I commend Majority Leader FRIST for his patience in trying to bring both sides together to develop a reasonable compromise on this difficult issue. Certainly no other majority leader has been faced with such unprecedented tactics in blocking the Senate's ability to fulfill its constitutional duty to provide advice and consent. I know Senator FRIST will continue to do what he feels is right for this body and for our country.

If he decides he is confronted with no other choice but to proceed with the constitutional option, I will fully support him. This approach is consistent with Senate precedent and has been employed in the past by some of the best parliamentary minds in this Chamber.

Our goal is to restore the practice, the tradition of 214 years, a simple majority vote for a President's nominees to the Federal bench.

I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Inhofe amendment No. 567, to provide a complete substitute.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, this is the third day we have been on a bill we have been working on for 2½ years. It is the same bill essentially that was passed last year by a margin of 76 to 21. We are anxious to get people to come down to the floor for amendments. I don't know of anyone coming down at this time. But I encourage all Members on both sides of the aisle to come down and utilize this time so we can get the amendments behind us.

I understand the Senator from Illinois has some comments he wishes to make. I yield to him some of our time at this time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the chairman of the committee. Let me say I share his sense of urgency about the underlying bill. This is a bipartisan bill, a bill Democrats and Republicans want to see passed, a bill to finance the building of roads and bridges and airports, to finance mass transit in what is critical infrastructure for America's economy. I do not have an amendment to the bill, but if I did, I would offer it because I think those who have them should bring them to the floor so we can move and get it done before we take a recess next week. I urge my colleagues on the Democratic side to follow the admonition of the chairman.

What brings me to the floor was a statement made earlier by the Senator from Utah which made reference to me. Senator ORRIN HATCH and I are friends. We disagree on a lot of things.

We vote differently on a lot of issues and we debate furiously, but we get along fine. I think that is what life should be like and what the legislative process should be like. He made a reference earlier to this whole question of the nuclear option, to which I would like to return for a few moments.

First, what is the nuclear option? People who don't follow the Senate on a regular basis have to wonder are they using nuclear weapons on the floor of the Senate? What could it be? ''Nuclear Option'' was a phrase created by Republican Senator TRENT LOTT to describe a procedure that might be used to change the rules of the Senate. The reason Senator LOTT called it the nuclear option was because it is devastating in its impact to the tradition and rules of the Senate.

I will put it into context. The Senate was created to give the minority in the Senate, as well as in the United States, a voice. There are two Senators from every State, large and small. Two Senators from the smallest State have the same vote on the floor of the Senate as Senators from larger States, such as California, New York, Illinois, and Texas. That is the nature of the Senate. The rules of the Senate back that up. The rules of the Senate from the beginning said if any Senator stood up and objected, started a filibuster, the Senate would come to a stop. You think to yourself, how can you run a Senate if any Senator can stop the train? Well, it forces you, if you are going to move something forward in the Senate, to reach across the aisle to your colleagues, to compromise, to find bipartisanship, so that things move through in a regular way and in a bipartisan way. That is the nature of the filibuster.

Over the years, it has changed. You saw the movie ''Mr. Smith Goes to Washington,'' when Jimmy Stewart stood at his desk, with his idealism and his youth, arguing for his cause until he collapsed on the floor. He was exercising a filibuster because he believed in it so intensely. We have said over the years that you can do that to any nominee, bill, or law on the floor of the Senate; but if a large number of Senators, an extraordinary number of Senators, say it is time for the filibuster to end, it would end. The vote today is 60 votes. So if I am perplexed by an amendment offered by one of my colleagues, and I stand up to debate it and decide I am going to hold the floor of the Senate as long as my voice and body can hold out, I can do that, until such point as 60 colleagues, Democrats and Republicans, come together and say: Enough, we want to move to a vote. That is what it is all about.

So what has happened is the Republicans now control the House, Senate, and the White House. What they have said is they want to change the rules. They want to change the rules in the middle of the game because they don't like the fact that Democratic Senators have used the filibuster to stop 10 judicial nominees President Bush has sent to Congress, sent to the Senate.

Now, for the record, the President sent 215 nominees; 205 were approved and only 10 were not. Over 95 percent of the President's judicial nominees have gone through. We have the lowest vacancy rate on the Federal bench in modern memory. So we don't have outrageous vacancies that need to be filled quickly. We decided—those of us who voted for the filibusters—that these 10 nominees went way too far; their political views were inconsistent with the mainstream of America. They were not consistent with the feelings and values of families across the country on issues as diverse as the role of the Federal Government in protecting health and safety, which is an issue nominee Janice Rogers Brown takes a position on that is hard to believe. She has taken a position on a case—a famous case called the Lockner case—which would basically take away the power of the Federal Government to regulate areas of health and safety when it comes to consumers and the environment. It is a radical position.

And then another nominee, William Myers—my concern about him and the concern of many Senators is the fact that he has taken a radical position when it comes to our Nation's treasury and heritage, our natural and public lands. He has taken a position where he backs certain lobby groups, but there is one that we think is inconsistent with mainstream thinking in America. So there is an objection.

Other nominees have taken what we consider to be far-out positions that don't reflect the mainstream of America and we have objected, which is our right. Now the President says: Enough, I am tired of losing any nominee to the Senate. Don't we have 55 Republicans? Should we not get what we want?

He is not the first President who has felt that way. Thomas Jefferson felt that way. Thomas Jefferson, in the beginning of his second term, came to the Senate and said: I am sick and tired of the judges who have been appointed to the Supreme Court. I want to start impeaching them.

You know what Jefferson's party said? No, Mr. President, you are wrong. The Constitution is more important than your Presidential power. They said no to Thomas Jefferson.

Franklin Roosevelt did the same thing at the beginning of his second term. He was unhappy that his New Deal legislation was being rejected. He

came to the Senate and said: Let's change this and make sure we can put more Justices on the Supreme Court and get the votes we want.

His Democratic Party in the Senate said: No, Mr. President, we love you and we are glad you were elected, and we support your New Deal, but you have gone too far. Presidential power is not more important than the Constitution. They said no to him.

So now comes President Bush and Vice President CHENEY, and they have said: We don't like the fact that we only have 95 percent of our nominees approved; we want them all. We want to change the rules of the Senate—in fact, we will break those rules to change them so that President Bush can get every single nominee. Unfortunately, very few on that side of the aisle from the President's party are willing to stand up and say to this President, as Senators have said to President Jefferson and President Roosevelt: You are going too far. What you are doing here, sadly, is going to abuse the Constitution to build the power of the White House.

The Senator from Utah, Mr. HATCH, came in earlier and made a statement. He said every nominee should have an up-or-down vote. On its face, that sounds reasonable. We understand the rules of the Senate allow the filibuster and an extraordinary majority for nominees. What Senator HATCH failed to mention was that when he was chairman of the Judiciary Committee during the Clinton administration—those 8 years—over 60 Presidential nominees for the bench who were sent up by President Clinton to his committee were buried in committee without so much as a hearing. They didn't even have a chance to stand up and defend themselves, explain their point of view. Senator HATCH said, no. Over 60 Presidential nominees for President Clinton were stopped by Senator HATCH on the Judiciary Committee. I know; I served on the committee. I watched it happen. I heard Senator HATCH say every nominee should have an up-or-down vote. He is suffering from political amnesia. He has forgotten when he was in charge, 60 nominees never even had a hearing, let alone an up-or-down vote.

So we come to this point, a point where I think the issues are very clear. The Republicans are prepared, with the help of Vice President CHENEY—who announced over the weekend he supports them—to break the rules of the Senate, which are in a book that is seldom drawn out of our desks. The rules of the Senate say it takes 67 votes to change the rules of the Senate. That is a big number, 67 out of 100. The Republicans know they don't have 67 votes to change the filibuster rule, so they have decided to do it differently. They are going to wait until Vice President CHENEY is in the chair, and they are going to make a point of order that we should just have a simple majority vote on judicial nominees. And Vice President CHENEY is going to rule—he already said he would—and that is that. That is the end of the story.

So they are breaking the rules of the Senate to change the rules of the Senate, to eliminate a tradition and rule that has been around for 200 years. They are changing the rules in the middle of the game. The net result of that is this: The Senate will lose power when it comes to checks and balances. The President will have more power. It will mean that the President—this President, unlike President Jefferson and President Roosevelt—will trump the Constitution and will basically say: I am going to take more power away from the Senate. And his party will go along with that, even though President Jefferson and President Roosevelt had members of their own party stand up and say: Mr. President, you have gone too far.

The net result—the one that troubles me the most—is that we are talking about lifetime appointments to the Federal bench. If you take people who are so far out of the mainstream and stick them on a Federal bench for life, let me tell you, we don't have a clue what that is going to mean. But it is certainly worrisome that they could rule and change laws that we value as Americans—laws that, frankly, cross both political borders and Democrats and Republicans have supported. When you put somebody on the bench with that much power for a lifetime, then you have to worry about them.

So we have tried to come to some conclusion. Senator REID of Nevada, our Democratic leader, came to the floor to describe in general terms what he has been doing. For weeks, he has been negotiating with Senator FRIST and speaking to other Republican Senators about avoiding this constitutional confrontation, avoiding a constitutional crisis, avoiding this effort to change the rules in the middle of the game. He has made an offer—a good-faith offer—to bring some of these judges forward, to talk about rule changes that are in the best interests of this institution; and, frankly, Senator FRIST said yesterday: No, we are not talking about it anymore. It is over.

That is unfortunate.

It is important that we continue a dialog. The good thing about the filibuster is that it brings us together in order to move a nominee or a bill. Republicans have to reach across the aisle to Democrats and Democrats have to reach across to Republicans. That is the way it should be in this Chamber. It should not be a line down the middle and a wall that cannot be breached. That is exactly what we face if the Republicans go forward with the nuclear option.

When I return to Illinois, they say: Senator, can we come together to pass this highway bill Senator INHOFE is bringing to the floor? We will and it will be a good, bipartisan bill. We have been waiting, but let's pass this bill on a bipartisan basis. They say: Senator, can't Democrats and Republicans work together to do something about health insurance? You don't even talk about it on the Senate floor. I think we can. I know that business interests, as well as labor interests, want us to bring up this issue and resolve it. We should do it on a bipartisan basis. They say: Senator, can't you sit down and find a Republican who wants to put more money into our schools for No Child Left Behind, so that we can have better schools, better teachers, better students?

Of course, we should move toward bipartisanship. But the nuclear option, sadly, is going to divide us, split us. Make no mistake, if the nuclear option goes forward, this will be a different Senate and not very good in the process, I am afraid. A lot will happen that will be bad for us. Some have said on the floor, well, certainly at that point the Democrats are going to shut down the Senate and the Government. Trust me, that is not going to happen. We saw that tactic once. Remember the name Newt Gingrich and the Contract with America? He was so emboldened by Rush Limbaugh, he said if we shut down the Federal Government, nobody will notice. We noticed in a hurry and it hurt the Republican Party when they did it. We are not going to make that mistake. We believe that important functions of this Government must move forward. The defense of America, the support of our troops, the passage of critical appropriations bills, the passage of a highway bill—those issues are moving forward. But the ordinary day-to-day business of the Senate, otherwise, is going to be changed a lot.

If the Republicans are prepared to break the rules to change the rules, sadly the Senate Democrats will have to say we must play by the rest of the rules. That means more time on the floor, more debate, Senators spending more time at their desks, more time in session, more time in Washington. You hear the complaint that 5,000-page bills come before us that nobody reads. We will read them. Important amendments will be read. Debate will take place, and instead of the Chamber almost always being empty, it may be almost always full. Things will change.

I think there is a better way. Senator REID has suggested a better way—that cooler heads prevail, that those truly interested in not only the institution of the Senate but the value of the Constitution come forward. We can protect the filibuster. We can make certain that we do it in a sensible way. But we can only do it if we are in a dialog.

Senator FRIST's comments yesterday are worrisome. At this point, I ask unanimous consent to have printed in the RECORD an article from the Chicago Tribune. It is an editorial of April 25, which supports the Democrats and opposes the nuclear option.

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

[From Chicago Tribune, Apr. 25, 2005]

DEMOCRACY AND THE FILIBUSTER

The most surprising thing about the Senate battle over the filibuster is that a dusty 200-year-old procedure could generate such fresh controversy. Republicans say Democrats have abused it so badly to block judicial nominees that it should be removed from their arsenal. Democrats say it is an indispensable tool to prevent the president from turning the federal courts over to extremist judges.

But the debate is really just the latest argument about the central issue of our system of government: how much power the majority should have.

There is no question that Democrats have misused the leverage afforded by the filibuster. This device is supposed to ensure that the Senate gets a full hearing on any controversy before it votes. Facing a Republican president and a Republican majority of 55 senators, however, Democrats have deployed the threat of a filibuster not to delay votes but to prevent them.

Contrary to Republican claims, though, this tactic is not unprecedented, and it wasn't invented by the Democrats. Republicans tried to filibuster several judges named by President Clinton, even though they controlled the Senate at the time.

Democrats were right to complain then, as Sen. Patrick Leahy did in 1999: ''If we don't like somebody the president nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of senators really shame all senators.'' Republicans are equally justified in objecting now.

But changing Senate rules to bar the use of filibusters against judicial nominees, as Republican leader Bill Frist of Tennessee has threatened to do, would be shortsighted and ultimately unhealthy. The filibuster, whatever its potential for misuse, is a vital safeguard against majority excesses. As such, it buttresses a constitutional framework ingeniously designed to keep the many from running roughshod over the few.

Although Americans have great faith in democracy, a Martian political scientist arriving here with no knowledge of our federal framework might think its purpose was not to empower the majority but to frustrate it. The Constitution contains a variety of mechanisms designed to make sure that public sentiment doesn't automatically get translated into policy.

The Bill of Rights, for instance, places certain subjects off-limits. The separation of powers, dividing authority among three different branches of government, serves as another check on the will of the people. A president can overrule the 535-member Congress and sustain a veto with as few as 34 senators. The Senate itself, of course, is at odds with pure democracy, because it allocates equal representation to each state, regardless of population.

The filibuster is merely a Senate rule, not a constitutional provision. But the reason it has survived for so long is that it fits well into the overall structure of our government.

Devices that obstruct the will of the majority can be an awful nuisance. But in the long run, the protections they offer against democratic excesses are worth the price.

Mr. DURBIN. Madam President, the Chicago Tribune, I can tell, is no liberal newspaper. They have a newspaper that takes conservative positions regularly, and they have decided that the nuclear option is the wrong way to go.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I am anxious to yield the floor to the distinguished Senator from Indiana, who has an amendment to bring up at this time. But before doing that, I have sat and listened very carefully while Senator HATCH was talking about the constitutional option and the response from the Senator from Illinois. Sometimes you have to leave the individuals and hear what is being said outside this Chamber.

I have a couple editorials I am going to read at this time. The first is from yesterday's Investors Business Daily. Granted, that is generally a fairly conservative publication, and the next editorial I will read certainly is not one that would be identified as even moderate or conservative.

Investors Business Daily says:

Rules of order: The Democrats would have us believe filibustering is a time-honored constitutional and Senate tradition. It's not. And it wasn't that long ago that they felt quite differently.

A showdown now looms after Republicans on the Senate Judiciary Committee used their 10–8 majority to move the nominations of Janice Rogers Brown and Priscilla Owen for federal appeals court seats to the full Senate.

Democrats threaten to filibuster these picks, Majority Leader Bill Frist threatens to employ the unfortunately named ''nuclear option'' restoring the quaint notion that 51 votes constitutes a majority, and Vice President Dick Cheney says he's willing to be the tie-breaking vote to ban filibusters of judicial nominees.

Democrats are trying to portray GOP efforts to restore majority rule to the Senate as it relates to judicial nominations as an assault on the traditions of the Senate and the Constitution itself. As if the filibuster were James Madison's dying wish.

As a practical matter, the filibuster didn't even exist until the 1830s, when it was used to block legislation and not judicial picks. It was used by Democrats to defend slavery and oppose the Civil Rights Act—hardly noble purposes.

In 1841, the filibuster was used by Sen. John Calhoun to defend slaveholding interests. In 1957, then-Democratic Sen. Strom Thurmond held the floor for 24 hours straight to block civil rights legislation. And in 1964, 18 Democrats and one Republican blocked the Civil Rights Act for 2½ months.

In 1916, Senator Robert La Follette, a Republican, used it to block legislation to let merchant ships arm themselves against German U-boats. This prompted the Senate in 1917, at the behest of President Wilson, a Democrat, to adopt the first cloture rule, rule XXII, requiring a two-thirds to end debate.

This was amended 60 years later by none other than Robert Byrd, D–W.Va., the Senate's constitutional guardian and conscience, who reduced it to a three-fifths requirement.

In sum: For the first 200 years of our republic, Senate ''tradition'' never required 60 votes to approve judges. Filibusters are neither an idea of the Founding Fathers nor a historical tradition of the Senate. Cloture rules are a 20th century phenomenon, with the current rule less than 30 years old. Systematic filibustering of a president's appellate-court nominees is totally unprecedented.

Democrats didn't always love the filibuster. In September 1999, in a debate over Clinton appellate-court nominees, Sen. Patrick Leahy of Vermont thundered on the Senate floor: ''Vote them up or down! That is what the Constitution speaks of in our advise-and-consent capacity.'' An up-or-down vote, he said then, was a ''constitutional responsibility.''

The year before, none other than Sen. Ted Kennedy of Massachusetts solemnly intoned: ''We owe it to Americans to give these (judicial) nominees a vote. If our Republican colleagues don't like them, vote against them, but give them a vote.''

In 1995, Sen. Tom Harkin of Iowa proposed a plan to end filibusters identical to one now proposed by Frist. The Harkin plan was supported by 19 Democrats, including Sens. Kennedy, Barbara Boxer of California, Joseph Lieberman of Connecticut, Russell Feingold of Wisconsin and John Kerry of Massachusetts.

Harkin proposed to establish a declining vote requirement for cloture so that by the fourth cloture vote, a simple majority of the Senate would suffice to end debate and allow a floor vote on the matter at hand.

In the Constitution, when the Framers intended more than simple majorities, they explicitly said so. For example, they require a two-thirds majority to convict in an impeachment trial, expel a member, override a presidential veto, approve a treaty or propose a constitutional amendment.

Senate Democrats once opposed the filibustering of judicial nominees; they now support and rail against a ''nuclear option'' they once proposed themselves. Republicans should expose this hypocrisy, stop worrying and learn to love the bomb.

I will not read the whole editorial from the L.A. Times, from yesterday. I will read the first two paragraphs, in deference to my good friend from Indiana.

They said:

These are confusing days in Washington. Born-again conservative Christians who strongly want to see President Bush's judicial nominees voted on are leading the charge against the Senate filibuster, and liberal Democrats are born-again believers in that reactionary, obstructionist legislative tactic. Practically every big-name liberal senator you can think of derided the filibuster a decade ago but now sees the error of his or her ways and will go to amusing lengths to try to convince you that the change of heart is explained by something deeper than the mere difference between being in the majority and being in the minority.

At the risk of seeming dull or unfashionable for not getting our own intellectual makeover, we still think judicial candidates nominated by a president deserve an up-or-down vote in the Senate. We hardly see eye to eye with the far right on social issues, and we oppose some of these judicial nominees, but we urge Republican leaders to press ahead with their threat to nuke the filibuster. The so-called nuclear option entails a finding by a straight majority that filibusters are inappropriate in judicial confirmation battles.

I ask unanimous consent that this entire editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. INHOFE. Madam President, I will say this: It is unprecedented, that for 200 years there has never been a circuit court nominee by any President who had the majority support in the Senate to be filibustered. It never has happened until now.

EXHIBIT 1

[From the LA Times, April 26, 2005]

NUKE THE FILIBUSTER

These are confusing days in Washington. Born-again conservative Christians who strongly want to see President Bush's judicial nominees voted on are leading the charge against the Senate filibuster, and liberal Democrats are born-again believers in that reactionary, obstructionist legislative tactic. Practically every big-name liberal senator you can think of derided the filibuster a decade ago but now sees the error of his or her ways and will go to amusing lengths to try to convince you that the change of heart is explained by something deeper than the mere difference between being in the majority and being in the minority.

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But the Senate shouldn't stop with filibusters over judges. It should strive to nuke the filibuster for all legislative purposes.

The filibuster debate is a stark reminder of the unprincipled and results-oriented nature of politics, as senators readily switch sides for tactical advantage. Politicians' lack of consistency on fundamental matters—the debate over the proper balance of power between Washington and the states would be another case in point—is far more corrosive to the health of American democracy and the rule of law than any number of Bush-appointed judges could ever be. For one thing, it validates public wariness about politicians professing deep convictions.

Liberal interest groups determined to keep Bush nominees off the bench are in such a frenzy that they would have you believe that the Senate filibuster lies at the heart of all American freedoms, its lineage traceable to the Constitution, if not the Magna Carta. The filibuster, a parliamentary tactic allowing 41 senators to block a vote by extending debate on a measure indefinitely, is indeed venerable—it can be traced back two centuries. But it is merely the product of the Senate's own rule-making, altered over time; the measure was not part of the founding fathers' checks and balances to prevent a tyranny of the majority. The Senate's structure itself was part of that calculus.

The filibuster is a reactionary instrument that goes too far in empowering a minority of senators. It's no accident that most filibusters have hindered progressive crusades in Washington, be it on civil rights or campaign finance reform. California's Democratic Sen. Barbara Boxer, one of those recent converts to the filibuster, embarrassed herself by hailing Sen. Robert Byrd (D-W.Va.) as her inspiration at a pro-filibuster rally. At least Byrd is being consistent in his support—he filibustered the 1964 Civil Rights Act.

A showdown is looking increasingly likely, though it isn't clear that all Republicans want this fight. Some of them realize they will again be in the minority someday and that the filibuster is a handy brake on the federal government's activism. If their caution prevails, or if Republicans take on the filibuster only in the narrow context of confirmation battles, we will happily weigh in again in the future, still on the anti-filibuster team.

Mr. INHOFE. Madam President, I inquire of the Senator from Indiana, is he going to be offering an amendment?

Mr. BAYH. Madam President, I am.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Madam President, what is the pending business?

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

AMENDMENT NO. 568 TO AMENDMENT NO. 567

Mr. BAYH. Madam President, I have an amendment at the desk, No. 568, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. BAYH] proposes an amendment numbered 568.

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

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

The amendment is as follows:

(Purpose: To amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries)

At the appropriate place, insert the following:

**TITLE _____—OVERSEAS SUBSIDIES**

**SECTION ___01. SHORT TITLE.**

This title may be cited as the ''Stopping Overseas Subsidies Act of 2005''.

**SEC. ___02. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.**

Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting ''(including a nonmarket economy country)'' after ''country'' each place it appears.

**SEC. ___03. EFFECTIVE DATE.**

The amendments made by section ___02 apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this title.

Mr. BAYH. Madam President, I thank my colleague from Oklahoma for his courtesy.

The highway bill we are currently debating is important, vitally important to building a strong economy for our Nation. It will create jobs today and raise productivity tomorrow, strengthening the American people in the global economic competition we face and, in so doing, offer better prosperity and security for our children.

This is only a small part of a bigger picture. It is only the beginning of what must be done if we are to ensure American prosperity and national security and a future for our children of which we can be proud.

The American people need a debate—a debate that starts today—about how to create that prosperity in a global economy, about what we must do and to what we must commit ourselves, and also about what we have a right to expect from others. It is a debate that will take time—time today, time this week, time repeatedly this year and for the foreseeable future. It is a debate that will define our generation and affect the American people for generations to come. It is a struggle from which our current leaders have all too often been missing, incoherent, naive, and shortsighted, and that must change.

As my colleagues know, I feel so strongly about this subject that I recently placed a hold—the first time I have done such a thing—on the prospective nomination of Ron Portman to be our next trade negotiator. I want to emphasize this action is not personal on my behalf. I met with Mr. Portman. He is a fine man. I have every reason to believe he is eminently qualified for the position for which he has been nominated. But our obligation in this Senate is not merely to confirm him in his new job but, in addition, to confirm that American workers and businesses can labor in a system where, through hard work, ingenuity, and sacrifice, they have a fair chance in the global ''economyplace'' to succeed. That, too often, is not the case, and the indifference and the inaction that has led to this must change.

Our amendment enjoys broad bipartisan support. I am proud to say Senators COLLINS, GRAHAM, and others support this undertaking. They know it is essential. We have bicameral support. Representatives ENGLISH, DAVIS, and many others support this amendment. They too know that something must be done.

Our approach enjoys support by both business and labor—the National Manufacturers Association, and many representatives of organized labor—because they have waited too long for justice, and the time for justice has arrived.

We have the broad support we enjoy because of a building consensus in our country. Even in a divided society, even in this divided institution, action is needed and can no longer be delayed or denied.

What is that consensus, Madam President? It is the American people must devote themselves to succeeding in a global competition, that we must provide for those who are adversely affected by that global competition, and that American workers and businesses have a right to expect that our competitors in this competition will play by the same set of rules as do we.

America must commit itself, we must commit ourselves—it is our obligation—to doing those things that are necessary to succeed in the global marketplace. Nothing else will do. We cannot wall up our country. We cannot shut out those with whom we would compete. We saw the consequences of that in Eastern Europe under communism. So when the walls come down, as they invariably do, they could produce nothing that the rest of the world could consume.

It reminds me, in some ways, of the siren song of protectionism of the Greek king who once sought to turn back the tide and stood on the beach commanding it not to come in, only to drown in the process. We must not follow that path. But to avoid following

that path, we must have a strategy for success in the global marketplace that involves a robust commitment to research and development in the new goods, the new services, the new technologies of the future that will command good wages in the global marketplace, particularly in the area of energy independence.

We have an opportunity, as a society, to create hundreds of thousands of good-paying jobs, to address our imbalance of payments, to strengthen our finances, our economy, our environment, and our Nation's security in the process. That commitment has been missing for too long.

It is penny-wise and pound-foolish when we cut back on our investment in research and development. It demonstrates a lack of national will when we do not commit ourselves to increased energy independence. That must change.

What also must change is an increased commitment to an education for every American child, particularly the less-fortunate third, so they can be economically relevant in the global marketplace of today and tomorrow with the skills and the talents and the abilities to be globally competitive.

For too many of our less fortunate children, that still is simply not the case. So we have to redouble our efforts in K–12 education, and we need to open up the doors of access to college opportunity for every American child who is willing to work hard, play right, and do right themselves to get there.

The growing gap between the haves and have nots in America today increasingly is defined by those who have a college education and those who do not. Over the last 20 years, those who dropped out of high school or got a high school diploma that did not mean very much because the grades were the result of social promotion rather than actual achievement have seen their standards of living decline precipitously. Those in our country who received a college degree have seen their standards of living increase marginally. Those who have gotten an advanced degree have seen a dramatic increase in their prosperity and standard of living. So if we want to be globally competitive, we need to invest in the talents and the skills of our children and ensure that every child can have a college opportunity. That is a debate for another day. More needs to be done. More must be done if we are going to win the battle of global economic competition.

We also must do our part by committing ourselves to a course of fiscal sanity. The current budget imbalances simply are not sustainable, and they exacerbate the trade imbalance and the borrowing we must undertake from abroad. When it comes to our own budget deficits and imbalance, we only have ourselves to blame. We have to summon the national will to restore our finances, to ensure that we have a strong financial, fiscal situation in this country, to ensure that our children will inherit from us something better than our unpaid bills that have to be paid with interest to foreign countries and increasingly foreign banks. That is not right. We need to correct that situation. We need to redouble our efforts to increase our national savings through incentives for Americans to save more in the private sector so that we will increasingly be able to finance our demands at home.

We need to look through the prism of innovation in all that we do to ensure that we can be more rapid, more nimble, in terms of bringing new goods and services to market, and when we do that we need to ensure there is robust protection for our intellectual property rights abroad. All too often, that is not the case. We cannot allow a situation to develop where, when we do our part through research and development, through education, through fiscal sanity, through increasing our own domestic savings, through becoming more competitive and innovative, the fruits of that labor of that American genius are stolen by those abroad through violating our intellectual property rights. That cannot be allowed to continue further.

In addition to having a positive strategy for economic success in a global marketplace, we also have a moral responsibility to those who may be dislocated through no fault of their own as a result of that global economic competition. We must reach out to those Americans who are displaced and ensure that they have an opportunity to get back on the ladder of success, that every American has the prospect of being upwardly mobile in the global marketplace and that we do not just say to them, well, if they grew up 30 or 40 years ago and did not get the education they need, if they happen to be employed in the wrong industry that is suffering dislocations, that is too bad for them; they are in the scrap heap of history; they are on the wrong side of history; tough luck. That is social Darwinism, and we cannot take that path either.

For those of us who will benefit from the fruits of the global marketplace, consumers and industries that are globally competitive and enjoy comparative advantage, we have to take some of that success, some of those benefits, and put it into training, retraining, job placement, pension and health care portability, so that every American has a chance to be upwardly mobile and successful in the global marketplace.

There is also a growing consensus that even when we have done our part, even when we have adopted a strategy to be successful, even when we have defined our comparative advantage, when we provided for those who will be dislocated through no fault of their own, even when we have done all of that, others must do their part, too. We cannot stand idly by and watch the ingenuity, hard work, and sacrifice of the American people undone by the premeditated cheating—and that is what it is—of other countries because of their own narrow self-interests.

American workers and businesses too often are getting the shaft today, and that is not right. It is not right when those of us in the Senate stand idly by. It is not right when those in the administration turn a blind eye to this. That must change. We must enforce the rules of open global competition, and that is what our amendment will do. That is our obligation to our fellow citizens and our children.

The cheating—and as I have said, that is what it is—comes in many forms, such as the theft of intellectual property. I am told that more than 80 percent of the business software in China today is pirated. Barriers to U.S. exports, some in the form of tariffs, some not tariff barriers, such as our beef exports to Japan today—more on that in a moment—through currency manipulation, which we voted on in this Senate not long ago, giving a built-in 25- to 30-percent advantage to countries that do that—in this case, China—not because our workers are not as smart, not because they do not work as hard, not because the products are not as competitive, are simply because of financial engineering. Tens of thousands of Americans, when they get up in the morning, before they get dressed and go to work, start off with that kind of disadvantage through no fault of their own. How can we possibly look them in the face and tell them they are getting an even shake in the global marketplace? How can we possibly call that free trade? It is not. We know it is not. And it has to change.

Illegal subsidies is another form of cheating. Free rent, free power, loans never intended to be repaid—that is not free trade. It is the opposite of free trade. It is economic engineering by other countries to the detriment of American workers and businesses, and that has to stop. It is well known.

In its recent report to the Congress, the congressionally mandated and bipartisan U.S.-China Economic and Security Review Commission stated:

> There was a general consensus in the testimony that China remains in violation of its WTO obligations in a number of important areas.

In a hearing before the Ways and Means Committee 2 weeks ago, a representative of the U.S. Chamber of Commerce highlighted a number of concerns:

> . . . China's post-WTO accession use of industrial policy—

Not free trade, industrial policy—

> including the use of targeted lending, subsidies, mandated technology standards rather than voluntary, industry-led international standards, discriminatory procurement policies, and potentially, antitrust policy—to structure the development of strategic sectors is of mounting concern.

Industrial policy, not free trade. That is what we seek to change, a global competitive marketplace where the

laws of comparative advantage will rule, where citizens of every country will have a right to work hard, think smart, be nimble, bring goods and services to the marketplace, and let the best man and woman win. Too often that is not the case today. It is the case on the part of our workers but not on the part of their competitors, and that is what has to stop. That is what this amendment will do.

Our Government is well aware of this but too often chooses to turn a blind eye. The time for the Senate turning a blind eye has to stop. I think about the case of Batesville Tool and Die in Indiana and the fact that their competitor, in this case from China, sells their product in the United States of America for one-half of a penny above the cost of the raw materials, leaving nothing for labor, nothing for transportation, nothing for marketing. There has to be an illegal subsidy there. It is the laws of physics and the laws of economics. Currently there is nothing in our law that allows us to do anything about it. If the laws of economics are going to make sense, our law better insist that we have a right to end this kind of industrial policy and cheating. That is what our amendment will change.

I think about the National Association of Manufacturers, an organization that embraces free trade, and a pair of pliers they held up when we announced our amendment a few months ago, a pair of pliers sold at the cost of raw materials—the same thing, leaving nothing for anything else. Obviously an illegal subsidy violating the rules of the WTO is in place there, and that has to change.

I think about a foundry I visited in northeast Indiana where they stopped production so that I could address the workers several months ago. A foundry is a dirty business. These guys had soot on their faces and grime on their clothes, and they gathered around to hear me speak. I looked at them, and I in good conscience could no longer look them in the face, knowing the kind of burdens they labor under, the unlevel playing field, the kind of cheating that takes place, knowing they are willing to work hard for a living, and that too often that can be undone by those who are not willing to do the same or are willing to cheat to have their way. That is what has to stop, and that is what this amendment will change.

The time has come to take a stand. Our prosperity is at stake. The global marketplace, the global trading system, cannot work. When our global competitors have a comparative advantage, we buy their goods, but then when we have a comparative advantage, when American workers can produce something quicker, smarter, and cheaper than anybody else, they still do not get to sell their products abroad. They are still defeated at home because of cheating. It just will not work, and that is what this amendment will help to change. Our national sovereignty is at stake, our very sovereignty as a nation.

I do not know how many of my colleagues or the American people noticed several weeks ago that the President of the United States got on the phone and he called his colleague, the Prime Minister of Japan, and he said: You have been keeping our beef exports out of your country for too long. We are pretty good at producing beef in the United States, and you are using the excuse—and it is an excuse now—of the mad cow scare a couple of years ago as an informal trading barrier to keep our products out. You know what, we buy a lot from you. You ought to bring this nontariff barrier down. It is only the right thing to do.

So they had this exchange, and then shortly thereafter, whether by accident or not, the Prime Minister happened to say, well, maybe the time has come for Japan to start diversifying its financial holdings out of dollar-denominated assets, and for the next several hours the value of our currency, the value of our money, began to go into a free fall until some bureaucrat down in the bowels of the Finance Ministry came out and said the Prime Minister did not really know what he was talking about, it is not true.

Well, that is one thing. But a couple of weeks before that, there was a rumor going through Seoul, the same kind of thing—maybe the South Koreans would start diversifying out of dollar-denominated assets. That started a run on our currency, too.

It is not a sign of strength, it is not a sign of independence, it is not a sign of security when something as fundamental as the value of our money can be undermined by a slip of the tongue or a premeditated statement or a rumor sweeping a foreign capital. That is not the sign of a great nation; it is the sign of dependency, of weakness. It is something that can no longer be allowed to continue if we are going to have the kind of security for our children that we want them to have and that they deserve.

Make no mistake, our Nation's security is at stake. A strong military and the current financial imbalances we are running cannot be sustained indefinitely.

There was a book several years ago by Paul Kennedy called ''The Rise and Fall of Great Powers.'' It pointed out that the undoing of great nations had all too often been the result of their economic and financial weakness.

The percentage of GDP we are currently spending on national security and military expenditures substantially outstrips that of our economic competitors, freeing them to invest a substantially greater percentage of their wealth in productive assets.

As the only global superpower and the principal leader in the war against terror, we cannot afford to cut back on our investment in national security. At the very least, we can insist that those who benefit from our efforts in the fight against terror, who benefit from our efforts to provide for global security, play by the same set of economic rules so that we do not undercut the very prosperity that allows us to fight the war on terror and provide for global economic security. The two have to go hand in hand. For the last several years there has been a decoupling that cannot go on indefinitely. If we do not correct this situation, we not only undermine our prosperity and our financial strength, we undermine our very sovereignty and our Nation's security. The debate about leveling the field and enforcing the rules on global trade is very much, in the long run, a debate about national security as well.

Finally, let me sum up by saying two things. First, I know a lot of people want to talk about China. We had a debate on that and a vote with regard to currency manipulation a couple of weeks ago. Our relationship with China is one of the most important relationships over the next 50 to 100 years. They are a great nation with a great culture and a bright future. Our relationship with them will be at times complex and difficult. It is only going to work if the relationship is mutually beneficial in a number of ways, and in the economic arena as well.

The nation of China has its challenges and we want to see them successfully meet those challenges. But we have challenges, too, and they must be committed, equally committed to seeing us meet our challenges if this relationship is going to work as it must. It is simply not right that to ease the absorption of surplus workers in agriculture in China, we are asked artificially to throw out of work and put out of business American workers and businesses in our heartland. That is fundamentally not just. Stability and growth in China are important, and we should help them in that regard but not at the cost of our own. It is time that we insisted we achieve both.

Let me conclude by saying I am optimistic about our future. With the right kind of leadership there is little that the American people cannot accomplish. But as the old saying goes: If you don't know where you are going, well, any road will lead you there. We must have a strategy for success and prosperity. If we do, I am convinced we can get the job done because we have done it before.

If I had been addressing this Senate 100 years ago, more than half of our workers would have been employed in agriculture—more than half. Today it is about 3 or 4 percent. As we made the transition from an agricultural economy to a manufacturing-based economy, the United States of America did not dry up and blow away. There were difficulties but we met the challenge. We reinvented our economy and increased our prosperity and our standing in the world as a result.

If I had been addressing this Senate 50 years ago, more than 30 percent of

the American workers would have been employed in manufacturing. Today it is about 12 percent. Again, as the global economy began to change, as our domestic economy began to change, we did not dry up and blow away. There were difficulties. There were challenges. But we have been growing the service sector of the economy and the innovative and other parts of the economy.

So as we fight to save every kind of manufacturing job where we can be competitive in advanced manufacturing and other sections of the manufacturing sector, we have grown other parts of the American economy as well. We can continue to do that but only if we are willing to stand up for American interests and competitiveness and not allow the genius of our people to be stolen and undermined by the premeditated cheating and self-interest of other nations to which we turn a blind eye, or don't have the stomach to stand up to. That has to stop and that is what our amendment will do.

It will enable the American people to preserve our prosperity—when we are right, when we are competitive, when we have an advantage—and will enable us to go on and grow parts of our economy and grow good jobs at good wages where we have that advantage and allow our consumers to buy products from countries where they have the advantage. It will do right by our children. It will do justice to our workers. It will strengthen our national security, our sovereignty, our finances, and our prosperity. It is the right thing to do, and that is why I propose this amendment and that is why I ask for my colleagues' support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, the amendment of the distinguished Senator, it is my understanding, is one that has been in consideration in the Finance Committee. There is a freestanding bill called ''Stopping Overseas Subsidies Act of 2005.'' Is that correct?

Mr. BAYH. That is correct.

Mr. INHOFE. Madam President, the chairman of the committee has advised me that they have been working on this bill for quite some time. As chairman of the Environment and Public Works Committee, and author of the highway bill, I suggest there are titles of the bill that are not within the jurisdiction of my committee. One is the Finance Committee title. The title is not yet here, so we do not have that to consider at this time.

I think it would be more appropriate later on, after we receive the title, to debate that in the normal process of legislation.

Mr. GRASSLEY. Mr. President, I rise in strong opposition to this amendment.

First, let me say I am profoundly disappointed by the way this issue has been handled over the past several weeks.

My staff has been working hard with some of the proponents of this legislation to fully understand the pros and cons of the legislation.

In fact, a meeting was held with the proponents just prior to a press release being issued saying that a hold was being placed on a nominee unless a vote were taken on the bill.

I thought we were making good progress. Needless to say, I was very surprised to learn of that development. No one asked me about it.

Let's be clear, I share concerns about China's economic policies and the impact of those policies on international trade and the U.S. economy.

At this point, however, I'm not convinced that the Bayh amendment is the best possible policy response we can provide to China's economic policies.

The amendment would substantively change United States trade law, and it is imperative that the repercussions be fully understood before we move ahead with the proposed change.

That's why the committee process should not be circumvented. The Finance Committee has jurisdiction over issues of international trade, and its expertise should be brought to bear on any trade issue before its consideration by the full Senate.

When that process is not respected, we run the risk of adopting ill-thought out policy which in the end could undermine the very intent of legislation that is rushed in as an amendment, as Senator BAYH proposes we do in this case.

For starters, I understand that the bill may not even be necessary, as it's possible this change could be implemented administratively rather than legislatively.

We should explore with Administration officials the feasibility of implementing an administrative change, what that would entail and how that might best be accomplished.

The proposed legislation doesn't give the Commerce Department any flexibility to develop appropriate regulations and procedures to implement this provision.

Such a significant change from established practice should at least incorporate sufficient flexibility so that it can be implemented properly. Otherwise, proponents run the risk of undermining their very goal.

Why wouldn't proponents want to ensure that such a significant change in the operation of our trade laws is implemented properly?

Again, that's why the Finance Committee should have the opportunity to address the details.

There are other repercussions that should be examined. How does the proposed legislation relate to China's accession to the WTO for example?

Is it consistent with the terms of our bilateral agreement on China's WTO accession?

Those questions should be answered before we move ahead on this legislation.

Another very serious issue is the relationship between this legislation and existing U.S. trade law.

It's quite possible that by adopting this bill we could undermine the application of U.S. antidumping law, and I doubt any of my colleagues would advocate that result.

It is even possible that this amendment could force us to relinquish application of the nonmarket antidumping methodology in dumping cases.

That question needs to be addressed thoroughly before we move ahead on this legislation. Proponents may offer blanket assertions to the contrary, but that is not sufficient, in my view.

We should not run the risk of undermining our trade laws by pushing this amendment onto a bill today.

I hope Senator BAYH will reconsider his decision and withdraw the amendment.

If not, I hope my colleagues will join with me in opposing his amendment until we can fully appreciate its repercussions.

Mr. President, I yield the floor.

Mr. INHOFE. I will be glad to respond to any questions the Senator has, after I get one thing taken care of here.

Madam President, I ask unanimous consent that at 1:30 p.m. the Senate proceed to executive session for the consideration of Calendar No. 39, the nomination of J. Michael Seabright, to be U.S. district judge for the Southern District of Hawaii; provided further that there be 30 minutes for debate equally divided between the chairman and the ranking member or designees, and that at the expiration or yielding back of the time, the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate; provided further that following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Mr. INHOFE. Madam President, as we said over and over again, I have a list of about eight amendments people have said they want to come down and offer. This is the third day now we have been inviting them to come down. So far only Senator THUNE has brought his amendment in. We did adopt that amendment. I encourage others to come down.

I think this could very well be considered by most people the most significant vote on a bill we will be considering on the floor this entire year. We want to make sure, while we have the time, that we give adequate consideration and time for the amendments that different Members may have. I invite them to come down at any time during this process. With that, I yield the floor.

Mr. BAYH. Did my colleague have a question?

Mr. INHOFE. It is my understanding the junior Senator from Missouri would like to have the floor for consideration of an amendment. But I will yield the floor at this time.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 582 TO AMENDMENT NO. 567

Mr. TALENT. Madam President, I have an amendment to send to the desk. I ask unanimous consent the Bayh amendment be set aside so I can do that, offer the amendment; and then, at the end of the 3 or 4 minutes I am going to use to offer the amendment, that we would go back to the Bayh amendment. That would be my unanimous consent request.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT] proposes an amendment numbered 582 to amendment No. 567.

Mr. TALENT. 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 direct the Secretary of Transportation to conduct a program to promote the safe and efficient operation of first responder vehicles)

At the appropriate place, insert the following:

**SEC. ___. FIRST RESPONDER VEHICLE SAFETY PROGRAM.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator, National Highway Traffic Safety Administration, shall—

(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

(b) PARTNERSHIPS.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

(c) PUBLIC OUTREACH.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2006 to carry out the provisions of this section.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Madam President, I thank my friend from Oklahoma and my friend from Indiana for allowing me to get this amendment pending. I am very hopeful we will eventually get it accepted. I am working with the chairman and ranking members of both the full committee and subcommittee to get that done.

The purpose of the amendment is to address the problem of the increasing number of accidents occurring in which either parked first responder vehicles are rear-ended by other vehicles or the first responder is struck after leaving the vehicle.

In first responders—such an antiseptic term—we are talking about our police officers, our ambulance workers and drivers, our firefighters who are dealing with the issue of a car that is parked on the side of the road, maybe because the police officer pulled the car aside, or because the car has been abandoned, or it is on fire. It is all too often the case in this country that our first responders who are working on those situations are injured or killed by a passing vehicle.

I will share the story of a Missouri law enforcement officer who tragically lost his life this way. I know there have been many more such as him around the country. Michael Newton was a State trooper for the Missouri highway patrol. He stopped a vehicle on Interstate 70 in Lafayette County, MO, for a traffic violation on May 22, 2003. He and the other driver were sitting in the patrol car when they were struck from behind by a pickup carrying a flatbed trailer. Trooper Newton died at the scene. The driver he had stopped suffered serious burns. Trooper Newton was only 25 years old. He left a wife, two young sons, many loving relatives, and a community that deeply mourned his loss and was very grateful for his service to the State of Missouri.

In 2003, 193 other people lost their lives in crashes involving emergency vehicles, including 141 lives lost in crashes involving police vehicles, 29 lives lost in those involving ambulances, and 24 lives lost in crashes involving firetrucks.

According to the National Law Enforcement Officers Memorial Fund, vehicle-related incidents are the No. 1 cause of police officer injuries and the No. 2 cause of police officer deaths. In 2004, 73 out of 153 police officer deaths were vehicle related. Not all of those involved parked cars, but most of them did.

I was very surprised to see those statistics and deeply concerned that we have not informed people and raised their awareness about this problem. That is what this amendment is designed to do. My Pass With Care amendment requires the Secretary to start a nationwide publicity campaign through public service announcements, developing a Web site, providing informational materials, to increase public awareness of this crucial safety issue.

Our first responders, our police, our firefighters, our ambulance workers dedicate their lives to helping protect the rest of us. They save so many lives through their heroic efforts. If more people realize they can help protect our first responders by quickly and safely pulling over when they hear an emergency siren or being more careful when they see a first responder vehicle parked on the road or the shoulder of the road, that will reduce the risks for our law enforcement, health workers, and firefighters.

The amendment requires the Secretary, in consultation with the National Highway Safety Administration, to develop and implement a program to promote compliance with State Pass With Care laws and ''move over'' laws. Those laws govern how motorists pass and yield to first responders' vehicles.

The Secretary, under my amendment, would compile a list of best practices to promote compliance with such laws, would conduct an analysis of the various State and local laws that deal with the safety of first responder vehicles, and from that analysis develop model legislation that States can adopt should they choose to do so.

Unfortunately, only 27 States currently have Pass With Care laws or ''move over'' laws. The amendment would help give guidance to the remaining States on drafting laws that would help save lives. The Secretary would be authorized to enter into partnerships with safety organizations and engage with public outreach to help improve first responder safety.

This is not an amendment that would be coercive on the States. I tried to be sensitive to that in drafting it. It is what we can do as an alternative to mandating the States in this area to help provide a clearinghouse of information for them to help develop model legislation and also in appropriate ways to develop an increased public awareness of this problem.

If people become more aware of this as the bill goes through and as a result of an awareness campaign the Secretary would conduct, that in itself would probably reduce the number of deaths.

I was surprised to hear of the number of first responders who are imperiled. If we can help them by raising awareness, I think we ought to do it. I am pleased to introduce the amendment on behalf of our first responders at risk on our roads and highways. They should not be at risk. I urge the Senate to pass the amendment to help strengthen these laws, and ensure the safety of our first responders.

I certainly am willing to work with the managers of the bill to help deal with any concerns they may have regarding the wording of the amendment.

I yield the floor and 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. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE SESSION

## NOMINATION OF J. MICHAEL SEABRIGHT TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of J. Michael Seabright, of Hawaii, to be United States District Judge for the District of Hawaii.

The PRESIDING OFFICER. Under the previous order, there are 30 minutes, equally divided, for debate on the nomination.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased and hnored to speak in support of J. Michael Seabright of Honolulu, Hawaii, who has been nominated by the President to serve as a Federal district court judge for the District of Hawaii.

Mr. Seabright graduated magna cum laude from his undergraduate alma mater of Tulane University, before going on to attend The National Law Center at George Washington University, where he received his juris doctor and graduated with high honors as a member of the Order of the Coif.

At George Washington, he further distinguished himself by serving as the editor of the George Washington Journal of International Law & Economics.

I have had the pleasure of knowing Mr. Seabright since he arrived in Hawaii 20 years ago, having watched him as he successfully became a member of the Hawaii State Bar Association, and became involved in our community.

Now Mr. Seabright stands out as a leader in the legal side of law enforcement, where he developed the District of Hawaii plan for implementing ''Operation Triggerlock-Hawaii,'' a Federal-local effort aimed at the prosecution of violent armed career criminals in Federal court.

His broad experience in prosecution, from violent crimes to government corruption, have provided him a balanced perspective of the criminal justice system that will continue to serve him well as he prepares for this most recent development in his career of public service.

Mr. Seabright's work for Hawaii goes beyond his professional commitments as an assistant U.S. attorney, however. He has served on the Hawaii Supreme Court's disciplinary board since 1995 and holds the chairmanship of its rules committee, which is charged with the drafting proposed rules for the Hawaii Rules of Professional Conduct.

He was also a member of the Hawaii State Board of Bar Examiners, and has been an adjunct professor at the University of Hawaii William S. Richardson School of Law.

This extraordinary record of achievement has now culminated with his nomination to the Federal bench, and amply supports the favorable reports he has received from the Hawaii State Bar Association, the American Bar Association, and the Federal Bureau of Investigation.

I am confident that his record will prove equally impressive to the full Senate, and I trust that he will become the 206th of Mr. Bush's judicial nominees to be confirmed to the Federal bench. I hope my colleagues will join me in voting in favor of Mr. Seabright.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

Mr. AKAKA. Mr. President, it is with great pleasure that I join Senator INOUYE in support of the nomination of Mr. J. Michael Seabright for the U.S. District Court for the District of Hawaii. The Hawaii State Bar Association has found Mr. Seabright to be highly qualified for the position of U.S. District Court Judge in Hawaii. This is of significant importance to me, as I value the opinion of Hawaii's legal community in evaluating those nominated to serve as judges.

Mr. Seabright has practiced law in the State of Hawaii for over 20 years, in a number of capacities, including both private practice and public service. Mr. Seabright has been employed by the U.S. Attorney's Office for the District of Hawaii for the past 15 years, and he has headed the white-collar and organized crime section since 2002.

I am very pleased that this position, after being vacant for so many years, will now be filled by an individual as qualified as J. Michael Seabright. For the past few years, I have heard from jurists and a number of attorneys in Hawaii about the need to fill this judicial vacancy. I am encouraged to see that with the consideration of this nominee the Senate will continue its tradition of fulfilling its advice and consent role under the Constitution.

I urge my colleagues to vote in favor of Mr. Seabright's nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it has taken some time, but the Senate Republican leadership will finally allow the Senate to consider the nomination of Michael Seabright to be a United States District Court Judge for Hawaii. I commend the distinguished Senators from Hawaii for their effort in identifying this consensus nominee. When Mr. Seabright is confirmed by an overwhelming, bipartisan vote of the Senate, he will be the 206th nominee of this President confirmed to a lifetime appointment to our Federal courts.

This is only the second judicial nomination Senate Republicans have been willing to consider all year. There has been no filibuster of judicial nominees this year. Instead, it is the Senate Republican leadership that, through its deliberate inaction, is keeping judgeships unnecessarily vacant for months. With this nomination and with the nomination of Judge Crotty, I was the one asking for months for the nomination to be considered, debated, voted, and confirmed. For the last several weeks, I have been calling upon the Republican readership to proceed to the confirmation of Michael Seabright to the District Court of Hawaii.

All Democrats on the Judiciary Committee had been prepared to vote favorably on this nomination for some time. We were prepared to report the nomination last year, but it was not listed by the then-chairman on a committee agenda. I thank Chairman SPECTER for including Mr. Seabright at our meeting on March 17. The nomination was unanimously reported and has been on the Senate Executive Calendar for more than a month. It is Senate Republicans who resisted a vote on this judicial nominee, not Democrats. In their fashion, they did so without any explanation akin to the anonymous ''holds'' that doomed more than 60 of President Clinton's judicial nominees not so long ago.

Once confirmed, Mr. Seabright will be the 206th of 216 nominees brought before the full Senate for a vote to be confirmed. That means that 829 of the 875 authorized judgeships in the Federal judiciary, or 95 percent, will be filled. It is regrettable that Republican delay has now pushed the Senate behind even the pace set by the Republican majority in 1999, when President Clinton was in the White House. That year, the Senate Republican leadership did not allow the Senate to consider any circuit court nominees for the entire session and only 17 district court nominees were confirmed. The Republican Senate has fallen behind that pace.

Of the 47 judicial vacancies now existing, President Bush has not even sent nominees for 29 of those vacancies, more than half. I have been encouraging the Bush administration to work with Senators to identify qualified and consensus judicial nominees and do so, again, today. The Democratic leader and I sent the President a letter in this regard on April 5, but we have received no response.

It is now the last week in April. We are almost one-third through the year and so far the President has sent only one new nominee for a Federal court vacancy all year—only one. Instead of sending back divisive nominees, would it not be better for the country, the courts, the American people, the Senate, and the administration if the White House would work with us to identify, and for the President to nominate, more consensus nominees such as Michael Seabright who can be confirmed quickly with strong, bipartisan votes?

I commend the Senators from Hawaii for their efforts to work cooperatively to fill judicial vacancies. I only wish Republicans had treated President Clinton's nominees to vacancies in Hawaii with similar courtesy. Had they, there would not have been the vacancies on the Ninth Circuit and on the District Court. The work of the Senators from Hawaii is indicative of the type of bipartisan efforts Senate Democrats have made with this President