

back to a quote he used to tell me as a young man. He loved Mark Twain. When we had one of those difficult decisions to make, he would always say: Son, remember what Mark Twain said. When confronted with a difficult decision, do what's right. You will surprise a few; you will amaze the rest.

A decision that is pretty simple has become very complex for this Senate. In the end, we should peel back the arguments and look back to the foundation under which all of us operate, and that is our Constitution. The question is simple and our responsibility is clear, and every judge nominated by this President, or any President, deserves an up-or-down vote one way or another. It is the responsibility of the Senate. It is the direction of the Constitution.

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.

Bayh amendment No. 568 (to Amendment No. 567), to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to non-market economy countries.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, we have several pages of amendments that are out there. We repeat our invitation on behalf of myself and Senator JEFFORDS. We want to invite all Democrats and Republicans who have amendments to the highway bill to bring them down. It is going to get crowded later as we go on. Now we have time for adequate consideration, for deliberation, and we encourage Members to bring their amendments to the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, I rise in support of the SAFETEA bill. Effective transportation is vital to our Nation, and I believe this bill will be an important step in helping to meet the country's transportation needs.

I would like to thank both Senator INHOFE and Senator JEFFORDS for working hard on this bill. The people of Oklahoma are blessed with the hard work Senator INHOFE has put forward,

both in the Senate and when I had the opportunity to serve with him in the House.

This bill has required a lot of hard work and a lot of dedication. He has put forward an effort that I think we all appreciate. Sometimes we forget to say thank you for the hard work that goes into a bill such as this, including the hard work of the staff, I might add. The staff on both sides has been helpful in putting this legislation together.

In particular, I express my support for the public transportation title of the bill. While many people erroneously refer to this as the highways bill, it is actually a comprehensive reauthorization of the Nation's surface transportation programs, including transit. A healthy, well-functioning transit network can greatly enhance the effectiveness of other transportation modes, and as chairman of the Subcommittee on Housing and Transportation of the Banking Committee, I have had many opportunities to see the difference reliable public transportation can make for both individuals and communities.

I also express my thanks to the Banking Committee chairman, Chairman SHELBY. For many years he has been one of the leading champions for public transportation in the Senate. I appreciate his dedication. It has been a pleasure to work with him as subcommittee chairman on reauthorization of the mass transit programs.

I also recognize and thank Senator SARBANES, the ranking member of the Banking Committee, and Senator REED, the ranking member of the Housing and Transportation Subcommittee. They have been actively involved in the reauthorization process, and I appreciate the thoughtful perspective they brought to all of our discussions. Together I believe we have been able to accomplish a great deal to improve public transportation in a strong and bipartisan manner.

I thank again Senator INHOFE and all the other Republicans on the Environment and Public Works Committee for their hard work and leadership. I miss not being on the committee. I was on the committee when this bill first moved forward. I very much appreciate working with my colleagues.

Public transportation is a key component of our Nation's transportation infrastructure and provides safe, reliable, efficient, and economic service. Public transportation can create jobs and stimulate economic development, as well as reduce traffic congestion and pollution.

Because I represent the State of Colorado, some people wonder why I care about public transportation. Beyond the national policy concerns, these same people are often surprised when I explain how important public transportation is to my Colorado constituents.

Public transportation encompasses a great deal beyond the stereotype of subways and heavy rail. People in the Denver suburbs can now take light rail

to their jobs downtown. Students in Boulder often use the bus system to get around town. Sick people on the eastern plains may rely on demand-responsive transit services to go to chemotherapy or dialysis appointments. Public transportation is important to many different types of people in many different locations. This bill will help ensure that all these people have access to reliable public transportation.

I believe the Senate passed an excellent transportation reauthorization bill this last year, and I was especially pleased with the transit title. I believe it made important progress in a number of areas while building upon the many successes of TEA-21. Fortunately, we come to the floor with substantially the same package, and I am hopeful this approach will speed things along and allow the bill to move forward with a minimal number of amendments.

I am very supportive of the formula changes made in the transit title. These go a long way toward addressing my longstanding concerns with the distribution of transit dollars. As my colleagues may know, one of my top priorities during the consideration of TEA-21 was to bring more equity to the distribution of transit dollars. Senator Rod Grams and I were able to make changes that allowed States such as Colorado to have greater access to this resource.

In drafting the reauthorization bill, greater equity has continued to be my top priority. While the traditional transit cities have many important needs, it is time to update the formulas to include other needs. Today's bill strikes a balance by providing for more traditional transit cities and also providing for new needs by creating several new formulas.

In particular, I strongly support the new growing States formula. Historically, many of the fastest growing areas in Western and Southern States have had a difficult time obtaining transit dollars. Yet their explosive growth makes transit all the more important. Mass transit can help growing areas reduce traffic congestion and air pollution, as well as increase access to jobs. The new growing States formula will help direct additional resources to the high-growth areas with the greatest need.

I also support the new transit-intensive cities formula. This new formula will reward smaller cities that are providing greater than average transit service. In addition to providing an incentive for cities to improve their transit service, I support the formula because it deliberately directs taxpayer dollars to areas that are utilizing them most efficiently.

Finally, I support the new rural low-density formula. This formula will help rural areas provide critically needed service. Rural areas and very small towns generally have older and less affluent citizens, the very people who often rely on public transportation. In

fact, rural America has an estimated 30 million nondrivers. The problem is exacerbated for rural-transit-dependent populations, as compared to urban dwellers, because they most often travel great distances, and alternate transportation, such as a taxicab, is generally not available. Yet more than 40 percent of residents in rural America have no access to public transportation and another 25 percent have negligible access.

Because of low-population density and the distances involved, rural populations can be much more difficult and expensive to serve. However, their need is as real as the need in urban centers. This new formula will begin to help rural States meet those needs.

The transit title also places more appropriate emphasis on bus programs. For too long, the mass transit programs have been viewed as rail programs. While we can all agree that rail is vitally important to a select group of cities, the vast majority of Americans rely on bus service. This bill takes a balanced approach, providing resources to expand and improve both bus and rail service.

Another way we can help expand the reach of Federal transit dollars is through bus rapid transit. As compared to rail, bus rapid transit is able to deliver similar capacity for a fraction of the cost. I believe we should find ways to not only allow but to promote the use of bus rapid transit. I support the bus rapid transit provisions and believe we should continue to ease the fixed guideway restrictions. In some areas, such as Colorado's mountains, geography or other factors make a fixed guideway requirement cost prohibitive. We must ensure bus rapid transit has sufficient flexibility to make it a viable option for many areas.

The Federal Government attempts to strike a balance between accountability and easing administrative burdens within its programs. However, the New Starts Program has gotten out of balance. I believe the Small Starts Program, as proposed in this bill, does strike a better, more appropriate balance. Under this program, all projects will be subject to the review process rather than exempting projects under \$25 million. This threshold was causing project distortions and poor estimations in an attempt to deem a project under \$25 million.

In addition to the incentive to underestimate a project, this approach lacks accountability for the taxpayer dollars at stake. By contrast, the Small Starts Program in the bill will subject all projects to the review process. However, to ease administrative burden, projects under \$75 million will be subject to a streamline process. This will ensure that all projects receive scrutiny and will scale the level of scrutiny to be appropriate to the project size. This will also make it easier for smaller cities to add transit to their communities for the first time.

While public transit agencies are important in providing transit service, the private sector is also a key partner

in providing effective, efficient service. By making a few modest changes, the transit title ensures they will be able to remain a part of the process. Public-private partnerships can benefit all parties, and our bill will help allow and encourage such partnerships.

Another important feature of this bill is its use of incentives rather than mandates and penalties. Until now, projects have little incentive to use good planning and forecasting or to stay on time and on budget. By offering incentives, we hope to change that. It is absurd that projects such as TREX in Denver have to return money because they did good planning and stayed on time and under budget. Transit agencies should not be punished for doing a good job. Rather, they should be rewarded. I believe they should be able to keep a portion of that money for other transit uses, and the bill before us today will let them do that.

Again I thank Banking Committee Chairman SHELBY and my colleagues on the committee for their work in producing the transit title of the bill that is before us today. I believe that under the SAFETEA bill, America's public transportation system will be able to serve more people more efficiently. I am hopeful the Senate will quickly complete action and enact a transportation reauthorization.

I reemphasize my sincere thanks to the chairman of the Environment and Public Works Committee, Senator INHOFE, for his great work, and the other Republicans and members of the committee working with the ranking member, Senator JEFFORDS. I am pleased this transportation bill, which is badly needed, is now moving forward.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first I say to the Senator from Colorado, we miss him on the committee. He was an excellent member of the committee. However, he was replaced by some excellent freshmen who are as enthusiastic as was the Senator from Colorado. While we miss him on the committee, it is still a great committee, and we certainly appreciate very much the comments he made this morning and the contributions he has made to the Environment and Public Works Committee.

Mr. ALLARD. Mr. President, I thank the chairman.

Mr. INHOFE. Mr. President, it is my understanding the regular order is the amendment offered by the Senator from Indiana. He has agreed to set his amendment aside for the consideration of other amendments as they come to the floor, with the understanding he will regain the floor after those amendments are considered and action taken, if action is taken.

We do have an amendment from the chairman of the Subcommittee on Transportation, Senator BOND, who has worked tirelessly for years on this bill. I am sure he wants to offer it at this time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 592

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 592.

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

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

The amendment is as follows:

(Purpose: To strike the highway stormwater discharge mitigation program)

Beginning on page 287, strike line 5 and all that follows through the matter following line 25 on page 290.

Mr. BOND. Mr. President, this amendment unites the hands of States which were handcuffed by a provision added in committee last year and is still in the bill, a provision on which debate was cut short last year, but now we can finish the job, and I hope we will. This provision will cost the States nearly \$900 million in highway, bridge, and transit construction or rehabilitation funding unless we adopt the amendment.

The provision binding our States, section 1620 of the bill, mandates that every State, regardless of whether it needs it or not, set aside 2 percent, or nearly \$900 million, for use for the life of the bill only on storm water mitigation activities. My amendment strikes this mandatory set-aside.

Without the amendment, States will be directed to set aside over \$740 million from their Surface Transportation Program funds, funds that otherwise could construct or rehabilitate highways, bridges, or transit systems. Without this amendment, States would be forced to set aside over \$125 million from the Equity Bonus Program set up by this bill to help States receive more highway dollars. Without this amendment, the States will be forced to use nearly \$900 million only on storm water mitigation, regardless of the need of such activities.

Every State will lose highway dollars under this set-aside. We have tables available. Alabama, the set-aside would cost it \$19 million; Alaska, \$10 million; Arizona, \$17 million; Arkansas, \$12 million. I ask Members to look at how much the Federal Government would dictate how their highway funds would have to be spent.

Every office will receive a list, and we will have copies available. I urge every Member to look to see how it affects their State. We are fighting extremely hard on the Senate floor to

provide States with more transportation funds. This is something the chairman and the ranking member, my subcommittee ranking member, Senator BAUCUS, and I have done.

We are working with the Finance Committee, Chairman GRASSLEY, and the ranking member, Senator BAUCUS, to get the money. I know we will be inundated by Members wanting transportation projects in this bill. I know in my new role as chairman of the Transportation Appropriations Subcommittee I will be inundated with requests for projects in their State, but a Member voting to take funding from highways, bridges, and transit and set it aside for storm water would seem to indicate that their State has more than enough funding that they can afford to divert highway funds to storm water so the State may not need more highway funds.

Now, do not get me wrong. I support States having the ability to address their storm water needs if they must do so, and if they choose to do so. With my amendment, the States will remain fully authorized to use their highway funds to mitigate storm water problems. Indeed, this bill preserves and actually expands the ability of States to spend highway dollars on storm water mitigation, on a highway project if that is what is needed in their State.

Current law allows States to spend up to 20 percent of a project's cost using STP funds on storm water mitigation. That is unchanged. The bill also expands storm water eligibility by allowing States to spend up to 20 percent of a project's cost under the National Highway System funds on storm water mitigation. That is unchanged by this amendment.

I seek only to strike the mandatory set-aside; the Federal Government big daddy knows better than the States how to spend their funds to assure adequate transportation and protection of the environment.

There is no one in this body who has fought longer and harder than I have, my former colleague, my ranking member, Senator MIKULSKI, for Federal funding for water quality and drinking water. When we served as head of the Senate appropriations subcommittee that funded EPA, we restored hundreds of millions of dollars in proposed cuts to the clean water and safe drinking water funds. Every year we appropriated millions of dollars to protect, sustain, and restore the health of our Nation's water habitats and ecosystems. We spent millions funding water projects for the Chesapeake Bay, the Gulf of Mexico, Lake Champlain, Long Island Sound, and the Great Lakes. Last year, we sent hundreds of millions of dollars more to Members' States for targeted investments and water infrastructure. We do that every year for our colleagues because we believe so much in providing clean and safe drinking water for our families and local communities.

Forcing another arbitrary mandate on States, taking precious highway and transit construction dollars and divert-

ing them for another purpose does not make sense. Decisions should be made by each State on a case-by-case, project-by-project basis, not as a result of another one-size-fits-all Federal mandate sent down from Washington.

Let me repeat, this amendment strikes only the set-aside mandate and leaves fully intact storm water funding eligibility. I urge my colleagues to let States keep \$900 million for highway bridge and transit construction and to turn back this new Federal mandate on States. I urge my colleagues to support this amendment.

I ask unanimous consent that letters in support of this amendment from the American Association of State Highway and Transportation Officials; the Transportation Construction Coalition, a coalition of builders and union representatives; the Associated General Contractors of America; the American Road and Transportation Builders Association; and a list of other organizations and unions supporting this amendment be printed in the RECORD after my remarks.

I thank the Chair and I yield the floor.

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

ORGANIZATIONS SUPPORTING THE BOND AMENDMENT TO STRIKE THE STORMWATER SET-ASIDE

American Association of State Highway and Transportation Officials; Associated General Contractors of America; American Road & Transportation Builders Association; American Coal Ash Association; American Concrete Pavement Association; American Concrete Pipe Association; American Council of Engineering Companies; American Society of Civil Engineers; American Subcontractors Association; American Traffic Safety Services Association; Asphalt Emulsion Manufacturers Association; Asphalt Recycling & Reclaiming Association; Associated Equipment Distributors; Association of Equipment Manufacturers; International Slurry Surfacing Association; International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers; International Union of Operating Engineers; Laborers-International Union of North America, AFL-CIO; National Asphalt Pavement Association; National Association of Surety Bond Producers; National Lime Association; National Ready Mixed Concrete Association; National Stone, Sand and Gravel Association; National Utility Contractors Association; Portland Cement Association; Precast/Prestressed Concrete Institute; The Road Information Program; and United Brotherhood of Carpenters and Joiners of America.

APRIL 27, 2005.

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

DEAR SENATOR BOND: The transportation construction industry, working in partnership with federal, state and local government, recognizes its special responsibility to provide transportation improvements in a manner least disruptive possible to the natural environment. And our members are justifiably proud that they are actually able to provide environmental enhancements in the course of many projects they construct.

It is for these reasons that we support the provisions in the Senate Environment & Public Works Committee's proposed highway/transit program reauthorization bill,

H.R. 3, that will give state transportation departments more flexibility in how—and how much—they fund transportation-related storm water mitigation activities.

What we do not support is a provision included in H.R. 3 that would force all states to spend at least two percent of their federal Surface Transportation Program (STP) funds on storm water mitigation. This misguided, if well-intentioned amendment, if left to stand, will divert nearly \$900 million from highway construction projects nationwide over the life of the bill.

As mentioned, H.R. 3 takes a number of positive actions to advance and expand state expenditures on storm water mitigation—but it does so by leaving the decision making and choices to the state agencies that know best how much funding is necessary for this activity—in their state. For example, H.R. 3 will allow all states to not only use their STP funds for storm water mitigation, but also, for the first time, their National Highway System Program (NHS) funds as well—if they choose to do so.

H.R. 3 also, for the first time, would give states the option to use their federal funds for storm water mitigation activities on all federally-aided highway projects, not just those, as under current law, that are defined as “reconstruction, rehabilitation, resurfacing, or restoration.”

The “add on” two percent mandatory STP set-aside included in H.R. 3 clearly is a federal “command-and-control” mechanism that is not necessary.

The American Road and Transportation Builders Association strongly supports your amendment to eliminate the proposed two percent storm water mitigation set-aside provision from H.R. 3. We urge all senators to join you in this important effort.

Sincerely,

T. PETER RUANE,
President & CEO.

APRIL 27, 2005.

Hon. DANIEL AKAKA,
U.S. Senate, Washington, DC.

DEAR SENATOR AKAKA: On behalf of the Associated General Contractors of America (AGC), I am writing to urge you to support a Bond amendment to H.R. 3, which would prevent states from losing nearly \$900 million in critical highway and transit funding over the next five years. Specifically, the amendment proposes to strike a provision that mandates states to set aside 2 percent of their highway formula funding to be used only on stormwater mitigation activities.

Under current law, states can already choose to use their Surface Transportation Program (STP) funds—up to 20 percent of a project's cost—on stormwater mitigation activities. H.R. 3 already expands that funding eligibility to National Highway System (NHS) Program funds. The Bond amendment would not change this eligibility.

All states have unique needs that far exceed available resources. By striking the mandatory 2 percent set-aside for stormwater mitigation, the Bond amendment simply gives states maximum flexibility to use their federal highway funds as they see fit.

I have attached a table to this letter that shows the amount of funding your state would be forced to set aside from your highway and transit funding for stormwater mitigation if the Bond amendment is not adopted. The amount on the chart is funding that your state would not be able to use to maintain or improve the condition of its highways, bridges, or transit systems. Nationwide, the Bond amendment would give states an additional \$900 million over the next five years.

States should be able to make their own decisions on how best to use their limited federal transportation dollars. Please oppose this arbitrary federal mandate by supporting the Bond amendment.

Sincerely,

JEFFREY D. SHOAF,
Senior Executive Director,
Government and Public Affairs.

APRIL 27, 2005.

DEAR SENATOR: During the Senate debate on the Transportation Equity Act: A Legacy for Users, H.R. 3, you will have an opportunity to reject a new, top-down effort for federal management of state highway programs that would force highway funds to be diverted to non-transportation purposes. We urge you to support an amendment by Senate Transportation and Infrastructure Subcommittee Chairman Christopher Bond (R-Mo.) to eliminate a new program that would require a portion of federal highway formula funds to be used for storm water mitigation projects.

H.R. 3 includes a provision that would require states to use two percent of their federal Surface Transportation Program (STP) funds for storm water mitigation activities. Over the measure's life, this provision would result in nearly \$900 million in highway formula funds that would not be available for highway, highway safety and bridge improvement activities.

This proposal contradicts the flexibility provided throughout the federal highway program and H.R. 3 that allows states the ability to meet their own unique transportation challenges. Storm water mitigation activities are currently eligible for STP funds—a choice left up to states, not mandated by federal law. In fact, H.R. 3 includes separate provisions that would broaden the eligibility for states to spend not only STP, but also National Highway System program funds on storm water projects.

H.R. 3 would also extend eligibility for federal funds to be used on storm water mitigation related to federal highway projects, not just those projects undergoing reconstruction, rehabilitation, resurfacing or restoration—as is the current law. Consequently, the proposed creation of a mandatory storm water mitigation “set-aside” is unnecessary and undermines the ability of states to make their own decisions about the best use of federal highway formula funds.

The nation has vast unmet surface transportation and water infrastructure needs. Depriving states the ability to address their highway and highway safety needs in order to fund storm water mitigation projects is a false choice. It is far more appropriate to complement state's current flexibility with the enactment of a comprehensive water infrastructure bill. Consequently, we urge you to support the Bond amendment to strike the storm water mitigation program from H.R. 3.

Thank you for your consideration of these views.

Sincerely,

THE TRANSPORTATION CONSTRUCTION
COALITION.

APRIL 27, 2005.

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

DEAR SENATOR BOND: The American Association of State Highway and Transportation Officials (AASHTO) represents the State transportation agencies in the fifty States, the District of Columbia and Puerto Rico. On behalf of our member States, we support your Amendment to strike Section 1620 of SAFETEA, which would mandate that the States set-aside 2% of their Surface Trans-

portation Program (STP) funds and of the STP portion of the Equity Bonus Program. This set-aside would divert \$867 million from the core program that provides funding for highway and bridge construction, rehabilitation and repair.

Even if Section 1620 is removed, as you propose, any State could continue to spend up to 20% of a project's cost on storm water activities—but at the discretion of the State. Section 1620 would mandate that each and every State spend a specified amount of highway funds for construction of storm water facilities regardless of a State's funding priorities and needs with respect to transportation and water issues. Moreover, these funds would be set aside for storm water projects not necessarily associated with a particular highway project.

The storm water set-aside would merely divert scarce funds from the federal highway and transit program. It is through the core highway programs, including the STP program, that States and local governments build, maintain and operate a safe and efficient highway system. Erosion of the core programs through set-asides such as storm water diminishes the ability of state and local governments to respond to their needs.

We support your amendment to strike Section 1620 of SAFETEA and appreciate your leadership on this issue.

Sincerely yours,

JOHN HORSLEY,
Executive Director.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Bond amendment to strike section 1620 of the underlying bill, the highway stormwater discharge mitigation program.

This section provides much-needed assistance to our States and local communities to deal with the impacts of highway stormwater discharges.

Without these funds, our Nation's highways are at risk of becoming a conduit for pollutants to reach fragile waterways and ecosystems.

In the last Congress, the Senate recognized the need for this program and adopted this provision as part of the transportation bill.

I urge my colleagues to continue their support for this vital program.

Our Nation is facing a water quality challenge.

Since the enactment of the Clean Water Act in 1970, we have taken steps to reduce pollution coming from point sources such as wastewater treatment plants and industry.

However, according to the EPA's most recent National Water Quality Inventory, 40 percent of our Nation's waterways are still impaired.

Non-point source pollution is the next hurdle for this Nation to overcome if we are to truly make progress and improve our water quality.

EPA states that urban run-off and storm sewers are the number four source of pollution in rivers, number three in lakes, and number two in estuaries.

When it rains or when snow melts, roads serve as conduits for pollutants such as oil and grease, heavy metals, and sediment that flow directly into rivers, streams, and lakes.

Because roads prevent rainfall and snowmelt from soaking into the

ground, the physical characteristics of surrounding water bodies are also altered.

Groundwater recharge is reduced, affecting water supplies.

Stream channels erode due to rapid, heavy flows, leading to excessive situations in rivers and streams which severely impacts fish habitat. This is a major part of our stormwater problem in Vermont.

Water temperatures are altered, impacting wildlife.

In addition, flooding can occur which not only damages the environment but also puts human lives and property at risk.

The highway stormwater discharge mitigation program will ensure that communities have at least a portion of the resources to solve their water quality problems stemming from Federal-aid highways.

It authorizes 2 percent of surface transportation program funds to be used for highway stormwater discharge mitigation.

This would provide a total of \$867 million over 5 years.

The program would reduce the impacts to watersheds from the development of highways and roads while addressing the goals in the Federal Clean Water Act by funding projects that improve water quality.

The new program emphasizes non-structural solutions to managing stormwater runoff, which reduce costs to local communities, protect the natural water cycle, and provide more overall environmental benefits.

In my home State of Vermont, Lake Champlain, which also borders the State of New York, is threatened by pollution from storm water runoff.

Although it is one of the cleanest large lakes in the United States, Lake Champlain is polluted with nutrients and sediment.

The fastest growing source of pollution reaching the lake is runoff from developed land, including highways.

Roadway drainage systems carry sediment and nutrients, and the cost of cleaning up existing roadway runoff to Lake Champlain is estimated at more than \$500,000 each year for the next 9 years.

Similar problems exist in the Connecticut River basin in Vermont.

Currently, our State is struggling to deal with a backlog of expired storm water permits, extremely limited resources, and statewide storm water discharge water quality issues that threaten the growth of our economy by stalling development.

The two most important road improvement projects in our biggest city have been repeatedly delayed by storm water pollution concerns, slowing the construction schedules by months and even years.

One of our greatest assets in my home State of Vermont is our pristine environment, including Lake Champlain.

We need to ensure that as we improve our roadway network to meet the demands of a growing population we do

not sacrifice the quality of our environment that draws people to visit and move to Vermont in the first place.

I have heard some of my colleagues from more arid States question the need for these funds given climatic differences.

However, each and every State in the Nation has critical storm water mitigation needs.

Under new regulations that took effect in March 2003, over 50,000 small communities, counties, and other areas in every State must now manage stormwater runoff to meet Clean Water Act requirements.

The EPA estimated the cost to comply with these regulations to be about \$1 billion per year.

Larger cities already manage stormwater pollution in order to meet discharge permits and other Clean Water Act requirements.

Every State in the country has at least one community covered by these regulations.

The arid and semi-arid western United States has receiving waters that are generally smaller than their eastern counterparts.

Therefore, the impacts of urban stormwater are more strongly felt in western waterways.

For example, in the State of Nevada, the Las Vegas Valley Stormwater Management Committee found in its 2003 annual report that zinc and lead concentrations were 10 to 96 times higher in stormwater runoff than in other parts of the Nation, an effect attributed to the fewer number of storms in the arid Southwest.

EPA estimates that Arizona communities will need about \$150 million to meet stormwater regulatory requirements, plus an additional \$40 million in estimated costs to address urban runoff. Arizona's portion of stormwater funding under section 1620 of the highway bill is about \$17 million.

The California Department of Transportation estimates that the cost of stormwater controls on existing highways would range from between \$4 million and \$7.5 million per mile of highway.

The Chesapeake Bay Commission estimated in January of 2003 that stormwater retrofit costs across the watershed are more than \$9 billion.

In demonstration of the nationwide support for this stormwater provision in the highway bill, I ask unanimous consent that multiple letters opposing the Bond amendment and endorsing the underlying provision be printed in the RECORD.

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

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, Apr. 25, 2005.

Hon. JAMES M. INHOFE,
Chair, Environment & Public Works, U.S. Senate,
Dirksen Senate Office Building, Washington, DC.
Hon. JAMES M. JEFFORDS,
Ranking Minority Member, Environment & Public Works Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN INHOFE AND RANKING MINORITY MEMBER JEFFORDS: On behalf of The United States Conference of Mayors and the hundreds of cities we represent, I write to convey our strong support for the stormwater provisions of your Committee-approved SAFETEA plan to renew the nation's surface transportation programs.

These provisions, reserving less than 1/3 of a penny on every authorized dollar, is a very modest commitment to an enormous challenge before local governments struggling with contamination of drinking water and cleanup of streams, rivers, lakes and ponds from highway and street stormwater discharge, including oil, grease, lead and mercury. Moreover, we have been assured that these provisions limit funding to actual facilities on the federal aid system, which is a critical factor underlying our support of this program. This is important to the nation's cities since it ensures that users of these systems contribute something to the broader efforts under the Clean Water Act to reduce pollutants from the nation's major highways and roads.

Absent some commitment to retrofitting existing facilities on the federal aid system during this renewal period, stormwater pollution cleanup costs, including loadings attributable to the federal aid system, will be borne largely by local taxpayers through property taxes, other general taxes and wastewater utility user fees.

Finally, we disagree with the claim that this is a diversion of funds from highway construction and highway capacity needs. It is the belief of the nation's mayors that improved performance, whether it is pavement quality, the development of technology, or its stormwater quality features, are priorities for the nation as we work with you to provide a modern and fully functional transportation system for our citizens and their communities and regions.

America's mayors thank you for making these provisions part of your SAFETEA legislation and urge you to preserve this important commitment to stormwater pollution abatement efforts during your conference committee deliberations with the House. If you have any questions, please contact our Assistant Executive Director for Transportation Policy Ron Thaniel at (202) 861-6711 or e-mail at rthaniel@usmayors.org.

Sincerely,

TOM COCHRAN,
Executive Director.

ASSOCIATION OF STATE AND INTER-STATE WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, April 22, 2005.

DEAR SENATOR: On behalf of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), I urge your support for the Highway Stormwater Discharge Mitigation Program, Section 1620 of the Senate SAFETEA bill, S. 1072, in the 108th Congress. This new and modest program is designed to address stormwater runoff from the nation's existing transportation system. Stormwater runoff is a significant source of water pollution affecting large and small communities, as well as fish, wildlife and the natural environment.

Stormwater pollution results from paving over naturally porous ground, resulting in impervious surfaces that collect pollutants and increase overland stormwater volume and velocity. Stormwater becomes a direct conduit for pollution into the nation's rivers, lakes, and coastal waters. Studies have shown that roads contribute a large number of pollutants to urban runoff—metals, used motor oil, grease, coolants and antifreeze, spilled gasoline, nutrients from vehicle exhaust, and sediment. For example, the stormwater discharge from one square mile of roads and parking lots can contribute about 20,000 gallons of residual oil per year into the nation's drinking water supplies. Highways can increase the annual volume of stormwater discharges by up to 16 times the pre-development rate and reduce groundwater recharge.

Communities throughout the nation, including many smaller towns and counties, are required under the Clean Water Act to obtain discharge (NPDES) permits for their stormwater. Those communities, which have long understood the value of protecting their drinking water sources and recreational waters from stormwater impacts, are hard-pressed to absorb the costs of discharges from highways in addition to their other stormwater management responsibilities. This presents an unfair burden to these communities and we believe it is fair for the transportation funding system to help remedy this problem where existing highways and other roads cause significant runoff problems.

We urge you to continue to demonstrate your leadership in protecting America's waters by supporting the stormwater mitigation provision in SAFETEA. We appreciate your willingness to consider the views of the State and Interstate Water Pollution Program officials responsible for the protection and enhancement of the nation's water quality resources.

Sincerely,

ARTHUR G. BAGGETT, JR.
President.

THE ENVIRONMENTAL
COUNCIL OF THE STATES,
Washington, DC, April 25, 2005.

Hon. JAMES INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Environmental Council of the States (ECOS*), I'm writing to request your support for the Highway Stormwater Discharge Mitigation Program, the new provision included in S. 732, the Safe, Accountable, Flexible, and Efficient Transportation Act of 2005 (SAFETEA), section 1620.

EOS strongly supports the provision because stormwater compliance is a serious issue for the states and this provision provides for \$867 million over five years, specifically for stormwater mitigation projects associated with the nation's federal-aid highways. The provision would provide states with much needed resources to help meet stormwater and water quality requirements of the Clean Water Act. These funds are particularly critical during this time of budgetary constraints.

Please feel free to contact me if you would like to discuss this matter further. I may be reached at 202-624-3600.

Sincerely,

R. STEVEN BROWN,
Executive Director.

WATER ENVIRONMENT FEDERATION,
Alexandria, VA, February 7, 2005.

Hon. JAMES JEFFORDS,
Ranking Member Environment and Public
Works Committee, U.S. Senate, Dirksen Senate
Office Building, Washington, DC.

DEAR SENATOR JEFFORDS: The Water Environment Federation (WEF) urges you to support a dedicated funding program to mitigate the negative impacts of stormwater runoff from our nation's highways. The Highway Stormwater Discharge Mitigation Program was included in the Senate Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA) bill, S. 1072, in the 108th Congress. It is critical that this program be included in this year's version of the transportation bill.

According to U.S. EPA, contaminated stormwater is the largest contributor to the impairment of water quality in U.S. coastal waters and the second largest source of impairment in estuaries. Contaminated stormwater is also the single largest factor in beach closures and advisories. The cost to address these problems is large, too. The U.S. EPA estimates at least \$8.3 billion over 20 years in local funding needs to address Clean Water Act stormwater requirements, and an additional \$142 billion to address stormwater infiltration and other problems in separate and combined sewer systems.

Congress has recognized that contaminated runoff from highways is a significant source of water quality impairment in previous highway bills (ISTEA and TEA-21), but has not succeeded in getting adequate funding directed toward this problem. A dedicated fund to address stormwater impacts from existing federal aid highways will help to prevent further degradation of streams, lakes, and beach waters. This funding will benefit all Americans by helping communities comply with Clean Water Act stormwater requirements and to clean up waters impaired by highway runoff.

On behalf of the members of the Water Environment Federation, who are professionals working to protect water quality around the world, thank you for your support of this important provision that will help to improve the nation's water resources.

Sincerely,

TIM WILLIAMS,
Managing Director, Government Affairs.

ASSOCIATION OF METROPOLITAN
SEWERAGE AGENCIES,
Washington, DC, April 22, 2005.

Re Support for S. 721 and the Highway
Stormwater Discharge Mitigation Program.

Hon. JAMES M. INHOFE,
Chair, Environment and Public Works Committee, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

Hon. JAMES M. JEFFORDS,
Ranking Member, Environment and Public
Works Committee, Dirksen Senate Office
Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INHOFE AND SENATOR JEFFORDS: We are writing to express our strong support for the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2005 (SAFETEA) (S. 732) as passed March 16 by the Senate Environment and Public Works Committee. The Committee's bill includes a provision to authorize \$867.6 million over five years for stormwater mitigation projects, using just 2% of the Surface Transportation Program funds. Such projects include stormwater retrofits, the recharge of groundwater, natural filters, stream restoration, minimization of stream bank erosion, innovative technologies, and others.

According to the U.S. Environmental Protection Agency, polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40% of

U.S. waterways not meeting water quality standards. Roadways produce some of the highest concentrations of pollutants such as phosphorus, suspended solids, bacteria, and heavy metals.

AMSA represents hundreds of publicly owned treatment works, many of which have municipal stormwater management responsibilities. Your continued support for S. 732, including the Highway Stormwater Discharge Mitigation Program, would provide much-needed support to these communities. Thank you for your leadership and please feel free to contact me at 202/833-4653 if AMSA can provide you with additional information.

Sincerely,

KEN KIRK,
Executive Director.

ASSOCIATION OF METROPOLITAN
WATER AGENCIES,
Washington, DC, April 22, 2005.

DEAR SENATOR: On behalf of the nation's largest publicly owned drinking water systems, I write today to express support for section 1620 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (S. 732), which would provide \$870 million over five years for stormwater mitigation projects.

This language makes progress toward addressing the billions of dollars in costs that state and local governments will incur to control stormwater generated by our nation's highways.

Stormwater runoff has a significant effect on thousands of miles of the nation's rivers and streams. The bill acknowledges this impact and assists states and local communities in addressing this growing water quality problem.

Thank you for your consideration.

Sincerely,

DIANE VANDE HEI,
Executive Director.

ASSOCIATION OF STATE FLOODPLAIN
MANAGERS, INC.
Madison, Wisconsin, April 25, 2005.

Hon. JAMES M. INHOFE,
Chairman, Environment & Public Works Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR JEFFORDS: The Association of State Floodplain Managers (ASFPM) is very supportive of a provision in the Senate Safe, Accountable, Flexible and Efficient Transportation Equity Act (S. 732) which provides for a Highway Stormwater Discharge Mitigation Program.

The membership of the Association of State Floodplain Managers includes state and local officials all over the country who work with FEMA and other federal agencies to reduce loss of life and property due to flooding. Our membership of almost 7,000 also includes many other professionals in the field.

We are extremely pleased that the Senate Environment and Public Works Committee has recognized the alterations that often occur in floodplains due to construction and modification of highways and roads as well as the effects of runoff pollutants on waterways, lakes, and wetlands. A commitment of 2% of the Surface Transportation Program funds to assist local officials in mitigating the effects of stormwater runoff will be a wise and important element of highway planning and construction. The funds can also be used for retrofit of already built highways to mitigate existing inadvertent adverse impacts.

ASFPM has developed a conceptual framework for alleviating such inadvertent effects on flood risk. The "No Adverse Impact" or "NAI" concept seeks to guide state and local decision makers in evaluating the effects of development and the creation of impervious

surfaces. The No Adverse Impact approach focuses on planning for and lessening flood impacts resulting from land use changes. It is essentially a "do no harm" policy that will significantly decrease the creation of new flood damages. Further information on the concept can be found at our website: www.floods.org.

Providing for mitigation of stormwater runoff effects would significantly contribute to implementation of a No Adverse Impact approach to flood loss reduction in our nation. As the full Senate will soon consider S. 732, we would like you to be aware of our very strong support for the stormwater runoff mitigation provision. ASFPM is grateful for your commitment to this provision and urges your continued commitment.

Very sincerely,

CHAD BERGINNIS,
ASFPM Chair.

—
TROUT UNLIMITED,
March 15, 2005.

Re Support of Highway Stormwater Discharge Mitigation Funding in the Transportation Bill.

Hon. JIM INHOFE,
Chairman, Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INHOFE: Trout Unlimited, the nation's leading trout and salmon conservation organization, urges you to support funding to mitigate stormwater runoff in this year's transportation bill. A similar provision, Section 1620, the Highway Stormwater Discharge Mitigation Program, was included in last year's Senate transportation bill, S. 1072.

Stormwater runoff is a significant source of pollution for all the nation's waters, and is a major cause of trout and salmon habitat loss. Roads are a major source of stormwater runoff. Road building in the United States has created millions of miles of impervious surfaces that collect water and pollutants. When mixed with rain and melting snow, these pollutants flow unimpeded into nearby streams, undermining water quality and warming water temperatures to the point where trout habitat is damaged. Furthermore, excessive and poorly designed road building through watersheds can turn normal rainstorms into small flash floods that scour stream bottoms and de-stabilize stream banks, leading to poorer quality streams over time.

Congress has recognized that runoff pollution from highways lowers water quality and destroys habitat in receiving waters in previous highway bills (ISTEA and TEA-21), but has not yet succeeded in getting adequate funding directed at curbing this pollution. In 2000, EPA estimated at least \$8.3 billion over 20 years in local funding needs to address stormwater requirements. The time to take action is now as you consider the new Highway Bill.

In addition to providing much-needed funding, the bill encourages projects with the least impact on streams and promotes the use of non-structural techniques, such as created wetlands, to mitigate the negative impacts of stormwater. These approaches are generally more cost-effective and do more to protect and improve water quality and protect habitat.

Thank you for your support of this important provision in this year's transportation bill.

Sincerely yours,

STEVE MOYER,
Vice President, Government Affairs and
Volunteer Operations.

FEBRUARY 10, 2005

Re Highway Stormwater Discharge Mitigation Funding in the Transportation Bill.

DEAR SENATOR: The undersigned organization dedicated to protecting America's waters urge you to support funding to mitigate stormwater runoff in this year's transportation bill. A similar provision, Section 1620, the Highway Stormwater Discharge Mitigation Program, was included in last year's Senate transportation bill, S. 1072.

Stormwater runoff is a significant source of pollution for all the nation's waters, and roads are a major source of stormwater runoff. When rain falls on a natural landscape, the water is absorbed by plants and soil where it is filtered and released slowly into nearby streams and rivers and replenishes ground water supplies. Road building in the United States has created millions of miles of impervious surfaces that collect water and pollutants, including oil, grease, lead and other heavy metals. When mixed with rain and melting snow, these pollutants flow unimpeded into nearby streams, ditches, rivers and ponds. Excessive and poorly designed road building through watersheds can turn normal rainstorms into small flash floods that damage natural systems and are very costly to local communities. Stormwater runoff also pours into sewers causing overflows of untreated sewage into drinking water supplies and recreational waters.

Congress has recognized that runoff pollution from highways contaminates downstream waters in previous highway bills (ISTEA and TEA-21), but has not yet succeeded in getting adequate funding directed at curbing this pollution. Under the Clean Water Act, thousands of local communities must obtain permits for their stormwater discharges and develop programs to mitigate runoff.

In 2000, U.S. EPA estimated at least \$8.3 billion over 20 years in local funding needs to address stormwater requirements, and an additional \$92 billion and \$50.3 billion to address stormwater infiltration and other problems in separate and combined sewer . . .

Environmental Integrity Project—Michele Merkel, Washington, DC; National Audubon Society—Kasey Gillette, Washington, DC; Natural Resources Defense Council—Nancy Stoner, Washington, DC; The Ocean Conservancy—Catherine Hazlewood, Washington, DC; Sierra Club—Ed Hopkins, Washington, DC; Smart Growth America—Don Chen, Washington, DC; Surface Transportation Policy Project—Ann Canby, Washington, DC; Trust for Public Land—Alan Front, Washington, DC; U.S. Public Interest Research Group—Christy Leavitt, Washington, DC; Delaware Nature Society—Eileen Butler, Hockessin, DE.

Control Growth Now, Inc.—Dan Lobeck, Sarasota, FL; Keep Manatee Beautiful—Ingrid McClellan, Bradenton, FL; Reef Relief—Paul G. Johnson, Crawfordville, FL; South Walton Turtle Watch—Sharon Maxwell, NW Coast, FL; St. Lucie Audubon Society—Harold Philips, Fort Pierce, FL; Munson Area Preservation, Inc.—Margaret Fogg, Tallahassee, FL; Apalachicola Bay & Riverkeeper—Apalachicola, FL/GA; Georgia River Network—April Ingle, Athens, GA; Upper Chatahoochee Riverkeeper—Elizabeth Nicholas, Atlanta, GA.

American Bottom Conservancy—Kathy Andria, East St. Louis, IL; Center for Neighborhood Technology—Jacky Grimshaw, Chicago, IL; Chicagoland Transportation & Air Quality Commission—Melissa Haeffner, Chicago, IL; Environmental Law & Policy Center of the Mid-West—Albert Ettinger, Chicago, IL; Prairie Rivers Network—Jean Flemming, Champaign, IL; Kentucky Waterways Alliance—Judith Peterson,

Munfordville, KY; Gulf Restoration Network—Cynthia Sarthou, New Orleans, LA; Save the Illinois River—Ed Brocksmith, Tahlequah, OK; Connecticut River Watershed Council—Tom Miner, Greenfield, MA.

Leominster Land Trust—Peter Angelini, Leominster, MA; Massachusetts Watershed Coalition—Leominster, MA; North and South Rivers Watershed Association—Samantha Woods, Norwell, MA; Taunton River Watershed Alliance—Bill Fitzgerald, Franklin, MA; American Fisheries Society—Jessica Geubtner, Bethesda, MD; Anacostia Watershed Society—Jim Connolly, Bladensburg, MD; Chesapeake Bay Foundation—Roy Hoagland, Annapolis, MD; Maryland Conservation Council—Mary Marsh, Arnold, MD; Patapsco Riverkeeper—Lee Walker Oxenham, Baltimore, MD.

Missouri Coalition for the Environment—Edward J. Heisel, St. Louis, MO; Environmental Coalition of Mississippi—Jackie Rollins, Madison, MS; American Wildlands—Amy Stix, Bozeman, MT; Citizens for a Better Flathead—Mayre Flowers, Kelispell, MT; Lower Neuse Riverkeeper & Neuse River Foundation—Larry Baldwin, New Bern, NC; New Hampshire Rivers Council—Carl Paulsen, Concord, NH; Hackensack Riverkeeper, Inc.—Hugh M. Carola, Hackensack, NJ; New York/New Jersey Baykeeper—Andrew Willner, Keyport, NJ; and Amigos Bravos—Rachel Conn, Taos, NM.

Mr. JEFFORDS. The Bond amendment is opposed by the: U.S. Conference of Mayors, State Water Pollution Control Administrators, Environmental Council of States, Trout, Unlimited, Metropolitan Sewerage Agencies, Metropolitan Water Agencies, American River, and a host of other organizations.

I ask unanimous consent that a letter from the League of Conservation Voters indicating its opposition to the Bond amendment and its intent to score this vote be printed in the RECORD.

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

LEAGUE OF CONSERVATION VOTERS,
Washington, DC, April 26, 2005.

Re: S. 732 Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA). Remove provisions that weaken the Clean Air Act and National Environmental Policy Act (NEPA). Oppose the Bond (D-MO) motion to strike stormwater mitigation funds.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges Congress to pass a balanced transportation bill that protects public health and the environment as it encourages the development of transportation options. SAFETEA, as drafted, will mean increased air pollution from cars and trucks and weakened environmental review of projects.

To keep growth in traffic from undermining regional air pollution control strategies, the Clean Air Act requires that regional transportation plans contribute to the timely attainment of health-based air standards. S. 732 would weaken these requirements, by constraining the analysis of transportation

impacts to 10 years, rather than the 20-year planning horizon now used. As a result, the actual impacts of new projects would not be considered, resulting in long-term increases in air pollution, traffic and sprawl, and increased public health impacts.

Signed into law in 1970 by the Nixon administration, NEPA requires the federal government to examine the potential environmental impact of federally funded activities and share its findings with the public. Under NEPA, the Department of Transportation is afforded the opportunity to fix problems with environmental compliance and review before decisions are finalized. The government's own findings demonstrate that environmental reviews are not a significant cause of delays. If, however, this bill includes new, rigid deadlines and review procedures, federal agencies would be forced to cut corners. This could lengthen the process down the line by spurring legal challenges and forcing agencies to make time-consuming revisions.

In addition, LCV urges you to oppose the Bond (R-MO) motion to strike the Highway Stormwater Discharge Mitigation Program, Section 1620. This motion would eliminate a critical program, which would provide up to \$867.6 million (only two percent of Surface Transportation Program funds) to mitigate the effects of stormwater runoff from roads and highways. This is especially important since nearly half of the pollution in our waterways is due to runoff from roads and parking lots.

LCV's Political Advisory Committee will consider including votes on these issues in compiling LCV's 2004 Scorecard. If you need more information, please call Tiernan Sittenfeld or Barbara Elkus in my office at (202) 785-8683.

Sincerely,

DEB CALLAHAN.

Mr. JEFFORDS. One of our Nation's most precious resources is our water. Water quality affects the environment, wildlife, our health, and our economy.

Section 1620 of the transportation bill recognizes the significant contribution that roads make to stormwater pollution, and it provides critical funding to help States and local communities mitigate these damages.

I urge my colleagues to oppose the Bond amendment.

I yield the floor.

Mr. WARNER. Mr. President, I thank the distinguished managers of this bill. I had been discussing with Senator BOND options with regard to this amendment. Those discussions as yet have not yielded any course of action. I judge that he took the initiative here; I just was unaware he had taken it.

At this time I am chairing a hearing in the Armed Services Committee on military intelligence. We have finished our open session. We are now proceeding to S. 407 to conclude our hearing with a closed session. I am not able at this juncture to address this important amendment from the perspective of the Senator from Virginia who is the sponsor of the amendment in the committee, which was adopted as part of the markup. So I thank the distinguished chairman. My understanding is he did address the Senate with regard to my unavailability at this time. I

will, however, at a time mutually convenient, come to the floor and give my response to the Bond amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Virginia. I serve on the Armed Services Committee under his capable leadership. He chairs that committee. He is also the longest serving member of the committee that I chair, Environment and Public Works. It is very rare that I would oppose something he is in favor of. This might be that exception. But let me give him our assurance that nothing is going to happen to dispose of this amendment until he has adequate time to complete his hearing and come down and be heard on this amendment.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Oklahoma for his usual gracious work with his colleagues here in the Senate. I will return.

Mr. INHOFE. Mr. President, we have talked about this issue several times before. The distinguished Senator from Virginia has very strong beliefs. Those beliefs are shared by the ranking minority member and by several members of our committee. This amendment was added in committee. It is one I voted against at the time. I did oppose it. However, I know there are very strong feelings about it and I want to make sure everybody gets to be heard, and I am sure we will end up with a rollcall vote. I would only make a couple of comments.

There are flexible provisions in the underlying bill that will help States address their storm water needs and maintain their ability to determine how to spend these limited dollars. For that reason I had felt a mandatory 2-percent set-aside in this bill was not necessary.

Currently, States are allowed to use their STP funds for environmental enhancements which include a variety of projects, including storm water mitigation. Our bill gives States the option to use STP and NHS money for storm water mitigation. Our bill allows those States that wish to use highway money to address storm water runoff and help communities comply with phase 1 and 2 on clean water runoff to do so.

I think probably one of the reasons for my opposition to this is I spent 4 terms as mayor of a major city, Tulsa, OK. I have always been a strong believer that the closer you get to home, the better the decisions are. In other words, the idea that somehow Washington knows more about my State of Oklahoma than the people in my State of Oklahoma is something I have disagreed with.

If this amendment should be agreed to and the bill should become law, if we in the State of Oklahoma want to spend 2 percent or even more of our money for this purpose, we can do it. But if we have other priorities that are greater, as determined by those of us in Oklahoma, then I think that should take precedence.

For that reason I will respectfully support this amendment. I am sure there will be more discussion on it later on.

I am sure the ranking minority member will agree with me, we do not want to do anything further other than hear debate until Senator WARNER, whose provision it was that was put in the bill in committee, has ample time to debate it and to come to the floor and try to work out any compromises he may be successful in working out with the author of the amendment, Senator BOND.

With that, let me renew our appeal to Members to come down with their amendments. I am glad we are finally getting some activity here, some amendments coming down. It is very important we move on with this bill. We have several pages of amendments. I know a lot of these amendments are going to be agreed to in a managers' amendment we will be propounding before too long. There are some that will have to be fought out on the floor. It is my desire, and I am sure the desire of the ranking minority member, that we get on with these amendments. I have been here long enough to know what is going to happen. We are going to have all day today to handle amendments, and tomorrow. People are not going to bring them down. Then when something happens or when cloture is filed, everyone is going to get hysterical and say, Why didn't I have time to offer my amendment?

You may not have time. We are serving warning to you right now, that could happen. Now there is time and we encourage you to come down. This amendment under discussion now, which the Senator from Indiana has graciously set aside—it is his amendment—is one that will be controversial and I suspect there will be many members on the minority side of our committee who want to be heard. I think they were unanimous in supporting Senator WARNER in the committee at that time.

We hope those people will come down and get the debate out of the way so we can proceed with this amendment and with any other amendments that come to the floor. Let's keep in mind, as I said yesterday on more than one occasion, what will happen if we are not successful in getting this bill passed. We are on our sixth extension. The extensions do not work. Our money is not well spent. People are dying on the highways. There are things that are happening that will not happen unless we pass this bill. Without an extension there is not going to be any chance to improve the donor status. My State is a donor State. I remember when it was 75 percent as a guarantee to come back to the States for money paid into the highway trust fund, revenues that were collected in my State of Oklahoma. Now it is up to 90.5 percent. If we had been successful with the bill last year, it would have been 95 percent.

Senator JEFFORDS and I did everything we could to get our bill passed.

We are going to try to make that happen this time. But for those States that are concerned about their donor status, they better be lining up and supporting this. We do not know in conference what is going to come out in terms of a number, but we do know this: Donor status of 90.5 percent will at least go up to 91 or 92 percent. So they are going to be better off, but not if we operate on an extension. If we operate on an extension, we are not going to have any new safety core programs.

They call this SAFETEA. I know there is an effort by the chairman of the committee in the other body to rename it TEALU. I do not have a real problem with that. But it is a safety bill. We have many safety provisions, core programs that respond to the thousands of deaths each year on our roadways. If we go on extensions, we are not going to make any of these safety provisions a reality.

If we go on extensions instead of a bill, there is not going to be any new streamlining. In fact, some of the current obstacles in helping us to get roads built and bridges improved can be corrected, but they can only be corrected if we are able to pass this bill. If we operate on extensions, there is no increased ability to use innovative financing, thereby giving the States more tools.

This is something that is so important. Ever since the Eisenhower administration, we haven't changed the way we fund our road program. There are a lot of ideas out there where we could use the public-private partnership to build more roads and bridges. In fact, we have in this bill a provision that establishes a commission to study various ways, innovative ways to change the way we finance our roads, highways, bridges, and infrastructure in America. But if we are on an extension, if we do not pass this bill, we are not going to be able to do that.

We have one provision in here, Safe Routes to School, which is one I felt strongly about, but I was not the leader on it. There are several on our committee as well as over on the House side. As I recall, this is one of the programs Congressman OBERSTAR felt very strongly about. If we operate on an extension, we are not going to have the Safe Routes to School Program. We could have deaths of young people as a result of our failure to act. That is why this is so important.

Certainty in planning: On an extension, there is no certainty. You think we are going to get the same amount of money that was already authorized previously, but nothing else has changed. We don't know what is going to happen next year. We don't know whether we are going to have a bill that will be passed a month from now or 2 months from now or a year from now. Therefore, there is no long-range planning that can take place.

I served in the State legislature in Oklahoma many years ago. I know when you start planning for the future

you have to plan for your contract season. It is not as severe in Oklahoma as it is in Vermont or some of the Northern States, but certainly these things have to be considered. We have to have our labor supply ready to absorb, to be able to accommodate a heavy schedule of construction, so we need to be able to plan for that.

In this bill we have a border program, Borders and Corridors. It is very important we do these to accommodate the States such as Texas, California, Arizona, and other border States along the northern border, to help them out with that program. Without this bill we are not going to be able to do that.

There are chokepoints. A lot of people think of the highway bill as just highways. This is intermodal transportation. It affects railroad crossings. Our State of Oklahoma is a State that has a channel. It comes all the way to my town of Tulsa, OK. A lot of people don't know that. We know there are chokepoints where barge traffic will come up; it will go to rail traffic; it will go to truck traffic. This bill addresses intermodal transportation and eliminates chokepoints.

Finally, we have the firewalls. What has bothered me more over the years than anything else I can think of is how people will raid trust funds. Politicians in State legislatures—it has happened here in Washington—when no one is looking and there is a large surplus in some trust fund, what do they do with a large surplus, I ask Senator JEFFORDS? They run in there and they raid it. Consequently there are no real protections under an extension. But we do have protections in the bill that is before you.

I have every confidence—I don't want to sound as though I am doubting whether we are going to have a bill. But we need to pass it in time to get it to conference, back from conference, get it voted on, and in law by May 31. That is getting very close.

In the Senate we will be going into a recess next week. We will not be here for 7 days. It is my expectation as soon as we get back, we will be in a position to finish this bill, get it to conference, and meet this deadline.

I know I speak on behalf of our minority member, the ranking member, the Democratic member on the committee, Senator JEFFORDS, in urging people to come down and offer their amendments.

Mr. JEFFORDS. If I may interrupt for a moment, I support what you are saying 100 percent. I warn Members they should not give any thought, right now, anyway, of believing they do not need to be here. We have to get this done. The country needs it.

Mr. INHOFE. The Senator and I know they are up there right now. Come on down.

Mr. JEFFORDS. Mr. President, I join the chairman in urging colleagues to bring amendments to the floor. It is time to get this bill out of the traffic jam it is currently stuck in. If we are

going to get the highway bill done before the end of May, the Senate needs to accelerate action and shift into higher gear. Our States, cities, and towns need this bill. The American public needs this bill. We have heard from the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, and the National League of Cities.

All asking the same thing, get this bill done.

The bill before us will strengthen our nation's transportation system, create hundreds of thousands of jobs, improve the safety of our roads, highways and bridges, and support and improve our transit systems.

We cannot afford to wait any longer to make these much needed investments.

Our transportation system needs help now: 38 percent of our major roads are in poor or fair condition; 28 percent of our bridges are structurally deficient and unsafe for travel; 5.7 billion gallons of fuel are wasted annually while motorists sit in traffic.

Traffic congestion means longer delays, higher costs, increased accidents, more pollution, added frustration and keeps us from spending time with our family and friends.

In 2001, according to the American Public Transportation Association, congestion costs to American motorists were nearly \$70 billion.

Each peak-period road user lost approximately \$1,200 in wasted fuel and productivity.

It is time to get this bill on the fast track and start making some progress.

Once again I thank Chairman INHOFE, and Senators BOND and BAUCUS for the collaborative process in which we have proceeded on this bill.

We are ready to take up amendments. I urge my colleagues to come to the floor and offer them.

I yield the floor.

Mr. INHOFE. Mr. President, I agree wholeheartedly with the comments made by the ranking member, Senator JEFFORDS. It is interesting when he reads off the list of people anxious for a bill.

In the case of Oklahoma, when I was mayor of the city of Tulsa, we were interested in being able to plan ahead. We have our Council of Governments saying they need to have it. We have our State department of transportation that says they are going to miss their construction season. We have to get it done.

While Senator JEFFORDS and I many times philosophically disagree, the fact we agree so much on getting this bill completed speaks well of what we are trying to do. It demonstrates the broad base of support. I don't have any doubt we will be able to get passage. The problem is if we do not get the amendments for consideration, it will be a logjam when we return from recess and could very well be a problem in meet-

ing our deadline of May 31. That is what we need to focus on.

We are in agreement on most of the provisions. There is some disagreement on the formula. Formulas are always a problem. I have been very happy about the way the Senate has done this. After having spent 8 years in the other body and serving on the Transportation Committee of the House of Representatives, I remember meetings we had. I don't say this in a critical way, but they operate on the basis of projects. We do, too, except the difference is we talk about formulas and try to be as equitable as possible and let the States determine their projects.

It gets back to the argument, who is in a better position to know the needs of my constituents in the State of Oklahoma? Is it Washington or our transportation commissioners responsible to the State legislature and the needs in the State?

Some people say in an expensive bill, there is pork. There is no pork in the bill. There are only two projects in the entire bill. People need to understand that.

This will change to some degree when we get to conference because it has to be agreed to by a majority of the conferees on the House, as well as a majority of the conferees from the Senate. To devise a formula that no one will disagree with is absolutely impossible. The only choice we have if we look for unanimity in approving a formula would be to have Senator JEFFORDS and me go to 60 Senators and say we will take care of you and we will forget about the other 40. We would have a bill and do it and it would be perfectly legitimate and not unethical.

We take into consideration the Interstate Maintenance Program. It varies from State to State. We take into consideration the National Highway System, the lane miles, the principal arterials, excluding the interstate VMT on principal arterials, excluding the interstate diesel fuel used on highways, and total lane miles on principal arterials divided by population. All these things have gone into the formula.

The Surface Transportation Program, which we have talked about, is part of the consideration in terms of total lane miles.

The Highway Bridge Replacement Rehabilitation Program I am particularly sensitive to because Oklahoma ranks last in terms of the condition of bridges. These things have to be considered.

The Recreation Trails Program varies from State to State. There has to be something in a formula that will take into consideration these programs.

Border planning and operations: Since the passage of NAFTA and now they are considering CAFTA, there are unusual situations taking place from State to State. We have low-income States. My State, Oklahoma, is a low-income State. We have low-population States such as Wyoming, Montana, and

some of the States where they still have to have roads, but they do not have the number of people so that has to be part of the consideration and part of a formula.

They have low-population density States, high-fatality States. Some States have higher fatalities than other States. That has to be taken into consideration.

All these things—donor status, donee status—all are important. But the bottom line is, I can take all 12 or 14 factors and put them into a formula program. I can find areas where Oklahoma is not considered as well as Texas or as Vermont. I can find factors that treat Vermont worse than they treat Montana or some of the other States. If someone is looking to be ahead on all factors, there is not 1 of 50 States that can say they are.

I ask our Members to consider that. Formulas consider a lot of things. We have done a good job with the approach we have. It is a harder approach to take than the approach the other body uses. It is easier for them to get a bill on and off the floor. Timing is important. There is not a Member of this Senate who does not agree we need to get a bill passed.

Members may not like the bill as it is. Come on down with amendments. We are waiting for you. We invite Members.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Do I understand, Mr. President, that the amendment that would strike the storm water mitigation provisions from the bill that was reported out by the committee is the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Mr. President, I rise in strong opposition to this amendment. First, I commend the committee, the chairman, the ranking member, and my colleagues, Senator WARNER and Senator CHAFEE, for including this provision in the legislation before the Senate.

This provides for a set-aside of a State Surface Transportation Program for storm water runoff mitigation. All of our local officials—our mayors, our county commissioners, and others—say this is essential as we address reauthorization of the Surface Transportation Program. It is a very modest amount in the overall context of the bill, less than \$900 million nationwide to meet a very important and pressing need that confronts local governments struggling to deal with the contamination of drinking water and the cleanup of streams, rivers, lakes, and ponds from highway and street storm water discharge.

A great deal of the pollution comes from these runoffs off the roadways. We are talking about oil, grease, lead, mercury. In my own State, where we are working so hard on the Chesapeake Bay, we know the runoff from high-

ways contributes very large amounts of nitrogen and phosphorous and sediment to the bay and confronts the State with a very serious clean water program.

Many of our Nation's highways and roads were built before the implementation of storm water regulations. States are required to have pollution reduction from new highways under EPA regulations, but we need to have a mitigation program to deal with pollution from existing Federal highways and associated paved services. Otherwise, we will have great difficulty in meeting federally mandated water quality standards. The standards have been put into place. The question now is, How do we reach the standards?

My colleagues on the committee have done a very skillful job. I, again, commend the chairman, the ranking member, and Senators WARNER and CHAFEE who, of course, are on the committee and try and find ways to provide help to States and localities in fixing this problem.

This is an effort, of course, to make funding available to deal with the storm water impact to water quality and the stream channels. The estimates are quite large in terms of what is needed. This amendment has very strong support from a broad range of groups. It is a relatively small amount out of the total highway budget, but it deals in a very focused way with a significant problem. It is a very wise investment of these moneys in order to achieve a very marked improvement with respect to the mitigation of the pollution impacts of storm water discharge.

I commend the committee for the work they have done on this amendment, for its inclusion in the legislation. I very strongly support the committee bill and very much hope my colleagues will oppose the amendment which would strike a provision that is in the committee bill. This amendment takes out of the committee bill a provision developed within the committee in a very skillful way that addresses a very important problem. I very much hope my colleagues will reject this amendment which strikes the storm water mitigation provisions reported in the committee.

Mr. JEFFORDS. If the Senator will yield, I thank him for his excellent presentation. We assure the Senator we are listening and we will take the Senator's advice.

Mr. SARBANES. I thank the ranking member very much.

What the committee has done is a very important step forward in a very balanced bill. I very much hope we will sustain this provision in the committee-reported bill.

I yield the floor and 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, while we are again encouraging people to bring amendments down to the floor, I would like to make some comments on a statement that was made yesterday that affects our committee, the Environment and Public Works Committee.

Yesterday evening, the junior Senator from Delaware discussed his hold on Stephen Johnson's nomination to be Administrator of the EPA. His main complaint about Steve Johnson is about a lack of technical data from EPA on Clear Skies. We are talking about the Clear Skies legislation we considered in our committee that the administration has come forth with.

But there has been no lack of technical data. The EPA has provided the Environment and Public Works Committee with over 10,000 pages of modeling on costs, job impacts, fuel switching, air quality, and deaths avoided for the various multi-emissions proposals.

This information provides extensive detail about the impacts on the Nation as a whole, regions, and individual States. Claims that EPA did not supply sufficient information to make an informed decision simply do not have any credibility.

In fact, this is in direct contrast to 2002, when then-Chairman Jeffords—I have been making all kinds of complimentary remarks about the ranking member, Senator JEFFORDS. Back in 2002, Senator JEFFORDS was the chairman and I was the ranking member. He came forth with something he had very strong feelings about, and that was the Clean Power Act. When he marked it up, we had less than 1 week to review a 53-page bill, without any modeling information whatsoever. Let me repeat that: less than 1 week to mark up a 53-page bill, which was substituted for the original 5-page bill. I do not say that critically because we did it. Nonetheless, we did it without the information I believed was necessary at that time. We did not have information.

In addition, the quality of information in 1990—this is back when we considered the Clean Air Act Amendments—paled in comparison to what the executive branch has been able to produce for us using today's more sophisticated models run on powerful supercomputers. The committee had far more information about the impacts of the Clear Skies legislation than the entire Senate had in 1990 during the debate on the Clean Air Act amendments of 1990.

Now, what has been particularly frustrating is that the EPA data request was used as a red herring to vote against Clear Skies. It is now being used as an excuse to oppose Steve Johnson. I do want to talk about Steve Johnson a minute because it is very unusual we have the opportunity to have a Director with the background of Mr. JOHNSON.

When we notified the minority last November 15 of our intentions of marking up the Clear Skies bill in February,

they never once raised the issue of needing more data from the EPA until after we delayed the first markup on February 16. Then they mentioned the need to get more data from the EPA almost as an afterthought.

When we offered to delay the markup 2 weeks, in order to negotiate a compromise, we were told they needed data from EPA, which would take 6 months to produce. This, of course, was after our committee already spent 5 years conducting 24 hearings on the topic. We were told, after all this committee work and the 10,000 pages of analysis, that the minority still needed more analysis before they would be willing to even begin negotiating.

Nevertheless, EPA has offered to spend considerable resources to analyze each of the multi-emission proposals using an identical methodology to guarantee that comparisons of the three bills are apples to apples. Yet the charge is being leveled that this offer still is not enough.

Last week, the EPA offered to conduct even more analysis to satisfy Senator CARPER, offering detailed data on S. 131, the President's Clear Skies proposal; secondly, the Clear Skies manager's amendment from March 9, 2005—that was ours; S. 843, Senator CARPER's Clean Air Planning Act; and, fourth, S. 150, Senator JEFFORDS' Clean Power Act.

The data would consist of the cost of each bill; the fuel mix for electricity production; Henry-Hub natural gas prices; average mine mouth coal prices; regional electricity prices; emission allowance prices; national and regional coal production; the response of electric generating facilities—for example, the capacity retrofitted with pollution control equipment; national and State-by-State emission levels for sulfur dioxide, nitrogen oxide, and mercury; the national aggregate CO₂ emissions; public health and environmental provisions benefits of each bill, such as the total monetized health benefits, premature mortality benefits, and visibility benefits; and the effects of each bill on nonattainment areas—for example, for each current nonattainment area, EPA will list the counties in the area and project whether the area comes into attainment with ozone and particulate matter.

This is for all four pieces of legislation, not just one, everything that has been asked for. This was an unprecedented offer of information by the administration to the junior Senator from Delaware and, frankly, it is more information than I believe he needs in order to move forward on Clear Skies. This is in addition to the 10,000 pages of data the committee has already received. This information would take the staff of EPA 6 to 8 weeks to complete.

Unfortunately, even this offer is not enough. The junior Senator from Delaware is insisting on the same level of analysis that the administration conducted for the President's proposal,

which would take a half a year. Strangely, he insists this would allow him to negotiate multiemissions legislation this spring.

This is a level of detail that no administration has ever conducted for a legislative proposal at this stage in the process and, quite frankly, a level of detail that is inappropriate to request. If the EPA were requested to conduct this type of analysis for every bill, we would have to double the size of the EPA, and all of their employees would be working full time on congressional requests. To suggest that a congressional committee needs this type of analysis before it can move on legislation is ridiculous.

In the history of the Clean Air Act, we have more and better quality data today than we have ever had in moving legislation, including the amendments of 1990. Those are the amendments that were so significant and have had such a positive effect on air quality. We have more data than we ever had in moving any environmental legislation.

This demand for data was an excuse for delaying the Clear Skies legislation and, quite frankly, it was an excuse to delay or obstruct Steve Johnson's nomination. This appears to be part of a larger strategy to obstruct this President's EPA nominees. Last Congress, Governor Leavitt's nomination hearing was first boycotted by the minority, then delayed for over 50 days. Today, Steve Johnson is also being obstructed.

For just a moment, I wish to say something about the nomination of Steve Johnson to be the next Administrator of the Environmental Protection Agency. It is unfortunate we find ourselves in a position of having that nomination filibustered by the Democratic side. Mr. Johnson is not a partisan politician. In fact, he is neither a partisan nor a politician. I can't tell you right now whether he is a Democrat or Republican. I don't think it makes any difference.

Steve Johnson is a career EPA employee who has risen through the ranks under both Republican and Democratic administrations. He joined the EPA during the Carter administration and was promoted to senior management posts during the Clinton administration. He has also been confirmed twice by the Senate, both times without opposition. Stephen Johnson is not a partisan. He is also a scientist and, if confirmed, would be both the first scientist and first career EPA employee to serve as the head of the agency. We never had someone who has a scientific background as Administrator of the EPA, nor have we had anyone who has gone through the ranks of the EPA. There has never before been a nominee who has known this agency so well prior to becoming Administrator.

One of the big problems we have had with Administrators who are not familiar with the agency is when we have something that needs to be done, it takes them forever to sort through to find out where the bad guys and good

guys are and where the reports are coming from. He already knows. He spent 24 years doing this.

He is trained in biology and pathology. After graduating from college, he worked for the Computer Sciences Corporation at the Goddard Space Flight Center and was signed to serve as a junior member of the launch support team for the first Synchronous Meteorological Satellite, SMS-1. He joined EPA during the Carter administration as a health scientist in the Office of Pesticides and Toxic Substances. He left EPA briefly in 1982 to join a private lab and then returned in 1984 to EPA's Office of Prevention, Pesticides and Toxic Substances. Throughout the years Mr. Johnson climbed through the ranks, eventually being appointed to senior management positions by the Clinton administration, including Deputy Director of the Office of Pesticide Programs and the Principal Deputy Assistant Administrator at that time.

I have to say I was there when this happened during the Clinton administration. I asked him a lot of serious questions, and I did not object to his nomination even though it was prodded by the Clinton administration.

In 2001, he was nominated by President Bush to serve as the Assistant Administrator for that program office. He was confirmed without opposition. Just last year when Mike Leavitt became Administrator he was nominated to the No. 2 spot at the agency. Once again, he was confirmed without any opposition.

Steve Johnson's qualifications are beyond question. The question is, why are we here fighting for cloture on not just a qualified nominee but a nominee who has been consistently promoted by both Democratic and Republican Presidents? I believe Jonathan Adler did a good job describing this nomination process when he wrote the following in the *National Review*:

President Bush's selection of Steven L. Johnson as administrator of the Environmental Protection Agency was universally praised in Washington, D.C. Democrats and Republicans, environmental activists and industry lobbyists all hailed the pick as a positive step for the troubled agency. Stalwart conservative Sen. James Inhofe . . .

—that's me—
applauded the choice while the Environmental Working Group's Ken Cook called it a "spectacularly good appointment." The era of good feelings did not last long, however. Once slated for a quick and easy confirmation, Johnson is now the victim of an old-fashioned political obstruction as Senate Democrats again target the administration's environmental policies.

This isn't the first time in recent history that an EPA Administrator has been held up. In fact, that precedent was set the last time someone was nominated by this President. Governor Mike Leavitt was treated with equal courtesy as Steve Johnson. I know some, including the junior Senator from Delaware, are now saying: I supported Mike Leavitt and was there for him. But that is simply not accurate.

In fact, when the committee was scheduled to vote on the Leavitt nomination, the vote was boycotted by the Democrats. Not a single committee Democrat showed up, including the Senator from Delaware. It was part of the boycott.

The three Administrators previous to Mike Leavitt took an average of 8 days to confirm. Mike Leavitt's confirmation took 50 days, 50 days to confirm a Cabinet-level position for an individual who clearly is qualified.

So this is nothing new for a qualified EPA Administrator nominated by President Bush. It has been nearly a month that Steve Johnson has awaited confirmation. The time has come to confirm Mr. Johnson.

During the debate we will likely hear some negative comments about the President's record on the environment. What you hear from the Democrats will likely be a very distorted view. The facts are very plain, very easy to understand. By virtually every measure, under this President's stewardship, our air, our water, and our land are cleaner. We have a cleaner and healthier environment than we did prior to George W. Bush taking over as President. That is simply the simple truth.

Just to highlight a few of the actions by the President, he signed into law historic bipartisan legislation that has accelerated the cleanup of brownfields—all of the States are concerned about that—better protecting public health, creating jobs, and revitalizing communities. George W. Bush is the first President ever to require the reduction of mercury emissions by powerplants. I can remember when there were full-page ads during the campaign saying that this President is lowering the emissions. There were no restrictions before he came in. He is the one who made the first reduction in our history. This President has imposed a mandatory 70-percent reduction in mercury emissions from these sources.

Just a year ago, the President announced an aggressive new national goal, moving beyond the policy of no net loss wetlands to a new policy of an actual net increase for wetlands each year. His Great Lakes Legacy Program will help to clean up one of the largest systems of freshwater on Earth, roughly 18 percent of the world's supply. His Clear Skies initiative would have reduced SO₂, NO_x and mercury emissions by 70 percent—the largest mandated reduction of any President in the history of America. It wasn't Bill Clinton. It was George W. Bush.

Despite all the rhetoric to the contrary, the environment and our families are healthier because of George W. Bush. The facts don't lie.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

Mr. INHOFE. Reserving the right to object, let me say to my good friend from Oregon that the leader is coming down to make a statement. Would he withhold his request until the leader gets here and makes his statement?

Mr. WYDEN. If I could engage my colleague in a colloquy, I assume the leader is going to speak relatively briefly as well. If that is the case, I certainly want to be courteous. I ask unanimous consent, then, that I have up to 10 minutes to speak after the majority leader has spoken and that my colleague from Rhode Island, Senator REED, have the opportunity to speak for up to 10 minutes after me.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, again, we find ourselves with an objection to a committee meeting and doing its work. There is objection on the other side of the aisle to the Judiciary Committee meeting. Therefore, we need to recess the Senate to allow the committee to meet.

I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. With that objection, I ask unanimous consent that when the Senate reconvenes at 2 p.m., following the remarks of the two leaders, Senator WYDEN be recognized for up to 10 minutes as in morning business, to be followed by Senator THUNE for up to 10 minutes, to be followed by Senator REED for up to 10, to be followed by Senator SALAZAR for up to 10.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I move that the Senate stand in recess until 2 p.m. today, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—98

Akaka	Domenici	McCain
Alexander	Dorgan	McConnell
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Frist	Obama
Bond	Graham	Pryor
Boxer	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Schumer
Chafee	Isakson	Sessions
Chambliss	Jeffords	Shelby
Coburn	Johnson	Smith
Cochran	Kennedy	Snowe
Coleman	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Sununu
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Thune
Dayton	Lieberman	Vitter
DeMint	Lincoln	
DeWine	Lott	Voinovich
Dodd	Lugar	Warner
Dole	Martinez	Wyden

NAYS—1

Clinton

NOT VOTING—1

Baucus

The motion was agreed to.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:03 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

The PRESIDING OFFICER. The majority leader.

JUDICIAL NOMINATIONS

Mr. FRIST. Mr. President, throughout the judicial obstruction debate, emotions have run high on both sides. This should remind us all, once again, of the need to return to civility in our Nation's Capitol. The American people want their elected leaders to work together to find solutions. To them, doing what is Republican or Democrat matters far less than doing what is right for America.

Let me briefly discuss how we got here. Never, in 214 years—never, in the history of the Senate—has a judicial nominee with majority support been denied an up-or-down vote until 2 years ago. In the last Congress, the President submitted 34 appeals court nominees to the Senate. A minority of Senators denied 10 of those nominations and threatened to deny another 6 up-or-down votes. They would not allow votes because they knew the nominees would be confirmed and become judges. The nominees had the support of a majority of Senators.