number that only donor States want to focus on, is the rate of return on our gas tax dollars. What percentage of Florida taxpayer dollars are actually being returned to Florida to build up our infrastructure, our highways, our bridges, and our transit? I asked that question not only for my State but for 20 other States that are not getting their fair share.

Why is this particularly sensitive to me? Look at all the folks that come to Florida and use our roads. The Orlando area is the No. 1 tourist destination in the world. We have a $50 billion-a-year tourism industry that, in large part, is as a result of our pristine and clear waters on the beaches. People go by car.

What other reasons? Florida is now one of the major growth States also because we are a destination during the twilight years of retirement. That means not only is our population growing at a rapid rate—1,000 people a day net growth in Florida—but on top of that, we get 80 million tourists a year, and they are all using those Florida roads. We desperately need those roads expanded and improved. I can take anyone to parts of Florida and show that if you think traffic jams are big in Washington, DC, they cannot hold a candle to some of the traffic jams in Florida. States such as mine are the States with the greatest need and we are the States that continue to get the least back on our highway tax dollars. Our populations are increasing by leaps and bounds, yet our highway rate of return is staying relatively the same in order to pay for the other States to invest in their roads, and those are States that are not growing like Florida, Texas, California, Arizona, and 15 other states. Florida is the third fastest growing State behind Nevada and Arizona. We will grow by 80 percent in the next 25 years, becoming the third largest State in the country behind California and Texas. Florida will bump New York into fourth place by 2011.

We have to have help on our highways. We need, but we also deserve, our fair share. States such as mine have, for the last half a century, given more than our share of highway funds. The interstate system is complete now. It has been for some time. This formula has been operating for over 50 years. It is past time that donor States get justice and equity and fair shares. We deserve to get 95 cents return on each one of our highway dollars.

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

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

Mr. INHOFE. Mr. President, in a moment we are going to make a motion to substitute H.R. 3 so we will be considering the Senate-passed bill as it was passed out of our committee on to the floor. I think it is appropriate to make a couple of comments—and, of course, invite Senator JEFFORDS to also comment if he wants to—on the time we have taken on this bill.

We have worked on this bill for some 2½ years. It has been bipartisan all the way, all of last year and this year. I think it is something that is a product we can be very proud of. It has provisions in it that if we do not pass will not be considered. If we are on another extension, we will not have the safety provisions. We will not have the streamlining provisions that will help us build more roads per dollar.

We are prepared now to proceed. I understand there is no further debate on the pending motion.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the motion to proceed is agreed to.

The motion was agreed to.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal aid for highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 567

(Purpose: To provide a complete substitute)

Mr. INHOFE. I send a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 567.

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

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. INHOFE. Mr. President, we are now on the substitute. I understand there are some amendments that are either on their way down or are going to be presented at this time. If not, we will talk a little bit about the bill and where we are today. We are prepared now to go ahead and accept amendments. We are going to ask Members to bring their amendments to the desk. The majority and minority leaders have agreed to give us the floor time to consider these amendments. The sooner we get the amendments, the sooner we can get this passed and sent to conference. I would think the minority leader would agree with me that this is one of the three most significant bills of the year.

I yield the floor.

Mr. REID. I would like to give a short speech, if the distinguished manager of the bill would not mind.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I say to my friend, I am not on the committee now, but I have been on the committee during a number of these highway bills. This highway bill is one of the most important pieces of legislation that the Senate considers. One reason it is such a good exercise is that it forces bipartisanship. It is extremely important legislation. This is one issue on which Democrats and Republicans work together. I certainly wish my friend well. It is an important bill, as he and I know. We worked so hard last year to get it done, and for a lot of reasons it did not happen, but the Senator from Oklahoma has my good wishes on this most important bill for not only Nevada but the country.

JUDICIAL NOMINATIONS

For the last several months, the Senate has operated under a cloud, a nuclear cloud. I would like to give just a brief history for those who are here today. Filibusters have been part of our history from the very beginning of our Republic. In the early years of our country, there were a number of filibusters, but there was no way to stop them. As a result of that, because of the filibuster, a lot of things were not accomplished that Senators wanted to accomplish. In fact, a number of very important Cabinet nominations did not happen because of the filibuster, and a number of judicial appointments in the early years of this Republic simply did not go anyplace because of the filibuster.

It was in 1917 that this body decided to change the rule so that there could be a way of ending filibusters. They decided that two-thirds of the Senators voting could stop a filibuster. Then, during the height of the civil rights movement in this country, the Senate decided to lower that threshold to 60, the way it has been since then.

We, of course, had filibusters of judges prior to 1917. We have had filibusters of judges since then. In recent years, we have had the person who was nominated to be Chief Justice of the Supreme Court, Abe Fortas, who was a member of the Court, filibustered. He was not able to go forward. There are a number of other people who were nominated to be judges, specifically circuit court judges, and there were filibusters conducted by my friends, the Republicans. There were efforts made to stop those with cloture motions. The two that come to my mind are two judges from California.

I worked very hard on one of them—a man by the name of Richard Paez. The other was a woman by the name of Marsha Berzon. A cloture motion was filed, and cloture was granted as a result of 60 Senators voting for cloture.

My friend, the distinguished Republican leader, knows filibusters have been conducted because he voted against cloture. While he was a Member of the Senate, he voted against cloture on a circuit court judge. So for

people to say there has never been a filibuster of a judge is simply wrong. Twenty-five percent of all Supreme Court Justices have been rejected—not always by filibuster, but for various reasons. More than half the filibusters have been conducted by Republican Senators. I do not think that was unconstitutional.

During the tenure of this President, we have had 215 requests to have his nominations approved. We have approved 205 of them. We have turned down 10. That is a 95- to 97-percent confirmation rate, 10 rejected judges, 7 of whom are currently before the Senate. This does not seem reason enough for me, and I think for most people, to think that longstanding rules in the Senate should be changed.

Remember, everyone has to understand that to change the rules as anticipated with the so-called nuclear option, the majority would have to break the rules. The only way a rule change can be stopped when people want to talk—and that is, in effect, what is being done—is to change the rule. If somebody wants to talk, there must be the votes to stop that. That is not what the majority is talking about doing. They are talking about doing something illegal. They are talking about breaking the rules to change the rules, and that is not appropriate.

That is not fair, and it is not right.

The claim that there have been no filibusters, as I indicated, ignores history, including recent history. Throughout the years, many judicial nominees have been denied up-or-down votes. As we know, during the Clinton administration, 69 judges never even got a hearing before the Judiciary Committee. They were dumped into this big dark hole and never saw the light of day. Some of them waited for a very long time, including Richard Paez, who waited for over 4 years. Some of the loudest proponents of the so-called nuclear option opposed cloture on the nominations of President Clinton's nominees.

America is paying attention to this hypocrisy. Citizens are alarmed about what the Republican majority is planning to do. According to a poll that was released yesterday, Americans oppose this—Democrats, Republicans, Independents—by a 2-to-1 margin. They oppose changing the rules to make it easier for the President to stack the courts with radical judges. The American people, in effect, reject the nuclear option because they see it for what it is—an abuse of power, arrogance of power. Lord Acton said power corrupts, and absolute power corrupts absolutely.

The American people need to understand what is going on here in our Congress. Across the way in the House of Representatives, the majority leader was censored three times within 1 year. He will not be censored again because they changed the rules in the middle of the game. That is what is going on. The rules are being changed in the middle of the game. They are breaking the rules to change the rules.

Regardless of one's political affiliation, Americans understand this is a partisan political grab. Nearly half the Republicans polled opposed any rules changes, joining 8 in 10 Democrats and 7 Independents.

Over the last several months, I have talked about a solution. We need to step forward and try to work something out. Before I came here, I tried cases before juries. I had more than 100 jury trials. Every time I had a jury trial was a failure. It was a failure because it indicated the participants could not work things out on their own. That is how I feel about this. We should be able to work this out. We should be able to work it out. My door has always been open to responsible Republicans who do not want the Senate to head down this unproductive path.

I wrote to the majority leader on March 15 and expressed a willingness to find a way out of this predicament we find ourselves in, to find a solution. My friend, the distinguished majority leader, replied 2 days later he would propose a compromise for resolving this issue. We are still waiting on that proposal.

Now, it appears maybe—and I hope this is untrue—that Republican leaders in the Senate do not want a compromise. Senator FRIST and I do not do our negotiations in public, but he and I had a nice conversation about a number of issues about 12:15 today. One of the issues we talked about was my proposal to try to resolve this. I thought it was a very constructive meeting. I walked into a conference at quarter to 1, and I was told he issued a statement that there would be no compromise. I don't believe that. The wires are crossed here somewhere. I hope that, in fact, is the case.

This is something that needs to be resolved. One of my concerns involves Karl Rove. I know Karl Rove was up here today. Karl Rove is world famous. He is from Nevada. I like Karl Rove. He has not been elected either to the executive branch of Government or to the legislative branch of Government. I believe in the separation of powers. I believe this legislative branch of Government is as strong as and as important as the executive branch and the judicial branch of Government. We should conduct our business, especially when it deals with procedures and rules of the Senate, without interference from the White House. In fact, I thought this is where we were headed.

I spoke to the President at the White House. My distinguished friend, the assistant majority leader, was there. I asked the President if he would step into this issue dealing with the nuclear option and help us resolve this, because we have lots of important legislative issues to accomplish.

The President, without any hesitation, said to me, in effect, that this is a legislative matter. He said he was not going to get involved in it at all.

I was dumbfounded to find that the Vice President, a few days later, was giving a speech—and I know under his constitutional role he has certain obligations, one of which is if we are in a tie, he breaks the tie; I have no qualms about his having the ability to do that—he gave a long speech on the history of the filibuster and how we were stopping this constitutional option. Frank Luntz gave nuclear option a new name. And bang, today we get Karl Rove telling everybody that there will be no compromise, saying that we want all of our judges, plus Bolton.

These are not positions that allow for compromise. I want to work this out. These are not positions that allow the Senate to proceed with the work of the American people. These are positions that force a confrontation. I don't think we need that. These are positions that divert attention from the real problems facing America today—gas prices, nearly $2.75 a gallon in Nevada. That is higher than in California. We have poor schools, problems with schools all over America. Minnesota is no different from Nevada. They have problems in their schools. They have inadequate health care coverage.

Again, 95 percent of the President's nominees have been confirmed. The majority leader has said he is willing to break the rules, to change the rules. He will be gone in 15 months and we will still be around. It would not be the right thing to do.

Ultimately, this is about removing the last check in Washington against complete abuse of power, the right to extended debate.

Ronald Reagan sent people to the Supreme Court. Richard Nixon sent people to the Supreme Court. There are still two men there who were nominated by Nixon. We have people whom George Bush No. 1 sent here. Seven of the nine members of the U.S. Supreme Court are Republican appointees. Yet there have been attacks on these people, vile things said about David Souter, vile things said about Justice Kennedy, and others.

The radical right, not representing the mainstream Republicans in this country, wants a different kind of Supreme Court, a different kind of judge—maybe that is the case—one who would roll back equality, liberty, and the rights of all Americans. I don't think that is why President Reagan put his appointees on the Supreme Court. I don't think that is why President Bush No. 1 put his appointees on the Supreme Court.

I think those who were elected to this body, the people who sent us here—not Karl Rove, not James Dobson, and not radical elements of our society—should work out a solution.

There is a way to avoid this nuclear shutdown. I have outlined a proposal for my collective colleagues in some detail in an effort to protect an independent judiciary and to preserve the Founding Fathers' vision of the Senate. I am not going to go into the details of my conversations with my

friend Senator FRIST and other Members of the majority. I spoke in private. But I want to talk about why compromise is necessary.

We stand united against the constitutional or nuclear option, all 45 of us. We have a responsibility to protect checks and balances, not violate them; to protect the separation of power. My offer protects those checks and balances. My offer renews procedures to allow home State Senators to have a say in who sits on the Federal courts in their States. The procedures encourage consultation and will lead to the nomination of consensus judges, judges who will be confirmed unanimously in most cases.

As I indicated on more than one occasion this afternoon, we have approved 205 judges and turned down 10. The 10 were denied confirmation for a lot of reasons. I will not detail that here. We need to ensure the Senate remains as a check on the President's power, especially with respect to the Supreme Court. We were willing to compromise on this, which is hard to do. I believe my proposal strikes the right balance. I hope so because I tried. It protects our democracy and the independence of our Federal courts. The separation of powers doctrine means so much to our country. It protects the American people, lets us do our business, and can break partisan stalemates that are unnecessarily divisive. I emphasize that any potential compromise is of course contingent on a commitment that the nuclear option will not be exercised in this Congress or any Congress. It is very important to understand this is not all done in a vacuum.

What I have spoken to my Republican counterparts about is an effort to work our way through this. I always felt that a good settlement in all those cases I had, the best settlement was when both parties walked out saying, I am happy. We cannot make both parties happy. We will have to compromise. We will have to be statesmen and come up with something the American people will accept.

I recognize the same poll I talked about here, how people feel about the nuclear option—I know, reading these polls, that the present numbers are tumbling downward. I know that because of what has gone on, for a lot of different reasons, numbers for the Senate Republicans are falling. But the general view of the Congress is not that good.

I think it would be a good moment for the American people if Senator FRIST and I could walk out before the American people and say that we have been able to work out our differences. I think the American people would like that. If we do not do that, it is going to be a difficult situation, as I have indicated in great detail. This is not a Newt Gingrich threat. We are not going to shut down the Government. But we are going to work on a number of issues that we feel are important to the American people. In fact, our hours will probably be longer, rather than shorter.

Mr. President, I appreciate everyone's courtesy, and I especially thank my friend from Oklahoma.

If I could say this: During the Clinton years, and during the first 4 years of President Bush, we had a workhorse in the Judiciary Committee. He was chairman; he was ranking member; he was chairman. It went back and forth. He has taken a lot of spears for a lot of different people, standing up for what he believes is right for this country. So I want the record to reflect how much I appreciate the support and the advice and counsel that I have received from Senator PAT LEAHY during the years I have been in the Senate, but particularly during the last 5 months.

The PRESIDING OFFICER. The majority whip.

Mr. LEAHY. Mr. President, will the Senator from Kentucky, inasmuch as I have been mentioned, allow me 2 minutes to refer to what the distinguished leader has been saying?

Mr. MCCONNELL. Mr. President, is the Senator from Vermont asking for 2 minutes?

Mr. LEAHY. Yes.

Mr. President, one, I compliment the Senator from Nevada. I appreciate the kind words he has said about me. I know how hard he has worked to work out this issue. I have been in numerous meetings with him. He has met with both me and the chairman of the committee. We have discussed ways we could work this out. Frankly, I have been in some of those same discussions with my friends on the other side of the aisle. All of us agree this is a reasonable way to work it out.

We should not be talking about judges under the question of nuclear options or religious tests or all the other red herrings that have been out here. It loses sight of what the Constitution is. It speaks of advice and consent. Both the President of the United States and the Senate have a role.

This begins at the other end of Pennsylvania Avenue. The President cannot just simply say: I will send and you will consent. It says advice and consent. I think what the distinguished Senator from Nevada has said is something I have heard Republican Senators say over and over again in my 30 years here.

Let us work this out. And then let's work with the White House so we have both advice and consent. That is how we got 205 judges. That is why 95 percent of President Bush's judges have been confirmed. That is the way we can work on the remaining ones.

So I compliment the Senator from Nevada. I hope his discussions with the Senator from Tennessee work out. I know there is nothing the chairman of the committee and I would like better than to be able to go on with the work of the Judiciary Committee and not with parliamentary maneuvering.

Mr. SCHUMER addressed the chair.

The PRESIDING OFFICER. The Senator from Kentucky, the majority whip, has the floor.

Mr. MCCONNELL. Mr. President, the Senator from New York approached me a few moments ago off the floor asking for 2 minutes prior to my response to the Democratic leader. I will be happy to grant him 2 minutes, provided that I be recognized as soon as the Senator from New York completes his 2 minutes.

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

The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleague from Kentucky for his usual graciousness.

I compliment our leader, HARRY REID, not only for his words but for his actions. The compromise he seeks is a vital one to the history of this body. Because if we do not reach compromise, the constitutional confrontation that will occur is something the likes of which the Senate has never seen. It could end up destroying whatever is left of comity in the Senate and undo our efforts to move forward on issues the American public cares about.

We are acting here out of strength, not out of weakness. The public is on our side. They realize the nuclear option is overreaching. As our minority leader said, it is not the first time we have seen overreaching here in the Congress in the last few months.

But the compromise is offered in the best of faith. We seriously love this body and wish to avoid ripping it apart. We plead with our colleagues on the other side—the Republican leadership but also those 10 or 12 Republican Members who know this is wrong but are under tremendous pressure to make it come about.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, let me first join in the compliments that have been expressed toward the Democratic leader. He is new to his position. This new precedent, set in the Senate over the last Congress, in which we routinely saw filibustering for the purpose of defeating circuit judges, was not something introduced under Senator REID's majority leadership.

We have had numerous conversations. I have had conversations with Senator REID. He has had a number of conversations with the majority leader about how we might be able to get the Senate back to the way it operated for 214 years quite comfortably.

So far, a compromise has not been achieved. But I compliment the Democratic leader for his willingness to discuss the issue and his understanding that where the Senate is today is simply unacceptable.

So let's talk just for a moment about what is not in dispute. What is not in dispute is that for 214 years the filibuster was not used to kill a nomination for the judiciary when a majority

of the Members of the Senate were for that nominee. When a majority of the Members of this body have been for a nominee, the filibuster has never been used to defeat a nominee in the history of the country.

It is true, we have had a few cloture votes. My good friend from Nevada, the Democratic leader, mentioned two that I think are illustrative of how the Senate should operate. Toward the end of the Clinton years, we had two nominations before this body, Paez and Berzon, both of whom were quite controversial and quite far to the left, for the Ninth Circuit, which some would argue did not need to be pushed any further to the left.

Senator LOTT was the majority leader then. Senator Daschle was the Democratic leader. There were people on this side of the aisle who did not want to see either of those nominees go forward and were prepared to filibuster those nominees for the purpose of defeating them. So our leader had to say to people on our side of the aisle: That is a bad idea. He joined with Senator Daschle and filed cloture not for the purpose of defeating the two nominations but for the purpose of advancing them because, you see, there was a core of Republicans on this side of the aisle prepared to filibuster for the purpose of defeating those nominations.

Responsible leadership on both sides conspired, filed cloture, and cloture was invoked. I was an example of somebody who was not keen on either of those nominees. I voted for cloture because I believed then, and believe now, that judges are entitled to an up-or-down vote here in the Senate, that any President is entitled to that courtesy. So cloture was invoked as a result of the leadership of Senator Daschle and Senator LOTT. We had the votes on the nominees. They both were confirmed—not with my vote but confirmed.

That is the way the Senate ought to operate when there are some Members on each side of the aisle who would go so far as to deny a judge an up-or-down vote. That was the status quo until the last Congress, when, for the first time in the history of the Senate, the filibuster was used for the purpose of defeating a nominee, even when the nominee had a majority of support in the Senate. So there have been no filibusters for the purpose of killing nominees until the last Congress.

Second, there is a lot of discussion about polls, particularly the unbelievable poll on the front page of the Washington Post today which might give some comfort to those who think filibustering judges for the purpose of defeating them is a good idea until you read the way the question was asked. The way the question was asked was almost guaranteed to get the answer.

A more appropriate way to ask the question was the way it was asked in a recent survey by Voter Consumer Research. In that survey, 81 percent of those tested agreed with the idea that ''even if they disagree with a judge, Senate Democrats should at least allow the President's nomination to be voted on,'' and only 18 percent disagreed with that, an unbiased way of stating the question. Even if you disagree with the nominee, should the nominee get an up-or-down vote: 81 percent yes; 18 percent no. That is where the American people are on this issue.

With regard to the President's involvement, the President has not been involved in this, but the Vice President happens to be the President of the Senate. He is, because of his duties as President of the Senate, going to be called upon at some point, should we have to go so far as to exercise the Byrd option or constitutional option—and let me make the point that the constitutional option is simply a precedent interpreting a rule of the Senate. Senator BYRD did this not on one occasion, not on two occasions or three occasions, but on four occasions during the time that he was leader, interpreted the rules by a simple majority of the Senate. It has been done before and the Byrd option, of course, could be done again.

Let me say I think our good friends on the other side of the aisle may have a legitimate complaint with regard to the possibility that judicial nominees could be held in committee. I have heard it said on numerous occasions that what they have done out here on the floor of the Senate in the last Congress and are proposing to do in this Congress is no different from what the Republicans did in committee during the Clinton years. I would suggest that any solution to the problem include some kind of expedited procedure under which nominees could get out of committee in an orderly way and get voted on up or down on the Senate floor, thereby eliminating the possibility that the majority party could, in committee, in effect do the same thing the minority party did in the last Congress on the floor. We could level the playing field and make certain that any President's nominee is given fair consideration in committee and fair consideration on the floor.

These are the kinds of things we have been kicking around, discussing in good faith on both sides of the aisle. Again, I compliment the Democratic leader. He has certainly been willing to discuss the issue. I believe we both think where the Senate is today is unacceptable. There is a lot of finger-pointing going on on both sides. Democrats are pointing fingers at Republicans for what was done during the Clinton years; Republicans are pointing fingers at Democrats for what was done in the last Congress. There is a way to cure that, a way to fix it.

It would be a huge mistake for the Senate to get to the point where 41 Members of the Senate can dictate to any President of the United States who gets to be on a circuit court or the Supreme Court. Let me say that again. Where this is headed, I would say to my good friend, the Democratic leader, and to our colleagues on the other side of the aisle, is in the direction of 41 Members of the Senate being able to dictate to any President who may be on the Supreme Court or a circuit court. That is a bad idea. Against the best efforts of myself and others on this side of the aisle, there could be a Democratic President again as soon as 3 or 4 years from now. I don't think our friends on the other side of the aisle are going to want to have a well-established notion that a mere 41 Members of the Senate are going to be able to dictate to the President who may be on the courts.

I conclude by saying we should continue our discussions—I do think they have been in good faith—to see if we can resolve this situation and get the Senate back to the way it operated prior to the last Congress when nominees were entitled to an up-or-down vote on the floor and, I would add, should be entitled to an up-or-down vote in committee, thereby leveling the playing field and guaranteeing that any President's nominations to the circuit courts and to the Supreme Court get a fair up-or-down vote.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Democratic leader is recognized.

Mr. REID. Mr. President, I appreciate the statement of my distinguished friend. We have worked together for I don't remember how many years because I had his job. A lot of my previous life has been blurred as a result of the past 5 months, but I enjoyed working with him then. He is a master of procedure, certainly understands the Senate. I appreciate not only what he said but the tone of it.

I would just like to say this to the Presiding Officer, being a new Senator, and some others here: One of the problems I have is the deference to the President. George Bush is my President. I didn't vote for him. When he was elected the first time, I didn't vote for him. But we are a country that is so unique. When his election was decided by the Supreme Court after that election, there wasn't a window broken. There wasn't a demonstration held. There were no fires set. He became President of the United States. He became my President and everybody else's. But the fact that he is President of the United States does not take away the fact that he is President, not king. With all the power that he has in that vast bureaucracy, he has no more power than we have in the legislative branch.

My distinguished friend, the Senator from Kentucky, said: We need to give deference to the President's nominations. Yes, I think we need to give deference to the President's nominations, but we are not a rubber stamp for the President. We have an advice and consent role. My friend said he doesn't think it is right to have 41 Members hold up a vote on his judicial nominations. I think it speaks volumes to a

statement that was issued by the majority leader last week. Obviously, one of his Republican colleagues said: Is this rule that you are breaking to change the rules going to apply to legislative filibusters? He issued a one-paragraph statement and said: No, it won't apply to legislative filibusters.

But what it didn't say was anything about Cabinet officers, sub-Cabinet officers, people we have to confirm by law. Do we have a right to say the Senate rule should be in effect and we have a right to hold one of these up by filibuster? Using the logic of my friend from Kentucky and the statement issued by my friend, the distinguished majority leader, obviously they think he should get his choices there, too.

There have been would-be Cabinet officers from the very beginning of this country who never made it, Cabinet officers who were nominated but were never confirmed because people in the Senate, 100 years ago, 200 years ago, 50 years ago said: No thanks. They didn't have a majority but they had enough to filibuster. That is the Senate. If we continue on this path on which we are going, we will just be an extension of the House of Representatives. I have served there. With every matter that comes to the House floor, without exception, there is what they call a rule on it that comes from the Rules Committee. The Rules Committee is chosen by the Speaker. There are Democrats there, but they are only token because whatever the Committee on Rules says, that is what happens on the House floor.

You can bring a bill to the floor, and the Rules Committee can say: No amendments, debate time 20 minutes evenly divided. Or they can bring a piece of legislation to the floor and they can say: Five amendments, an hour each. They can do anything they want to do. They set a rule on every piece of legislation.

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

Mr. REID. Not right now. When Senator INHOFE brings this bill to the floor, the highway bill, this bill is a free-for-all. That is what the Senate is. It is kind of a cluttered, clumsy procedure, but that is what the Senate is. I hope we are not an extension of the House of Representatives where everything we do here is like in the House—a rule is set on it. If people feel strongly enough to break the rules, to change the rules, as they will have to do here, they can change it as to the nominations I have also mentioned. And next, they can change it on legislation. The Senator from Florida has not been here long, but he is certainly an experienced man, a former Cabinet officer of this country. I know he came here a few weeks ago with an important piece of legislation. To him, it was very important because it was important, he believed, to the people of Florida. But you knew, because of Senate procedures, if we wanted to stop that with 41 votes, we could do that. It should apply to everything we do here.

I agree with my friend from Kentucky. I don't think we should be looking to pick fights and say that everybody the President sends up here has to be what we want. We know it is the President's prerogative. But for 214 years, the President consulted with the Senate on judicial nominations, and for many years the committee honored the blue slip, which ensured consultation. We know that during the last few years of the Clinton administration, Senator HATCH said: We are not going to approve anybody unless you run the names past me. That is how we came up with Ginsburg and Breyer. ORRIN HATCH and the Republicans, at that time in the majority, and in the minority other times, said that they liked Breyer and Ginsburg. These nominees flew right through here. Perhaps President Clinton would have liked to have had somebody else. Maybe they were not his first choice. They got out of this body quickly.

So we had this consultation for a long period of time. We honored the blue-slip policy, which ensured consultation. I haven't yet mentioned that one of the many positive things all the political writers talk about is that the filibuster brings about compromise and consultation. You are forced to come and talk about issues, whether it is a piece of legislation the Senator from Florida is trying to get through or whether it is a nomination. I got a call from a Senator today saying: I have a hold on a Senate Cabinet officer, and I want to talk to you about it and see if you can help me work something out. It brings people together. I am confident that on an important issue for the President, we can do that.

Mr. President, I very much thank my friend from Kentucky—not only what he said, but how he said it. I hope something can be resolved here. The right to unlimited debate is something this country has had and something that is needed. I don't think we should be filibustering a lot of judges unnecessarily, but a filibuster is sometimes warranted. There may be unusual situations in the future where we will need to rely on this procedure.

I am happy to yield to my friend from Kentucky.

Mr. MCCONNELL. Mr. President, I can make it in the form of a question.

Mr. REID. I am happy to answer a question.

Mr. MCCONNELL. Basically, what I want to do is not ask him a question, but allay his concerns about this being a slippery slope that would lead to the end of the legislative filibuster. We had that vote in 1995, I remind my good friend from Nevada, to get rid of the filibuster, period. It got only 19 votes; all 19 of them were Democrats. Not a single Republican voted to get rid of the legislative filibuster. Interestingly enough, this was the first vote after my party came back to power in the Senate. So, arguably, we would have been the big beneficiaries of getting rid of the filibuster. We had just had a marvelously successful election in 1994. We were in the majority of the House for the first time in 40 years and in the Senate. Somebody on your side of the aisle offered an amendment to get rid of all filibusters. That was the first vote Senator FRIST cast after he was sworn into the Senate—to keep the filibuster. So I can reassure my good friend there is no sentiment that I am aware of anywhere in the Senate for getting rid of the filibuster.

Secondly, I am not aware of any sentiment about the filibuster being a problem with regard to Cabinet or sub-Cabinet appointments.

Third, I am not aware of the filibuster being a problem with regard to district court judges. Senators seem to be—your side has done a good job of confirming district court judges. That is not in dispute. We appreciate that. We think you have done it in a fair manner. What we are talking about here is this problem: for the first time in history the filibustering of circuit court nominees that have a majority of support in the Senate and, if allowed to have an up-or-down vote, all of these judges would be confirmed. They are for the first time in history denying them a vote when they have a majority of support in the Senate, and many of us have a suspicion this is precisely what our good friends on the other side of the aisle have in mind for any subsequent Supreme Court nominations. So why don't we just talk about the problem, which is circuit courts, and potentially the Supreme Court, and reach some kind of understanding that gets us back to the way we comfortably operated here for 214 years. That is what I would hope my good friend from Nevada, the Democratic leader, and ourselves could agree to at some point.

The PRESIDING OFFICER. The Democratic leader has the floor.

Mr. REID. Mr. President, I say to my friend that if a filibuster is OK for a person who is going to serve 4 years as a member of the President's Cabinet, or some lesser period of time, which is usually the case, why would it be wrong, for someone who is going to get a lifetime appointment, to take a look at that person? Why in the world would that be any different? Don't we have an even higher obligation to look at somebody who is going to be appointed for life? Certainly, we have an obligation to do that. There is no reason in the world that the President should get all of his people. I would say that my friends in the majority should understand that we consider our position as Senators. It gives up power to the executive branch of Government.

I am happy to yield to my friend from New York.

Mr. SCHUMER. I thank the Senator. I will address a question to my friend from Nevada. I have two questions. I will ask them both. The first is this: Our good friend from Kentucky did speak of compromise, and we do want compromise. But you cannot call something a compromise and then say I

want to win everything. To say that there would be no filibusters of any judges, to say that every judge could be discharged from a committee—you can call that a compromise; you can say the sky is green—it is not a compromise. That is totally the position of the other side. A compromise involves a little pain on each side to be a genuine compromise.

So my first question to my good friend and leader, whom I am proud to serve under, is: Would this side saying we will not filibuster any judge be any kind of compromise at all? The second question to my colleague—I will ask both at once—is this: My friend from Kentucky said: Well, we want an up-or-down vote. Majority rules. Are there not many instances where the Senate does not operate by majority rule, where 60 votes are called for, where 67 votes are called for? In fact, I argue it can be said that 51 Senators, representing only 21 percent of the population of this United States, can pass a law. Isn't it a fact that the Founding Fathers wanted the Senate to be something of a different animal, not a place where if you had 51 percent, you got your way 100 percent of the time but, rather, a place where the rules, the traditions, the way of thinking said come together for compromise; and, in fact, isn't it a fact that the time when this is most important, when the Senate plays its most important role, is when the President, the House, and the Senate are in the control of one party?

My two questions: Is it a compromise—so-called compromise—that says no filibuster on any judges and discharge petitions on all judges, any compromise at all, which my friend from Kentucky seems to think it was, even though it would be everything your side wants and nothing our side wants?

And second, is it not true that the Senate has been founded not on 51-to-49 rule governance all the time, but on a tradition of comity, checks and balances, and bipartisanship where a bare majority does not always rule?

Mr. REID. Mr. President, I say to my friend, this was the Great Compromise during the Constitutional Convention, where these visionary men, our Founding Fathers, worked out the difference between the House and the Senate. They did this purposely and specifically.

I say to my friend, there are many issues here that are decided not by 51, not by 60, not by 67, but many issues take unanimous consent. In fact, most things we do in this body are by unanimous consent. All of us have to agree.

We cannot commit to not having any filibusters, but we will exercise to the very best of our ability discretion, judicious discretion, because we think we are in a new day. We believe this is a new Congress, and we want to show the American people we can work together. And I say to everyone listening that I think we have proven that this year. We have worked on issues that have taken 15 years to get to the Senate floor. We know that many people on this side of the aisle did not particularly like the class action bill. We know that many people on this side of the aisle did not particularly like the bankruptcy bill, but we took 15 years of history and came here and did things the old-fashioned way. We had a bill on the floor, we offered amendments—some failed, some passed—and moved on. Those bills are now law. People may not like that—some do not—but it shows we can work together here.

My plaintive plea to every one of my 99 friends in the Senate is, let's work something out. Let's try to get along. Let's set a picture that BILL FRIST and HARRY REID can walk out here not representing these special interest groups but representing the American people and trying to keep this body as it is and has been for over 200 years, and walk out here together and say: We have resolved our differences. We are going to move forward with the business of this country. That is my desire.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, briefly, before the Democratic leader leaves, what I fear is that the only thing that has really changed in recent years is the occupant of the White House. With all due respect to my good friend and colleague—and I thank him for his cooperation on class action and bankruptcy; I know that was not easy—here we have my good friend HARRY REID in June of 2001 saying:

> We should have up-or-down votes in the committees and on the floor.

We should have up-or-down votes in the committees and on the floor. June 2001.

My good friend Senator SCHUMER is, I believe, still here on the Senate floor. In March of 2000, he said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down. . . . This delay makes a mockery of the Constitution.

That is the Democratic leader and our good Senator from New York in 2000, just a few years ago. What has changed between then and now? I suggest the only thing that has changed is the occupant of the White House. All we are pleading for—and again, I thank the Democratic leader. I think he has been gracious, he has been anxious to work with us to come up with some accommodation. But what was routine Senate procedure as late as 2000 and 2001 now has been turned on its head and night is day and day is night. I am having a hard time seeing that anything has changed except the occupant of the White House.

What we need to do is divorce ourselves from who the current occupant of the White House is, who the current majority is in the Senate, and think about the institution in the long term. It seems to me that where we are headed is that 41 Members of the Senate will, in effect, be able to dictate to whomever is in the White House who the nominees for appeals court judges and for Supreme Court Justices may be. I believe that is not where we need to end up. I do not think it is in their best interest. They may have the White House as soon as January of 2009.

Why can't we just pull back from the abyss, get back to the way we were operating in a way apparently the Democratic leader and the Senator from New York felt was quite appropriate as recently as 2000 and 2001? Why can't we just get back to that and settle this dispute once and for all for future Congresses?

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, first of all, I have no problem with what I said. I believe we should have had some votes in the committee. Remember, 69 never even came before the committee. Following that, there should have been votes here on the floor. Remember, every one of these judges turned down had votes on the floor. They were cloture motions.

My distinguished friend says he does not know of any time in the history of this country where there has been a majority that favored somebody, that there was not cloture filed, or words to that effect. The point is, we do not need to relive history, but 69 of President Clinton's people never even got there, and that is what I was talking about in 2000 and 2001. I would never, ever consider breaking the rules to change the rules. I never suggested that at all.

I say to my friend, I want to work something out. I repeat that for probably the fifth time here today, but in the process we cannot give up the basic rights this country and this Senate have had for more than 200 years. We are willing to compromise, and, as my friend from New York said, compromise means just that. If we are seen as not acting appropriately, then people can respond to us at election time. It is interesting to note, I say to my friend, in talking to some of my Republican friends, of all the circuit nominees I have heard of, there are only a few that I have a problem with. My Republican friends have told me that they have a problem with a couple themselves.

We can work through this. Let's not have a hard-and-fast rule that the only way we are going to do this is through an up-or-down vote on judges because if that is the case, we are wasting our time here. They are going to have to break the rules.

Mr. BOND. Will the minority leader yield for a question?

Mr. SCHUMER. Will my colleague yield?

Mr. REID. I yield to my friend from Missouri—he has been patient—for a question without my losing my right to the floor.

Mr. BOND. Mr. President, I would like to ask the minority leader—I came down here to talk about the highway bill. Is it his understanding that we are on the highway bill?

Mr. REID. And my answer is yes, and I am going to get off the floor just as quickly as I can.

Mr. SCHUMER. Mr. President, will my colleague yield?

Mr. REID. Yes.

Mr. SCHUMER. I will be brief, as I know my friend from Missouri has been patient. I want to augment, since my name was mentioned, what my colleague said. What we were talking about was bringing votes to the floor. We did not say majority vote, nor did we try to stop the filibusters that were going on for Mr. Paez and Ms. Berzon.

The bottom line is those two were not allowed to get votes for 4 years, 5½ years. The nominees here have come to the floor and, by the rules of the Senate, they did not garner sufficient support. It is a lot different not bringing them up at all, and that is what we were talking about, rather than bringing them up and then letting them be disposed of by the Senate rules. In fact, the quote, the first part of it I believe I was talking to my colleague from New Hampshire: You can debate this as long as you want, just bring it up.

I thank my colleague.

Mr. REID. I appreciate everyone's patience.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, I assure the Senator from Missouri, I am also about through. Listening to Senator SCHUMER, maybe we have parameters of an understanding here. I think it was probably before the Senator from New York came on the floor, but I suggested that we couple an assurance that we have an up-or-down vote on the floor of the Senate for appellate court judges and Supreme Court Justices with a guaranteed expedited procedure in committee, guarantee that some of the legitimate grievances his party may have had toward the end of the Clinton years could not be committed again. All of this seems to me presents the possibility for an understanding that might settle this issue once and for all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The highway bill is the pending question.

Mr. INHOFE. Mr. President, as we have said, we are on the substitute, our committee substitute. That will be the one that will receive amendments. We have invited Members to come to the floor with their amendments.

While we are waiting for those to come to the floor, I will go over what is before us section by section. Then when someone comes in for the purpose of offering an amendment, I will be glad to stop and then yield to that a person.

I first ask if the ranking minority member, Senator JEFFORDS, had any comments to make before we go on to amendments.

Mr. JEFFORDS. I thank the Senator for the opportunity but the answer is no.

Mr. INHOFE. First, I will start section by section. Section 1101 of the bill authorizes $283.9 billion in guaranteed spending and contract authority over a 6-year period. This level is consistent with levels adopted by the House and the White House. Subtracting authorizations for mass transit and safety and funding for fiscal year 2004, the bill provides $191 billion for maintenance and improvement to the Nation's roads and bridges over the 5-year period from fiscal year 2005 through 2009.

Let us keep in mind that this was essentially the same bill at a different funding level than we had a year ago this week, I believe. So we already have a year behind us. What we have done for this statement is to say what is there other than what has already been used for the first year, fiscal year 2005, and also mass transit and safety.

The link between a robust economy and a strong transportation infrastructure is undeniable. The movement of people and goods is one of the foremost indicators of a growing economy and job creation. At this point, we need to recognize that people have been concerned—were concerned a few years ago—about the economy, and we are recognizing that this administration actually inherited a recession and we are coming out of it now. But there is no single thing we could do that would provide more jobs and more economic activity. I suggest to the President that for each 1-percent increase in economic activity, it provides an additional 47,000 jobs. So do the math and we can see what a great boon this would be.

The bill before us today recognizes the realities of available revenues without the need for increasing gas taxes. It is designed to make the most of every available dollar for better and safer roads, while creating thousands of new jobs.

It probably is anticipated that there will be amendments to increase this amount. I anticipate there may be an amendment by the chairman and the ranking member of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, and if not them then somebody else would probably do it. When this happens, they would, of course, be in a position to come up with the amount of money that would be necessary.

One of the things I commented about last year is that we were always within the amount of money that we could identify—in other words, the amount of money that was anticipated coming in from Federal revenues from gas purchases, along with other areas we could identify.

The total obligation authorized in this bill is $188 billion for a period from fiscal year 2005 to 2009.

In addition to the increases in funding for the overall program, the bill makes important changes to the apportionments of a few specific programs. Under TEA–21, which we adopted 7 years ago, the administrative expenses for the Federal Highway Administration were funded as a takedown from the various core programs. This bill recognizes the separate importance of costs associated with the administration of the overall highway program. Therefore, the bill funds Federal Highway Administration expenses at its own separate apportionment protecting the autonomy of the individual core programs and the administrative fund itself.

Of the amount designated for program administration, the Secretary of Transportation is also given the authority to transfer an appropriate amount to the administrative expenses of the Appalachian Highway Development System.

As a result of the 2000 census, 46 new metropolitan planning organizations, known as MPOs, have been established throughout the country and are now eligible for Federal transportation planning funding. To respond to this expanded need, we have increased the program set-asides for MPOs from 1 percent under TEA–21 to up to 1½ percent. This, along with the overall increase in program funds, will help to address the growing transportation planning needs.

Section 1104 is the equity bonus section. TEA–21 used the minimum guarantee calculation to guarantee that States receive back at least 90.5 percent of their percentage contributed to the highway trust fund. This is very significant. It has become quite controversial. Last week and this week we have talked for several hours on this bill about the various donor States. My State of Oklahoma has always been a donor State, since the programs began. I can remember that donor amount was 75 percent; that is to say, each State was guaranteed to get back 75 percent of the money that was sent in. Slowly that has crept up and it is currently at 90.5 percent.

Had we passed the bill that we had in conference last year—the bill that we sent to conference had $318 billion of authorization—then we would have everybody at the end of this 6-year period up to 95 percent. So it would have gone from 90.5 percent to 95 percent.

The minimum guarantee program is driven by a political distribution known as the 1104 table. The bill replaces the old minimum guarantee program and the 1104 table with a new equity bonus program that ensures a percentage return to States of 92 percent in each of the fiscal years 2005 through 2009.

At this point we can say it is very complicated, but the equity bonus program is just what it states: it is an equity program. The program does away with the table in TEA–21 which determined each State's percentage share of the total highway program. Rather than have a State's return be set by a politically driven table, the equity

bonus program determines each State's return by first relying on the program distribution of formulas.

This is not the easy way of doing it; this is the hard way of doing it. I am sure Senator JEFFORDS joins me in saying it would be a lot easier to have a minimum guarantee for any State, work out their deal, make 60 Members of the Senate happy, and walk away. That would have been done a long time ago if we decided to do it that way. But that is not equitable, and I think that is the wrong way to do business.

In fact, I say to people who criticize this bill saying it has pork in it, there are only two projects in the entire bill. The bill before us right now in the form of a substitute only has two projects in it. That is not the case over in the other body. They have several hundred projects. It has been my philosophy, and I think it is shared by the ranking minority, that the closer one gets to home, the better these decisions are.

If we can determine an equitable formula, which I believe we have done, we can send it back to the States and let the local people make the determinations as to how that is going to be spent. Now, a lot of people in Washington do not agree with that. A lot of them think if the decision is not made in Washington, it is not a good decision. I believe we are doing it the right way.

The equity bonus calculation identifies a justifiable nexus in equity between the underlying formulas and responsible balanced growth for donor and donee States alike. If a State fails to reach the minimum return in any year based on the formulas, that State would receive an equity bonus apportionment in addition to their formula funds to bring them up to the required level.

While we allow the formulas to work under the new equity bonus program, we also recognize there would be some inequities if we allowed the formulas to be the sole factor in distributing dollars to the States. In order to increase the minimum rate of return for donor States while ensuring an equitable transition of donee States, rates of return are subject to an annual growth ceiling to smooth out the phase-in of increased minimum returns. This accomplishes two goals. First, it keeps the cost of the equity bonus program affordable; secondly, it ensures that donee States are still able to grow so no States grow less than 10 percent over their TEA–21 levels. Everyone is guaranteed an increase from their own levels, at least 10 percent.

There is a cap on equity bonus. No State may receive a portion more than a specific percentage of their average portion received under TEA–21. So you have two caps—a floor and a ceiling. That helps the formulas work.

There is a special rule to protect States with population densities less than 20 persons per square mile, a population of less than 1 million, a median household income of less than $35,000, or a State with a fatality rate during 2002 on the interstate highways greater than 1 fatality per 100 million vehicle miles traveled.

We said a lot in one paragraph. It shows the complications of a formula. First, we have to take care of the States that do not have a population. Look at Montana, Wyoming, some of the sparsely populated States. They still have to have roads. Second, we have said for the States that might have a lower per capita income, they can be considered poverty States, so there is a consideration. My State of Oklahoma is in a different situation than many other States and we would benefit from that. Or a State with a fatality rise during 2002. It is absolutely necessary to have part of the formula attributed to a consideration for money being made to States where the fatality rate is higher than average. That takes us through several of the sections.

At this point, if there are any Senators who would like to offer amendments, I encourage them to come to the Chamber and offer amendments, at the end of which time we will continue to go through the bill section by section.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 572 TO AMENDMENT NO. 567

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 572.

Mr. THUNE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the section relating to National Scenic Byways to provide for the designation of Indian scenic byways)

Strike section 1602(a) and insert the following:

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''the roads as'' and all that follows and inserting ''the roads as—

''(A) National Scenic Byways;

''(B) All-American Roads; or

''(C) America's Byways.'';

(B) in paragraph (3)—

(i) by striking ''To be considered'' and inserting the following:

''(A) IN GENERAL.—To be considered'';

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting '', an Indian tribe, '' after ''nominated by a State''; and

(II) by inserting '', an Indian scenic byway,'' after ''designated as a State scenic byway''; and

(iii) by adding at the end the following:

''(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

''(i) jurisdiction over the road; or

''(ii) responsibility for managing the road.

''(C) SAFETY.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).''; and

(C) by adding at the end the following:

''(4) RECIPROCAL NOTIFICATION.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

''(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

''(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''and Indian tribes'' after ''provide technical assistance to States'';

(ii) in subparagraph (A), by striking ''designated as'' and all that follows and inserting ''designated as—

''(i) National Scenic Byways;

''(ii) All-American Roads;

''(iii) America's Byways;

''(iv) State scenic byways; or

''(v) Indian scenic byways; and''; and

(iii) in subparagraph (B), by inserting ''or Indian'' after ''State'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''Byway or All-American Road'' and inserting ''Byway, All-American Road, or 1 of America's Byways'';

(ii) in subparagraph (B)—

(I) by striking ''State-designated'' and inserting ''State or Indian''; and

(II) by striking ''designation as a'' and all that follows and inserting ''designation as—

''(i) a National Scenic Byway;

''(ii) an All-American Road; or

''(iii) 1 of America's Byways; and''; and

(iii) in subparagraph (C), by inserting ''or Indian'' after ''State'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting ''or Indian'' after ''State'';

(B) in paragraph (3)—

(i) by inserting ''Indian scenic byway,'' after ''improvements to a State scenic byway,''; and

(ii) by inserting ''Indian scenic byway,'' after ''designation as a State scenic byway,''; and

(C) in paragraph (4), by striking ''passing lane,''; and

(4) in subsection (e), by inserting ''or Indian tribe'' after ''State''.

Mr. THUNE. Mr. President, I hope my amendment will be included as part of the final bill. I know the managers intend to offer a managers' amendment. I want my colleagues to know I have been working with the chairman, the Senator from Oklahoma, the ranking member, Senator JEFFORDS from Vermont, of the Committee on Environment and Public Works concerning this issue since we marked up the underlying bill in committee last month.

While Chairman INHOFE and Ranking Member JEFFORDS, Subcommittee Chair BOND, and Ranking Subcommittee Member BAUCUS initially had questions regarding my amendment in committee, I understand now

the staff has been able to work through all of those concerns.

Simply put, my amendment seeks to allow Native American tribes the ability to nominate roads to the Secretary of Transportation for designation as scenic byways, All-American Roads, or America's Byways.

Currently, Indian tribes are only allowed to nominate roads for designation under the Scenic Byways Program if they first go through their respective State Department of Transportation or Federal land management agencies such as the National Park Service or the Bureau of Indian Affairs. My amendment allows tribes to designate those roads over which they have jurisdiction or management responsibility as tribal scenic byways which then allows them to directly nominate the road for national designation with the Secretary of Transportation.

Additionally, my amendment calls on tribes to ensure the safety and quality of the roads that are designated as scenic byways similar to the requirements States currently have. In no way does this amendment impact the funding available for scenic byways. It simply grants Indian tribes the same ability States and Federal land management agencies currently have to nominate roads.

In closing, this is an issue of fairness and something I hope the managers of the bill will be able to accept. It does not impact current levels of funding. It simply allows for more flexibility for the Native American tribes in this country to designate roads that are under their jurisdiction and management.

I hope the managers will be able to accept the amendment. As I said earlier today, I hope we can proceed to get this bill through the process, through the Senate, into conference with the House, and on the President's desk because it is so important to this Nation's future, to my State of South Dakota, and to all those tribes, local governments, State highway departments, business groups, and those who are awaiting final action on the highway bill.

I yield back the remainder of my time and ask for favorable consideration of this amendment.

Mr. INHOFE. Mr. President, I thank the Senator for his amendment and for working with us on this committee. I am sure he is aware the amendment concerns a large number of tribal communities in Oklahoma, as well as those in South Dakota. I believe right now we have the largest percentage of Native Americans per capita of any of the States.

This amendment has been cleared on both sides. I ask the Senator from Vermont if it is the Senator's wish to go ahead and accept this now, if this has been cleared on the minority side.

Mr. JEFFORDS. I am very pleased to concur in the amendment. The Senator has made an excellent presentation. I appreciate the work of the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 572) was agreed to.

Mr. THUNE. Mr. President, I thank the distinguished chairman, Senator INHOFE, and Senator JEFFORDS for their help.

Mr. INHOFE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. THUNE. I thank the Senator from Oklahoma and the Senator from Vermont for their assistance and for their staffs' work. This will improve the way the roads are treated on the reservations and give our tribes more flexibility and discretion when it comes to how they treat the roads.

Mr. INHOFE. I appreciate the Senator from South Dakota coming down. He has submitted the first amendment to this bill, an amendment as meaningful to Oklahoma and other States as to South Dakota. We thank the Senator for his effort.

We invite other Members to offer their amendments. I am not implying they will all be that easy, but we invite our Senators to offer amendments.

I was going over section 1104, the most complicated section in the bill, the equity bonus section. We talked about the fact it does protect States that are of a lower income, densely populated States, States that have our donor status, States that are donee status. This is an important part of the bill.

The scope or percentage of funding included in the equity bonus and in the program remains the same, at 92.5 percent as TEA–21. This is significant. That means 92.5 percent of everything in this bill, whatever it ends up being, whether $284 billion or another amount, is done through this equitable manner. It minimizes what a lot of people would criticize as being pork for special projects.

In order to craft a successful formula, we have to balance the needs of donor and donee States. I will be the first to acknowledge this balance, as with any compromise, is not perfect. A few minutes ago we talked about compromises and they aren't perfect.

However, I can say with, I am sure, the agreement of the ranking minority member, there were many compromises made during the construction of this bill over the past 2½ years the Senator from Vermont disagreed with and with which I disagreed. But in the spirit of compromise we were able to get these things done.

My colleagues in representing donee and donor States that received lower rates of return or growth rates than they feel fair have made this fact very clear. I am sympathetic to the concerns of both donor and donees in this situation. They both have significant transportation needs that cannot be ignored. Addressing their concerns is more difficult in the last year due to the fact we have less money.

When we were dealing with the bill we passed out of the Senate and sent to conference last year, just at about this time, it was at a higher level, and that did guarantee every State would reach, at the end of the 6-year period, at least a 95-percent return. I know my people in the State of Oklahoma wanted a 95-percent return, and they were very disappointed when we were unable to get it out of conference, when I had every expectation we would get it out of conference.

So now, in order to get up to a higher amount, we have to be dealing with a different funding level. We have to wait and let the process take place and see what happens on that.

Section 1105 is the revenue aligned budget authority, the RABA. The huge 2003 negative adjustment in revenue aligned budget authority, or RABA, made it clear that some changes were needed to the RABA calculation in order to provide greater stability, more accurate predictions, and less fluctuation in coming years. As I have indicated before, I believe the underlying principle of RABA is an important fiscal policy and that highway expenditures should be tied to highway trust fund revenues.

This bill modifies the RABA calculation so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent on actual receipts to the highway trust fund. If the RABA adjustment in a fiscal year is negative, the amount of contract authority apportioned to the States for that year will be reduced by an amount equal to the negative RABA.

Under TEA–21, negative adjustments were delayed until the succeeding fiscal year. Under the new method—the change we are making—no reduction to apportionments is made for RABA when the cash balance on the highway trust fund, other than the mass transit account, exceeds $6 billion.

Section 1201 is the Infrastructure Performance and Maintenance Program, the IPAM. The Infrastructure Performance and Maintenance Program is intended for ready-to-go projects that States can undertake and complete within a relatively short timeframe. This is very important because we are now—I anticipate we will pass this bill—into the construction season. Some of my friends from Northern States have much shorter construction seasons than some, such as the Presiding Officer. They have 12 months a year for construction. We are not quite that fortunate.

So this allows those projects that are ready to go, to go ahead—as soon as this bill is signed into law—and in a very short timeframe to be completed.

As a result, States are given 6 months to obligate IPAM funds. We designed this discretionary program to promote projects that result in immediate benefits for the highway system's

condition and performance, while avoiding long-term commitments of funds. The program also provides further economic stimulus to the economy and provides a way to aid in spending down balances in the highway trust fund.

States may obligate funds for projects eligible under Interstate Maintenance; the National Highway System; the Surface Transportation Program; the Highway Safety Improvement Program; Congestion Mitigation and Air Quality Improvement, the CMAQ Program; and the Highway Bridge Program.

Eligible projects under the IPAM Program include the preservation, maintenance, and improvement of existing highway elements, including hurricane evacuation routes, operational improvements at points of recurring highway congestion, and systematic changes to manage or improve areas of congestion.

Section 1202 is the future of the surface transportation system. In order to be prepared for future reauthorizations of this legislation, we require the Secretary of Transportation to perform a long-term investigation into the surface transportation infrastructure needs of the Nation. Specifically, the bill directs the Secretary to look at, first, the current condition and performance of the interstate system; next, the future of the interstate system in 15, 30, and 50 years; third, the expected demographics and business uses that impact the surface transportation system; fourth, the effect of changing vehicle types, modes of transportation, traffic volumes, and fleet size and weights; fifth, possible design changes; sixth, urban, rural, interregional and national needs; seventh, improvements in emergency preparedness; eighth, real-time performance data collection; and, ninth, future funding needs and potential approaches to collect those funds.

Now, that concludes section 1202.

Mr. President, it is my understanding that a Senator is here who wants the floor for a purpose other than the highway bill.

Mr. KENNEDY. Mr. President, I say to the Senator, I would like to make very brief comments on the Transportation bill, but I would also like to address the Senate on another subject matter. If there were Senators here who would like to talk on the highway bill, I would withhold. If there were not other Senators here on that legislation, I would hope to be able to address the Senate.

Mr. INHOFE. Mr. President, I would make the request of the Senator from Massachusetts to go ahead and proceed in terms of his comments on the highway bill. Then, since we do have others coming down, we have to get through this section by section. Can the Senator give us an idea about how much time he would like to have?

Mr. KENNEDY. Twenty minutes.

Mr. INHOFE. I would ask the Senator, if we were to go ahead and allow you 20 minutes on another subject, if someone came down, prior to that time being used, to offer an amendment, would you at that time yield the floor? It is highly unlikely that will happen, but we do want to stay on this bill.

Mr. KENNEDY. I would be glad to yield the floor for the purpose of a Senator offering an amendment, if I could retain the floor just to finish my remarks, but I would be glad to let the person offer their amendment.

Mr. INHOFE. Mr. President, I have no objection to the 20 minutes for that purpose.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator.

Mr. President, first of all, I think all of us understand this Transportation bill is the No. 1 jobs bill the Senate will debate this year. Mr. President, 47,000 jobs are created for every $1 billion in this legislation. This bill would create 140,000 jobs in my own State of Massachusetts. But this bill has $34 billion less than last year's Senate bill, and, incredibly, a $1.7 billion cut in public transit. So the Senate must find a way to restore these cuts.

In my own State, we have a crucial need for this kind of help and assistance in terms of our roads and our bridges and also in terms of mass transit. It is one of the most important pieces of legislation. It is fundamental in terms of our economy. We are very conscious that there are many growth areas across this country. Those growth areas require additional kinds of investment in terms of the highway system.

But there are also other older areas where the roads are heavily used, and used much more than just by the people who inhabit that particular State. Generally, consideration is not given as to the amount of usage of many of these roads. So in many of the older States, in New England, for example, and the eastern seaboard, many of these roads are heavily used not only by those who live in those particular States but others as well. There is a very important need to make sure those roads are going to be safe for those who travel on the roads and also be safe and secure in order to add an additional dimension to our national economy.

So I am going to support this legislation. I do hope we will be able to find additional resources. I know those resources can make a major difference and be put to work effectively, in terms of strengthening and improving not only our interstate system but also the transportation systems in our States. It is a very solid investment that is paid back many times over by the returns in our economy.

ANNIVERSARY OF THE ABU GHRAIB SCANDAL

Mr. President, the sad anniversary of the Abu Ghraib torture scandal is now upon us. It is an appropriate time to reflect on how well we have responded as a nation.

The images of cruelty and perversion are still difficult to look at a year later: an Iraqi prisoner in a dark hood and cape, standing on a cardboard box with electrodes attached to his body; naked men forced to simulate sex acts on each other; a corpse of a man who had been beaten to death lying in ice next to soldiers smiling and giving a thumbs-up sign; a pool of blood from the wounds of a naked, defenseless prisoner attacked by a military dog. These images are seared in our collective memory.

The reports of widespread abuse by U.S. personnel were initially met with disbelief and then incomprehension. They stand in sharp contrast to the values America has always stood for, our belief in the dignity and worth of all people, our unequivocal stance against torture and abuse, our commitment to the rule of law. The images horrified us and severely damaged our reputation in the Middle East and around the world.

On December 4, 2003, President Bush had proclaimed to the world the capture of Saddam Hussein brought further assurance that the torture chambers and the secret police are gone forever. The photos of Abu Ghraib made all too clear that torture continued in occupied Iraq. Where are we a year later? Has this problem been resolved? Has the moral authority of the United States been restored? Have we recovered from what is perhaps the steepest and deepest fall from grace in our history?

Sadly the answer is no. Because at every opportunity, the administration has tried to minimize the problem and avoid responsibility for it. The tone was set at the very start. Senior level military commanders knew about the problems much earlier. They knew about Abu Ghraib photos as early as January 2004. General Taguba submitted his scathing report on February 26. Yet rather than deal with the problem honestly, Pentagon officials persuaded CBS News to delay its report while they developed a damage control plan.

The plan included an effort to minimize the abuse as the work of a few bad apples, all conveniently lower rank soldiers, in a desperate effort to emphasize the role of senior military officials in exposing the scandal and insulate the civilian leadership from responsibility. It was clear from the start that further investigation of the abuse was needed. The American people deserved a thorough review of all detention and interrogation policies used by military and intelligence personnel abroad and a full accounting of all officials responsible for the policies that allowed the abuses to take place.

What we got instead were nine incomplete and self-serving internal investigations by the Pentagon. None of the assigned investigators were given the authority to challenge the conduct of the civilian command. For example, the Schlesinger panel's report found

that abuses were widespread and there was both institutional and personal responsibility at a higher level. But Secretary Rumsfeld did not authorize the panel to address matters of personal accountability.

The assigned investigators were also denied the cooperation of the CIA which had a central role in the torture scandal. General Fay found that CIA practices led to ''a loss of accountability, abuse'' and ''poisoned the atmosphere at Abu Ghraib.'' His efforts to fully uncover the agency's role, however, were stymied by their refusal to respond to his requests for information. Indeed, no investigation, congressional or otherwise, has gotten full cooperation from the CIA.

With respect to matters under the Defense Department's control, the answers we received have been inconsistent and incomplete. In May 2004, General Sanchez categorically denied to the Senate Armed Services Committee that he had approved the use of sleep deprivation, excessive noise, and intimidation by guard dogs as interrogation techniques in Iraq. A memorandum uncovered last month by the ACLU, however, showed he had, in fact, approved the use of these techniques.

Secretary Rumsfeld told the committee the military received its first indication of trouble at Abu Ghraib when a low-ranking soldier came forward in January 2004. Only later did we learn from press reports that throughout 2003, the Red Cross had provided the military with detailed reports about torture and other abuses at the prison and elsewhere in Iraq. The State Department and the Coalition Provisional Authority also appealed to top military officials to stop the abuse during 2003.

The Church report, released last month, rejected any connection between the official interrogation policies in Iraq and the abuses that occurred. The Fay report, by contrast, blamed the abuses at Abu Ghraib on a number of ''systemic problems'' that included ''inadequate interrogation doctrine and training'' and ''the lack of clear interrogation policy for the Iraq Campaign.''

Other parts of the Church report, including those on the role of general counsel William Haynes in adopting the radical legal reasoning of the Justice Department's Bybee memoranda over the vigorous objections of experienced JAG officers, have been wrongly classified. In fact, the Defense Department has repeatedly abused its classification procedures to hide critical information from Congress and the public.

Similarly, the Justice Department has gone to extremes to withhold from public scrutiny legal memos it considers too embarrassing to reveal. Even Congress has been remiss in its responsibilities to oversee the scandal. As Senator ROCKEFELLER, the vice chairman of the Senate Select Committee on Intelligence, said:

> More disturbingly, the Senate Intelligence Committee—the Committee charged with overseeing intelligence programs and the only one with the jurisdiction to investigate all aspects of this issue—is sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters.

A year after Abu Ghraib, new revelations about the abuse committed by United States personnel are still being reported frequently. The military has confirmed 28 acts of homicide committed against detainees in United States custody in Iraq and Afghanistan since 2002. Only one of these deaths took place at Abu Ghraib. The Red Cross has documented scores of abuses at United States facilities across Iraq, Afghanistan, and at the naval base at Guantanamo. FBI agents have reported ''torture techniques'' at Guantanamo, including techniques that senior Pentagon officials had specifically denied were being used.

Top officials in the administration have endorsed interrogation methods we have condemned in other countries, including binding prisoners in painful stress positions, threatening them with dogs, extended sleep deprivation, and simulated drownings. The administration has also increased the practice of rendering detainees to countries such as Syria, Egypt, and Jordan, countries the State Department condemned in its most recent human rights reports because of their use of torture. The practice of rendition—described by a former CIA official as ''finding someone else to do your dirty work''—is a clear violation of our treaty obligations under the Convention Against Torture.

We know many of these harsh techniques are no more effective at obtaining reliable information than traditional law enforcement techniques. After considerable debate with the FBI, the military acknowledged its methods were no more successful during interrogations at Guantanamo Bay than the FBI's methods. General Miller, former commander at Guantanamo, testified the Army Field Manual provided sufficient tools for intelligence gathering.

As Ambassador Negroponte, our Nation's new intelligence czar, said:

> Not only is torture illegal and reprehensible, but even if it were not so, I don't think it's an effective way of producing useful information.

Stripped to its essence, torturing prisoners is morally wrong and unproductive. Yet political leaders made a deliberate decision to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to take the gloves off without knowing what the limits were.

In a series of secret memos and correspondence, some of which have still not been provided to Congress, top level lawyers engaged in a wholesale rewriting of human rights laws. In rewriting our human rights laws, the administration consistently overruled the objection of experienced military personnel and diplomats.

As Secretary of State Colin Powell warned the White House:

> It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops.

Senior Defense officials were warned that changing the rules could lead to so-called ''force drift,'' in which, without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

When leaders didn't like what they heard, they cut off the criticism. When Secretary Powell raised concerns about the decision not to apply the Geneva Conventions to the conflict in Afghanistan, White House Counsel Gonzales cut him out of the process. When lawyers objected to the radical views in the Bybee Torture Memorandum, Defense Department General Counsel Haynes cut them out of the process and made the memo official policy for the entire military.

What happened here was not a reasoned response to 9/11—an objective reassessment of our rules and policies to account for the rise in terrorism. Instead, the leaders used 9/11 to undermine any constraints on the power of the President, and the country has been paying a high price for their arrogance ever since.

Dozens of administration memoranda involving post-9/11 detention and interrogation have come to light in the past year. Yet, in not one of these memos is there an appreciation of how well the existing rules served the Nation in past conflicts. Not one of them explains why the Army's interrogation manual, which discusses dozens of effective techniques that comply with domestic and international law, no longer serves America's interests. Not one of them comments on how compliance with the Geneva Conventions protects U.S. soldiers.

Clearly, the civilian lawyers in the Defense Department, the Justice Department, and the White House Counsel's office have been on an ideological mission. Their goal was not to reassess the current rules on detention and interrogation in light of the 9/11 attacks; their goal was to destroy them and, to a large extent, they succeeded.

The military was set adrift from its longstanding rules and traditions. The Bybee torture memorandum was eventually repudiated by the Justice Department, but the Pentagon's Working Group Report of April 2003, which incorporated the Bybee memorandum nearly verbatim, has still not been explicitly superseded, and no new guidance has gone to the field.

Our men and women in the military are still not clear whether and to what extent they should consider themselves bound by the Convention Against Torture, the Federal law prohibiting torture, or even the provisions of the Uniform Code of Military Justice that prohibit torture and cruel treatment. The

basic validity of the military's ''golden rule''—treat captured enemy forces as we would want our own prisoners of war to be treated—is in doubt.

The President has directed the military to treat detainees ''humanely,'' but this directive has not provided adequate guidance to our troops. General Counsel Haynes himself advised Secretary Rumsfeld that simulated drowning, forced nudity, the use of dogs to create stress, threats to kill a detainee's family, and other extreme tactics all qualified as ''humane.'' When the Pentagon's top civilian lawyer shows so little respect for human dignity, how can we expect more from our soldiers serving in the field?

As for the CIA, it was conspicuously excluded from the President's directive on humane treatment. More recently, we have learned that the administration does not believe that the prohibition against cruel, inhuman and degrading treatment applies to foreigners held by our government agencies abroad. The CIA concealed detainees from the Army and the Red Cross. It continues to send dozens of detainees to countries known to practice torture. It says it's conducting its own investigation into the abuses, but it refuses to provide a timetable or any preliminary findings. No agency should be above the law. The CIA must answer for its activities.

Accountability for the torture scandal continues to be lacking.

We know about the prosecutions of the low-level, ''bad apple'' soldiers involved in the abuse at Abu Ghraib. But prosecutions have been declined for other soldiers, including 17 implicated in the deaths of three prisoners in Iraq and Afghanistan. Not a single CIA official has been charged, although one private contractor is awaiting trial for the killing of a detainee in Afghanistan.

Even more disturbing, no action—criminal, administrative, or otherwise—has been taken against the high civilian officials responsible for the authorization of torture and mistreatment by U.S. officials in Iraq, Afghanistan, Guantanamo, and elsewhere. We know about the actions that have been taken against Charles Graner and Lynndie England. But what about William Haynes, Alberto Gonzales, Jay Bybee, John Yoo, David Addington, Douglas Feith?

These officials were warned of the consequences of undoing the rules before they changed them. They were informed of the objections to use of these harsh techniques. The FBI, the Naval Criminal Investigative Service, and the British all refused to participate in interrogations because they had such grave concerns about the brutal methods. Finally, one brave soldier, Joseph Darby, acknowledged that what was happening was wrong.

Far from being held accountable, some of these officials have been promoted. Bybee, who signed the notorious Justice Department memorandum redefining torture, was confirmed to a lifetime judgeship on a Federal appellate court. Haynes, the general counsel who made the Bybee memorandum official policy for the military, has been re-nominated for another appellate judgeship. Gonzales now serves as the Nation's Attorney General.

Last weekend, the Army's Inspector General revealed he had exonerated almost all of its top officers of any responsibility for abuse of detainees at Abu Ghraib, even though one of them, Lieutenant General Sanchez, explicitly approved the use of severe interrogation practices, and even though a review by former Secretary of Defense James Schlesinger found that General Sanchez and his deputy ''failed to ensure proper staff oversight of'' the operations at Abu Ghraib.

What signal does this pattern of prosecutions for low-ranking soldiers, exonerations for generals, and promotion for civilians send to our men and women in the Armed Services, and to our veterans?

The torture scandal is not going away on its own. Our Nation will continue to be harmed by the reports of abuse of detainees in U.S. custody, the failure by top officials to take action, and the abandonment of our basic rules and traditions on human rights.

The scandal directly endangers U.S. soldiers and U.S. civilians abroad. We no longer demand that those we capture in the war on terrorism be treated as we treat prisoners of other wars. What will we say to a country that justifies its torture of a U.S. soldier by citing our support for such treatment? How can we hold other nations accountable for their own human rights violations, when we continue to hold prisoners for years, without charging them or convicting them of anything?

The Nation's standing as a leader on human rights and respect for the rule of law has been severely undermined.

We cannot simply answer, as some have done, that the behavior is acceptable because terrorists do worse. By lowering our standards, we have reduced our moral authority in the world. The torture scandal has clearly set back our effort in the war on terrorism. It is fueling the current insurgency in Iraq. Even our closest allies, such as Great Britain, have raised objections to our treatment and rendition of detainees.

Al-Qaida is still the gravest threat we face. The widespread perception that the U.S. condones torture only strengthens the ability of al-Qaida and others to create a backlash of hatred against America around the world. If we do not act to locate official responsibility for Abu Ghraib, we will condone a new status quo in which our policy toward torture is technically one of zero tolerance, while de facto our officials tolerate and commit torture daily.

Many of us were struck by the rhetoric in President Bush's Inaugural Address. ''From the day of our founding,'' he said, ''we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the Maker of Heaven and earth.'' Many of us would like to work with the President to develop a foreign policy that advances these important values. But rarely has the gulf between a President's rhetoric and his administration's actions been so wide. It is simply not possible to reconcile his claim that ''America's belief in human dignity will guide our policies'' with the barbaric acts that have been committed in America's name.

We must not allow inaction to undermine two bedrock principles of human rights law that we worked hard to establish at Nuremberg: that higher officials cannot escape command responsibility and lower officials cannot excuse their actions by claiming that they were ''just following orders.''

It is time to come to terms with the continuing costs of the torture scandal, and respond effectively. We need to fully restore the Nation's credibility and moral standing, so that we can more effectively pursue the Nation's interests in the future.

First, we must acknowledge that the rule of law is not a luxury to be abandoned in time of war, or bent or circumvented at the whim and convenience of the White House. It is a fundamental safeguard in our democracy and a continuing source of our country's strength throughout the world.

Sadly, a recent National Defense Strategy policy contained this remarkable statement: ''Our strength as a nation state will continue to be challenged by those who employ a strategy of the weak using international fora, judicial processes, and terrorism.'' Who could have imagined that our Government would ever describe ''judicial processes'' as a challenge to our national security—much less mention it in the same breath as terrorism? Such statements do not reflect traditional conservative values, and they are clearly inconsistent with the ideals that America has always stood for here and around the world.

Second, we must acknowledge and apply the broad consensus that exists against torture and inhumane treatment.

Never before has torture been a Republican versus Democrat issue. Instead, it's always been an issue of broad consensus and ideals, reflecting the fundamental values of the Nation, and the ideals of the world.

President Reagan signed the Convention Against Torture in 1988. The first President Bush and President Clinton supported its ratification. The Senate Foreign Relations Committee, led by Senator Jesse Helms, voted 10–0 in 1994 to recommend that the full Senate approve it. The Clinton administration adopted a ''zero tolerance'' policy on torture. Torture became something that Americans of all political affiliations agreed never to do.

And 9/11 didn't nullify this consensus. We did not resolve as a Nation to set aside our values and the Constitution after those vicious attacks. We did not decide as a Nation to stoop to the level of the terrorists, and those who did deserve to be held fully accountable.

Americans continue to be united in the belief that an essential part of winning the war on terrorism and protecting the country for the future is safeguarding the ideals and values that America stands for at home and around the world.

That includes the belief that torture is still beyond the pale. The vast majority of Americans strongly reject the cruel interrogation tactics used in Iraq, Afghanistan, and Guantanamo—including the use of painful stress positions, sexual humiliation, threatening prisoners with dogs, and shipping detainees to countries that practice torture. The American people hold fast to our most fundamental values. It is time for all branches of the Government to uphold those values as well. It is clear beyond a doubt that we cannot trust this Republican Congress or this Republican administration to conduct the full investigation that should have been conducted long before now. We have had enough whitewashes by the administration and Congressional committees.

Finally, to implement these values, we need a full and independent investigation of our current detention, rendition, and interrogation policies, including an honest assessment of what went wrong in Iraq, Afghanistan, and Guantanamo.

The investigation will require genuine candor and cooperation by all officials and agencies in the Bush administration, full accountability, a clear statement of respect for human rights, and a plan for protecting those rights throughout the Government. Only a truly independent and thorough investigation can restore America's reputation and put us back on the right path to the future.

The challenges we face in the post–9/11 world are obvious, and the stakes are very high. Working together, we have met such challenges before, and I am confident we can do so again. I urge all of my colleagues, on both sides of the aisle, to join to protect the rule of law, protect our soldiers serving abroad, and restore America's standing in the world.

Mr. President, this has never been a partisan issue. We have a number of conventions on torture and other commitments that this Nation has made under Republican Presidents and Republican leaders in the important committees of the Congress. We have had very clear leadership by Republicans and Democrats at other times in our history in terms of adhering to what they call the ''golden rule.'' The golden rule is based on a very fundamental and important concept, which is we do not want others to treat our soldiers harshly and, therefore, we will not treat other soldiers harshly. The principal point underneath that is, even if we treated people harshly and went through the process of torture, the information that you gain as a result of torture is rarely as good as what interrogators who are using and conforming to the Geneva Conventions get.

It is time for the United States to return to its better hours on this issue, and it is time that we not hold the privates and corporals accountable. But after 9 investigations by the Defense Department without a single prosecution, after we have more than 20 individuals who have actually been beaten or tortured to death and a determination by the administration that not a single person is going to face discipline, it is time that we take action.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, the regular order of business is the Transportation bill. We will proceed now. It is our desire to discourage people from coming down to the Senate floor until we have started receiving these amendments. There is no more important piece of legislation that we will consider this year than the Transportation bill. I am prepared to go through it section by section. I will certainly yield to the ranking minority member, Senator JEFFORDS.

Mr. JEFFORDS. I thank the Chairman. I have a brief statement I would like to put in.

Mr. JEFFORDS. Mr. President, when you live in Vermont, you must endure a long, hard winter.

To keep spirits up, a Vermonter will look for signs of spring, sometimes in the most unlikely places.

One leading indicator of brighter days ahead is a phenomenon known as the frost heave.

As temperatures rise, highways begin to buckle, producing humps in the road that rattle your teeth and mangle your shocks. Highway workers post bright orange signs to warn drivers of upcoming frost heaves. To a Vermonter, these signs are like the first flowers in bloom.

As the seasonal changes unfold, the frost heaves recede and the paved roads return to their more normal state. Unfortunately, that is often a state of disrepair. Bridges share this sorry condition, due to effects of weather, wear and tear.

The cure is major maintenance, reconstruction or replacement. But that costs money, a lot of money.

For more than the 3 years now, we have been working to reauthorize the highway program—because our transportation challenges are many.

The bill before us is a good one, it may not include all the funding it deserves, but it does move us forward. This bill addresses many very important issues facing our roads and highways. Safety is my highest priority.

Last year, Vermont experienced the highest number of fatalities on its highways since 1998. Ninety-seven people died in automobile crashes, up from 69 in 2003.

Nationally, we have made real progress on highway safety over the last 10 years.

According to the U.S. Department of Transportation, the rate of fatalities has declined from 1.9 to 1.5 deaths per million vehicle miles traveled. But the number of fatalities has held steady at roughly 42,000 per year. That number is unacceptable.

This bill is not only an investment in our highways, it is an investment in public safety.

And we know congestion in this country is bad and getting worse. Congestion costs Americans more than $69.5 billion annually in lost time and productivity; 5.7 billion gallons of fuel are wasted each year while motorists sit in traffic.

One way to reduce congestion. is to move goods by freight and we are moving more freight in this country than ever before.

The forecast for future demand is daunting, with U.S. DOT projecting that the volume of freight will increase 70 percent by 2020.

This bill will expand freight capacity through new partnerships, investments and market financing techniques.

The highway program expired nearly 2 years ago, and the States have been operating under series of short-term extensions.

This has disrupted construction programs, delayed safety improvements and interrupted funding to transit operators.

It is time to act on this bill. The next sign of spring in Vermont after the frost heave is something known as mud season. You can tell from the name that it's not a lot of fun.

Moving a highway bill over the coming weeks will feel at times like mud season but at the other end a brighter day.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, I thank the Senator and certainly agree with his remarks.

Once again, the ranking member and I request anyone who has amendments to come down to the floor. We are open for amendments at this time on this very significant piece of legislation.

Let me go through section by section and explain what we have in the bill.

Section 1203 is freight transportation gateways, freight intermodal connections. I think it is important we realize—and we said this earlier this morning—back when the first legislation came to our attention—that was back during the Eisenhower administration—they were talking about roads and highways. Now this has become intermodal, to take care of all the needs in transporting people and goods around the country.

Freight movement in America is expected to grow dramatically in both volume and value over the coming decades. Throughout reauthorization, the

Environment and Public Works Committee heard concerns about inadequate freight facilities, insufficient capacity, and inefficient connections.

In December 2003, the GAO released a report on freight transportation that recommended strategies needed to address planning and financing limitations. The report noted that the major challenges to freight mobility all shared a common theme—congestion—including overcrowded highways and freight specific chokepoints. Additionally, the GAO reported two main limitations that stakeholders encounter in addressing these challenges. They first related to the limited visibility that freight projects receive in the planning and prioritization process. SAFETEA directly addresses this problem by creating a freight transportation coordinator at the State level to facilitate public and private collaboration in developing solutions to freight transportation and freight gateway problems. The bill also ensures that intermodal freight transportation needs are integrated into project development and planning processes.

The second limitation reported by the GAO was that Federal funding programs tend to dedicate funds to a single mode of transportation or nonfreight purpose, thus limiting freight project eligibility among some programs. SAFETEA, or the bill we have before us today, addresses this problem by making intermodal freight projects eligible for STP and NHS funding.

The Freight Gateways Program under this bill promotes intermodal improvements for freight movement through significant trade gateways, ports, hubs, and intermodal connectors to the National Highway System. States and localities are encouraged to adopt new financing strategies to leverage State, local, and private investments in freight transportation gateways, thus maximizing the impact of each Federal dollar. The Freight Gateway Program is funded from a set-aside of 2 percent of each State's NHS proportions. However, in the spirit of State flexibility and ensuring that funds go to the areas of the greatest need, a State is not required to spend 2 percent of the NHS apportionment if they can certify to the Secretary that their intermodal connectors are adequate.

I think my colleagues see all throughout this bill that we are granting more latitude for the States to determine their fate. It is a recognition that the States know their needs better than we know them in most cases. Consequently, if they can do something better, why dictate something from the Federal Government when they are able to do a better job themselves.

Section 1204 is construction of ferry boats and ferry terminal facilities. TEA–21 established a discretionary program for the construction of ferry boats and ferry terminal facilities. This bill creates a new permanent section in title 23 for this TEA–21 program. The program is designed to provide for the important construction of ferry boats, ferry terminals, and approaches to facilities that are part of the Nation's highway system and constitute ''last mile'' connections for ferries.

Section 1205 is designation of interstate highways. As part of this bill, Interstate Highway 86 in the State of New York is specifically designated as the Daniel Patrick Moynihan Interstate Highway in memory of our late colleague and friend who was not only a transportation safety expert but served his country in the House and Senate for many years.

It is important at this time to recognize that Daniel Patrick Moynihan was also the chairman of this committee that accomplished so much in the earlier years. And unbeknownst to most people on the committee, Daniel Patrick Moynihan was from my city of Tulsa, OK. So I am very supportive of this portion of the bill to make this designation for him.

This section also designates a segment of Interstate Highway 86 near towns of Painted Post and Corning in New York State as the Amo Houghton Bypass in recognition of the former Congressman's work in making I–86 possible. It is interesting, we have a Democrat and Republican getting these designations. It happens that I was elected in 1986 with Amo Houghton. He has made great contributions, and I am sure this is a very appropriate tribute to make to former Congressman Amo Houghton.

Section 1301, the Federal share. SAFETEA continues the statutory provisions that lay out what the Federal share for a highway project will be for different States based on the amount of Federal land within the States. The Federal share provisions of the current law use a sliding scale which permits States with large portions of Federal land to match Federal funds with fewer State dollars. This is understandable because the Federal lands would consume a good portion of some States, States such as New Mexico. Due to the decreasing taxing ability of States with high percentages of Federal lands, these States are given access to a higher Federal contribution for highway projects within their States.

The bill before us today modifies this provision slightly to simplify the calculation used to determine the Federal share rates that apply to each individual State. I might add, in this respect, this is something we found agreement with from both the States with large amounts of Federal land and States, such as my State of Oklahoma, that has a very small amount.

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.

Mr. INHOFE. Mr. President, as we go through section by section, we talked about congestion, but we neglected to elaborate because this is one of the more serious problems we have now. According to the Department of Transportation, time spent in congestion increased from 31.7 percent in 1992 to 33.1 percent in 2000. Based on this rate, a typical rush hour in an urbanized area is 5.3 hours a day. The problem is not simply in urban areas. Cities with populations less than 500,000 have experienced the greatest growth in travel delays, according to the DOT.

Very often we do not talk enough about the cost. Right now we are sensitive to the cost of fuel. Yet we can see traffic stopped, with engines idling. This is another factor that has to be entered into the equation.

Increase in capital investment is one way to address congestion. We must also consider ways to better manage existing systems. This bill proposes a national goal of real-time traffic information available for the entire Nation. This goal, while ambitious, is important because we need to reorient our thinking to recognize the importance of allowing users of the system to utilize the system more efficiently, specifically by providing travelers with usable information that will enable them to select the right travel alternative plans.

The biggest and fasting growing cause of congestion in our urban centers is bottlenecks around port and intermodal facilities. Frankly, traffic is expected to grow dramatically in volume in the coming decades with increased international trade. Movement toward the just-in-time economy, freight shipping, will take on heightened importance.

Recently I visited with representatives of the Alameda Corridor Transportation Authority and they shared with me that more than 40 percent of all waterborne freight container traffic in the U.S. ports is handled by the Ports of Los Angeles and Long Beach. My first thought was, how does this trade through the Ports of Los Angeles and Long Beach affect my constituents in Oklahoma? The answer surprised me. It is estimated that over 100,000 jobs in Oklahoma are attributable to the trade from these ports. That is one example of two ports. I suspect if I had statistics from other ports, I would find that economic development in Oklahoma is tied as closely to them, as well.

We are part of a global economy. This illustrates more than anything, goods and services produced in Oklahoma are being shipped all over the world. Likewise, Oklahomans are purchasing goods and services from countries all over the world. The simple fact is that trade is the engine driving our economy. We cannot ignore the infrastructure needs.

It is worthwhile stating that one of the best kept secrets is we have actually a port that goes all the way to Oklahoma, the port of Catoosa in my hometown. I remember many years ago when I was serving in the State Senate when we were trying to get the message out that we actually are navigable, we have a port that comes all the way up. No one knows it. They do not think about that in Oklahoma. It goes up the Mississippi River from the gulf and comes across the Arkansas River and into Oklahoma. At that time we decided we wanted to let people know of our great port and the navigation that cost billions of dollars to reach all the way to Oklahoma, the most inland port, only to find the way to do this is to demonstrate it. I actually arranged to take over from the Navy a very large World War II surplus submarine called the USS Batfish.

All my political adversaries were saying, we will sink INHOFE with this Batfish. It will never make it all the way to Oklahoma. We were able to bring it all the way. Now proudly displayed in Muskogee, OK, is a World War II submarine that came all the way up the navigation route. So I think it is important. I thought I would throw that out in case somebody did not know it.

Section 1302 is the transfer of highway funds and transit funds. In an effort to provide flexible transportation funding, SAFETEA clarifies—by the way, SAFETEA is what we will refer to during the consideration of this bill. This name could be subject to change when we get to conference. But this bill clarifies that title 23 funds may be transferred by the Secretary to the Federal Transit Authority for all projects except transit capital projects. It also allows States to transfer their funds to another State or a Federal agency at their request, if the funds are used in the same manner and for the same purpose as they were originally authorized.

Section 1303 is the Transportation Infrastructure Finance and Innovation Act, or TIFIA. This is very significant. We talked about it a little bit earlier, that people come up with new ways of approaching the funding for transportation, and ways that are innovative, ways that are partnering with the private sector, that can be much better than the way we have been doing business for the last 40 years.

The Transportation Infrastructure Finance and Innovation Act, TIFIA, was established for the first time in TEA–21 to provide Federal credit assistance for major transportation investments. The TIFIA program has proven to be an innovative and successful addition to the conventional grant-reimbursable highway program. Following the success of the TIFIA program under TEA–21, and considering input from stakeholders and recommendations from the administration, the committee bill has made a few changes to the TIFIA program to expand its scope and increase its usability.

The amount of the Federal credit assistance cannot exceed 33 percent of the total project costs. TIFIA offers three types of financial assistance for these large projects: first, direct loans; second, loan guarantees; and, third, standby lines of credit. The bill also lowers the threshold cost for eligible projects from the TEA–21 level of $100 million to $50 million to make the TIFIA assistance accessible to a greater number of large highway projects.

Projects are also eligible for TIFIA assistance when costs are anticipated to equal or exceed 20 percent of the Federal highway funds apportioned to that particular State. With the increased emphasis this bill places on freight mobility, the definition of ''eligible freight-related projects'' is expanded to allow a group of freight-related projects to be eligible, each of which individually might not meet the threshold requirements for TIFIA credit assistance.

Section 1304 is facilitation of international registration plans and international fuel tax agreements. In response to issues surrounding commerce from Mexico, SAFETEA gives the Secretary of Transportation discretion to provide financial assistance to States participating in the International Registration Plan, the IRP, and the International Fuel Tax Agreement. These States incur certain administrative costs resulting from their service as a home jurisdiction for motor carriers from Mexico.

The International Fuel Tax Agreement and the International Regional Plan are agreements among various U.S. States and Canadian provinces that facilitate the efficient collection and distribution of fuel use taxes and apportioned registration fees among each member jurisdiction. Under both programs, each motor carrier designates its home State or province as the jurisdiction responsible for collecting fuel use taxes and fees.

Since the implementation of NAFTA, the Mexican Government imposes and collects fuel taxes and registration fees differently from the United States and Canada. The National Governors Association is currently evaluating Mexico and its participation in these two programs. In the interim, Mexican motor carriers may use individual U.S. States or Canadian provinces as their home jurisdiction.

Mr. President, I pause here to say to the majority leader and the minority leader, we appreciate very much our ability to go ahead and bring this bill to the floor. Again, we are asking Members, if they have amendments, bring them down. We are eventually going to run out of time, and we want to consider these amendments in a timely fashion. I think we are pressing it right now. We are going to try very hard to have this new bill passed before the expiration of the extension.

I might add, this is the sixth extension we have had, and it does expire on May 31. We want an opportunity to be able to handle this legislation so we will not have to ask for another extension.

It seems to me—and I have been asked a lot of questions as to what our timing looks like right now—we ought to be able to handle amendments through the remainder of the week. Then we will go into a 1-week recess. At the conclusion of that recess, on Monday, the 9th of May, we will continue to look at amendments. It would be my intention to file a cloture motion so we can get to a final vote. Certainly, we have had adequate time, and there does not seem to be that much interest right now in coming down to the floor and offering amendments. That would enable us to send this bill to conference sometime toward the end of that week of May 9. Then we would get to the conference.

It has been our experience in the past that if it is done properly, we ought to be able to get the conferees to agree to some compromises, if necessary, between the House bill and the Senate bill. They are quite different. We have explained the basic differences, and the philosophy of the House, the philosophy of the Senate. Ours, I believe, is a more responsible way of looking at it. Having served 8 years in the Transportation Committee over in the House, at that time that seemed to be something that was workable.

But we ultimately have to come to an agreement. We ultimately have to go to conference and iron out the differences. We have a lot to consider in conference. It is my expectation we will go to conference with an amount that will exceed the current limitation of the bill that is before us today, that amount being $284 billion over the remainder of the 6-year period. However, I do not know that to be the case. If it is the case, then we will have to handle that in conference and make that determination.

In conference, we are also going to have to be looking at the approach to a number of projects. You hear people talking quite often, saying this is a big highway bill, there is a lot of pork in it. I tell you, there is no pork in this bill. There are no projects in this bill. There are only two projects in the entire bill, which consists of hundreds and hundreds of pages. Consequently, it is done on formula. We have talked about the formula, all the considerations that are made by the formula: the donee status, the donor status, the growth factors that go into the various States, the densely populated States, the sparsely populated States. All make for a very equitable approach.

I believe we have a bill that will be able to be passed and sent to conference, and we will be able to come back from the conference and then have it signed into law by the of May 31. If we do not do that, and if we ask for another extension, we will be at the time of year for the peak construction season, which would merely mean we

would lose very valuable time. I am sure in the States of Oklahoma, South Carolina, and other States, that is a very important consideration.

With that, I anticipate there may be more Senators who wish to come down and offer amendments. I am hoping they will at this time.

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

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO MR. PEYTON HEADY

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Kentuckian who has done the important work of keeping a piece of the Commonwealth's history alive by chronicling the events of the county he is proud to call home, Union County.

Mr. Peyton Heady has written and published 25 books that cover some aspect of the county's history. He has a particular interest in how people from Union County were involved in the Civil War. One such story involves Tom Henry, a Union County native who managed to stop the notorious outlaws, Frank and Jesse James from robbing a bank in Morganfield. Mr. Henry convinced the James brothers that he had friends who had money in the bank and they wouldn't want to lose it. This story could have been lost in the annals of history, but it won't be because of Peyton Heady's thorough research and documentation.

Another piece of Union County history that Mr. Heady has taken an interest in is that of Camp Breckinridge. As a former clerk in the civil engineering division at the camp during World War II, Mr. Heady has first-hand experiences to share and draw from. Later this week he will be honored by the Earle C. Clements Job Corps Center, located on Camp Breckinridge property, for keeping a record of the history of Camp Breckinridge. The Center will name one of the camp administration buildings the Peyton Heady Building.

I urge my colleagues to join me in giving Mr. Heady the thanks of a grateful Commonwealth and a grateful Nation. Thanks to his dedication, the history of Kentucky shall be preserved. I ask unanimous consent to have printed in the RECORD an article from The Henderson Gleaner ''Making History: Chronicler of Union County Events Honored for Keeping Memories Alive,'' about Mr. Heady's contributions to his community.

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

[From the Henderson Gleaner, Mar. 13, 2005]

MAKING HISTORY: CHRONICLER OF UNION COUNTY EVENTS HONORED FOR KEEPING MEMORIES ALIVE

(By Judy Jenkins)

Tom Henry was one of those bigger than life characters who would, if he were alive today, be gracing the cover of ''People'' magazine and artfully answering questions lobbed at him by Larry King.

Tom was a handsome Union County native who served as a captain in the Confederate army and, legend has it, managed to earn the respect of those infamous outlaws Frank and Jesse James. The James brothers spent a considerable amount of time in Morganfield during the Civil War, and at one point Frank—the story goes—was planning to rob a bank there.

Our hero Tom learned of those plans and convinced Frank to forego the robbery by telling him that he had some good friends who had money in that bank and he'd sure hate for them to lose it.

On another, darker occasion, a Yankee colonel was captured and tied to a tree. Apparently a couple of the captors were planning a short future for the Northerner, but Tom informed them they'd have to walk over his own dead body to harm the colonel.

In a twist that Hollywood would love, Tom was captured and after the war was taken to Louisville to stand trial for his life. The Yankee colonel, by amazing coincidence, walked into the courtroom, recognized Tom as the captain who saved his life, and got the Union Countian released.

That's just one of the many accounts in Peyton Heady's 1985 ''Union County History in the Civil War.'' The 252-page book makes what could be dry, dusty descriptions of past events come alive for the reader.

Peyton, who wrote the history because he was concerned that little had been written about Union County's involvement in the Civil War, noted that about 60 percent of the county's population supported the Confederate cause and families were often divided.

There were, for instance, the Lambert brothers who fought in opposing armies, survived the war and never again spoke to each other—but are buried side by side in a Union County cemetery.

The book is one of 25 written and published by Peyton over the decades, and they all cover some aspect of Union County history. Some are genealogical volumes and some record the county's cemeteries, including obscure resting places. While surveying those cemeteries, the retired U.S. Postal Service employee found the graves of seven Revolutionary War soldiers with monuments intact.

Peyton, who was a clerk in the civil engineering division at Camp Breckinridge during World War II, also wrote the history of the sprawling camp that contained 36,000 acres, had housing for 30,000 troops and 10,000 additional personnel, boasted its own utility systems and airstrip, had 12 dispensaries and hospitals, nearly seven miles of railroad, a simulated ''Japanese training village,'' four movie theaters and much, much more.

Four divisions from that Army post fought in the Battle of the Bulge, and the camp contributed a number of major units that played a significant role in breaking down the Nazi fortress.

It was at the camp that Peyton watched a young African American soldier named Jackie Robinson play baseball, and it was there he supervised 150 German prisoners of war.

For the price of a box of Cuban cigars, one of those prisoners painted Peyton's portrait. The painting hangs in the Morganfield home of Peyton and Cecilia, his wife of 53 years and mother of their two children, James Heady and Rebecca Heady Gough.

On April 28, Peyton no doubt will feel he's come full circle in his life. On that day, one of the camp administration facilities will be named the Peyton Heady Building. The 11 a.m. dedication ceremony is part of the 40th anniversary celebration of the Earle C. Clements Job Corps Center, which is on the Camp Breckinridge property.

Peyton, 79, is being saluted largely for his determination to keep the history of Camp Breckinridge from passing into obscurity. He opted to undertake that history when he learned that government archives contained a one- page description of the giant complex that was last used as a military installation in 1963.

He is touched by the upcoming honor, but he'll have you know that the thousands of hours of patient research and writing his books weren't for praise or glory. ''I just think if you're going to live in a town and raise your children in a town you should do something to make it better,'' he says.

Things he's done include working with Morganfield's Little League program for more than two decades.

Peyton is on a walker now and doesn't often leave his home, but he isn't complaining. ''I'm a happy man,'' he says. ''I'm happy with my marriage (which naysayers said would never work because Cecilia's Catholic and he's Methodist), happy with my family and happy with my life.''

His histories have sold well and seven or eight have been reprinted, but Peyton hasn't gotten rich from the sales.

''I didn't write them for profit,'' he says. ''I wrote them for history.''

TRIBUTE TO LUTHER DEATON, JR.

Mr. MCCONNELL. Mr. President, I rise today to commend an accomplished Kentuckian and good friend,