transit over the next six years, a full \$62 billion above the President's request for the same period.

The Administration's proposed authorization level of \$256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes \$318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill. The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

**Safety.** The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

**Environmental Provisions.** The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements

to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal is SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreational lands, wildlife and waterfowl refuges, and historic sites—commonly referred to as "Section 4(g)." A clarification of the Section 4(f) definition of "prudent" is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

**New Regulatory Mandates.** The Administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

**Financing and Freight Mobility.** The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of "private activity bonds" for highways and surface freight transfer facilities.

**Public Transportation Programs.** Aside from concerns about overall funding levels,

the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the "New Starts" program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

Accountability and Oversight. The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

Funding Firewalls and Guarantees. The Administration supports a separate category or "firewalls" for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of "firewalls" for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus for years, rather than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

Cross-Border Transportation. The Administration opposes the bill's provisions defining foreign trucks and buses engaged in the cross-border transportation of cargo and passengers into the United States as "imports." Existing statutory provisions already address cross-border transportation safety, and the revised definition would significantly disrupt the almost \$2 billion daily cross-border movement of goods.

MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

#### *Budget estimates and enforcement*

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism

to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, there is no one I have a higher regard for than the man who was elected with me to the other body in 1986, Senator KYL, the junior Senator from Arizona, and they elected him then to come over to this body in 1984. We are both conservatives.

He has heard me say many times when I was first elected to the other body, I got on the Transportation Committee and the reason I did it was because I always felt the conservatives were pretty big spenders in two areas. One is national defense and the other is infrastructure. That is what we are sent here for. Apparently, the most recent poll I saw shows the vast majority of the people, 69 percent, are willing to spend more money if it will be spent on highways, roads, and bridges. I see that as what we are here for.

I have to address the fact that there are a lot of amendments that have come up. I have stood here for 2 weeks trying to get people to propose amendments, to discuss their amendments. We sit down here and we talk about everything there is to talk about until now at last there is hysteria that we do not have time to bring up our amendments. There has been plenty of time.

I have to say, too, to my good friend, the junior Senator from Arizona, it is because of the senior Senator from Arizona that we have not been able to bring up the amendments because they are objecting to any motions to bring them down to vote. That means the only thing we can vote on that does not require that particular permission is a tabling motion which we have done only once because no one else has had anything else to table.

So that is the reason.

I regret that we wasted a lot of time when we were inviting people to come down. Those who were opposed to this for any number of reasons—some legitimate reasons, some not so legitimate—were the ones who were stopping us from moving forward with the bill.

First, I think as far as the cloture motion, the Senator from Arizona is exactly right. In fact, I appreciate the letter he was citing from the administration that came down today. It says: "The Administration supports enactment of a six-year highway [bill]," and so forth, and they are in support of the cloture motion.

So this is the administration that is in support of the cloture motion. I think if you look at the letter—and I will give you a different slant than my friend from Arizona—they have three criteria. There is nothing new about this. I saw this 2 months ago. I saw it on the 4th of this month when they sent a letter from the administration. It says these three criteria are:

[T]ransportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes. . . .

I believe this meets that guideline.

(2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers. . . .

I agree with that. In fact, I have been the one who has rejected the suggestion of any type of a bonding that might just be deficit spending in disguise, something we are going to pay back in the future, some increased debt.

This is the big one. This is the one the Senator, with his vast knowledge, has gone through and who is in a better position to do that than I; and that is the criterion that says:

[H]ighway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury.

Now, perhaps it is hard. There could be an honest disagreement here. If some money is going to the general fund and is being paid at the pumps by people who are paying for the gas tax, that should be going into the highway trust fund. It is user paid. We all agree with that concept.

For those of us who feel strongly about this, I can remember I was outraged back in the middle 1990s when the previous administration came through and they wanted \$8 billion so they could do something other than roads, and it came out of the trust fund and went into the general fund. Frankly, this takes it back. This rectifies a problem that should not have existed in the first place and keeps us honest with the American people.

Look at the moral issue part of this. The people drive up to the pump. There is not a Senator who does not have constituents who drive up to the pump. They don't mind paying that tax—some say they would go ahead and pay more taxes—and they assume that money is going to go for the repair and construction of roads and infrastructure. In fact, that is not the case. There have been raids on that for a long period of time.

I am not going to go over the list of the Finance Committee. I talked to the chairman and the ranking member of the Finance Committee back when we were working on this bill well over a year ago. It said when we come up with what we believe is necessary to just stay even—there is one report out that says even with this spending level that does not even keep us repairing what we have today, but if this comes up, you guys in the Finance Committee are going to be the ones who have to come up with this.

I have never been on the Finance Committee. I have never attended one of their meetings. I don't know how it works. But I do know the chairman and ranking member said: We have come up with a way to come up with this money. Sure, a lot of it, as the Senator mentioned, is spending down the trust fund. Yes, we can do that probably to \$6.5 billion without hurting ourselves. That is an assumption we make here. The interest? Yes, it should go to the

trust fund. There are some fixes in there in terms of ethanol that are all part of it. This going after people who avoided paying taxes is something we would all agree is something that should happen.

The one area the Senator mentions, frankly, I can't address is having to do with the WTO. I am just going to trust the Finance Committee that they have come up with this and have done what I asked them to do a long period of time ago.

Oh, yes, in response to that, I was underlining something. This came out in the Finance Committee. I say to my friend from Arizona. It said: In the view of the Finance Committee, these tax policy benefits—we are talking about benefits deductions, whether they are ethanol or maybe a car that is fuel efficient—nonetheless, to encourage them to do that, they are exempt from certain taxes. But those cars and those trucks still drive on our roads, still cause damage to the roads, and because they want to have a tax policy that has nothing to do with infrastructure, has nothing to do with roads and highways, fine, if we all agree on that, it should come out of the general fund, it should not come out of the highway trust fund. We are rectifying that and getting it back to the highway trust fund.

Now, on formulas, this is the most complicated part of the bill. I say to the Senator, your senior Senator came down and said he would like to trade formulas with Oklahoma. I have to say, as I have said several times down here in the last 2 weeks, everyone has the same formula. You have the same formula. North Carolina has the same formula. Maine has the same formula; Oklahoma does.

Now, the results come out differently because in that formula we are taking care of problems that are real problems. Arizona is a fast-growing State, the State of Texas, the State of California, the State of Florida. So in order to make all of this happen, there are caps, there are ceilings. If you bump the ceiling, we are not going to go above that. You may not like it because you are a fast-growing State. But if you don't, then that is going to be paid for in the formula with a change, maybe a change that is going to be coming in the form of an amendment tomorrow, by getting into some of the States such as Pennsylvania and New York.

So here is what we have in the formula: No. 1, total lane miles on the interstate, on principal arterial routes; No. 2, VMT—that is, vehicle miles traveled—on the Interstate System, on principal arterial routes, excluding the interstate, and on the Federal aid system; No. 3, annual contributions to the highway trust fund attributed to commercial vehicles; No. 4, diesel fuel used on highways; No. 5, relative share of total cost to repair or replace deficient highway bridges—I am very sensitive to that; my State of Oklahoma is dead

last in terms of the condition of bridges—next, weighted nonattainment and maintenance areas and, lastly, rate of return of donor States.

We all know that the Senator from Arizona and I both know all about being a donor State. If we accelerated the point within those 6 years to raise that amount, then, obviously, there would not be enough money to ultimately get to the 95 percent we want to ultimately get to. So if you change one thing in the formula, it changes everything. You cannot do it in a vacuum.

There will be amendments, I am sure, tomorrow that are going to be addressing this and wanting to change the formula. But if you do it, it is going to change other States.

Now, if you will remember, the reason I am proud of this formula is that we have tried to do it. We tried to do it in 1991 with ISTEA. We tried to do it in TEA-21 in 1998. We failed during that time because right about at this point in the process they said: Well, we can't do it. There are too many people who don't like the way the formula has come out. So instead of that, we need 60 votes. How do we get 60 votes?

So they had a minimum guarantee. They said: All right. We are going to offer 60 of these votes what they want in terms of a percentage of the overall, and then, once we get to 60 votes, who cares? We have our 60 votes and we are going to pass it.

Well, I refused to do that back when the temptation was great to do it about 3 months ago. So the formula is going to be the first pure formula that we have had. But are there frailties in it? Yes, there are. There are corrections to be made because if you look in previous years at States where they have had an undue political influence, they have gotten more than their share.

Let's look at Pennsylvania. They had a good friend of the Senator from Arizona and myself who served in the other body, Bud Shuster, a Congressman from Pennsylvania. He, for a number of years, was the chairman of the committee, and Pennsylvania did disproportionately well.

I would say the same thing of our beloved Daniel Patrick Moynihan of the State of New York; certainly John Chafee, one we all loved, from Rhode Island. So the Northeast got kind of a benefit to which they were not entitled.

In fact, to be specific, under TEA-21—let's keep in mind I was a senior member of the Environment and Public Works Committee in 1998 when we put this together. And so at that time, in terms of a percentage of taxes paid in, New York got \$1.25 back; Pennsylvania, \$1.20 back; Rhode Island, \$2.16 back; Montana—Senator BAUCUS, who is a very hard worker for his State—\$2.18 back; Oklahoma, 90.5 cents, the minimum, the bare minimum.

I am the guy who should be out here complaining. When your senior Senator

said, we ought to swap, if we swapped, I would end up with \$40 million more. I will stand here right now and swap with you, and it will not affect any of the rest of the formula.

The formulas are not an easy thing to deal with.

Insofar as the State of Arizona is concerned, if you take an average of the 6 years of TEA-21, \$463 million, and then you watch as it goes up here to finally reach \$800 million, the total amount of increase is \$1.11 billion in the State of Arizona. For my State of Oklahoma, the chart looks almost the same, but the difference is we end up at \$1.07 billion. So there is \$40 million more going to the State of Arizona. I don't like that. If I were to try to do something as chairman, I probably could have. I could probably have looked at the first run and said, no, Oklahoma needs to have more. But I didn't do it because we wanted the formulas to work. So the formulas are something that you can't mess with because if you do, you get right back to the minimum guarantee policy we have had in the past. I don't think that is good for anyone.

Since we have committed some time to two other Members, including the Senator from North Carolina, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I ask unanimous consent to print in the RECORD the Statement of Administration Policy dated February 11, 2004, and also, though I did not quote from it, an editorial of the Wall Street Journal entitled "Road Kill," and the date is February 10, 2004.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC, FEBRUARY 11, 2004.

STATEMENT OF ADMINISTRATION POLICY  
S. 1072—SAFE, ACCOUNTABLE, FLEXIBLE, AND  
EFFICIENT TRANSPORTATION EQUITY ACT  
(Senator Inhofe (R) Oklahoma and 3  
cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide \$256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a \$45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through

bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: \$262 billion on highways and highway safety, which is \$50 billion above the President's request, and \$56 billion on mass transit, which is \$12 billion above the President's request. In total the Senate bill authorizes \$318 billion in spending on highways, highway safety, and mass transit over the next six years, a full \$62 billion above the President's request for the same period.

The Administration proposed authorization of \$256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes \$318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

**Safety.** The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

**Environmental Provisions.** The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project

delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal in SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites—commonly referred to as “Section 4(f).” A clarification of the Section 4(f) definition of “prudent” is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

**New Regulatory Mandates.** The Administration strongly opposes the numerous mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

**Financing and Freight Mobility.** The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition,

the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of “private activity bonds” for highways and surface freight transfer facilities.

**Public Transportation Programs.** Aside from concerns about overall funding levels, the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the “New Starts” program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

**Accountability and Oversight.** The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

**Funding Firewalls and Guarantees.** The Administration supports a separate category or “firewalls” for determining the level of spending from the Highway Trust fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creating of “firewalls” for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

**Byrd Test Change.** The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus four years, rather than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust fund.

**Park Roads.** The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

**Cross-Border Transportation.** The Administration opposes the bill's provisions defining foreign trucks and buses engaged in the cross-border transportation of cargo and passengers into the United States as “imports.” Existing statutory provisions already address cross-border transportation safety, and the revised definition would significantly disrupt the almost \$2 billion daily cross-border movement of goods.

**MAGLEV.** The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

**Budget Estimates and Enforcement.** This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with

Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

[From the Wall Street Journal, Feb. 10, 2004]

#### ROAD KILL—CONGRESS'S SPENDING BINGE MOVES TO THE PASSING LANE

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

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

Ah, but this isn't enough for the boys of summer construction. The draft Senate bill demands \$55 billion more than Mr. Bush and is loaded with fiscal gimmicks that divert money from general (non-gas-tax) revenues into road building. The House bill from Transportation Chairman Don Young is even worse—an astonishing \$375 billion with a five-cent gas-tax increase.

Notwithstanding lip service to the budget deficit, the strategy for passing this is to offer so many goodies for individual Members that they can't resist. The American Road & Transportation Builders Association, aka the road graders lobby, recently advertised how much more booty each Member could take home under the Young bill.

In the Senate, meanwhile, Minority Leader Tom Daschle is planning to attach his stalled ethanol-subsidy legislation (cost to drivers: \$8.5 billion a year) to the bill in order to attract farm state votes—and grease his own re-election this year. Republicans who go along with this self-serving gambit will be helping Mr. Daschle defeat GOP challenger John Thune in South Dakota this fall.

One of the more embarrassing arguments from Congress's highwaymen is that this is somehow a "jobs bill." So at least for this parochial matter, Republicans claim to believe in the superiority of government over private spending. Some Econ 101: Highway spending rolls out slowly over many years but new taxes are immediately taken away from the more productive private economy. It's more accurate to say that Mr. Young's bill would be a net job loser.

If Republicans really wanted to be true to their principles, they'd scale back the federal highway fund and return road-financing to the states. The federal government got into this game in the 1950s to build the Interstate Highway System. That network is nearly complete, but Congress now views the highway trust fund as a way to make all Americans pay for local road projects. States are much better placed to judge real needs, and they'd have the flexibility to experiment with innovative proposals like tolls, express lanes and public-private partnerships.

Such delusional hope aside, the ultimate size of this bill will depend on Mr. Bush's determination to enforce his budget request. History isn't necessarily on his side; when Ronald Reagan vetoed a highway bill in 1987, Congress overrode him. And despite calls last week from fiscal conservatives to delay the

bill, Majority Leader Bill Frist refused after 75 Senators voted to start debate.

Still, this is a fight worth having. Congress will keep spending freely until Mr. Bush shows he's willing to spend political capital to say no. In a letter to Congress last week, Administration officials warned that any bill that includes higher gas taxes, trickster accounting or a siphoning of general tax revenues will face a veto. Presidents who make veto threats and don't fulfill them quickly become irrelevant.

Mr. INHOFE. Madam President, I ask unanimous consent to print in the RECORD the summary of the Finance Committee's highway trust fund proposal.

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

#### SUMMARY OF FINANCE COMMITTEE HIGHWAY TRUST FUND PROPOSAL

Finance Committee jurisdiction extends to the highway use-related excise taxes, the Highway Trust Fund, and the expenditure authority of the Highway Trust Fund. The Finance Committee acted primarily on the cash flow into and out of the trust fund. Cash flow into the trust fund is represented by trust fund excise tax receipts. Cash flow out of the trust fund is represented by trust fund outlays. Matters involving contract authority and obligation limits are not Finance Committee subject matter and the committee did not speak to them.

According to the Congressional Budget Office ("CBO"), current law trust fund receipts will total \$227.8 billion over the six year period. CBO projects \$196 billion in highway account receipts and \$31.8 billion in mass transit account receipts.

The authorizing committees' actions placed demands on the trust fund of \$231 billion for highways and \$36.6 billion for transit for the six year authorization period. That means a total of \$267.6 billion in demands on the trust fund.

Prior to Finance Committee action, demands on the trust fund exceeded receipts by \$39.8 billion over the six year period. To make up this funding gap, the Finance Committee developed two categories of proposals. The first category increased trust fund receipts by tightening compliance. The second category included accounting changes that raised trust fund receipts.

The compliance changes raised trust fund receipts by \$5.6 billion over the authorization period. These changes were also scored as revenue raisers by the Joint Committee on Taxation. These proposals have no impact on the budget deficit.

The budget resolution assumes that 2.5 cents per gallon of gasohol receipts, currently held by the general fund, will be transferred to the trust fund. That transfer raises trust fund receipts by \$5 billion over the authorization period. The Finance Committee also assumed that trust fund balances would be spent down by \$7.5 billion over the authorization period. Adding all of these changes together with the compliance changes, the Finance Committee closed the gap by \$18.1 billion over the authorization period. That left a funding gap of \$21.7 billion.

The Finance Committee proposed to close this gap with a group of trust fund accounting changes. These proposals raise trust fund receipts by shifting the burden of tax policies from the trust fund to the general fund. In the view of Finance Committee, these tax policy benefits have nothing to do with highway use and should not burden the trust fund. Included in these proposals is a repeal of the partial exemption for ethanol-blended

fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. Finally, the Highway trust Fund will earn interest on its balance, so that the highway and transit programs are not prejudiced. This second category of proposals closed the funding gap, but, without revenue offsets, would have increased the budget deficit by \$21.7 billion.

Finance Committee members decided that this second category of proposals should not have a deficit impact. To this end, the Finance Committee title includes a group of loophole closers previously approved by the committee.

Ninety-five percent cost over \$120 billion . . . the cost forced us to construct a new method. Equity Bonus keeps the cost of recapturing donor states affordable.

#### COMPARISON OF NH AND VT [BOTH LOW POPULATION STATES PER MCCAIN]

Response: VT does very well under the formulas for the core programs (not changed from TEA-21 in this bill). Former NH Sen. Smith's position on the EPW committee during TEA-21 ensured that NH did well under the politically drafted 1104 table despite their relative poor performance under the formulas.

#### CO IS GETTING A RAW DEAL

Response: Colorado has the highest rate of growth . . . Senator Allard, a member of EPW has been very supportive of the bill.

#### ADDITIONAL COMMENTS

Highway Trust Fund was raided during TEA-21 of \$8 billion (Note: argument will be made that the \$8 billion was given up in order to get the "firewalls")

If we were to accelerate getting all states to 95 percent sooner it would add to the cost of the bill and donee states like PA and NH would have a lower rate of return

On average, in SAFETEA, donee states lost 4 cents from TEA-21 and donor states gained 4 cents from TEA-21 . . . I would call that a fair exchange.

#### PLAYERS IN TEA-21

	2003 of TEA-21	2009 of SAFETEA	His- toric
New York (Moynihan) .....	1.2488	0.9975	1.23
Pennsylvania (Shuster) .....	1.2084	0.9746	1.16
Rhode Island (Chafee) .....	2.1662	1.8234	2.22
Montana (Baucus) .....	2.1842	2.2015	2.35
Oklahoma .....	0.9050	0.9500	0.87

#### FORMULA FACTORS:

Total lane miles on the Interstate, on principal arterial routes (excluding the interstate), and on the Federal aid system

Vehicle Miles Traveled (VMT) on the Interstate system, on principal arterial routes (excluding the Interstate), and on the Federal aid system

Annual contributions to the highway trust fund attributed to commercial vehicles

Diesel fuel used on highways

Relative share of total cost to repair or replace deficient highway bridges

Weighted non-attainment and maintenance areas

Rate of return of donor states

Mr. KYL. Madam President, if I could ask my colleague from Oklahoma a question, I appreciate the relative dollars received by States such as his and mine. I would just ask one question: Does the State of Oklahoma, under this policy, receive 95 cents in each of the next 5 years, and does the State of Arizona receive 90.5 cents for every dollar we send in?



Mr. INHOFE. The State of Oklahoma does not. It goes up to 95 cents. The first year, it is 90.5; next year, 91.75; and it gradually goes up. Yours does not because for the State of Arizona, it hits the ceiling. So you have 90.5 each of the first 4 years, then 90.84, then 95.

Mr. KYL. I thank the Senator.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, our transportation infrastructure is one of this country's most important investments. It is literally the foundation of America. Each day our roads, bridges, buses, and railways help countless Americans travel to their jobs, visit a faraway relative, or take a day trip with their kids.

As a former Secretary of Transportation, I am constantly in awe of this vast reach of modern-day transportation. I can still recall from my tenure at the Department the completion of the Interstate 40 corridor which runs from Wilmington, NC, to southern California, an enormous stretch of highway that literally links us from coast to coast. It is these kinds of investments that are vital to sustaining our communities and our economy. By ensuring that our roads, bridges, and infrastructure are prepared for the future, we provide economic stability. For my home State, that is a crucial component of our economic recovery.

As many of you know, North Carolina is going through painful economic times as traditional textile, furniture, and other manufacturing jobs are diminishing. Improving our transportation infrastructure is a vital part of getting North Carolina's economy back on track.

Let me give an example. Construction is already underway for Interstates 73 and 74 in North Carolina, and planning has begun for Interstate 20. The Department of Transportation estimates that the projects in this bill would create 86,900 jobs in North Carolina.

Further, these roads go through areas that are among the hardest hit by economic difficulties, creating jobs especially in rural parts of North Carolina, where mobility between towns and cities is essential for commerce. These routes of opportunity make our communities more attractive to businesses and promote investment in our neighborhoods.

Additionally, there is an 89 percent increase in funding to address North Carolina's growing transit needs, with a special emphasis on our rural areas. This money can be used to provide more buses as our rural residents travel from home to work each day. And for urban areas, such as Raleigh, Greensboro, and Charlotte, I am proud that the Banking Committee on which I serve has included much-needed dollars to relieve congestion by investing in buses, street cars and, in some cases, light rail.

We all know that relieving congestion creates a cleaner environment,

improves worker productivity, combats stress, and gives employees more time with their families and less time struggling with a long commute.

This legislation also addresses a problem that exists with the highway trust fund. Right now, North Carolina gets just 90.5 cents for every dollar we put into the trust fund. This legislation guarantees that North Carolina's share will increase to 95 cents over the next 5 years. That will mean an additional \$50 million a year for transportation construction, and we all know how much good can be done with those dollars.

The bill also expands the Small Starts program to include mass transit projects under \$75 million. My State and local leaders' biggest complaint is the mounds of paperwork and regulatory hurdles that must be completed, even for the smallest transportation project. It simply is not fair that these smaller projects must jump through the same large hoops as the biggest projects in the United States. The Small Starts project will allow for simpler, less costly review of these projects, and that is good news for our States.

Now let me touch on another area of the legislation that is near and dear to my heart. Safety was at the forefront during my 5 years as Secretary of Transportation. Our rule 208, as we called it at Transportation, encouraged the passage of State seatbelt laws and the inclusion of passive restraints in new cars.

In 1984, there were only a handful of airbag-equipped cars on the road. Not a single manufacturer was currently offering airbags at that time. I remember a long search for a car with an airbag to use in a demonstration on the White House lawn. But today that number stands at 40 million. And as we all now know, airbags save lives and prevent crippling, disabling injuries. At that time, in 1984, there was only a 14 percent usage rate for seatbelts, and there was not one single State seatbelt law in the United States.

Our regulation 208 helped change all of that. Today, 49 States and the District of Columbia have seatbelt laws. As of 1998, the national seatbelt use rate was 69 percent. Some States, such as my home State of North Carolina, have a use rate of over 80 percent. It is estimated that 11,900 fatalities and 325,000 serious injuries are prevented each and every year due to usage. It is said that rule 208 literally changed the climate of highway safety in America.

It was also a privilege back then to work with my friend, Senator FRANK LAUTENBERG, to champion legislation encouraging States to raise their drinking age to 21, thereby helping to eliminate drunk driving and blood borders between our States.

There are many safety provisions included within this bill. Funding is there to ensure that our secondary roads are safer, something that is vitally important to rural areas. Too

often accidents occur on the small two-lane secondary roads, in many cases leaving death and destruction in their wake. The money in this bill will make those roads safer for our families and our children.

There are also provisions for installing skid-resistant surfaces at intersections, traffic signal upgrades, and improvement in pedestrian and bicyclist safety. All of these are sorely needed. Safety on our roads must continue to be a priority.

Madam President, it is imperative we act now to pass this critical legislation. I urge my colleagues to support it. It is a win-win for all of our States, for businesses, and especially for the millions of Americans who rely on our transportation infrastructure each and every day.

I yield the floor.

Mr. INHOFE. Madam President, first, before the Senator from North Carolina leaves, I want to say we are very fortunate to have her expertise having served as Secretary of Transportation and in other capacities where she provided leadership. She has an understanding of transportation needs probably greater than any other single person in this Chamber. I thank her for her contributions here.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I want to discuss a couple of amendments I intend to offer if the opportunity arises in the next couple of days.

I thank the bill's managers, Senator INHOFE and the ranking member, Senator JEFFORDS, for standing up against what I believe are very misguided attempts to take a meat cleaver to this very important bill. It is terribly unfortunate that immediately following the most recent budget projections, which show enormous deficits for this year and for the years thereafter, the very first legislation that comes to the floor is this one that provides transportation funding for the next 6 years.

This is not, I urge my colleagues, the place to economize. To do so in this bill would be penny wise and pound idiotic. It would be kind of like a person who was told by his doctor he has to lose weight and he decides to eliminate fruits and vegetables. These are public investments in our Nation's highways, bridges, rail lines, and mass transit systems. They are critical to our social and economic vitality—moving products quickly to market; moving people swiftly, smoothly, and safely to jobs, schools, and family activities, and then back home again. These are critical investments in the future of our country. They are termed capital investments, which means they are projects which themselves generate future wealth.

People say we ought to operate Government more like a business, and I agree. They should recognize that successful businesses regularly go into debt to finance their capital projects.

Building new plants, expanding or modernizing existing facilities are good and necessary reasons to incur debt.

Most State and local governments also issue debt—public bonds to finance their capital projects. They use current receipts for ongoing operations or consumption. In the Federal Government, we are doing the opposite. We are going seriously into debt to pay for current programs and consumption and treating our capital improvement budget, such as this transportation bill, as if it were the same program spending. It is not.

Bankers and brokers understand that difference. Homeowners, farmers, and business owners understand that difference. State government officials understand that difference. Why can't this administration and Congress understand that difference?

That understanding is important because this is a bill where we need to think bigger, not smaller. Unless my colleagues' States are in very different conditions, and their highways, bridges, rail lines, mass transit systems are in much better shape than my State of Minnesota's, then they have the same critical shortage of funding as Minnesota.

In my State, the conditions and capacities of our highways and other public infrastructure have been declining over the last decade, and they are going to continue to do so without this additional infusion of Federal money. Our State and local governments simply do not have, and they are not going to have in the future, the increasing amounts of funding necessary to keep up with or catch up with growing populations and increased usage. It is only here in the Federal Government that we have the resources—at least we did until a couple years ago, before the budget surpluses were turned into deficits. But even now, we still have the resources, though not to do everything. It comes down to what are our priorities. What and who do we consider most important?

The President has made his priorities very clear. He has made making the 2001 and 2003 tax rates permanent the centerpiece of his budget and his economic recovery strategy. If so, we are going to be waiting quite a while for that recovery because the President's proposal won't even take effect until the expiration dates for the change now already in place; and for the 2001 tax bill items, that will be the year 2010. For the 2003 items, most of those won't be extended until the years 2006, 2007, and beyond.

This bill before us today is the best economic stimulus bill and jobs creation bill possible for right now—not 2006 or 2010, but right now—in Minnesota and across America, which is why the funding level for this bill ought to be increased, not decreased.

I had an amendment I would like to offer—although it flies in the face of reality—to double the amount of Federal funding that was provided 6 years

ago, which was \$218 billion, to increase that to \$436 billion. That contrasts with the Senate bill now of \$311 billion and the House bill of \$375 billion, although I would not increase the amount by increasing the gasoline tax as is being proposed in the House. I would fund mine through the general fund, dedicate the revenues from the highway trust fund into the purposes they are being used for, but not use that as a ceiling for funding the necessary public infrastructure. That would be a business such as Target Corporation deciding the number of new stores it is going to build in the next few years is going to be a function of some formula, such as the percentage or revenues from socks or shorts that are being sold; and if somebody, for fashion reasons, decides they are going to go sockless for a year, that number goes down and so does the investment in new stores go down. No sensible business would make future investment decisions based on this kind of formula and be dictated by that result.

In this case, as well, we should be deciding as a body, with the House and the administration, what level of public investment we need to make in highways and mass transit systems over the next 6 years—make that decision based on the needs and then decide how we are going to fund it.

Again, we do these things backward here and, as a result, we don't make the commitment that will pay off for this Nation if we do it, and we will sacrifice the future of our highways and airports and rail lines if we don't do it.

While recognizing it is unlikely to be adopted by this Senate, especially in the face of the President's insistence that even the Senate number be reduced further—again, I salute Senator INHOFE and Senator JEFFORDS for standing resolutely in favor of this and being the fiscal conservatives they are. They recognize these are public investments that are vital, and to fail to make them would be—at least for Minnesota—virtually catastrophic. I thank the Chairman and ranking member for their steadfastness in supporting this and the level of commitment it makes.

I also am proud to be a cosponsor of the Build America Bonds Act, which is being sponsored by Senator TALENT of Missouri and Senator WYDEN of Oregon, because if we are not going to use public dollars directly for these projects, then another way to finance them would be for the Federal Government to issue bonds and provide tax credits to those who purchase the bonds.

The proposal made by Senators TALENT and WYDEN would issue another \$50 billion of Federal bonds that would be then used throughout the States to advance these projects. If we are not going to use general revenue dollars or highway trust fund dollars sufficiently to meet the needs, then we ought to incorporate bonding in addition to what is being funded elsewhere.

I also thank Senator GRASSLEY, the chairman of the Senate Finance Com-

mittee, for his initiative in the legislation for correcting what is essentially a penalty to those States, such as Iowa and Minnesota, that have been using ethanol as part of their fuel.

In Minnesota, we have had for the last 8 years a requirement that 10 percent of every gallon of gasoline sold in our State be comprised of ethanol. Right now, nationwide it is less than 2-percent ethanol in proportion to gasoline. If you listen to some of my colleagues, they would have you believe the use of ethanol is going to drive prices for gasoline or its substitute through the roof when, in fact, the opposite is true.

I use in my car in Minnesota with a slight engine modification made by the manufacturer, a Ford Explorer, a fuel that consists of 85-percent ethanol and 15-percent gasoline. That is 20 cents a gallon cheaper in southern Minnesota than regular unleaded. It runs just as well. The vehicle performs just as well.

If we want to reduce the \$115 billion a year we send overseas to pay for the foreign oil we import, there is no more readily available way to do that than to increase the use of ethanol. I regret, because of some of the opposition to that, that Senator FRIST's and Senator DASCHLE's amendment to increase the use of ethanol over the next decade in this country by a very modest amount is not going to be offered as an amendment to this legislation. Hopefully, it can be considered by the Senate and passed as a separate measure in the very near future.

The use of ethanol in the current formula penalizes States for that consumption. Again, I thank Senator GRASSLEY and also the ranking member of the Senate Finance Committee, Senator BAUCUS, for their initiative. It is going to be vital from my standpoint that the measure passing the Senate and the conference report include that correction.

I also will have two amendments I hope I will have the opportunity to offer. One is a rural roads safety amendment which I developed with the support of the National Association of Counties. It will provide additional funding. The amendment itself calls for \$1 billion a year over the 6-year lifespan of this bill. This would be additional funding to provide for programs to improve the safety of our rural roads across the country.

More than 25,000 people die each year on our rural roads system. It is a fatality rate that is 2½ times greater than that for urban highways. In fact, it is the highest rate of fatalities per vehicle mile for any type of transportation in this country.

Despite this need on some 840,000 miles of rural two-lane roads, funding directed from this bill in the past has provided very little direct assistance to rural communities which, in my State at least, have the least capacity to undertake these expensive projects.

This funding would provide for improving roadway alignments, eliminating wheel way rutting, including

skid resistance, widening lanes and shoulders, installing dedicated turn lanes—whatever the State and particularly the county and local units of government decide are in their best interest.

It is also being introduced in the House by Representative BOB NEY who is the chairman of the House Administration Committee. I hope it will receive favorable consideration in the next few hours.

The other amendment I would like to offer is a mandate for the Federal vehicle fleet to use either 10-percent ethanol-blended gasoline or biodiesel fuel, 2 percent or more where it is available and where it is at a generally competitive price. The amendment would apply to some 650,000 Federal vehicles everywhere except for the Department of Defense and the military, and it provides the opportunity for the Federal Government to take the leadership in encouraging the use of ethanol and biodiesel fuels by its own practices.

These are, as I said earlier, fuels that will add to our rural economic recovery to increase the prices of commodities, such as corn and soybeans, in the marketplace which raises profits for farmers and lowers subsidy costs for taxpayers. They are cleaner burning fuels than oil-derived fuels, and they put money in the pockets of Americans rather than foreigners.

This amendment, as well, I hope, will be considered favorably by this body. It is not going to increase costs. In fact, if anything, based on my experience with ethanol, it is going to lower costs, and it is going to provide a real boost to the rural economy of America.

In closing, I wish to say again that this legislation is crucial for Minnesota. It is crucial for our Nation. That is why tomorrow I am going to vote in favor of the cloture motion to proceed to this measure and move to pass it in the Senate. Hopefully, the House will follow suit as well so we can get this bill passed and signed by the President and into effect and get this money to the States where it can be well used and be an economic stimulus and provide jobs.

I hope during the course of that consideration I will have an opportunity to offer these amendments.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I wish to take an opportunity to respond to some of the statements made by the distinguished junior Senator from Arizona, my friend Mr. KYL. I have the greatest respect for him. He is a neighbor of the State of Nevada. We have worked well together in many different areas, but his statement regarding this highway bill is simply off base.

I respectfully suggest that maybe we should understand that there are three separate but equal branches of Government. We have a responsibility in the legislative branch of Government to do

what we think is right for the people of our respective States. I think we have done as well as we can do for the people of this country.

The Presiding Officer has been a Governor of 1 of our 50 sovereign States. I think he would—I have not spoken with him—have recognized during his tenure as Governor how very important the highway programs were in the State of Tennessee.

In this legislation that is now before this body, the State of Tennessee is going to do extremely well with this bill. The State of Tennessee, which has been a State that has given far more than it has taken in—that is, in the State of Tennessee, for every dollar paid into that fund, the people of Tennessee have contributed 10 cents out of every dollar to the rest of the country. The people of Tennessee have not gotten what some think is a fair shake in this legislation.

There was an effort to bring every State, including the State of Tennessee, to 95 cents in this bill. The State of Tennessee, rather than getting the 90 cents on the dollar previous to this bill being enacted, will get an average of 94.25 cents for every year this bill is in effect, and, in the final year, it will get 95 percent. That is a tremendous boon to the State of Tennessee.

We have done that for every State in the Union that in the past was paying into the trust fund far more than they were getting.

The State of Arizona also gets 95 cents on the dollar. My friend, the Senator from the State of Arizona, is complaining because we don't do it fast enough.

I want everyone to know how very difficult it was to get a formula that would bring every State up to 95 percent at the end of this sixth year. It was extremely difficult. So I would respectfully suggest to my friend from Arizona he should be complimenting us rather than saying he does not like what we have. In years past, we would not worry about the State of Arizona and the State of Tennessee. What we would do was see if we had the votes and just roll over everybody. That was how we used to do this. This is my fourth bill. That was how we used to do things, but we are not doing that this year. We are trying to be fair.

Rather than being critical of what we have done to bring everyone up to 95 percent by saying we did not do it soon enough, we should be complimented. Frankly, we could do this bill without the States of Arizona and Tennessee. We could do without those four votes. But we decided to be fair and to do everything we could to allow a minimum at the end of this year.

So I repeat for the third time, rather than being castigated for not bringing up the 95 percent sooner, I think the people of the State of Arizona—I know the people in the Department of Transportation—are happy with what they have. This is going to be a wonderful thing for the State of Arizona.

I really do not recognize tears shed by a State that is growing rapidly. The State of Nevada beats all States. We have grown more rapidly in the last 14 years than any State in the Union. We hold the record. We are the fastest growing State in the Union. So when someone says they are a rapidly growing State and should be treated differently, we also understand what it means to grow fast. We believe we have treated Arizona very fairly.

This is probably more difficult for someone in the majority to say but it is not hard for me to say: I dare the President to veto this bill. He is not going to veto this bill. This letter we have, this statement of administration policy, comes to us all kinds of times on various types of legislation. President Clinton sent us threats. President Bush sends us threats. That is what they are. The President will not veto the biggest jobs bill during his entire 4 years in office. He is not going to do it. I do not care if it is the number we have in this bill or the one Chairman YOUNG from the House wants. He wants \$270 billion. Ours is \$255 billion. This bill will not be vetoed by President Bush, and my colleagues can take that to the bank.

My friend from Arizona also says he is disturbed that because we got the money for this bill, he wants to make sure the World Trade Organization does not punish us. I wish they would punish us and kick us out of the World Trade Organization. I do not want to be part of the World Trade Organization. So that does not sell too well with me.

So I repeat, States have been treated very fairly in this bill. We are going to be able to invoke cloture on this bill because it is the right thing to do.

I understand the legislative process. We are going to pass a bill; the House, in their wisdom, will pass a bill; and it will go to conference. We will try to prevail in what we want. The House will try to prevail in what they want. When they are invited, which I am sure will be often, the administration will be expressing their views at the conference. Then we will have a bill and it will be sent to the President's desk. That is how the process works.

It is way too early to be threatening a veto. This is done lots of times. I do not think anyone should be quaking in their boots over a statement of administration policy. They probably have a stack of these statements of administration policy left over from the Clinton Presidency that is that high. They just peel these out on probably two-thirds of the bills we have.

I have been around for awhile. I am not impressed with this statement of administration policy because the administration knows, everybody in this body knows, that this is one step, but an extremely important step, in a very long effort to get this bill to the President's desk. We will get it to the President's desk. It will not be easy, but what has been accomplished has been very important to the process.

As I said earlier, this bill should be a picture for the American people. We are working in the Senate in a bipartisan fashion to produce a bill that is good for the American people. It is a bill that I have said before is imperfect. It is not perfect. It is difficult to do.

This is the bill. I can hardly lift it. I guess that shows how weak I am, but it is still a pile of paper. This stack of it is the highway portion of it. Another stack of it is the transit portion of the bill, and then the finance portion. This has been a year in the making. It has been extremely difficult to do.

For someone to come to the floor and say what we need to do now is have a 1-year extension—I do not think so. In the process, we would lose hundreds of thousands of jobs by extending this a year. The Presiding Officer knows that the planning department and the departments of transportation for every State in the Union have to do multiyear planning. There cannot be a transportation system in a State on a year-to-year basis. Some of these projects take years to complete, and if we stall for another year, it is going to make the projects more expensive. They will cost more money, not less money.

So I understand that my friend from Arizona comes here all the time as a spokesperson for the administration. He does it on lots of issues. I respect his being someone who answers the beck and call of the administration. He is here on so many different issues spouting what the administration wants, but we are legislators and we will get to the White House, the administration, in due time to work this out.

I repeat, we are a separate but equal branch of Government and this is not the time for the President—rather, the President's people; I should not use his name—to be waving all of these threats.

My friend from Arizona talks about these deficits. Well, my colleagues have heard us on this side talk about why we think the deficits are there, but in this legislation we have not talked about all the bad things and all the negative things that we believe the majority party is doing and the majority has not talked about all the bad things they think we are doing. This has been a bipartisan rush to score a touchdown and take this bill to the House and see what they do to respond.

I hope they can do it quickly, and I am confident they will. They can usually move things much more quickly than we can and then we work out a process to work out the differences between the House and the Senate and move this thing to the White House. It can be done and it really has to be done; we have no choice. This transportation bill is important for the American people. As the Senator from Mississippi, the distinguished former majority leader and minority leader, Mr. LOTT, said on this floor this week, there will not be more important legis-

lation we deal with this entire year than this legislation. This is the most important thing we are going to deal with, and I agree with the junior Senator from Mississippi, this is the most important legislation we have to deal with.

I compliment and applaud the chairman of the committee, the ranking member of the committee, my counterpart, the chairman of the subcommittee. We have worked well together. I think we have set an example for what the Senate should be, could be, and I hope will be in the future.

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. GRAHAM of Florida. 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. GRAHAM of Florida. Mr. President, in response to the threat to end the debate on the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—the acronym is SAFETEA—I rise in opposition to cloture on this legislation. I do so for several reasons.

First, I believe strongly that increasing investment in our Nation's infrastructure—our transportation system, our water and sewer systems, our electric grids, our crumbling schools—is critical to our Nation's future well-being. Today, we are debating one of the keystones of that investment—transportation, highways, public transit, and rail.

Transportation is an integral part of everyone's daily life. It is an integral part of America's current and future economic well-being. Federal investments in transportation infrastructure increase our economic vitality and our international competitiveness.

I believe the key question for the foreseeable future of America is how we maintain America's standard of living while at the same time competing in a global marketplace where lowest unit cost of production is the holy grail. That is going to be a significant challenge to our generation and to future generations of Americans.

I don't think there is any easy answer, but I believe the answer begins with an investment in three things:

No. 1 is innovation. America must continue to be the leading edge on whatever the next wave of technological progress will be in this world.

No. 2, we must have the best educated citizenry in the world so that they in turn can be the most efficient.

No. 3, we must invest in our infrastructure, not just because it contributes to our daily quality of life but because it is a critical factor in our productivity and ability to compete in the world.

We are having a big controversy now over what the elements of America's long-term economic future are. We

have people saying outsourcing jobs is going to be the key to our economic success. We have others who say various forms of tax policy. They, in my opinion, miss the point. We have to invest in those things that will make us more productive, and infrastructure is one of the keys to that progress.

I think there are three factors by which you evaluate the legislation that is before us:

No. 1, increasing Federal investment in infrastructure to avoid a further decline in the highway network and to reduce congestion.

No. 2, assuring that users pay for the highway system to avoid additions to America's burgeoning deficit.

No. 3, greater fairness among the States.

I am concerned that SAFETEA will shortchange the American people on all three factors.

First, what should be the goal of transportation funding? From a number of the speeches I have heard on the Senate floor and in committees, it appears as if the debate is over numbers. The President said he will veto any bill that exceeds his proposal of \$206 billion for highways over the next 6 years. Senator INHOFE, chairman of the Environment and Public Works Committee, said cutting funding below the \$255 billion level for highways would place the allocation of funds among the States in jeopardy. Congressman DON YOUNG, chairman of the House Transportation and Infrastructure Committee, is advocating a level of \$300 billion over the next 6 years for highways.

What I think is missing in all of these pronouncements is an evaluation of what these numbers mean to the condition of America's highways over the 6-year life of this legislation.

When the Transportation Act for the 21st Century—TEA-21—was approved in 1998, I stood on this floor and predicted that when the bill expired in 2003, our Nation's transportation system would be in worse physical condition and with a higher level of congestion than on the day we passed the bill. That prediction has, unfortunately, come to pass.

According to the U.S. Department of Transportation's Conditions and Performance Report, capital investment by all levels of government between 1997 and 2000 remained below the cost to even maintain the system we currently have. The result? Overall performance of the system declined.

Since the passage of TEA-21, the highway system has degraded by 6 percent. Twenty-three percent of the highways in the Nation's urban areas are now considered "unacceptable" by the standards of U.S. Department of Transportation. Twenty-nine percent of the Nation's bridges are considered structurally deficient or in a deteriorating condition.

Additionally, according to the annual congestion study by the Texas Transportation Institute at Texas A&M University, the agency to which the U.S.

Department of Transportation looks for the evaluation of congestion, the average commute delay in urban areas has increased by 14.3 percent since 1998. This means the commute that used to take 25 minutes in 1998 will now add an extra 2 hours per month to the commute of the average American.

I will make the same prediction today that I made in 1998; that is, if the Senate adopts the funding levels currently in this bill, our Nation's highways will be in worse physical condition, with increased congestion, by the end of this authorization in the year 2009 than it is today, February 11, 2004.

The failure to address these conditions in the past has created the situation we must address in the future. By the U.S. Department of Transportation estimate, by the year 2009 we will face an additional \$400 billion in infrastructure backlog and congestion costs will balloon to over \$90 billion. We are not even able to maintain the current quality of our roads under the SAFETEA authorization level.

In order to maintain the highway system in its current level of fiscal condition and without increasing congestion, the American Association of State Highway and Transportation Officials estimates that investment of \$92 billion a year by Federal, State, and local governments, close to \$300 billion of that Federal, will be required over each of the next 6 years. In addition, our problem is compounded by the distinguished majority leader's statement yesterday that SAFETEA, already inadequate, must be trimmed to avoid a Presidential veto.

We are now at a point of decision. Are we prepared to tell the American people we are willing to accept a further deterioration of our highways and bridges and increased congestion? If we have the same experience over the next 6 years that our highway system has experienced in the last 6 years, we will see a degradation from 1998 to 2009 of approximately 12 percent and a commute delay will increase 30 percent.

Is this an acceptable result for the safety, the quality of life, and the economic expectations of the American people? In my judgment, the answer is clear. The answer is no.

The President supports an even more accelerated rate of decline in the conditions and congestions of our highway system than SAFETEA. He has insisted that the highway portion of SAFETEA be funded at \$206 billion, roughly 65 percent of what is required just to maintain our highway systems at their current levels. We must do more. We cannot continue to ignore the problem and allow a critical component in our quality of life and our economic future to deteriorate.

I have a second concern. As I stated, a fundamental principle is users should pay for the use they get of our transportation system. That has been a principle throughout our Nation's history, particularly when we launched the Interstate Highway System. Presi-

dent Eisenhower increased the Federal motor fuels tax in order to be able to finance the Interstate Highway System, not leave it as a burden for our children and grandchildren and we, this generation of Americans, are the beneficiary of that wise judgment.

During the Finance Committee consideration of SAFETEA last week, I discussed the option of raising the Federal motor fuel user fees to fund the bill at the level needed to maintain current conditions. Many of my colleagues were not comfortable with the idea of increased fees, raising the Federal user fee just 3.7 cents per gallon. That is what we would be required if it were indexed for inflation to fully fund a Federal program of the \$300 billion over the next 6 years, which is required to at least maintain the status quo in the quality of our highways.

Again, President Bush has made it very clear he will not support any highway bill that is financed by an increase in user fees, by bonding, or by funding from the general fund. I am sorry to hear the President neither supports funding the Nation's infrastructure at the levels recommended by his own Department of Transportation, nor does he support the principle that the users of the system should support the levels of investment needed to maintain and improve our highways.

If we are not willing to fund the SAFETEA bill at the appropriate level to maintain their current condition and reduce or maintain the current levels of congestion—to do as the first principle of a physician “do no harm,” to the system—if we are unwilling to do that, maybe we should not be considering a 6-year bill at all. Instead, the Senate should work on a 1-year extension of the current program with a commitment to work on a more substantial long-term bill next year after the Presidential elections.

We are not willing to raise fees on those who use our highways but instead have approved “offsets” for the spending in SAFETEA. But many questions about how the deficit will be affected as a result of these offsets remain. Last week, the Finance Committee equalized losses to the general fund by using offsets from what already had been used. For example, \$22.3 billion worth of already committed tax changes. One offset used is a crack-down on corporate tax shelters, a policy that I have long supported. However, this offset has already been used in two other pieces of legislation approved by the committee and awaiting final action by the Congress—the charitable giving or CARE Act and the JOBS Act, which is our response to the WTO abolition of our current means of financing international transactions and other tax provisions, such as ending the tax bills that come with incorporating in other countries to avoid paying taxes, eliminating tax benefits for individuals who expatriate for tax reasons, and closing tax loopholes un-

covered as a result of the Enron scandal again. But, again, these were the provisions that have already been used to fund other legislation.

The fiscal imprudence does not end with using offsets that have already been previously used. The bill also employs a gimmick of requiring corporations to pay their 2009 taxes in order to make it appear in the year 2008 we have raised a sufficient amount of revenue over the 6-year period of the bill. Obviously, the consequences are we will start the next 6 years in the hole because we used money through an accounting gimmick to make it appear as if it were revenue within this 6-year cycle.

These overpaid corporate taxes will ultimately be refunded, however, meaning we do not really offset the cost of the bill over the period that the highway spending occurs. This is shady bookkeeping, reminiscent of the procedures that this body worked so hard in the recent past to reform in the private sector.

Is it fair to offset the spending in this bill with already used revenue raisers or accounting gimmicks? It is duplicative at least, irresponsible at worst. We must legitimately pay for this bill.

Third, I have fought for many years to create a funding structure that is based on equity, on providing States that face the highest level of need with their fair share of Federal funds. This bill has a fatal flaw. It creates a formula for highway funding that has absolutely no solid basis in rationale public policy.

In my State of Florida, traffic delays cost the average motorist in our eight largest cities \$485 per year in lost time and fuel. By the year 2020, Florida will add about 6 million new residents, doubling its international trade, and welcome more than 100 million tourists per year. This additional growth will multiply congestion and delay tremendously.

This is only a snapshot of the growing problems in my State and not an uncommon story for many States in the South and West.

Over the past 15 years, America's population has grown by 18 percent. Florida's population has grown at twice that rate, 39 percent. Vehicle miles traveled, a good measure of the use of our highway system, has grown by 48 percent nationally but 90 percent in Florida. Lane miles, a measure of the extent of the system, have grown less than 10 percent nationally over the last decade, and only 11 percent in Florida in the face of a 90-percent growth in the use of our highway system.

High growth States all face similar circumstances. In 1982, just 10 of the 25 most congested areas pursuant to the Telecommunications Transportation Institute study were located in high-growth areas such as Maryland, Colorado, Texas, Arizona, California, and Florida. Today, 15 of the most congested areas in the Nation are in those

States. But the funding formula we are considering has failed to catch up with this reality.

Under SAFETEA, these growth States are continuing to receive the lowest level of return on contributions to the highway fund, despite their obvious and growing needs.

This bill attempts to get these States to 95 percent by providing what is referred to as an equity bonus. But the equity bonus, unfortunately, does not cover all the funds available for distribution. And it will keep our State at the TEA-21 level return of 90.5 cents for every dollar sent to the Federal motor fuels trust fund until the year 2009.

Most important, however, is this entire concept assures that an unfair scheme will remain in place. All States should be guaranteed equal treatment with a formula that incorporates a yearly increase in the rate of return or the glidepath to get all States to a 95-percent return on the amount of funds they send to the motor fuel tax by 2009.

The bill we voted out of committee was significantly different from the bill we will vote on here on the Senate floor. The pending committee amendment exceeds 1,300 pages and includes significant changes from the status of the bill as it left the committees. This means the formulas which have been circulated by the committees of jurisdiction at the start of the debate no longer reflect the state of the bill.

For example, what effect will the Finance Committee's actions have on State-by-State allocations? A provision approved by the Finance Committee to change the way gasohol is taxed will change each State's contribution levels to the highway trust fund.

Will any of the amendments accepted by the managers of the bill affect the equity bonus, diluting the rate of return to our States?

This seems to be part of a disturbing trend in this body. Whether it is the energy bill, the prescription drug bill, or now it seems the transportation bill, there is a tendency to pass things now and ask the tough questions later. That practice is unacceptable in the world's greatest deliberative body.

Before the vote on cloture on SAFETEA, the Senate should be honest about what SAFETEA will do. One, it will guarantee our roads, bridges, and transit systems will be in worse shape in 2009 than they are today. Is that acceptable? It will increase the size of the Federal deficit. Is that acceptable? It will ensure that States will not receive their fair share of Federal highway funding. Is that acceptable? The answer is no.

Are Members of the Senate comfortable moving forward and approving a bill this week with open questions about how the formulas work, at what level the bill will be funded, and how any changes made here on the Senate floor will affect the "delicate balance" as described by the chairman? I am not

satisfied. For these reasons, I will oppose cloture.

Thank you, Mr. President.

AMENDMENT NO. 2311

Mr. ROCKEFELLER. Mr. President, I rise today in strong support of Senators CANTWELL and KENNEDY's amendment to reinstate and extend the Federal unemployment insurance program. This measure would provide 6 additional months of financial assistance to thousands of West Virginians and millions of Americans who have exhausted their regular state-funded benefits. This support is desperately needed and deserves immediate attention.

The Temporary Extended Unemployment Compensation, TEUC, program expired on December 31, 2003. In response to a slowdown in the American economy, Congress created this program in March 2002 to provide federally-funded unemployment benefits to the long-term unemployed who want to work, and who are looking for work, but are unable to find employment in the current economic climate. As all of my colleagues are aware, Congress extended the program twice, in January and May of 2003 respectively, because jobs remained scarce and new ones were not being created. Now, with millions of our constituents still looking for work and with 90,000 workers exhausting their State-funded benefits each week millions of Americans need our help once again.

Over the past two years our economy has suffered through a difficult recession. Recently, however, according to some economic indicators, it does appear to be turning the corner. At least the data indicates we are poised to return to better and improved economic output from years past. This is some encouraging news, but it is long overdue. Despite strong economic growth over the last two quarters of 2003 and a surge in the financial markets, jobs continue to be hard to find. At this time, there is merely one job opening for every three out of work Americans. This is totally unacceptable. We cannot merely continue to muddle through a "jobless recovery"—we must get the unemployed the relief they need.

Those who oppose extending emergency unemployment insurance have also argued that recent improvements in the economy and the labor market demonstrate that the program is no longer needed. How can the administration tout upward trends as a major economic turnaround when so many Americans are still struggling so hard just to make ends meet? The White House claims that jobs are one of the administration's primary concerns. Yet, I am troubled that the White House has been conspicuously silent about unemployment insurance, which has been proven to boost economic output. It has been reported that continuing the Temporary Emergency Unemployment Compensation, TEUC, program would be the single best mechanism to boost the economy, giving the economy a \$1.73 jolt for each \$1 of Fed-

eral benefits. Unemployment insurance benefits are excellent stimulus because they aid people who are likely to spend additional resources immediately.

Opponents to the extension cite a drop in the national unemployment rate, among other improvements in the economy, to justify phasing out this program that serves as the final safety net for workers across the country. It is true that the Nation's unemployment rate has dropped, albeit minimally, over the past few months. But it is clear that these numbers are misleading. A closer look at the numbers reveals that thousands of Americans are so frustrated they actually gave up looking for work altogether and dropped out of the labor market. Nearly 15 million Americans are out of work and the number of long-term unemployed remains enormously high, at almost 2 million. Constituents in my home State of West Virginia have been particularly vocal about the seriousness of this situation. In January, nearly 1,200 West Virginians exhausted their State-funded benefits. That number will jump to nearly 7,000 over the next 6 months. If we pass this amendment, more than 8,000 of my constituents would get the help they need and deserve.

My offices are taking calls from West Virginians who need such help. One example is a woman who lost her job due to company layoffs. She decided to return to school so that she could learn new skills and reenter the workforce better prepared for an uncertain future. My constituent was depending on the TUEC benefit to help finance her education. Without extending these benefits, how will she make ends meet until she finishes her training? I believe that it's a matter of this administration's priorities. And I very much worry we do not have our priorities straight.

Lack of jobs is the primary culprit. But what is equally troubling is that there is a clear shift of jobs from high-paying industries to lower-paying sectors. This fundamental change in the job market was precipitated by a variety of factors. But simply replacing a good, secure, and well-paying position that includes health insurance and pension benefits with a minimum wage job just doesn't cut it. And sadly, it appears as if this administration is content to tout the creation of new low-paying jobs as stimulus, comparable to the 2.6 million manufacturing jobs that were lost since this President took office. West Virginia alone has lost about 9,800 manufacturing jobs over the last few years.

Congress must recognize the urgency of this problem. We must move quickly to reinstate this program, not only to assist the unemployed, but also because in doing so we will provide our home states with additional resources that will immediately infuse economies across the country with more spending power.

We can afford to help our fellow Americans. Every worker contributes



to the Unemployment Insurance Trust Funds so that in times of need benefits are available. Failure to act would send a very negative message to the large number of Americans struggling to make their way in this difficult job climate. Not extending benefits is harsh on the unemployed and their families.

Mr. LIEBERMAN. Mr. President, for working families in the State of Connecticut and across the country, these are hard economic times. Millions have lost their jobs, and millions more fear they might lose theirs soon. Outsourcing American service jobs overseas, as the President's economic advisors suggest, would only add to the unemployment rolls and to growing anxieties. What American needs is not a plan for creating jobs abroad, but a plan for creating jobs here at home.

Nearly all sectors have been affected by the national economy's sluggish performance during the past 3 years, with job losses across the board. The manufacturing sectors has been hit particularly hard. In the State of Connecticut, nearly 26,400 manufacturing jobs have been cut in the past 38 months, and 33,500 since January 2001. Most of these jobs have gone overseas.

In addition to manufacturing job loss, services and high-tech jobs are also being sourced outside the United States—to lower cost, lower wage countries. The employment trends in this sector are harder to quantify, but the impact is no less real. They threaten to put U.S. technological competitiveness and future economic growth at risk.

The Bush administration has done next to nothing to stop this hemorrhaging—relying instead on factory photo-ops, toothless trade missions and new organizational charts. The latest comment from President Bush's top economic advisers that the outsourcing of U.S. service jobs to workers overseas is good for the Nation's economy only underscores the administration's lack of understanding and leadership on this issue.

Instead of policies that shift jobs overseas, we need to create jobs in this country. We need to strengthen enforcement of trade agreements; provide tax credits to keep manufacturing jobs in the United States; promote innovation through Federal research and development policy; leverage Federal purchasing power; create tax incentives for investment in manufacturing modernization and expansion; and strengthen manufacturing and service workers' skills.

Today I join my Senate colleagues in sponsoring a resolution that tells President Bush—loudly and clearly—we will oppose efforts to encourage the outsourcing of American jobs overseas and instead provide a manufacturing tax incentive to encourage job creation in the United States.

Ms. SNOWE. Mr. President, I rise today in strong support for S. 1072, the Safe, Accountable, Flexible and Efficient Transportation Equity Act, the

Senate version of the highway bill, also known as SAFETEA.

Few things that we in Congress do this year will have as great of an impact on our fellow citizens as enacting a 6-year successor to the 1998 Transportation Equity Act for the 21st Century, TEA-21. Simply put, enacting a highway bill this year will create jobs, reduce congestion and cut down on highway fatalities in every city and town across the country.

Debate on this bill is long overdue, as TEA-21 originally expired on September 30, 2003, and thus it has been necessary to extend these programs until the end of February. The primary reason for this delay was that the Senate was unable to come to an agreement on how to raise the necessary revenue to provide the \$311 billion in funding for highways and transit over 6 years that 79 Senators—myself included—voted for as part of the fiscal year 2004 budget resolution.

As such, I was pleased to have been able to support, as a member of the Senate Finance Committee, a revenue package that I feel will break the logjam on this issue and allow us to move forward on enacting a comprehensive, 6 year surface transportation bill this year. The Finance Committee bill, which was adopted on February 2 by a vote of 17 to 4, generates the Senate 6-year funding level without raising the Federal gasoline tax, resorting to tax-credit bonds or negatively impacting the general fund.

Like many of my colleagues, I would have serious concerns about any financing proposals that would raise taxes on American consumers and small businesses, or that would require massive general fund transfers for transportation programs. I commend Chairman GRASSLEY and Senator BAUCUS for navigating through these challenges on highway financing and increasing the likelihood that Congress will get the job done this year.

We have a big job to do in a small amount of time. It is critically important to our State Departments of Transportation that we enact a 6-year bill as soon as possible. States are clamoring for a comprehensive highway bill because, in addition to the funding they stand to get, a full reauthorization allows them to plan for the future. Without such a long-term bill, major projects—including many in my home State—simply cannot go forward. It is regrettable that Congress did not complete its work in 2003 by reauthorizing these programs. Thus, we must seize this opportunity and fulfill our duty now—another 6-month delay is simply not acceptable.

As we debate the appropriate level of spending in this bill, let us not lose sight of the fact that our country's transportation funding needs are simply staggering. If we want to start improving—let alone maintaining—the current system of highways, bridges, and transit infrastructure in this country, overall Federal surface transpor-

tation spending must reach at least \$75 billion annually by fiscal year 2009, according to a 2002 Department of Transportation's, DOT, Conditions and Performance report. The bill before us today provides \$255 billion for highways and \$56.5 billion transit over six years. To put those numbers into context, they translate into an average annual Federal investment of \$51.8 billion per year through 2009 under SAFETEA—still far short of the figured cited by DOT needed to improve our country's transportation infrastructure.

While the DOT's 2002 report gives us an idea of the funding levels needed nationwide to enhance our transportation system, I wanted to speak for a moment on the funding needs of my home State of Maine. The Maine highway system is the most important facet of a transportation network that serves the largest State in the northeastern United States, and totals 22,612 road miles, which includes 367 miles of interstate highways. And as a State with an abundance of islands, rivers, lakes and streams, the State of Maine maintains an extraordinary number of bridges, including 3,564 highway bridges with at least a 10-foot span.

Today, Maine's highway system is carrying an ever-growing volume of vehicles. Highway use has increased from about 7.5 billion vehicle miles in 1980 to more than 13 billion vehicle miles traveled, VMT, in 2000. The Maine Department of Transportation's, MDOT, Twenty Year Transportation Plan projects that VMT will grow by 18 percent, to about 16 billion VMT, by the year 2020.

Put simply, the most pressing issue facing this extensive transportation system is its age. As MDOT's Twenty Year Plan puts it:

Our most dramatic challenge is that our infrastructure is aging. Roads, bridges . . . and other facilities that were built decades ago are now reaching, or have surpassed, their life expectancies. In many cases, this translates into the reality that repairs and rehabilitation are no longer appropriate; the time has come for many replacement and reconstruction projects. This is especially true for a significant number of major bridges around the State, some of which offer the only practical and cost-effective method for crossing rivers and other bodies of water.

Given the challenges facing the State in maintaining its transportation infrastructure, and given that a good road system is absolutely critical to economic development and job creation in both rural and urban areas of Maine, I am pleased with the projected funding for Maine in the formula section of S. 1072. Over the 6-year life of the Senate bill, Maine will receive \$1.169 billion in highway funding, an increase of \$292 million, or 33.4 percent, from Maine's 1998 TEA-21 funding. This funding increase is particularly critical when considering that during the last reauthorization in 1998, when the average State increase was 40 percent, Maine received only a 17 percent increase.

I commend Chairmen INHOFE and BOND, and Senators JEFFORDS and REID

for their careful consideration and hard work on these formulas. In doing so, they have recognized that Maine, as the largest State in New England in terms of landmass, but with a relatively low population density, simply needs all the help it can get from the Federal Government with the costs of maintaining the national highway system.

While I am certainly optimistic about the funding Maine will receive under the EPW Committee's proposed formulas, I also intend to fight for "high priority project" funding for several Maine road and bridge projects that are in dire need of Federal support. These important projects include the replacement of the 72-year-old Waldo-Hancock Bridge over the Penobscot River; the Aroostook North-South Highway project to connect the northern part of my State with the terminus of I-95 at Houlton; an East-West Highway running from Calais, ME, to the New Hampshire border that will address the woeful state of east-west connectivity in Maine; and the Gorham bypass, a vital congestion mitigation project in southern Maine.

While first-class roads are important for economic development, safe roads are just as essential to the quality of life of our citizens. As such, during the reauthorization process I intend to raise an issue of utmost importance to Maine: that of keeping heavy trucks off of our local roads. Safety must be the No. 1 priority on our roads and highways, and I have long been concerned that the existing interstate weight limits in my State have the perverse impact of forcing trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. These State and local routes are narrow roads with narrow lanes, and rotaries, with frequent pedestrian crossings and school zones.

Federal law attempts to provide uniform truck weight limits—80,000 pounds—on the interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads do not.

Because of these long-standing safety concerns, MDOT has spent the last several years studying the potential impacts of waiving the Federal weight limits throughout the State. The preliminary results of their study clearly show the wisdom of allowing heavy trucks to travel on the interstate system rather than local roads. Specifically, MDOT estimates that waiving Federal weight limits would result in three fewer truck crashes in Maine every year. In addition to the safety benefits, waiving weight limits would save MDOT between \$1 million and \$1.65 million every year on pavement costs, and approximately \$300,000 per year on bridge rehabilitation costs. Overall, when considering safety and

road construction costs, the economic benefit to the State and Maine citizens would be between \$1.6 million and \$2.3 million annually.

The safety and economic benefits of getting heavy trucks off of Maine local roads and onto the interstate are enormous. As such, I have filed an amendment to the highway bill that would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the interstate system within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety. I believe this is a measured, responsible approach to a very serious public safety issue.

I am aware that the current truck weight limit impacts different States in different ways, but for Maine, at the heart of the issue is a simple question: Do we want heavy trucks on the highway, where they belong, or on local roads running right through the heart of our communities? I hope to work with the chair and ranking member of the EPW Committee to address this issue as we consider the highway bill.

Another priority of mine during TEA-21 reauthorization process, as a member of the Senate Committee on Commerce, Science and Transportation, is the issue of our country's intercity passenger rail system. Until December 2001, Maine was one of only a handful of States in the continental United States not served by passenger rail service. I am proud that after a decade of hard work and negotiations, Maine has become a member of the Amtrak family—with service from Boston to Portland, Maine. The State of Maine is also working on plans to upgrade the Boston-Portland line to a high-speed rail service, and also may extend the line even further north in the future.

In June 2003, the Commerce Committee—with my support—voted to consider Amtrak reauthorization and TEA-21 reauthorization together. Since then, I have been working with a bipartisan coalition of Senators to make that proposition a reality, including Senators HUTCHISON, HOLLINGS, and CARPER. Rail is a part of our surface transportation system, and I will fight to make sure that a rail title is included in the final highway legislation sent to the President. Simply put, including a passenger and freight rail title in this bill will build on the existing foundation of passenger rail in Maine and further connect my State to the Nation's transportation system—a prospect about which I am very excited.

I conclude by saying that another reason I support the legislation we are

considering today is because it is not just a roads bill, or a transit bill, or a safety bill, it is also a jobs bill. The Department of Transportation estimates that every \$1 billion in new Federal investment creates more than 47,500 jobs. The funding in the Senate EPW comprehensive 6-year bill of \$255 billion will create approximately 2 million new jobs nationwide, and will create or sustain almost 57,000 highway-related jobs in my home State of Maine. The economic stimulus this bill will provide is reason alone to enact it as soon as possible.

I am pleased that the Senate is poised to complete consideration of this legislation. I look forward to working my colleagues with a sense of urgency over the next few days on enacting a comprehensive 6-year surface transportation bill this year.

#### BUDGET PROCESS REFORM

Mr. CONRAD. Mr. President, this amendment contains provisions that are within the jurisdiction of the Budget Committee, on which I serve as ranking member. Specifically, it amends the Budget Enforcement Act, establishing spending levels for highways and mass transit for fiscal years 2004 through 2009. It also expresses the sense of the Senate that comprehensive budget enforcement measures should be enacted this year, addressing discretionary spending, mandatory spending, revenues, and all areas of the Federal budget.

This bill is not the proper vehicle for considering budget process reform. All of the members of the Budget Committee—including those who will not be conferees on the bill pending before us—deserve the opportunity to weigh in on discretionary spending caps, pay-as-you-go, and other budget enforcement. Those issues should not be presented to the Senate without having been considered by the Budget Committee. They therefore have no place on this bill.

Mr. NICKLES. I agree that the pending transportation bill is not the place to consider budget enforcement provisions within the Budget Committee's jurisdiction. Even though the budget enforcement provisions in this bill are meaningless in the absence of other process measures, I did not support their inclusion. Enacting statutory budget enforcement this year will require bipartisan cooperation, and the most appropriate way to ensure that is to consider these issues through the regular order. I will work closely with the Senator from North Dakota to make sure all Senate Budget Committee members have an opportunity to provide input on these issues.

Mr. FRIST. I concur with the chairman of the Budget Committee and agree with the sentiments expressed by the Committee's Ranking Member. Indeed the provisions in this legislation establishing transportation spending categories are somewhat meaningless unless we enact broader enforcement tools. Those broader enforcement tools

should be addressed separate and apart from this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

#### HONORING OUR ARMED FORCES

CORPORAL JUAN C. CABRALBANUELOS

Mr. HATCH. Mr. President, these truly are "the times that try men's souls" and challenge our resolve as a Nation. Today, it is with profound regret that I stand to pay tribute to a true patriot of liberty who gave his life so that others may live in freedom. His name was Juan C. Cabralbanuelos and he was a soldier in the U.S. Army.

Many have stood in this chamber to reflect on the loss that our Nation has felt and the price that it has paid to remain free. Today, I stand to remember one who was a citizen of another nation, one who loved the United States and freedom so much, he was willing to give his life to preserve an idea: freedom. He truly deserves the honor of being called an American patriot.

Coporal Cabralbanuelos leaves behind a wife Anita and two sons ages seven and one. To them, I know that nothing that I say here will temper your grief. But know this: your loss will not go unnoticed and unrecognized, your fellow Americans now and always will stand behind you and support you through the trying times ahead.

And so another name has been added to Utah's List of Honor: Corporal Juan Carlos Cabralbanuelos. He joins an illustrious list that includes Specialist David J. Goldberg, US Army Reserve; Captain Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division; staff Sergeant James W. Cawley, United States Marine Corps Reserve; Staff Sergeant Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; Sergeant Mason D. Whetstone of the United States Army; and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

SPECIALIST JUSTIN A. SCOTT

Mr. BUNNING. Mr. President, today I will take the opportunity to honor the

service of Spec. Justin A. Scott of Bellevue, KY. His death while performing his duty to this country is a great loss to us all.

On January 29, 2004, Justin and 11 other soldiers were investigating a cache of weapons about a hundred miles short of Bagram Air Base in Afghanistan. Suddenly, there was an explosion and Justin and seven other soldiers were killed. I offer my sincerest condolences to Spec. Scott's family and loved ones.

His service with the 87th Infantry Regiment of the 10th Mountain Division at Ft. Drum, NY, was exemplary and duly appreciated. As one of the U.S. Senators from Kentucky, I know that Spec. Scott served as a fine example of what it means to be a true patriot and an American of the highest caliber.

We are humbled and honored by the sacrifice Spec. Scott has made. His loss reminds us of the heavy cost exacted for our freedom. We must remember that the American way of life has been made possible by the bravery of men and women like Spec. Scott. When freedom has been challenged many like him have answered the call to arms. We must never forget that.

#### DAVID KAY'S SENATE TESTIMONY

Mr. KYL. Mr. President, there has been a great deal of focus on the recent Senate testimony of David Kay, the former head of the Iraq Survey Group. Unfortunately, most media reports have highlighted only those statements by Dr. Kay that might be used to criticize the administration. They have largely ignored Dr. Kay's assertions that Iraq was more dangerous than we even realized prior to the war, that Saddam Hussein clearly intended to continue developing weapons of mass destruction, and other statements which contradict the false notion that the administration "hyped" intelligence on Iraq.

I thought it would be beneficial for the American people to have a chance to read Dr. Kay's entire testimony, including his edifying exchanges with members of the Senate Armed Services Committee.

I therefore ask unanimous consent that his entire testimony be printed in the RECORD.

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

HEARING, SENATE ARMED SERVICES COMMITTEE, JANUARY 28, 2004

(Joined in progress due to committee hearing room audio system).

WARNER: . . . a further report—and I stress a further report—from Dr. David Kay on his efforts and the efforts of the team which he was privileged to work with, known as ISG. He served as the special adviser to the director of Central Intelligence in determining the status of weapons of mass destruction and related programs in Iraq.

After assuming this position last July, Dr. Kay made his initial interim official report to this committee on October 3rd. As mem-

bers of the committee are aware, Dr. Kay has stepped down from this position and has been succeeded by Mr. Charles A. Duelfer, a former colleague and member of the U.N. Special Commission with Dr. Kay, who has been appointed by Director Tenet to continue this important mission.

I met with Mr. Duelfer the day before yesterday and we just momentarily met with him in the Intel Committee room.

Dr. Kay volunteered—and I emphasize that—volunteered to resume his public service, worked diligently for six months in Iraq under difficult and often dangerous conditions, and just concluded his work last week and reported to the director of Central Intelligence.

I thank you and I thank your wife for public service.

Working with General Dayton and the Iraq Survey Group, ISG, your mission was to search for all facts—repeat, all facts—relevant to the many issues about Iraq weapons of mass destruction and related programs. You initiated what was and continues—I emphasize continues—to be a very difficult, complex mission that, in your own words, is yet to be completed.

As you cautioned us when you took up this post in July, patience is required to ensure we complete a thorough assessment of this important issue.

In this hearing today we hope to receive your assessment of what has been accomplished to date—I repeat, to date—and what in your professional judgment remains to be done by the ISG. It is far too early to reach any final judgments or conclusions.

In recent days, I mentioned, I met with both General Dayton, I've met extensively with your over the recess period, and Mr. Duelfer, and received the assurance of Dayton and Duelfer that they will be prepared to present to the Congress a second official interim report of the ISG group in the time frame of late March.

WARNER: It is crucial that the important work of the ISG group go on. Thus far the findings have been significant.

Dr. Kay has stated that, although we have not found evidence of large stockpiles of WMD, or forward-deployed weapons, the ISG group have made the following evidence as a part of their record that will be forthcoming: first, evidence of Saddam Hussein's intent to pursue WMD programs on a large scale; actual ongoing chemical and biological research programs; an active program to use the deadly chemical ricin as a weapon, a program that was interrupted only by the start of the war in March; and evidence of missile programs; and evidence that in all probability they were going to build those weapons to incorporate in the warheads, what we know not for sure, but certainly the possibility of weapons of mass destruction; evidence that Saddam Hussein was attempting to reconstitute his fledgling nuclear program as late as 2001; and, most important, evidence that clearly indicates Saddam Hussein was conducting a wide range of activities in clear contravention of the United Nations resolutions.

As you recently stated, Dr. Kay—and I quote you—"It was reasonable to conclude that Iraq posed an imminent threat. What we learned during the inspection made Iraq a more dangerous place potentially than, in fact, we thought it was even before the war," end quote.

WARNER: Further, you said on NBC's "Today Show" on Tuesday that it was, quote, "absolutely prudent for the U.S. to go to war."

Dr. Kay, I concur in those conclusions. I believe a real and growing threat has been eliminated and a coalition of nations acted prudently in the cause of freedom. I'd be interested if you concur in my conclusions.