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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, clothed in dazzling splendor, we bow our hearts in Your presence. You have decreed the seas' boundaries and provided limits for the oceans' shores. We glorify Your Name because of Your wonderful works. Your greatness is beyond comprehension.

Lord, in this dangerous world, we sometimes forget that You control all things. After seeing the schemes of evil and the criminal conduct of hatred, we sometimes look away from You. Remind us that You are our Helper, our Defender, and our refuge. You are our hope for years to come.

Lord, thank You for the miracle of one more day, for friends who grow dearer through the passing years, and for all who lift their voices in prayer for this great land. Strengthen our Senators for today's challenges. Direct their thoughts and enable them to hear Your voice. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

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

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

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

The legislative clerk read as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THANKING PRESIDENT AZNAR OF SPAIN

Mr. FRIST. Mr. President, this morning the Senate and House were privileged to conduct a joint meeting—a wonderful meeting—to hear a powerful address by President Aznar of Spain. I again thank President Aznar, who left here just moments ago, for his visit and for his remarks today.

Spain, through this President, has been a true ally in every sense of the word. He did a wonderful job in articulating the great friendship that our two countries have demonstrated, as he said, over the last two administrations of this country.

SCHEDULE

Mr. President, this afternoon we have resumed consideration of S. 1072, the highway bill. We notified Senators last night that it is our intention to work to complete action on this bill before the February recess. We have made some progress on the bill thus far this week. The chairman modified the committee substitute yesterday and is ready to work with Senators on their amendments today. Rollcall votes should be anticipated during today's session as we begin the amendment process. I, once again, encourage Senators to come to the floor and to work with the bill managers to schedule floor time.

In addition to the highway bill amendments, the Senate may act on available judicial nominations today. We will alert all Members of these votes as they are scheduled.

UNANIMOUS CONSENT AGREEMENT—COMMITTEE MEETINGS

Mr. President, I have three unanimous consent requests for committees to meet during today's session of the Senate. They all have been approved by the majority and minority leadership. I ask unanimous consent that these requests be agreed to, en bloc, and that these requests be printed in the RECORD.

The PRESIDENT pro tempore. Is there objection? The Senator from Florida.

Mr. GRAHAM of Florida. Reserving the right to object, I would like to ask a question. I was under the impression that I had an opportunity today to complete a series of statements I was making on intelligence reform, and that was to begin at 1 o'clock.

Mr. FRIST. Mr. President, the managers are here. I know we had not locked in any time. I would like to defer to the managers for that because, as we had said before, we would like to proceed with the consideration of the bill itself.

Mr. GRAHAM of Florida. If I could add to your unanimous consent request a time certain that I could present my third statement on intelligence reform; and Senator FEINSTEIN also wishes to make a statement on the same subject.

Mr. INHOFE. Yesterday, we had several occasions where we were trying to stay on the bill, and we kept saying: All right, one more person, one more person, one more person.

As manager of the bill, I am going to do everything I can parliamentarily to stay on the bill and not get into other subjects.

Mr. GRAHAM of Florida. Well then, I would have to object to the unanimous consent request.

The PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, we will proceed with the regular order here then.

RICIN UPDATE

Mr. President, let me just say, in reference to the incident, the criminal investigation that is underway because of the attack here with ricin now 2

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

days ago, I will, sometime in the next hour, be coming back to the floor for a very brief announcement so our colleagues will know of a proposed schedule for the reopening of the Senate office buildings. I will be working on that over the course of the next 40 minutes or so. I mentioned to the Democratic leader that I will plan to come back.

I know there is a lot of concern and anticipation, and some frustration, not knowing exactly when Senators will have access to their offices and to their records. We are working on that. We have been working on it over the course of the morning. We made real progress yesterday. It was a very successful day in terms of laboratory testing.

But again, let me come back and say that it is the safety and welfare of our employees and our staff that is fundamental. The science of this particular agent is uncertain and new, but we have a lot of certainty that we are gaining with each minute. So I plan on coming back to the floor in about 30 minutes.

ORDER OF PROCEDURE

Mr. REID. Mr. President, if the Senator will yield, I think we could probably work this out. Why don't we go ahead and get rid of the Bond amendment—all they want is a time certain—and have them come and talk after that?

I say to Senator INHOFE, through the majority leader—we are anxious to have an amendment on this bill—maybe Senator BOND could lay down his amendment. We could finish the debate on that, and I assume the leader wants a vote on it today. When that vote is completed, they could be recognized.

Mr. REID. It is my understanding Senator WARNER is not going to be here today.

Mr. INHOFE. At 2:30.

Mr. REID. Maybe we could lay the amendment down and vote on it at some subsequent time.

Mr. INHOFE. To do everything to accommodate the Senator from Florida, what I would like to do is stay on the bill until later on this afternoon, and at that time I am sure we are going to come to a point where, because of other things that are happening, there are not going to be Senators who want to speak on the bill, and then we could go to this so the Senator would have the time he requested.

Mr. REID. How much time would the Senator from Florida need?

Mr. GRAHAM of Florida. Thirty minutes. I would like to have it commence no later than 3:30 because I have previous commitments.

Mrs. FEINSTEIN. I would like a half hour.

Mr. REID. So there is an hour here being requested. I have an idea what they are going to talk about, and that means there will be time requested on the other side to respond to it.

Mr. INHOFE. I have no objection if he changes his 3:30 to 5 o'clock. There are some things happening that affect every Senator in here tonight having to do with the National Prayer Breakfast, and I would like to accommodate them as well.

Mr. GRAHAM of Florida. I wish I could do that, but I have a request that it be no later than 3:30. Frankly, if I had started when we began this debate over parliamentary procedure, I would have been a third of the way through the speech.

Mr. DASCHLE. Mr. President, if we have an impasse about scheduling this afternoon, I wonder if it would be appropriate to ask consent that we have morning business tomorrow immediately after we commence Senate business to accommodate the request made by the distinguished Senator from Florida and the Senator from California. Could we do that?

Mr. GRAHAM of Florida. If I may ask, when will we commence the session tomorrow?

Mr. DASCHLE. That is a matter to be determined by the majority leader, but I would suggest that normally we have Senate business in the morning. We could either come in a little bit earlier or figure out our schedule. But it would not then interfere with the understandable desire on the part of the manager to stay on the bill once we are on the bill. Technically we are on the highway bill right now. Tomorrow morning we could certainly accommodate the Senator's request with the time allotted for his comments and those of the Senator from California.

Mr. GRAHAM of Florida. Mr. Leader, may I make one request, that morning business begin no later than 9:30 in the morning?

Mr. DASCHLE. That would be up to the majority leader.

Mr. INHOFE. The majority leader will have to get in on this, but I would say even earlier than that. We are going to have amendments. In fact, we have some amendments that will be ready today. We need to get to those and get this bill moving.

Mr. DASCHLE. Mr. President, I would say to the Senator from Florida that I will talk to the majority leader. I would be surprised if he would have any difficulty coming in prior to 9:30.

The PRESIDENT pro tempore. Does the Senator withdraw his request?

Mr. GRAHAM of Florida. I withdraw my request.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. I will use my leader time prior to the time we move to the bill itself. I wish to comment on a couple of things this afternoon.

Mr. REID. Mr. Leader, if I could interrupt, I wonder if the majority leader's request could now be granted, the committees meeting and all that.

The PRESIDENT pro tempore. Does the Senator withdraw his objection to the request for committees to meet?

Mr. DASCHLE. The majority leader had made a unanimous consent request. On his behalf, I make it again. I don't think there will be an objection.

The PRESIDENT pro tempore. Is there objection to the request?

Without objection, the request of the majority leader is granted. The Democratic leader is recognized.

CONFERENCE ON H.R. 3108

Mr. DASCHLE. Mr. President, I was criticized by some Members of the House yesterday or today with regard to the pension bill. Their criticism was that I was holding the bill. Let me make sure people understand: I have not held the bill. I have no desire to hold the pension bill. I would like to get on with it. I would like to complete our work on the pension bill.

It is, of course, the prerogative of the majority leader and the majority to send the bill to the House once we have completed our work. That has not been done. They are certainly within their rights to make decisions with regard to the disposition of the bill, but it would be in error to say that in any way I am holding the bill.

I am withholding our consent to go to conference on the bill, which is a different matter. I will talk about that in a moment. Obviously, Senator FRIST and I have had some conversations about how we proceed with regard to conferences this year.

We are unwilling to commit to a process that brought about the unacceptable circumstances in conference last year, especially on the energy bill as well as the Medicare bill. But there are three approaches.

First, of course, on any bill, we are certainly within our rights to ask for a conference with the House. What we have simply asked is that if there is a conference, all the conferees be present when deliberations take place. That isn't too much to ask. That is all we are asking—our presence at conference meetings once those conference meetings have been called. We don't think a conference can truly be a conference if only one party is represented. That is my simple request. Until I have the assurance that that request is be granted, we are unable to provide consent to go to conference.

We are not asking for any predetermined outcome. We are not asking for a certain set of expectations with regard to the legislation itself. We are simply saying: If you are going to have a conference, don't call it a conference unless you have the conferees present.

There are two other approaches. I have just alluded to the second approach, which is to send the bill to the House. We have done that on a number of occasions. There is nothing that precludes us from sending the pension bill to the House, allowing them to work their will. Perhaps they will accept the changes made by the Senate. That certainly is within their right.

There is a third option. This is a tested, tried and true option that I can say with some authority has happened on countless occasions in past years and conferences. Last year we preconferenced the forest health bill. And once successfully preconferenced,

we agreed in conference to the provisions and the bill passed almost unanimously. In the 108th Congress, we passed 19 bills by preconferencing them first, including the AIDS Assistance Act, the Military Family Relief Act, the Veterans Benefits Act. And in the 107th Congress, we passed 51 bills by preconferencing the agreements: Railroad Retirement Survivors Improvement Act, the Veterans Benefit Act, Nurses Reinvestment Act, the Homeland Security Act, the Native American Settlements and Indian Financing Act Amendments. Those and 40-plus more bills were preconferenced.

I ask unanimous consent that the list of bills preconferenced and agreed to successfully in the 108th Congress to date and the 107th Congress be printed in the RECORD.

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

BILLS ENACTED INTO LAW WITHOUT USING A CONFERENCE TO NEGOTIATE DIFFERENCES IN LANGUAGE BETWEEN THE HOUSE AND SENATE

108th Congress (as of February 2, 2004—19 bills)

H.R. 1584, Clean Diamond Trade Act
H.R. 1298, AIDS Assistance
H.R. 733, McLoughlin House National Historic Site Act
H.R. 13, Museum and Library Services Act
H.R. 3146, TANF Extension
H.R. 659, Hospital Mortgage Insurance Act
H.R. 1516, National Cemetery Expansion Act
H.R. 3365, Military Family Tax Relief Act
S. 313, Animal Drug User Fee Act
S. 1768, National Flood Insurance Program Reauthorization Act
H.R. 1828, Syria Accountability and Lebanese Sovereignty Restoration Act
S. 459, Hometown Heroes Survivors Benefits Act
H.R. 2297, Veterans Benefits Act
S. 877, CAN–SPAM Act
H.R. 100, Servicemembers Civil Relief Act
H.R. 1006, Captive Wildlife Safety Act
H.R. 1012, Carter G. Woodson Home National Historic Site Act
S. 686, Poison Control Center Enhancement and Awareness Act Amendments
S. 1680, Defense Production Act Reauthorization

107th Congress (51 bills)

H.R. 428, Taiwan—World Health Organization
H.R. 1696, World War II Memorial
H.R. 801, Veterans' Opportunities Act (insurance coverage)
H.R. 2133, 50th Anniversary Commemoration—Brown v. Board of Education
H.R. 2510, Defense Production Act Extension
H.R. 768, Need-Based Educational Aid Act
H.R. 10, Railroad Retirement and Survivor's Improvement Act
H.R. 2540, Veterans Benefits Act
H.R. 2716, Homeless Veterans Assistance Act
S. 494, Zimbabwe Democracy and Economic Recovery Act
S. 1196, Small Business Investment Company Amendments Act
H.R. 1291, Veterans Education and Benefits Expansion Act
H.R. 2199, D.C. Police Coordination Amendment Act
H.R. 2657, D.C. Family Court Act
H.R. 2336, Redact Financial Disclosure—Judicial Employees and Officers
H.R. 2884, Victims of Terrorism Relief Act
H.R. 700, Asian Elephant Conservation Reauthorization Act
H.R. 3090, Temporary Extended Unemployment Compensation Act
H.R. 2998, Radio Free Afghanistan Act
H.R. 1892, Family Sponsor Immigration Act
H.R. 1499, D.C. College Access Improvement Act
H.R. 3525, Enhanced Border Security and Visa Entry Reform Act
H.R. 169, Notification and Federal Employee Antidiscrimination and Retaliation Act
H.R. 4560, Auction Reform Act
H.R. 3275, Suppression of the Financing of Terrorism Convention Implementation
H.R. 327, Small Business Paperwork Relief Act
H.R. 3487, Nurse Reinvestment Act
H.R. 1209, Child Status Protection Act (immigration)
H.R. 4687, National Construction Safety Team Act
H.R. 2121, Russian Democracy Act
H.R. 4085, Veterans' Compensation Cost-of-Living Adjustment Act
S. 1533, Health Care Safety Net Amendments
H.R. 3801, Education Sciences Reform Act
H.R. 3253, Department of Veterans Affairs Emergency Preparedness Act
H.R. 4015, Jobs for Veterans Act
S. 1210, Native American Housing Assistance and Self-Determination Reauthorization Act
S. 2690, Pledge of Allegiance
H.R. 5005, Homeland Security Act
H.R. 2546, Real Interstate Driver Equity Act
H.R. 3389, National Sea Grant College Program Act Amendments
H.R. 4878, Improper Payments Reduction Act
H.R. 1070, Great Lakes and Lake Champlain Act
H.R. 3394, Cyber Security Research and Development Act
H.R. 2621, Product Packaging Protection Act
H.R. 3908, North American Wetlands Conservation Reauthorization Act
H.R. 3833, Dot Kids Implementation and Efficiency Act
H.R. 5469, Small Webcaster Settlement Act
S. 2237, Veterans Benefits
S. 2017, Native American Settlements and Indian Financing Act Amendments
H.R. 3609, Pipeline Safety Improvement Act
H.R. 4664, National Science Foundation Authorization Act

Mr. DASCHLE. Mr. President, we have three options. First, whether it is the pension bill or any bill, we can go to conference and do what the institution requires, and that is have Members of the Senate and House, Republicans and Democrats, present at conferences and resolve our differences in the traditional manner.

Second, we can certainly pass the bill over to the House, send it over to the House at any time. We can do that on the pension bill this afternoon.

The third thing we can do is what I have just suggested has been done successfully on 19 occasions so far in the 108th Congress and 51 occasions in the 107th Congress; that is, to preconference and ultimately then to confirm our agreements in a formal conference once the negotiations have been completed.

We stand ready, once again, to do whatever it takes to pass the pension bill and ultimately put it on the President's desk. There is an urgency to this legislation. We will not, on any legislation this year, tolerate the unacceptable experience we had on several occasions in the first session of this Congress.

Mr. President, I wish to take a moment to talk further about the transportation bill. As I said yesterday, getting this bill to the floor has been too long a process. I won't dwell on that other than to say the Congress and the administration have not been successful in bringing this bill to conclusion, and because of that we have already lost 90,000 jobs.

For too long our economy has been slowed by outdated and inadequate transportation infrastructure. Nothing expresses the urgency of this bill better than the fact that we have lost 3 million private sector jobs over the last 3 years. It is time to get this bill done.

Make no mistake, not only will this bill create jobs all across the country but it will address our Nation's infrastructure deficit as well.

If passed, this bill will improve the more than 30 percent of our roads and highways that are in poor and substandard condition today. It will help improve the more than 30 percent of our Nation's bridges that are functionally obsolete or structurally deficient.

As I said yesterday, the managers of the bill, Chairman INHOFE and Senators JEFFORDS, BOND, and REID, have done a remarkable job in bringing us a fine product to the Senate floor. This is a difficult, complicated issue, with an extraordinary number of different interests to balance.

The Finance Committee, led by Chairman GRASSLEY and Senator BAUCUS, has also done a fine job of ensuring that there is symmetry in how we deal with highways and transit.

Senator FRIST and I met on Monday to discuss the bill and we had a very productive conversation. In essence, we both agreed that now the Senate has begun debate on the transportation bill, we need to ensure it goes forward in a cooperative, bipartisan fashion. That is how the Environment and Public Works Committee has approached this bill, and we have a fine work product because of that bipartisan, cooperative approach. That is how the Finance Committee has approached this bill, and we have a fine work product because of the bipartisan, cooperative approach there as well.

That is how the Banking Committee has approached the bill as it relates to transit issues, and this morning the Banking Committee reported, by a voice vote, a fine work product because of the work Chairman SHELBY and Senator SARBANES have demonstrated in their cooperative approach.

That is why I find it so troubling that the administration appears to be lagging behind—why they seem to be putting up roadblocks to the highway bill instead of paving the way for improved infrastructure and more jobs.

As I said, the Finance Committee reported a bill on Monday. Then Tuesday, yesterday, Transportation Secretary Mineta and Treasury Secretary Snow sent a letter about those very same financing provisions.

First of all, it would have been helpful to have had such a letter before the Finance Committee met, not a day

after. Second, based on the letter, many have claimed the Finance Committee does not meet the administration's test with regard to the financing provision and have suggested the President may even veto the bill.

Now some of my colleagues disagree. They say the Finance Committee bill does meet the administration's test, and I hope they are correct. But at this point, we simply don't know the administration's position on the bill we are now considering on the floor.

It is important that the administration make its position clear. This bill deserves their unequivocal support. Chairman GRASSLEY and Senator BAUCUS and the other committee members put together an excellent and balanced package and showed courage in taking on corporate tax loopholes. Most importantly, this bill makes real investments in our future in a fiscally responsible way. Every dollar in this bill is paid for with a crackdown on corporate tax shelters, which has been a bipartisan priority in the Senate for years.

The package is a rare accomplishment—a bipartisan, fiscally responsible one that invests in our future and creates jobs today. It is a win for highways, a win for transit, a win for fiscal responsibility, and a win for honest taxpayers. The only losers are tax cheaters.

It is inexplicable to me why there is even discussion about the administration threatening to veto this bipartisan package. Opposing the financing provisions would raise troubling questions about the administration's priorities.

Would they rather protect corporate tax cheaters than repair our roads and bridges and provide jobs?

Would they rather help wealthy people renounce their citizenship and avoid paying their fair share of taxes than cut down on the traffic and congestion that puts a drag on our economy and inconveniences our citizens?

Would they rather protect corporations that engage in shady manipulations than create a modern transportation system for America's future?

I hope those who say yesterday's administration letter is a veto threat are wrong. The Finance Committee has done an exceptional job of providing for the needs of our economy, while cracking down on tax cheats.

With a $521 billion deficit this year, we cannot afford to let corporate tax cheaters continue to pass along their bills to the rest of us. We have an opportunity to bring new life to our economy, and old-fashioned accountability to our Tax Code. I urge the President to make their position clear on this bill soon.

If we do what the Environment and Public Works Committee has done, if we do what the Finance Committee has done, if we do what the Banking Committee has done, if we do what Leader FRIST and I have agreed to do and go forward in a bipartisan, cooperative fashion, if we go forward as soon as possible to get this long overdue bill done, we will make progress not only for our Nation's infrastructure, but for our Nation as a whole.

This legislation will impact people all across our country every day. It will provide jobs. It will make us more competitive in the world. Let's get on with passing the bill, and let's do it as thoroughly, as completely, but as much in keeping with the bipartisan spirit already established in three committees, as has been demonstrated thus far.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to the Senator from Nevada.

Mr. REID. I thank the Senator.

Mr. President, first of all, I appreciate the statement of the Democratic leader. We have worked hard on this bill. As I have said before, it is an imperfect piece of legislation, but we have done the best we can and we have been as fair to everybody as we could. We will certainly be responsive to requests people have that will improve the bill.

I hope people who want to offer amendments will do so. We are going to have a mad rush next week. We are going to either finish this bill next week or go off the bill next week. It would be a terrible disservice to the country if we don't finish the bill next week. I hope people, even though it is inconvenient and they are not in their offices, would do what they can to offer amendments if they want to change the bill.

Also, I direct this to Senator INHOFE. It is my understanding the statements from the administration yesterday regarding highways did not deal with our bill but, rather, what is contemplated in the House. I believe everyone should understand that the administration has signed off on the bill reported out of the committee. They support what they have done in financing this bill. The tax provisions that make up about $30 billion of the $255 billion have been supported by the administration. My personal feeling—and I have said this before—is I wish we had more money. We are not going to get more. The President said if there is a bigger bill than what we have, he is going to veto it. The reason I asked the chairman to yield is to say it is my understanding the President supports our legislation.

Mr. INHOFE. Yes. I have a letter I read yesterday. It is dated February 2, 2004. I have not heard anything either way about whether or not they are supporting this legislation. But they outlined a set of principles yesterday to which our bill complies. I think the minority leader covered the three criteria that were used that would keep them from opposing the bill, and I believe they have been met. We talked about it yesterday. One is to not increase gas taxes. Second, it would not have any kind of bonding arrangement. Third, that it would not get in the general fund.

The third one is where there is some debate. I trust the Senate Finance Committee. I talked to both sides, Democrats and Republicans, and they came up with something I think meets the criteria. I am satisfied it does.

Mr. REID. Mr. President, the other thing I wanted to say is, there has been a statement made, and at least two statements made on this floor, about the ''pork'' in this bill. First of all, pork is not a bad term with me. I think the things we do for our States, whether a new bridge or repairing a road, has nothing to do with anything that connotes being bad when it needs to be done in the State. If they are referring to that, there is no pork in a negative sense in this bill.

The vast majority of money in this bill comes from the highway trust fund. People, when they buy gas for their car, pay into a trust fund we use every 5 or 6 years to fund highway projects around the country. That is what we are doing today. People who talk about this bloated bill with too much money—this bill is paid for. There are no new taxes, and the vast majority of the moneys coming out of the highway trust fund is to fund the most important projects around the country.

I hope people understand this bill, as the Democratic leader said, is not a bill for Democrats or Republicans; it is a bipartisan bill that has the foundation of the programs of President Dwight D. Eisenhower. He, with a Democratic Congress, passed this legislation. We have to work together to pass this bill. This is important legislation.

I repeat to everyone within the sound of my voice, the majority leader said we are going to finish this bill a week from Friday. Finishing doesn't mean we complete this bill. I hope we do that. It would be a disservice to the people of this country if we did not finish this bill.

We are here waiting to do business. If anyone doesn't like the bill, let them come and try to change it. If they change it, more power to them. But waiting around is not going to help whatever concerns people have with this legislation.

Mr. BOND. Will my friend from Nevada yield for a question?

Mr. REID. I will be happy to yield to my friend from Missouri.

Mr. BOND. Mr. President, I appreciate very much my distinguished copartner on the Transportation Subcommittee talking about the need to get this bill through quickly. He was discussing the difference between the bill we have now and the original bill.

I was wondering if it is correct that the original highway bill really didn't have any formulas; it was what one would have to call pork because it had various projects in it. It was an effort by the Congress to outline where money is needed. Is that not basically the form of the original highway bill?

Mr. REID. Yes. I outlined, as the Senator knows, when we took this matter

up Monday, the history of the last 20 years with these highway bills. This bill is so much more fair to all 50 States than the bill in 1982, and the three subsequent bills. Some States prior to 1982 didn't even get 80 cents of every dollar they paid into the trust fund. This bill took a gigantic step, and now every State gets a minimum of 95 cents on every dollar they pay into the fund. This is a very fair program. It is imperfect, as I said before, but we are doing much better.

Mr. BOND. Mr. President, if the Senator from Nevada will yield for another question, isn't it true that the scope of this bill, the size of it, reflects programs that Congresses in previous years decided are good for the national transportation policy? In other words, we are not creating a new formula; we have taken the formula, the apportionment that existed. Is it not true that we have attempted to construct this bill so that, working with the formula, every State gets up to 95 cents?

My State of Missouri was one of those States, when I got here in 1987, that was only getting back 77 cents. Every State will get up to 95 cents on the dollar. Every State, at a minimum, will get a 10-percent increase. Some States that would be getting much more money will only get a 40-percent or 40-plus-percent increase, which some may object to and say is not enough. But in this day and age, with a tight budget, it seems to me a 40-percent increase is not bad to take home from a compromise bill. Is that a fair assessment?

Mr. REID. Mr. President, I respond to my friend, he is exactly right. This bill is not some new invention. We have worked over the last several years to develop different programs. One is interstate maintenance, which is self-explanatory. We have an interstate system that has been completed, and we want to make sure that system is in a good state of repair. It is a never-ending job to keep it up the best we can. A large amount of this $255 billion goes to interstate maintenance. We also have something called the National Highway System. We have to make sure there is funding in the bill to take care of that program. It is what we have done in the past.

We also have other programs, such as the Bridge Maintenance Program, which is so important. One Senator came to the floor and said that 29 percent of the bridges are in a state of disrepair. We know that. That is why we are working in this bill to try to keep up with this never-ending system.

Also in this bill, rather than just building roads and pouring more asphalt—and this is something we focus too much attention on, but certainly everyone in the country is concerned about the environment and the air we breathe—we have a program dealing with congestion mitigation and air quality. This is basically the brainchild of Senator Moynihan and Senator CHAFEE. Those are programs in this bill that we have found work well.

The directors of the transportation departments in every State like the program we have. We are not, as I said before, sending a new set of blueprints to all the Governors saying: Try to figure this out. They already figured this out, and we are trying the best we can to fund these programs.

Mr. BOND. I thank the Senator.

Mr. INHOFE. Mr. President, if the Senator will yield, let me make an observation. We talked about this bill for several hours. Almost everyone who came down was objecting to what their State would get from this formula. When you compare this, starting with the same basic structure of a formula as we did in TEA–21—and remember, in TEA–21, we had the minimum guarantee.

Mr. REID. Mr. President, 90.5 percent.

Mr. INHOFE. What that did was take arbitrary political percentages and apply them in order to get votes. We have done far more. This takes into consideration the streamlining provisions about which we haven't even talked. We spent months on this in the committee, as our committee members know.

Safety and freight areas have not really been addressed before. This is something of which we can be proud. I have to say, when we put together the charts of all 50 States, there isn't one State that is not treated fairly, doesn't have an increase and doesn't have some kind of logic balancing the donee-donor, balancing the fast-growing States and the low-population States.

All these points are considered, and I think it is a very good bill. I agree with all on the committee.

Mr. REID. Mr. President, if I may respond to my friend, I don't carry with me a card that includes what happens to the States that are all Republican, but I am carrying with me during consideration of this bill a card that lists every State that has a Democratic Senator representing it and what they get. It is right here. It is hard to find anything that is wrong with it.

I recognize there are some States that for many years have been getting—I want to say this in a way that I will still be a gentleman—far more than what they are entitled to under the formula. When you go to the gas pump and you fill your tank, so much money goes into the fund. There are some States getting far more than they are putting in. There are a few States still getting more than they are putting in. We are balancing this out. As the Senator from Oklahoma said, when we did this in the past—this is my fourth highway bill—we put the numbers together, found out where the votes were, and jammed it through. We have not done that this time.

This is a fair bill. You could take this to a high school civics class and explain what we have done and they would say this is fair. We have been as fair as possible. There are some people, who were driving around in a Lincoln they couldn't afford, who are upset because maybe they are going to have to drop back to a Lexus or something such as that.

The point is, we have tried to be fair. You can't have the program going on the way it was in the past and still recognize basic fairness. I repeat, what happened in decades past was we would find out where the votes were and just jam the bill through: If Missouri was getting 77 percent, there are only two Senators from Missouri, we don't need their votes. We haven't done that this time.

I think the American public will see this legislation is fair and reasonable. I am dumbfounded by some of the people who have come to this floor and complained about what they have gotten in the bill because they have really done extremely well.

I yield the floor, Mr. President.

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

Mr. INHOFE. Mr. President, yesterday we started through this bill. It is a rather lengthy bill. It covers a lot of provisions that haven't even been discussed, and I think a lot of Members are not really aware of some parts of this bill.

As the chairman of the committee, I thought it an obligation to go through this section by section, and I did go through sections 1104 through 1204, where we talked about how this was put together, how the formulas were put together. I also spent about an hour talking about the environmental improvements that are made in this bill.

I confess there are many things in this bill that I would rather have done in a different way, and I am sure Senator REID and Senator JEFFORDS would say the same thing. In fact, they have said the same thing. Since we will have to get through this today at some point, I would like to go ahead and start with section 1205 and finish what we started yesterday. I hope any Members who are interested in making comments or offering amendments will come and do so, because I will be doing this in order to get through the bill.

Section 1205 is one in which I was particularly interested. Senator REID yesterday talked about Daniel Patrick Moynihan and the contributions he made over the years. I felt compelled to stand up and remind him that Daniel Patrick Moynihan was a Tulsa boy. He was from Tulsa, OK, and was one of my very favorite people.

I think it is very appropriate that section 1205 is the designation of the Daniel Patrick Moynihan Interstate Highway as a part of the bill. Interstate Highway 86 in the State of New York is specifically designated as the Daniel Patrick Moynihan Interstate Highway in memory of our late colleague.

There are several others who have said good things about him. In fact, in the years I have been in the Senate, Senator Moynihan is the only Senator

about whom I have never heard one negative thing.

Section 1301 is the Federal share section. It continues the statutory provisions that lay out what the Federal share for the highway project will be for different States based on the amount of Federal land within their State. The Federal share provisions of current law use a sliding scale. This scale permits States with large portions of Federal land to match Federal funds with fewer State dollars. That is only reasonable because they are not collecting taxes off of these lands and they should not have to pay the same match.

Due to the decreased taxing ability of the States with a higher percentage of Federal lands, these States are given access to a higher Federal contribution for highway projects within their State. The bill before us today modifies this provision slightly to simplify the calculation used to determine the Federal share rates that apply to each individual State.

I might add that in this bill there are certain things my colleagues will see consistently throughout. One is simplification. One is to put it in language that we can all understand, that the public can understand, that our people back home can understand, and so that the departments of transportation in the various States will have a clear understanding as well, and they will take all of these complicated interpretations.

Another thing my colleagues will find all the way through is a streamlining effort to try to get more roads for the dollar. I think we have successfully done that, reaching a lot of compromises. So this is what my colleagues will see as we go through the bill section by section.

Section 1302 is the transfer of highway and transit funds. There is a technical fix that was requested by the Federal Highway Administration that clarifies that title 23 funds, that is the highway dollars, can be transferred to the transit administration from State to State or from State to another Federal agency as long as the project to be funded is eligible under title 23. I think that is a very reasonable approach.

An example of when this authority could be used is a State that has a congestion problem at or near a border crossing. They may determine that the problem is caused in part by inadequate parking facilities for the Customs Service to conduct truck inspections. To solve their larger congestion problem, it makes sense to provide money to the Customs Service to build parking lot facilities for truck inspections. This has been done administratively in the past, but section 1302 provides very clear guidance so they do not have to sit around and guess what in fact is going to come up.

Section 1303, the Transportation Infrastructure Finance and Innovation Act, which is referred to as TIFIA, was established for the first time in TEA–21 to provide Federal credit assistance to major transportation investments. The TIFIA program has proven to be an innovative and successful addition to the conventional grant and reimbursement highway program.

After watching the TIFIA program succeed as a funding device for a few large projects during TEA–21 and after receiving input from stakeholders and recommendations from the administration, the committee bill has made a few changes to the TIFIA program to expand its scope and increase its usability.

The amount of the Federal credit assistance cannot exceed 33 percent of a total project cost. TIFIA offers three different types of financial assistance to the large projects: One, direct loans; two, loan guarantees; and, three, standby lines of credit. The bill also lowers the threshold cost for eligible projects from the TEA–21 level of $100 million down to $50 million to make it available to more people and more projects, making TIFIA accessible to a greater number of large highway projects.

Projects are also eligible for TIFIA assistance when costs are anticipated to equal or exceed 20 percent of Federal highway funds apportioned to that particular State. With the increased emphasis this bill places on freight mobility, the definition of eligible freight-related projects is expanded.

Mr. BOND. Mr. President, I ask my colleague to yield about a matter.

Mr. INHOFE. Yes.

Mr. BOND. We have a number of technical amendments. There is a question about whether we want to move to that. We are preparing a technical amendment. I have discussed this with both sides. Basically, this is a technical amendment that accomplishes a number of things. In essence, it achieves the original goal of an amendment offered by Senator WARNER, which was to increase the metropolitan planning share or takedown from 1 percent to 1.5 percent. We are getting a technical amendment copied, and as soon as we get the copies, if there is no objection from the managers, I thought we would do that.

Mr. INHOFE. I think the Senator was out of the Chamber when I said I eventually wanted to get through this section by section, but I can do this at any time. As soon as the Senator has anything ready, certainly I am interested in taking that up.

Mr. BOND. Mr. President, might we inquire of the managers on the Democratic side if they are ready to take this up?

Mr. REID. If the Senator would withhold offering that for just a few minutes.

Mr. BOND. I will be happy to withhold on that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Reclaiming my time, I think he had stated he was not prepared to do that right now, but perhaps one will be coming along in a short while.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I think probably the best thing to do is to have the Senator lay down the amendment. It is my understanding from the majority and minority that there are a couple of Senators with whom we have to clear it, and we should be able to do that shortly.

Mr. INHOFE. I have no objection to that. I think it is a good idea, and we will so inform Senator BOND.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri.

AMENDMENT NO. 2265

Mr. BOND. Mr. President, I am very pleased to announce there is an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID, proposes an amendment numbered 2265.

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

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

The amendment is printed in today's RECORD under ''Text of Amendments.''

Mr. BOND. Mr. President, I offer this amendment on behalf of Senators INHOFE, JEFFORDS, and REID. This is one small step for mankind toward a highway bill.

There had been some concern about offering amendments. This is a technical amendment. This changes a number of items that, when crafting the bill, were erroneous. Normally we would adopt these technical amendments without objection. But there may be some discussion on it. I wish to explain the one perhaps significant change in this technical amendment so everybody knows what we are doing.

In the previous bill, TEA–21, the metropolitan planning organizations received 1 percent from the Surface Transportation Program to do the work that these agencies are required to do in approving transportation plans, conforming them to air quality plans. This 1 percent takedown, as it is called, amounted to about $1.7 billion over the life of the bill.

In drafting the underlying bill, we increased spending on planning for metropolitan planning organizations by $800 million, almost a 50 percent increase.

When Senator WARNER proposed making the takedown of the share for the metropolitan planning organizations 1.5 percent rather than 1 percent,

it was on the assumption that the total of the previous amount plus what we did in committee would amount to 1.5 percent. But as it was drafted and printed in the committee report, it wound up adding what we had previously put in the equity bonus on top of the 1.5 percent.

I believe this amendment restores the MPO portion to that originally proposed and adopted, i.e., a 1.5 percent share, which is what we have all agreed is needed for metropolitan planning organizations.

We have a letter that I will submit, signed by the executive director of the American Association of State Highway and Transportation Officials, the president and chief executive officer of the American Highway Users Alliance, the chief executive officer of Associated General Contractors of America, the executive director of American Road and Transportation Builders Association, and the executive director of the National Conference of State Legislatures.

The letter says, in substance—and I will submit the full letter—that we write on behalf of the organizations to express concerns over the size of the total, the 1.5 percent-plus, the additional equity bonus. Their point is that the large increase results from a combination of adjustments, growth in the overall highway program, an increase in the percentage set-aside, and broadening of the program base subject to the metropolitan planning set-aside.

They believed that adding an additional $2.2 billion for planning would make that much less available for improving, constructing, maintaining, and operating a safe and efficient highway system.

They come out strongly in support—as we all are—of increasing the metropolitan planning funds. The number of MPOs has increased 340 to 378, and many more are looking at the prospect of being designated as nonattainment for the new ozone and fine particulate standards. They recommend an increase more comparable to the growth in MPOs, but they do not think tripling it is wise. So they have asked us to reconsider.

The purpose of this technical amendment, among other things, is to bring it back to the 1.5 percent increase, upon which we have previously agreed.

I ask unanimous consent that the letter be printed in the RECORD.

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

JANUARY 28, 2004.

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

DEAR SENATOR BOND: We are writing on behalf of the national organizations listed below to share our concerns about the size of the increase in metropolitan transportation planning funds agreed to by the Senate Environment and Public Works Committee—from $1.121 billion over six years in TEA 21 to at least $3.3 billion and possibly as much as $3.9 billion if the set aside of planning funds is applied to the new equity bonus program.

This large increase is a result of a combination of adjustments—(1) growth in the overall highway program; (2) an increase in the percentage set aside for metropolitan planning from 1 percent to 1.5 percent; and (3) a broadening of the program base subject to the metropolitan planning set aside. The combination of the adjustment produces an increase of at least $2.2 billion additional for metropolitan planning and that much less available for improving, constructing, maintaining and operating a safe and efficient highway system.

Some increase in metropolitan planning funds is justified. The number of MPOs increased from 340 to 378—an 11 percent increase, and more metropolitan areas will be designated as non-attainment for the new ozone and fine particulate matter standards. An increase more comparable to the growth in MPOs is understandable, but tripling the set aside for metropolitan planning funds is excessive when our highway needs are so great.

We, therefore, urge you to reconsider the manner in which the MPO set aside is calculated.

Sincerely yours,

JOHN HORSLEY,
Executive Director, American Association of State Highway and Transportation Officials.
DIANE STEED,
President and Chief Executive Officer, The American Highway Users Alliance.
STEPHEN SANDHERR,
Chief Executive Officer, Associated General Contractors of America.
PETER RUANE,
Executive Director, American Road and Transportation Builders Association.
WILLIAM T. POUND,
Executive Director, National Conference of State Legislatures.

Mr. BOND. Mr. President, I see the majority leader is in the Chamber. We will not act on this amendment at this time. If somebody wishes to object to it after the majority leader speaks, we would ask that they come to the floor and make an objection. Otherwise, I propose that at 3 o'clock we ask that the amendment be adopted or, if we need a recorded vote, we will be happy to do that. One way or another, I hope we can have action on this by 3 o'clock.

With that, I yield the floor.

The PRESIDING OFFICER. The distinguished Senate majority leader.

REOPENING SENATE OFFICE BUILDINGS

Mr. FRIST. Mr. President, for several minutes I want to give our colleagues an update and make several announcements which will have a direct impact on their schedules for the next several days. I begin by thanking my colleagues for their patience as we work through these uncertain times. I assure them, we are progressing as rapidly as we can, as rapidly as is humanly possible. We are on course to be back in complete functioning operation here. That plan I will lay out shortly.

I do want to make a couple of quick points though. First, everybody is doing well. There are a number of people who have been in very close contact to the poisonous substance which was identified in my office. They are all doing well. The emergency responders are all doing well. That is my primary focus; that is, the safety and well-being of our extended Senate family here. We are continuing to monitor the health of all people who were potentially exposed and we have identified and spoken with each of those. They have had the appropriate counseling. Everybody is doing well.

As the world knows by now, the impact of inhaled ricin, to the best of our knowledge, is over a very short period of time and we are well beyond that window, now 48 hours after the time of exposure. I do commend and applaud my staff because they were astute in noting the powder and responded appropriately and quickly, and that could have, and in fact I am sure did, avert a serious and potentially life-threatening matter for others.

The incident, as I mentioned, is 48 hours old. We were able to move aggressively and rapidly to isolate that affected area in my mailroom. The monitoring of health effects has gone very smoothly. I appreciate the Capitol Physician's Office, as I mentioned this morning and last night, being with all people exposed and have counseled people since that point in time.

We were able to implement plans which had been carefully laid out and coordinated among many different groups, agencies here on the Capitol Grounds, and that results in protection of Members and protection of staff and the reaction in a very sophisticated way to this discovery.

After consultation with appropriate officials and reflecting upon the excellent coordination with the Sergeant at Arms and the Capitol Hill police, I have made a decision this morning, in consultation with the Democratic leader and others, that we can accelerate our efforts to open our Senate office buildings. It is still not going to be as quickly as most people would like, but we can accelerate the initial proposal and plans. This proposal is consistent with safely removing mail and continuing to review data, which literally comes back every 30 minutes to an hour, as teams move through the complex, the very large complex of the Senate office buildings, but also a response on the House side and in the Capitol itself.

Thus, barring any unforeseen discoveries—and I put that provision in there because you don't know an hour later that something may be discovered. But barring any unforeseen discoveries, the time schedule for opening the buildings will be the following:

The Russell Senate Office Building, tomorrow, Thursday, at noon, February 5. We will be able to open that office building at 12 noon. Again, Thursday noon, February 5, Russell Senate

office building. Friday at 9 a.m., February 6, we will reopen the Hart Senate office building. The Dirksen Senate office building, which is the crime scene itself, will open on Monday at 7 a.m., February 9.

A lot of people thought it would be days and days to reopen. Initially we did not know how long. People pointed out with the anthrax, the buildings were closed for weeks and weeks. We made a decision to accelerate this schedule based on increased manpower that has been offered by various agencies, our continued understanding about the exposure to ricin, the understanding and information that has placed this in one room at this juncture based on the findings to date, and that in all of the monitoring equipment, the HEPA filters throughout the area that have been examined, and we continue to examine them throughout the complex, of all the monitoring and filtering equipment employed, the filters have all been demonstrated to be clean and therefore there has not been aerosolization of this agent.

I do also want to tell Members they can have access to their offices—they, themselves—after assessing the risk, and our counseling will be directly to them. If they want to go to their office and remove essential papers or documents—not mail; mail should not be touched—they can do that. We do ask that they talk to the Secretary of the Senate's office where the control room is—they have that telephone number—if they plan on going into their office building to access important information to allow them to carry out the essential functions of their office.

We will continue to work with all the Members to ensure a smooth and safe reopening of the Senate complex consistent with this schedule.

Again, Thursday noon, February 5, the Russell Senate office building will open. Friday, 9 a.m., February 6, the Hart Senate office building will reopen. Monday, 7 a.m., February 9, the Dirksen Senate office building will reopen.

Let me close and simply again thank the Capitol police, Chief Gainer, who has done a tremendous job, the EPA, the United States Marines, the FBI, the Department of Homeland Security, the Attending Physician's office, the CDC, the Sergeant at Arms, the Secretary of the Senate, and so many others involved in response to this incident.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the majority leader for his report and for the announcement regarding the opening of offices. He also ought to be commended for his work and leadership in expediting the opening of the offices themselves. This has been a difficult matter because his office has been directly affected, but this is a very good piece of news that we should be back and up and running with all cylinders by the early part of next week.

I share, as well, his expressions of gratitude for all of those who have been involved in this effort to date, having recalled very vividly the nightmares of 2 years ago. It is fair to say we have come a long way in our ability to deal effectively with matters such as these. While this one is different, it is also indicative of the progress we have made in allowing the institution to respond more quickly and successfully and, hopefully, that will be in evidence as we continue our work.

Again, I thank the majority leader for his report. I know this will be good news for all Members.

I yield the floor.

Mr. FRIST. Mr. President, I appreciate the Democratic leader's comments and will turn the floor back to the managers. We will have continued announcements. One of the real efforts we have tried to fulfill and missions we put forward is to stay in touch and communicate as best we can. We will continue to do that. There will be a press conference by the Capitol police with an update later this afternoon and they will sit down and announce more about that to give a technical update in terms of the progress that has been made.

I yield the floor.

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

Mr. GREGG. Mr. President, I rise again as we proceed on the bill to present my concerns about where we are in the process relative to the highway bill and relative to the management of the Federal budget.

The bill before the Senate with the proposed amendment which I believe has been offered, the substitute, creates a significant increase in funding and spending in the area of highways. Many Members support transportation improvements. I have always supported having a strong transportation program because it is critical to our infrastructure. But in doing that, we have to do it within the context of managing the budget correctly. We cannot simply put money into programs because we like them without doing it in the context of what the budget limitations are and what the various income is in the trust fund that would pay for these activities.

The highway bill has always been a trust fund—not always—a trust fund-generated event, where the gas tax and other taxes that are highway related and transportation related are collected and spent for the purposes of building infrastructure. That is the way it should be. That is the way most States do it, too, by the way. I don't think any States use general fund revenues for the purposes of managing their highways, although I am not aware of that. As Governor of New Hampshire, when I had the honor and privilege to serve in that position, this was a very big issue that we not use the general funds for the purposes of managing our highways.

However, what is happening in this bill, unfortunately, is that we are, through a series of accounting mechanisms which are, in my opinion, illusory in some ways and inappropriate in other ways, basically raiding the general fund for the purposes of funding highway construction activity and at the same time we are dramatically expanding the spending levels above what the levels are that are part of the budget process for the highway fund. That is inappropriate. It is inappropriate that we should be going outside the highway fund for the purposes of funding highways and that we should be exceeding the budget levels for the purposes of funding highways. Rather, we should have the fiscal discipline to recognize when you are in a difficult fiscal situation, as we are as a country, when you are running deficits, which we are, unfortunately, as a country, you must, in all accounts, including those which you are strongly committed to, have fiscal discipline. That involves staying within the budget and that involves being sure that in something where you are using a trust fund, you have the funds in place in that trust fund before you spend it.

That is why I am concerned about this bill. It is my opinion if we allow this bill to go forward in its present form we will be significantly aggravating the deficit, we will be dramatically adding to the deficit, and we will be creating a precedent of using the general fund for the purposes of funding the highway accounts. That is bad policy. The underlying policy and having a strong transportation program can still be accomplished, but we should do it within the context of staying within the budget and staying within the highway bill. I have spoken on this before. This is not one item that stands alone on this issue. I suppose if we were running a surplus, or a deficit which was not so large or was not growing, I would probably tolerate this type of spending. This is, rather, an additional straw on the camel's back, and specifically our children. Our children have to pay the debt which we run up in the Government. It is passed on to the next generation. If we are going to be fair to our children and our children's children so they can have the quality of life we have, then we have to give them a government and a fiscal house that is in order.

Unfortunately, within the last 2 years we have not necessarily followed that course of action as a Congress. We have passed a series of bills which have dramatically aggravated the situation relative to the budget, deficit spending, and long-term structural deficits—mostly on the entitlement side, and mostly in the area of programmatic activity that has to be spent, or programmatic activity that is locked in place on a flight path of expenditure. It occurs in the Medicare accounts and it occurs in the agricultural accounts. There is an attempt to do it in the energy accounts. It could potentially

occur in this account, if it passes in its present form.

That is why I have such reservations about this bill. I especially have reservations about the substance of it. I am not absolutely sure how it is structured because I haven't had time to look at it yet. But it appears to me that in its present form it does take money out of the general fund and move it into the highway fund through a variety of mechanisms which at best would be called playing fast and loose with the budget rules of this Congress. It is probably, therefore, subject to a budget point of order and is, therefore, inappropriate.

In addition, if we are going to take up this bill, it is our first opportunity to have a bill which could address a variety of other issues we have concerns about as a government.

There is a bill that was passed out of my committee which I had the good fortune to chair, the Health, Education, Labor and Pension Committee, which deals with the rights of public safety officers, specifically firemen and police officers, who work in one of the most dangerous jobs in our country. It deals with fair treatment of them in the area of how they protect their rights in employment. It is a bill which has passed my committee a couple of times. It was being brought to the floor last year, and regrettably it didn't come through the entire process. But it does create an opportunity for fire and police personnel, and public safety personnel—who are very important, and who obviously use our transportation system rather aggressively—to protect the transportation system when there are violations of law relative to the operation on roads, or protecting it when there are hazardous events on the road, or when people are injured and fire rescue personnel respond, or even if there are fires involving transportation vehicles. So it is tied into this whole bill—the protection of police and fire personnel and their rights to have a reasonable workplace and a workplace where they feel they are getting what they need.

It is something which I have been greatly involved in and committed to for many years.

Thus, it is my intention at this time to send an amendment to the desk in the nature of a second degree to the amendment which is the pending substitute.

I send an amendment to the desk.

AMENDMENT NO. 2266 TO AMENDMENT NO. 2265

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2266 to amendment numbered 2265.

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

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

The amendment is as follows:

At the appropriate place in the amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2003''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(a) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' means any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICERS.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code,

shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORTIY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. GREGG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, might I ask the Senator from New Hampshire what his substitute does?

Mr. GREGG. This amendment deals with the rights of police officers to have the right to collective bargaining and firemen to have the right to collective bargaining.

Mr. BOND. Mr. President, this obviously is a very important issue the Senator has raised. Having this as an amendment to a technical amendment raises questions that I think perhaps should be answered.

First, I point out to my friends who are concerned about it that the number we have chosen for the highway portion of the bill was a number adopted by a 79–21 vote on the floor of this body. In addition, we understand the need to provide funding for highways. The Finance Committee has worked very hard to come up with the funding measures. I don't serve on the Finance Committee, but they have adopted fuel tax compliance measures. They have reformed the provisions for the ethanol exemption. It is a very valuable agricultural fuel that improves the environment. They will not charge the highway trust fund with that. They will pay down the existing interest owed to the highway trust fund and spend down the balance. They will clarify mobile machinery exemptions and transportation taxes, and discontinue refunds going from the trust fund into the general revenue fund for fuel tax exemptions. These are generally related to the highway trust fund.

Further, I will point out for those of us who said we want the trust fund used for highways, the trust fund right now is being used for other things that are not highway related, such as automobile, bus, and truck drivers. Some $36 billion will go to mass transit, a very valuable adjunct to the transportation system but not something that

people who pay highway trust fund taxes are using because they are putting the gas and diesel in their own vehicles.

There are also valuable environmental benefits in there such as CMAQ—congestion mitigation for air quality. There are also rails and trails and other easements in there that are a significant diversion of highway trust fund dollars from the direct highway trust fund purposes.

I hope my colleagues who have problems with strict application of highway funds being raised on highway uses deal with that in an amendment that is directly related to the highway bill transportation which is before us.

Obviously, one of the things one can do in the Senate is to offer amendments that are more properly the jurisdiction of other committees, which certainly collective bargaining is, I would say, such an effort. But this bill is so important to the United States, to our economy, and the safety and well-being of the people who use our highways and use our bridges in the United States that I hope we can get back to the main purpose of this measure, which is to continue the highway program, which builds better roads, better bridges, and provides jobs—47,000 jobs for each $1 billion of highway contracts—and provides the future for economic growth in our States.

As I have said on many occasions on this floor, I can tell you jobs are going to be located in the States where they have good transportation systems, and good highways are essential for that.

Finally, in my State it is a matter of saving lives. So I hope we can get back to dealing with the important measures in this bill. I hope we can deal with the specific needs, make the technical amendments that are normally permitted on such a bill, and debate the major provisions.

With that, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, we have been trying to get through the explanation of this bill section by section. We have done so now all the way up to section 1304. It seems most people were concerned yesterday about the formula. Now we are addressing another problem. But we have not gotten into the full explanation of the bill. We have gone from section 1104 through section 1303.

I am going to go ahead and proceed. If anyone either has an amendment or wants to be heard on the bill, of course, I will give them that opportunity.

Section 1304 is in regard to the facilitation of international registration plans and international fuel tax agreements.

In response to issues surrounding commerce from Mexico, S. 1072 gives the Secretary of Transportation discretion to provide financial assistance to States participating in the International Registration Plan and the International Fuel Tax Agreement. These States incur certain administrative costs resulting from their service as a home jurisdiction for motor carriers from Mexico.

The International Fuel Tax Agreement and the International Regional Plan are agreements among various U.S. States and Canadian Provinces that facilitate the efficient collection and distribution of fuel taxes and apportioned registration fees among each member jurisdiction.

Under both programs, each motor carrier designates its home State or Province as the jurisdiction responsible for collecting fuel use taxes and fees. Since the implementation of NAFTA, the Mexican Government imposes and collects fuel taxes and registration fees differently from the United States and Canada. The National Governors Association is currently evaluating Mexico and its participation in the IFTA and IRP programs. In the interim, Mexican motor carriers may use individual U.S. States or Canadian Provinces as their home jurisdiction. So we are talking about something that is in the interim until the problem is resolved but is necessary.

Section 1305 is in regard to the National Commission on Future Revenue Sources to Support the Highway Trust Fund and finance the needs of the surface transportation system.

As many of you know, I am personally not one to support expansions of bureaucracy or the creation of innumerable review boards, committees, and commissions. However, this bill creates, and I have found good reason to support, a new temporary—temporary—national commission on future revenue sources to support the highway trust fund and finance the needs of the surface transportation system.

Funding the highway program has already become increasingly more challenging. Even as we debate the funding of this bill, we are confronted with the task of finding innovative and efficient funding methods to capture user fees lost to the fuel tax evasion and a host of other issues that the Finance Committee has done a great job in addressing.

However, one issue that has not been addressed, but must be before the next reauthorization cycle, is Federal incentives for the purchase of hybrid and other fuel-efficient vehicles. Fuel efficiency is a goal I support, but I do not believe it should come at the expense of the highway trust fund. So we have these exemptions, which has the result of reducing the revenues that would otherwise come in, even though the goal or the policy we are trying to establish is, perhaps, an inevitable policy.

We run the risk of making economic and environmental advances at the cost of jeopardizing our primary funding source for the highway trust fund—gas taxes. In recent years, the highway trust fund has seen a decrease in revenues. Constant changes in the automotive industry and the economy as a whole impact user fee revenues. We must continue to identify new and reliable revenue sources to sustain the program.

Most recently, we have seen the increase in the cost of fuel and the spiking that has been going on. That has a direct effect on the amount of revenues that are generated from fuel taxes.

In response to these changing and growing challenges, the new commission created in this bill is established to conduct a comprehensive study of the alternatives available to replace or supplement the existing fuel tax as the principal source of supporting the highway trust fund. We may find that this is going to still remain the principal source, but we do not know because we have never had any central place where we were trying to put together something this creative to replace it.

Specific factors which the commission will examine include, one, the effects of each major tax that goes into the highway trust fund; two, the ability to increase taxes if there are future revenue shortfalls; and, three, potential new sources of revenue to support highway, transit, and other surface transportation programs.

In regard to the scope of the study, the commission is charged with suggesting new or alternative revenue sources to fund the needs of the surface transportation system over the next 30 years or the next 40 years—the next long period of time. It is something we should have done before. This bill might have been easier if we had addressed this in TEA–21.

Now we have, in section 1306, the State infrastructure banks. TEA–21 established a State infrastructure bank pilot program that authorized participation among the States of Missouri, Rhode Island, California, and Florida. This bill reauthorizes the program to allow all States to enter into cooperative agreements with the Secretary of Transportation to set up infrastructure-revolving funds eligible for capitalization with Federal transportation dollars.

The SIB program gives States the capacity to increase the efficiency of their transportation investment and to significantly leverage Federal resources by attracting non-Federal public and private investment.

The program provides greater flexibility to the States by allowing other types of project assistance in addition to the traditional reimbursement grant. States utilizing SIBs are able to provide various forms of nongrant assistance to eligible projects, including at or below market rate subordinate

loans, interest rate buydowns on third party loans, and guarantees and other forms of credit enhancements. Any debt that the SIB issues or guarantees must be of investment grade caliber. The SIB program represents one more innovative financing option. We believe, after having done this with three or four States, that it is something that should be expanded to other States. This is a very positive thing.

Section 1401 is the Highway Safety Improvement Program.

Along with the new equity bonus program, the bill's new core Safety program is one of the crowning pillars of this legislation. It is both devastating and deplorable that motor vehicle crashes are the leading cause of death among American's between the age of 1 and 34-years-old. In 2002 alone, nearly 43,000 people died on our Nation's highways. Although the fatality rate has decreased when compared to the growing number of vehicle miles traveled, the total number of fatal crashes has gradually increased over the life of TEA–21. Through a reorganization of existing safety programs and a significantly increased Federal investment, S. 1072, appropriately referred to as SAFETEA, strives to combat one of the greatest threats faced on our roads today. Not only is the loss of life to unsafe roads and conditions tragic, but vehicle crashes have a huge economic effect manifested in medical costs, property damage, insurance, and the effects of congestion.

In response to the need for safer roads and road conditions, this bill gives heightened attention to improving traffic safety by creating a new core Highway Safety Improvement Program. Under TEA–21 States were required to set-aside 10 percent of their funds apportioned under the Surface Transportation Program for safety projects to eliminate hazardous locations and improve safety at highway-railway crossings. The new Highway Safety Improvement Program preserves the ability of States to continue funding these important projects, while giving the States even greater flexibility to identify and address other traffic safety issues such as work zone safety, traffic enforcement activities, lane and shoulder widening, use of safety warning devices, safety-conscious planning, and improved traffic data collection.

This is just one more effort to recognize that the States are all different. The same shoe does not fit all. We are giving them an expanded role to determine the best way to handle the problems in Vermont as opposed to Oklahoma or any other State.

Recognizing the various and changing safety needs in each State, the bill provides significant flexibility to the States in order to determine how the Federal safety dollars can best be spent to address the areas of greatest need. These are not always the same in each State.

Section 1402 is Operation Lifesaver. Among the existing safety programs that this bill reauthorizes is Operation Lifesaver. This program has proven effective as a national education and awareness campaign dedicated to reducing fatalities and injuries at highway-railway crossings. Operation Lifesaver has utilized various means to educate both drivers and pedestrians about making safe decisions at railroad crossings and has encouraged better engineering to improve safety at rail crossings. Due to the valuable service this program renders and the cost-benefit effectiveness it has sustained, this bill increases funding for the program from $500,000 per year to $600,000 per year and moves the source of funding for Operation Lifesaver from the Surface Transportation Program, STP, to the new Highway Safety Improvement Program.

Section 1403 is license suspension. Another area of concern in regards to highway safety is the intoxicated driver and especial repeat offenders. Current law imposes penalties on States that have not enacted statutes punishing repeat intoxicated drivers with a hard one-year driver's license suspension. However, as the States have reviewed data and adapted their sentencing structures for repeat offenders in this area, they have found that habitual drunk drivers whose license has already been suspended frequently choose to drive without a license, minimizing the effectiveness of the current State of the law. In the interest of public safety, some States have actually accepted the consequences of the Federal sanction and foregoing available Federal funding in order to impose more effective sentencing of these repeat offenders. This bill recognizes the reality of repeat drunk drivers driving on roads with a suspended license and the wisdom of more effective alternative sentencing schemes. Thus, the bill updates the ''repeat offender'' sanction in title 23 of the code to allow States to incorporate ignition interlock or similar devices when sentencing repeat intoxicated drivers.

At this point we have come through all the way to section 1404. I would like to see if the minority leader of the committee, who has been so great to work with, the ranking minority member, Senator JEFFORDS from Vermont, has any comments to make about these sections.

Mr. JEFFORDS. I thank the chairman. As has been pointed out already by one of our members, the bill we are talking about is rather extensive. But it was not done quickly or without the tremendous work of staff and many people who have contributed outside of the staff in listening to people from all over the country before we put the final touch on the bill.

The highway bill provides us with an opportunity every 6 years to give our communities, our businesses and our citizens a real boost by renewing our commitment to the world's most extensive transportation system. I am proud to be a leader in that effort this year.

Through the bill before us today, we will improve the condition and the performance of our roads and bridges, thousands and millions of them. That means both safer travel today and lower maintenance costs tomorrow.

I am particularly pleased that our work continues the transportation partnership established under President Eisenhower during the Interstate period and expanded with passage of ISTEA 12 years ago. That means that local leaders, stakeholders and citizens will continue to work with State and Federal officials to set spending priorities and define project scope.

I am also proud that we have maintained the linkage between transportation and the environment in our bill. Investments in transportation must build strong, healthy communities. Through advanced planning and early coordination we can ensure better results.

I urge my colleagues to work with those of us responsible for this bill so that we may complete our work in a timely way. America's communities are relying on us. The States are relying upon us. All people using the transportation system are depending upon us. I am sure we will produce this document in a way that will make us all very proud.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First, I agree with the ranking member of the committee. We have come a long way. We are ready shortly and will be prepared to deal with some amendments. In the meantime, let's wade through this thing a little bit more.

Section 1404. Bus axle weight exemption. SAFETEA holds over-the-road buses and intrastate public transit buses to the same standards that inner-city transit buses must meet with regard to axle weight, air quality, and requirements under the Americans with Disabilities Act. Specifically, the bill exempts any over-the-road buses or intrastate public transit bus from the maximum gross weight limitations imposed by the State.

Section 1405 is the Safe Routes to School Act. This was a provision that handled a number of compromises. It is one we are all concerned about. It has a continuing emphasis on safety. The bill introduces a new program that directly deals with safe routes to school, a safety improvement program established in SAFETEA. Projects eligible under the Safe Routes to School Program are already eligible under the larger Highway Safety Improvement Program.

However, Safe Routes to School provides a dedicated and protected funding source for pedestrian and bicycle safety projects near schools. The program is limited to projects and activities that will impose safety within 2 miles of primary and secondary schools. It sets aside $70 million per year for infrastructure and behavioral activities, such as sidewalk improvements, traffic-calming measures, speed reduction,

bicycle facilities, pedestrian crossings, traffic signal improvements, public awareness campaigns, and traffic education and enforcement.

I think that is significant. We have noticed, between the time we have been dealing with ISTEA and TEA–21, there have been increased fatalities in our young kids. We expanded this program during the course of our committee consideration. I think it was a good compromise to make on the purchase of equipment.

When conducting projects under the Federal program's authorization under this bill, some States will occasionally find the equipment necessary to complete the project may be cheaper to purchase than it would be to rent for the duration of the project. In such cases, this bill instructs them to conduct a cost-benefit analysis for the purchase of expensive equipment above specified levels in order to evaluate the savings associated with purchasing the equipment compared to renting the equipment for the duration of the project.

Everything we are doing here is trying to get the very most out of the dollars we are spending in terms of safety and equipment and road construction and the other things we are dealing with in S. 1072.

Section 1407 is work zone safety. Over a thousand deaths occurred in work zones during 2002 due to traffic crashes alone. There has been a lot of awareness in the public about this fact and States are trying to deal with it. We felt it appropriate to have some language in this bill. Although work zones represent a critical component of infrastructure development, they also pose a unique safety challenge for those on the road, and to road workers in particular.

S. 1072 attempts to minimize the injuries and fatalities in work zones by imposing insurance requirements, requiring the use of ITS technologies and safety budgeting in construction and contracting. The Secretary of Transportation is directed to encourage States to choose contractors that carry general liability insurance of at least $15 million. Transportation projects costing more than $15 million are encouraged to include continuously monitored work zone intelligent transportation systems, or ITS systems.

Section 1408. Worker injury prevention and free flow of vehicular traffic. In addition to the provision relating to the safety of workers in work zones just mentioned, SAFETEA also directs the Secretary to promulgate regulations requiring road workers to wear high-visibility clothing, with the goal of decreasing worker injury and maintaining a free flow of traffic.

In section 1501, regarding the integration of natural resource concerns into State and metropolitan transportation planning, my counterpart, the ranking minority member, was very interested in a lot of the parts of the bill that deal with natural resource concerns and State and metropolitan transportation planning. If the Senator from Vermont would like to go over some of these sections, starting with section 1501, it might be appropriate since he had a lot to do with these particular areas.

(Mr. SUNUNU assumed the Chair.)

Mr. JEFFORDS. Mr. President, I am most pleased to assist in this regard.

The environmental provisions contained in this bill reflect a bipartisan compromise reached among the members of the Environment and Public Works Committee. Although there are a number of additional changes I would like to have made in these provisions, I believe the bill deals fairly in regard to these sections, given the variety of strong opinions on environmental subjects.

Several stakeholders have argued any early identification of potential environmental concerns may help reduce or avoid delays during the environmental review. Therefore, this bill specifies factors that may be considered during the transportation planning process.

Current law already requires transportation planners to consider projects and strategies that will protect and enhance the environment and improve quality of life.

The items added by this bill simply provide more direction as to what these concepts mean. These items do not constitute a checklist of items, whereby every item listed must be considered by each State and metropolitan planning organization, or MPO.

Section 1502. As another means of providing for early consideration of environmental concerns, this bill requires transportation planners to consult with appropriate resource agencies.

Interagency consultation should facilitate comparison of transportation plans to conservation plans or maps and inventories of natural or historic resources, where those plans or maps and inventories already exist and are in use.

The long-range transportation plan will also include a discussion of potential mitigation activities and sites that may help compensation for issues due to the transportation plan. This requirement is intended to get States to think strategically about mitigation. It is not to add new mitigation requirements or to require a level of detail better handled at the individual project review stage.

Section 1503. Integration of natural resource concerns into transportation project planning. Additionally, the highway bill contains provisions to incorporate the principles of context-sensitive design into current design standards. These principles involve consideration of the environmental context of a project and encouragement of design that minimizes impact on the project's surroundings. These provisions aim to integrate natural resource concerns into the transportation project planning process.

Section 1504. Public investment in transportation planning and projects. Current law provides an opportunity for the public to be involved to some degree in the development of transportation plans. This bill includes specific ideas for making public involvement opportunities more meaningful, such as making publicly available documents available on the Internet.

Section 1506. Federal and State laws often require habitat, stream, or wetland mitigation to compensate for direct adverse environmental impact caused by transportation projects. To provide additional flexibility and certainty in meeting these requirements, this bill authorizes the establishment of State mitigation funds, using moneys received from the Surface Transportation Program and National Highway System programs.

The State mitigation fund operates as a planning and project management tool available to the States. States can even use the mitigation funds to undertake larger mitigation efforts based on the total impact of a multitude of projects combined rather than project-by-project mitigation. This enables the States to more effectively plan for and provide the mitigation that is or likely will be required for transportation projects under other environmental laws.

The next section, 1511, transportation project development process. TEA–21 directed the Department of Transportation, DOT to ''develop and implement a coordinated environmental review process for highway construction and mass transit projects.'' Unfortunately, this was never achieved. It took almost 2 years for DOT to even propose rules, and those proposed rules were roundly criticized by many interested stakeholders and many in this Chamber.

That proposal has since been withdrawn. So it was necessary for us, obviously, to take the next step legislatively.

This bill sets up a process for complying with current environmental laws. In establishing a process for compliance, the bill does not venture to amend any current environmental laws. It does not venture to amend any current environmental laws.

Under this process, DOT is the lead agency with authority to set work plans and schedules, determine the purpose and need for a project, and determine which alternatives must be considered. This process also includes more public participation than currently required and continues to authorize DOT to provide funds to resource agencies to assist them in expediting project environmental reviews.

Section 1512. Assumption of responsibility for categorical exclusions. Under the National Environmental Policy Act, NEPA, some types of projects can be categorically excluded from lengthy analysis. Qualifying projects are those projects that ''do not individually or cumulatively have a significant impact on the human environment.''

Approximately 90 percent of all surface transportation projects are processed as categorical exclusions, or CEs, under NEPA. Since this is such an overwhelming percentage of the projects, even a small improvement in processing time for each CE can result in a large improvement systemwide.

The bill before us today attempts to make that improvement by allowing States to assume the Secretary's responsibility for completing the environmental review process for projects classified as CE under current regulations.

This assumption of responsibility will be limited to those States that have adequate capabilities and would remain subject to Federal oversight to maintain proper accountability.

Section 1513. Surface Transportation Project Delivery Pilot Program. Often a State will do much of the work involved with the preparing and environmental review of a surface transportation project. Then the Federal Department of Transportation must review and approve the State's work, the applicable documentation. Some stakeholders have argued that allowing States to complete the NEPA review, regardless of whether the project requires a categorical exclusion, environmental assessment, or even an environmental impact statement, could result in significant time savings and speed up project delivery.

The highway bill sets out to explore this idea by establishing a pilot program that allows up to five States to assume the Secretary's responsibility for the environmental review of a transportation project.

Under this pilot program, States will have to meet several criteria before and after selection to participate. These requirements include soliciting public comment prior to applying for participation, verifying adequate capabilities to carry out the responsibilities to be assumed, entering into a written agreement with the Secretary, submitting to the jurisdiction of the Federal courts, submitting to periodic compliance audits, and complying with the same procedural and subsequent requirements under Federal environmental law as would apply if the Secretary were conducting reviews.

Section 1514. In keeping with the new environmental changes, the bill directs the Department of Transportation to promulgate new regulations within 1 year to implement the planning and project delivery sections of the bill.

Section 1521. Critical real property acquisition. The committee bill enables States to use Federal funds to expeditiously acquire a limited number of parcels of land that may be needed for future transportation development but are threatened by imminent economic development.

The early acquisition of property keeps future transportation options open and provides States with an important opportunity to reserve future alignment alternatives while allowing timely and cost-saving acquisitions.

In limited circumstances and with the Secretary's approval, States can use the Federal funds to cover the cost incurred in acquiring parcels of land that are considered to be critical for any transportation project under title 23. Federal land may be used to acquire property prior to the completion of the environmental reviews for proper acquisition. Environmental reviews and approvals are still required before physical construction, demolition, or clearing is commenced. If a parcel is later sold or leased, States cannot retain the Federal share of the proceeds.

Section 1522. Planning capacity building initiative. Focusing on the importance of comprehensive and integrated planning, S. 1072 establishes a planning capacity building initiative to strengthen metropolitan and statewide transportation planning and to enhance tribal capacity to conduct joint transportation planning.

The bill gives priority to planning practices that support the transportation elements of homeland security planning, performance-based planning, safety planning, operations planning, freight planning, and the integration of environment and planning. The planning capacity building initiative will be administered by the DOT's Federal Highway Administration in cooperation with the Federal Transit Administration.

Section 1601. Environmental restoration and pollution abatement control of invasive plant species and establishment of native species. Storm water runoff from highways has a direct impact on the Nation's waterways, carrying with it pollutions such as brake linings, oils, heavy metals, road salts, nutrients, et cetera. To address these waterborne pollutants, current law already allows States to use STP funds to address water pollution or environmental degradation caused or contributed to by transportation facilities currently undergoing reconstruction, rehabilitation, resurfacing, or restoration so long as the environmental project does not exceed 20 percent of the overall project cost.

This bill extends eligibility for those types of mitigation projects from the States' STP funds to include their funds under the NHS program as well. It further allows the funds to be used for environmental restoration projects not associated with an active construction project.

The stormwater project must address runoff from an existing Federal-aid highway but not necessarily one undergoing reconstruction, rehabilitation, resurfacing, or restoration.

Invasive species are a growing problem both economically and environmentally. These harmful plants plague thousands of areas of rangelands and croplands and have been cited as a staggering problem by such organizations such as the National Cattlemen's Beef Association and the American Farm Bureau Federation. By making both NHS and STP funds available to mitigate invasive species along roadways, we provide States with the flexibility to minimize the impact of vehicles as vectors of these problematic plants.

Section 1602 relates to the National Scenic Byways Program. TEA–21 continues the National Scenic Byways Program authorizing the Secretary of Transportation to designate roads that have outstanding scenic, historic, cultural, natural, recreational, and architectural qualities as all-American roads, or national scenic highways.

This bill amends the current program to recognize that the Secretary already is promoting the collection of ''national scenic byways'' and ''all-American roads'' under the designation of ''America's byways.'' If State and Federal representatives reach consensus on establishing a single designation category, then these amendments will provide the Secretary with the authority to use any of the three terms, national scenic byways, all-American roads, or America's byways, as the single designation.

The bill also authorizes the Secretary for the first time to form public/private partnerships to carry out technical assistance, marketing, market research, and promotion with respect to national scenic byways.

Section 1603 is the Recreational Trails Program. This bill continues the Recreational Trails Program allowing Federal funds to be used to provide and maintain recreational trails for motorized and nonmotorized recreational trail uses. New eligible uses of funds permit trail assessment for accessibility and maintenance, and to hire trail crews or youth conservation or service corps to perform recreational trails activities. Current activities eligible under the program educational funding already include nonlaw enforcement trail safety, trail use monitoring patrols, and trail-related training.

Since projects under the Recreational Trails Program are much smaller than typical highway projects, this program is relieved of several normal requirements which, although appropriate for large highway projects, would be excessively burdensome for small trail projects.

Section 1604 covers exemption of interstate systems. SAFETEA establishes an exemption for the interstate system from consideration as a ''historic site'' regardless of whether the interstate system or portions of the interstate system may be eligible for listing on the National Registry of Historic Places. However, a portion of the interstate system that possesses an independent feature of historic significance, such as a bridge or a uniquely significant architectural feature, may still be considered a historic site individually.

Section 1605 of this bill changes current law to place greater emphasis on the need to consider the preservation of human and natural resources in the

decisionmaking process of developing highway projects. Consideration of a variety of highway project impacts has been part of the design process for many years. However, the transportation community has demanded improvements in project delivery and in the makeup of the product that is delivered. Compatibility with the surrounding environment and improved safety for the motorist and the pedestrian are critical.

The bill also directs the Secretary to ensure that the plans and specifications for proposed highway projects have considered preservation, historic, scenic, natural environment, and community values. However, States can use existing processes for demonstrating that they have considered these subject factors.

Section 1606 covers use of high-occupancy vehicle lanes which has been a topic of great interest to both States and stakeholders. This reauthorization bill clarifies existing law and provides more flexibility to State and local agencies for effective management of high-occupancy vehicle, or HOV, facilities. Certain types of vehicles are exempt from meeting the general occupancy requirements for HOV facilities. The bill further identifies the possible operational strategies that responsible agencies may select from to maximize the use of HOV facilities, manage highway capacity, mitigate congestion, and reduce fuel consumption.

Motorcycles continue to be allowed use of HOV facilities. Responsible Government agencies choosing to meet additional requirements may also allow low-emission and energy-efficient vehicles, such as hybrid vehicles, to use HOV facilities. These agencies are also given the authority to toll the use of an HOV facility by vehicles that do not otherwise meet the normal minimum capacity or other exemption requirements.

Section 1607 relates to bicycle transportation and pedestrian walkways. The highway authorization bill makes minor changes regarding pedestrian walkways, specifically allowing the use of the Surface Transportation Program, STP, funds and congestion mitigation and air quality improvement programs, CMAQs, funds for the nonconstruction pedestrian safety programs where current law only mentions bicycle safety.

We also explicitly mention the pedestrian use on bridges, whereas current law only mentions safety programs for bicycle use. The practice of charging user fees for shared-use paths is also permitted so long as the fees collected by a State are used for maintaining and operating the shared-use paths within the State.

User fees may not be collected on shared-use paths that are not within a highway right-of-way nor make user fees be charged for the use of sidewalks or bicycle paths.

I would like to stop at this point and pass the description to my good friend, Senator BOND. Thank you.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, picking up with the description of this bill, which we think is extremely important, I am going to share some other views. But I want to continue with this description of the bill.

Under the current law, there is a general prohibition against placing commercial establishments in recreation and safety rest areas on interstate rights-of-way. This bill creates a small exception to this prohibition by allowing States to place either electrification or other idling facilities that can be used for heating, air-conditioning, electricity, and communication. This will enable truck operators to receive services without continuing to run their engines, thereby reducing vehicle emissions. States, other public agencies, and private entities are already allowed to operate on the interstate system and may charge for the services provided under this new authority.

Why is this important? This is tremendously important. If you travel in your State along an interstate, you will find now that the new hours-of-service regulations require truckers to take more frequent breaks. There are rest areas in my State which are crowded with trucks. There are entrances to and exits from interstate highways where significant numbers of trucks are parked. This is to make sure that the drivers get the rest they need. There has been some controversy over it, but this is the rule and they are abiding by that rule. But when they are shut down and idling, particularly in bitter cold weather so they can get heat in their cab while they get the necessary rest, No. 1, it is causing dangerous situations along the roadway, on the exit and entrance ramps to interstate highways, and they are needlessly burning fuel, polluting the atmosphere, and causing excessive use of imported petroleum at a time when we face a real energy crisis.

So while this is a small part of the bill, it is one which responds to very significant needs to maintain safety for the traveling public, especially the truckers, and also to eliminate air pollution that comes from idling trucks.

Another program that I think is vitally important to empower the improvements in tolling, section 1609, deals with tools for toll programs. One of the effective things that has been used in many highway locations for raising revenue and regulating the flow of traffic is tolling. This bill modifies the Interstate System Reconstruction and Rehabilitation Program, the ISRRP, and establishes a new variable toll pricing program. This variable pricing program replaces the pilot program which was authorized in the previous TEA–21.

The new variable toll pricing program enables the use of variable toll pricing on congested facilities in order to increase mobility and improve air quality. This says that the Secretary can permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the interstate system, to manage high levels of congestion or reduce emissions in a nonattainment area or maintenance area.

This is extremely important when you look at the kinds of congestion we have in many areas during high traffic time. If there are tolls imposed when there would otherwise be heavy congestion, then those who must necessarily travel at that time can continue to do so by paying a toll. This is the ultimate market-based system for assuring that people who do not have to travel at high congestion times will not. Obviously, this means better traffic flow, this means less congestion, and therefore less pollution. So I think this is extremely important.

The Secretary may permit a State or public authority to manage the levels. The States must provide the Secretary with a description of the congestion and air quality problems, and the goals. Any State or public authority already operating under a cooperative agreement under the existing pricing pilot program of TEA–21 can continue under the existing laws.

We also have included some changes in the tolling requirements because in some States there are interstates which are badly out of date and in need of substantial rehabilitation. In the current laws, the provision for establishing tolls on existing interstates has been limited to replacement. If you have ever traveled I–70 in the State of Missouri, which is the lifeline for our State and for much of the Nation for east-west traffic going from coast to coast, certainly traveling between Kansas City and St. Louis, you will find that there are tremendous delays occasioned because the roads are inadequate. They are two-lane roads that are like driving in city traffic, they are so filled with cars and congestion.

In addition, when there are accidents on these roads, it is not uncommon for us to experience an hour or 2-hour delay. In one instance, I managed to miss a 7-hour delay by taking some back roads which I knew about to get around a major disaster.

This measure expands the ability to say if it is substantial rehabilitation or reconstruction, the State, if it chooses, could use tolls to improve an interstate.

Right now, Interstate 70 has the distinction of being the first toll road in the United States. But it also means it is a half a century old and it is at least 20 years out of date. The total cost for repairing it and replacing it is about $3 billion.

Some of my colleagues will be surprised to know that I have not asked in this bill for $3 billion to replace this vital national link. But I do believe we need to provide options for States to deal with problems such as this one. Whether they do it is going to be up to them. In the State of Missouri, there would have to be a vote of the people.

They would have to authorize the issuance of bonds and a tolling authority. This does not by any means say we are going to put tolls on it. It provides an option for the legislature, the Governor, the Department of Transportation to consider as they look at how they want to deal with one of these very significant highway corridors, which has become far too often a parking lot rather than a means of facilitating transportation between our two major cities and for people traveling from far beyond, going east to west through the heartland of the Nation, through the State of Missouri.

I think this is a very important provision and one which will provide States reasonable flexibility, not allowing them, willy-nilly, to take roads already financed through the interstate program, to impose tolls on them to finance other activities, but to make sure that we continue to realize the dream of those who initially formulated the interstate highway program to make sure that we can see traffic continue to proceed.

Let me move to another provision in the bill. It is section 1610, which merely directs the EPA to study the ability to monitor differentiation between fine and coarse particulate matter.

As we find out more about the dangers of pollutants, we find they are greater risks in the fine particulates in many instances which can cause far more significant harm than a coarse particulate because of the impact on the lungs.

Section 1611 adds particulate matter areas to the Congestion, Mitigation, and Air Quality Program. The funds under this provision are apportioned on the basis of a ratio of total weighted population of a State's nonattainment or maintenance areas to the total weighted population of all nonattainment or maintenance areas in the Nation.

If you didn't follow me on that, if a State has air quality problems in an area which is one-twentieth of all of the areas in the Nation, then they would get one-twentieth of the total funds available.

It sounds convoluted, but it really targets the CMAQ funds to the areas with greatest needs. Since many areas will need assistance to meet the new 8-hour ozone standard and the new fine particulate matter standard, the CMAQ formula is modified to include those areas. Adjustment factors are used to account for the number of pollutants for areas in nonattainment or maintenance. Section 1611 says CMAQ funds can be used for alternative fuel infrastructure under TEA–21. This bill goes further and encourages the use of CMAQ funds by listing the purchase of alternative fuel and the purchase of biodiesel fuel as eligible activities under CMAQ.

Due to some confusion in some DOT and EPA field and regional offices, we have also clarified that projects to control the extended idling of vehicles are indeed eligible for funding under the CMAQ program.

The bill also fixes oversight under current law that prevents States that do not have any nonattainment or maintenance areas from using CMAQ funds for CMAQ projects. Frankly, this allows us to get more homegrown clean fuels used with the assistance of CMAQ funds.

I happen to know something about soy diesel and about biodiesel. I am a great champion of it, because if you have followed a bus or a truck down the road that is burning straight diesel, you know what an unpleasant smell that can cause and what damage that can do to the environment. Biodiesel is a soybean-based or other biomass-based fuel which operates in a much cleaner burning environment. Several years ago we started a pilot project at the great training facility at Fort Leonard Wood, MO that needed to train soldiers to fight in smoke conditions on the battlefield. They had been burning diesel to provide that smoke. We felt that was not necessarily a good idea to be burning diesel and exposing our finest troops to the diesel pollution and the smoke that was caused. We worked with the Department of Defense to switch that to soy diesel. There was smoke. I asked them after they implemented what the byproducts were. They said, Obviously, we are not polluting the environment with petroleum-based diesel. We are burning a much cleaner soy-based fuel. It is much less harmful to the soldiers. The only problem is it smells like French fries and they get hungry. But given the alternative, that seems to be a good idea.

To the extent we get more buses and trucks using biodiesel, we are going to have greater benefits.

Let me give you two areas where soy diesel or any biodiesel can be a great improvement.

No. 1, firehouses: The fire men and women who live and stay in firehouses have complained for years. When they fire up the firetrucks, they get the diesel fumes coming up into the rest area. Sometimes, our valiant firefighters have to live and sleep in heavily polluted diesel-fuel-soaked areas. This is not only unhealthy, but it is very unpleasant. Fire stations have been some of the first places where we have used biodiesel. It has been extremely popular. Certainly when we are trying to talk about taking care of our first responders and the valiant firefighters who are on the line making sure the engines and the firetrucks below them are burning a clean-burning feel, it is a step in the right direction.

Another important area we have talked a lot about is school bus safety. When you have kids on school buses, the fumes from petroleum-based diesel come into that school bus. Do you know where they are the most dangerous? They are most dangerous when they are at low levels—where the small children are. The smallest children are likely to be exposed to petroleum-based diesel fumes.

We are working to encourage more and more school buses to use soy diesel, and put aside the fact that kids are going to get hungry when they smell something that smells like french fries. But it is vitally important that we lessen the danger to our schoolchildren as well as lessening the use of diesel fuel and providing a significant benefit to those who produce soybean and other biomass.

I see a couple of our colleagues are here. Senator THOMAS wishes to speak. We have lots more to talk about, but I will discontinue at this point and thank the Chair and thank my colleagues for coming to the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I thank my friend from Missouri. I am glad this conversation is going on. Certainly there isn't anything before us that is more immediate in need and more important than this highway bill. Not only is it a matter of infrastructure, of course, that we necessarily need, but it is also a matter of providing more jobs more quickly than anything we can possibly do.

Someone said this morning at one of our meetings that they will wait until next year to use the money. Not at all. I think many of the highway departments similar to Wyoming where I am from are ready to go. They are ready to contract. They can move very quickly.

I think it is terribly important that we move forward on this. I hope before we are through that we have a thorough discussion of the bill. But I hope we don't get off into a bunch of irrelevant amendments that really do not belong in here but are simply trying to be used as a carrot and a stick. That is not the way it ought to be.

In any event, this is a very large bill and it is very detailed. We have talked a lot about the details. I want to talk a little more generally about it.

This bill, of course, has gone through several committees. The EPW Committee, of which I am a member, is the basic committee where a great deal of work was done. This is the same committee that dealt with the previous bill 6 years ago, a bill, as it turned out, that worked very well. There is a great deal of detail here, but the detail has to be done in committee, and we need to now talk about the principles and to move forward with it.

The bill as reported by the Environment and Public Works Committee would authorize $255 billion over 6 years beginning in 2004 to fund the Federal aid for highways, highway safety programs, and other transportation projects. The last surface transportation authorization was the Transportation Equity Act, called ISTEA. We are moving forward one more time. As I said, it replaces an older one, and indeed actually even before that in the early 1990s, we had this same kind of approach with a gas tax. Each of us pays 18.5 cents a gallon of Federal gas tax when we buy gas. That goes into

the fund for the purpose of upkeep of the infrastructure.

This bill makes significant progress in streamlining the environmental review and delivery process which, as always, is part of the problem.

It encourages communities and project sponsors to consider environmental concerns earlier so things can go together and it comes out as a manageable package.

It increases the oversight on the expenditure side. There is a great deal of money here. The highway funds are spent by requiring project management plans and annual financial plans of Federal programs. That is as it should be. Accountability is necessary.

Actually, when the Finance Committee then received the bill, the funding from the gas tax was not complete enough to cover what we hoped to do. It happened to be about a 6 percent reduction that had to be filled after it came to the Finance Committee. So we have heard a great deal about that, and I understand most want to fund the highway bill with funds that come from related sources instead of the general fund.

I will say a few words about how we are paying with that in the highway bill. The Finance Committee reported out a mechanism for paying for this bill. This mechanism retains the integrity of the highway trust fund. These are truly transportation-related taxes that are now deposited in the highway trust fund. Some of the taxes were previously deposited in the general fund. In other words, the general fund was getting support for transportation-oriented taxes. The Finance Committee finally righted the wrongs. The taxes should have been funding this trust fund for years. Now they will be.

In addition, there are exemptions enjoyed by certain taxpayers that diminish the taxes that would otherwise be deposited in the trust fund. These are exemptions that are subsidies that have nothing to do with highway policy. The impetus behind the exemptions was energy policy and tax policy. Since they are not highway policy, why should they have the trust fund bear the burden?

No one is taking issue with these exemptions of subsidies but rather the funding structure behind them and who pays. The Finance Committee made changes that the exemptions are allowed, allowing for the highway trust fund to legitimately receive the taxes that have been due for a very long time. The exemptions of subsidies will stay in place but now appropriately become the burden of the general fund.

In addition, the Finance Committee went a step further to authorize new taxes to take up the slack in the general fund. The result is that the tax necessary for the highway fund is there and those funds are replaced by new ones in the general fund so there is an equity.

I heard several Senators talk about funny money and shell games when describing this mechanism. The fact is that all highway tax money will be paid in full into the highway trust fund—no exemptions; no gimmicks.

Any subsidy that certain taxpayers enjoy will stay in place but will be paid from the general fund. Any losses to the general fund will be covered by new offsets that have been identified by the Finance Committee. We are taking some things that should have been going for years into the highway fund—gasohol, gas guzzlers, interest on the trust fund balance, these kind of things that should have been going there—now we put those in the highway trust fund. The general fund does not receive them.

To make up for that, we have certain other changes, including the corporation governances, Enron tax shelters, that have been going into the general fund will now be an offset. We are still, then, as a matter of fact, funding this highway fund from those kinds of taxes that were set in to do the job for highways.

Certainly nothing is more important than highway and transportation infrastructure in this country. It is very important to everyone. Each State has a little different approach to it. Smaller population States, such as mine, that have large areas, have fewer people per mile and therefore the cost per person is higher to keep up the infrastructure. But it is a Federal and national system so it needs to go across to Wyoming, Nevada, as well as across Pennsylvania and any other State.

These are the kinds of tasks that we have undertaken and that have been resolved in a reasonable manner. Obviously, not everyone has the same view.

I mention again, certainly in terms of jobs inspiring more development in States and having the jobs come about quickly, nothing could happen more quickly than in the highway fund.

These are some of the details that will be talked about here. The fact is, as I mentioned, they have gone through three committees and have been given a great deal of attention. Now we should take a look at where we want to be when this highway bill is through to see if we can move forward in our States to strengthen this infrastructure.

I yield to my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Wyoming for his statement. I have worked with him on the Environment and Public Works Committee on this important piece of legislation. The fact is there are a lot of committees involved in this legislation. I am thankful the majority leader brought it to the floor.

We had a cloture vote to move forward with the bill. This bill has been before the Banking, Housing, and Urban Affairs Committee, with Chairman SHELBY, and also before the Environment and Public Works Committee, with Chairman INHOFE. Senators BOND, JEFFORDS, and REID have all had input into this particular piece of legislation. I appreciate all of them for the work they put into this bill. It is not easy with input from the Budget Committee, from DON NICKLES, chairman of the Budget Committee. We had input from the Finance Committee, Chairman GRASSLEY, and also input from the Commerce, Science, and Transportation Committee, which has a small section involving transportation.

This is a transportation bill, not just a highway bill. It is a transportation bill. It takes a good deal of cooperation, working together, to put together any piece of legislation like this. It is not simple.

Most Members experienced the same thing I have experienced in the State of Colorado. The demand and the transportation needs have increased in each of our States. Over time, the demand for transportation mechanisms has grown throughout the country. The States have had to work harder to make their dollars stretch further every year. Transportation projects, whether they are building roads or laying rail, are simply not cheap. They are getting more expensive with each passing year, and the funds required for transportation projects are simply staggering.

The Finance Committee has produced funding mechanisms they believe will be able to fund this bill. We must use the moneys intended for use in building roads and mass transit projects. That is the money in the highway trust fund.

Some time ago, this Congress decided we need to dedicate a stream of revenue into the construction of highways. We need to make sure we maintain the integrity of that process because it is important. It sends a message that highways and this type of infrastructure are important in America. We have told the American people we will use the tax they pay on each gallon of gas they buy directly for funding transportation projects. We must do that. However, it is not appropriate to use moneys from the general fund. We have to stay true to the fiscally conservative obligations we have made for ourselves. We must not add to our country's deficit as we have an increased demand for transportation projects.

That is why I am excited about the potential of an amendment on which I am working. This amendment will allow States to build additional capacity. It is called Fast Lanes. On roads that currently experience problems with congestion, you toll only those lanes. It brings forth a user-pay concept. In other words, if you use these lanes, you will pay for them. I worked hard to get this amendment adopted in committee. It just barely lost by one vote. I hope we can go ahead and get it adopted in the Senate. It gives another mechanism to provide infrastructure in this country, badly needed infrastructure, and has a user-pay concept.

We say on interstate highways you can build additional lanes on to existing highways and toll the highways, toll them with a mechanism. We use our high technology so there are no toll booths. As the trucks and cars go down the toll lanes, commonly referred to as fast lanes, they will receive a bill later for the use they put on the highway. That helps pay for those fast lanes. It is intended to relieve much of the congestion problem we are seeing throughout the United States.

The toll would be paid with electronic technology. There would be no need for a toll booth. The process can happen quickly, without requiring a decrease in speed.

If you wish to use the ''fast lane,'' you pay the toll and do so. However, if you do not wish to pay the toll, you simply drive in the regular lanes, and that means just sit over in the regular lanes for an hour or two on some highly congested roads. It is your choice. But if you decide it is worth your time to go over and pay a toll to go on the toll lanes, then you can do that.

So this is the advantage of having toll lanes. I emphasize that when we talk about ''fast lanes,'' we are not taking existing Federal highway lanes and putting a toll on them. These are new lanes we are putting on the side of some of our interstate highways.

One study found that if every State participates, this ability for States to put in these kinds of lanes could raise close to $50 billion to go toward increasing road capacity.

I realize that it is unlikely all States will use this funding mechanism, but if a tiny fraction of that is raised, that is still additional funding for road capacity that does not put an additional financial burden on those who are not willing and able to pay it.

I see this ability as simply another tool in the ''toolbox'' that State departments of transportation can carry around. My staff continues to work with Senator BOND's staff to see that these provisions are included in the bill, and I appreciate the assistance they have given and their willingness to work with us on this particular provision.

Because this is a transportation bill, and not just a highways bill, as so many incorrectly term it, I would also like to make a few remarks on the mass transit title of the bill. I went through the Environment and Public Works Committee. I served on that committee, so I had some input there. I serve on the Banking Committee. In fact, I am chairman of the Subcommittee on Housing and Transportation, so I had some input there. I am also on the Budget Committee. So I want to make a few comments about the mass transit side.

Before I turn to the specifics of the Banking Committee's bill, I would like to acknowledge the efforts of Senator SHELBY. As chairman of the Banking Committee, he has worked diligently to make sure the committee's jurisdiction was protected, while moving forward as quickly as possible with a positive bill. I also thank him for his willingness to work closely with me as chairman of the Subcommittee on Housing and Transportation.

Finally, I also thank Senator SARBANES, the ranking member of the Banking Committee, and Senator REED, the ranking member of the subcommittee of which I chair, for their work on this particular piece of legislation. Along with their staff members, they have spent a considerable number of hours working to achieve consensus on many issues in the bill, and I appreciate their efforts.

I was pleased to support the Banking Committee's bill during our markup earlier today. I believe it makes important progress in a number of areas.

First, I am especially supportive of the new growing States formula. For far too long, the transit formulas have sent the lion's share of transit dollars to a small number of cities, primarily located in the Northeast. While we can all agree that transit is important to larger, east coast cities, there is no denying the need for transit services in a number of rapidly growing cities in the South and the West.

While I believe we still need further adjustments to the formula to even better address the growing States, I believe this new formula will finally help growing States begin to address their transportation needs.

I am also extremely pleased to see that the bill places a strong emphasis on rural transit. While many would consider ''rural transit'' to be an oxymoron, in fact, rural areas can often face even more acute transportation needs than large cities.

Last year, one of my constituents, Larry Worth, testified before the Housing and Transportation Subcommittee regarding the need for transit in rural areas. He described how rural citizens may not have any other alternatives to access medical care, jobs, and vital services. With 40 percent of American counties having no public transportation, this investment is long overdue.

There are a number of other very good provisions in the transit title, but I will not take the considerable time that would be necessary to enumerate them all. Suffice it to say that I believe the transit provisions will be of great benefit to public transportation in America. I am pleased to support the transit title, and I look forward to passage of the bill, preserving the provisions, and staying within our budget.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are checking with our colleagues on the possibility of setting a judicial nomination. As soon as we find out whether that is acceptable, we will ask consent.

Mr. President, we have heard lots of reasons why this bill is not a good bill, why we don't want to go to this bill, why we shouldn't be moving a highway bill. I have talked about some of those reasons, but let me share with you some information that indicates how the people of America think.

The Zogby International Survey Group did a broad-based survey of American voters. Nearly 70 percent of the voters contacted, in February 2003, said they believe America is facing a transportation capacity crisis, that our Nation's roads, airports, and mass transit systems are struggling to handle a growing population and economy.

Fifty-six percent overall and 79 percent of young women with children said traffic congestion is depriving them of more time with their families or for leisure activities today than just 5 years ago.

I don't think these answers should surprise any of us.

Since 1982, the U.S. population has grown by almost 19 percent, the number of registered motor vehicles has increased by 36 percent, and the vehicle miles traveled has ballooned by 72 percent. And—surprise—over the past 20 years we have added less than 5 percent to road capacity, and even less than that to public transit.

What are the conditions of roads in local communities?

Forty-eight percent of those surveyed by Zogby said they were either fair or poor. When you move to Hispanic Americans, 75 percent said their communities have either fair or poor road conditions.

This is a problem in communities. This is a problem particularly for citizens who are maybe at a disadvantage in their community.

This survey's results come from a poll of over 1,000 voters nationwide, with a margin of error of plus or minus 3.2 percent.

I think some of the other findings are pretty important.

Eighty percent of the people polled think the Nation's highways and public transit networks are extremely important or very important to the U.S. economy. That is why we are here. Eighty percent of our constituents think highways and transportation networks are important. That is what this bill is all about. That is why we want to get everybody together to move this bill.

I urge my colleagues, if you have problems with particular portions of the bill, offer amendments. That is how this body functions. We would like to have good-faith amendments that seek to make changes which are necessary so we can move forward in a reasonable manner.

I think the people of America, particularly the 80 percent who say it is important, deserve to see us vote on issues that are of importance to them.

Eight in 10 of the people surveyed agree that an investment in highways, bridges, and public transit should be considered an important element in homeland security and national defense.

Ninety percent believe it is important that their representatives in Congress fight to ensure sufficient Federal

funding for transportation improvement projects in their local areas. I think some States must be lower than that because I think in my State it is higher than 90 percent. So some may have only 80 percent who think it is important.

Two-thirds of Americans say roads and public transit play a vitally important role in their life.

These are scientific surveys that merely confirm what I and many of my colleagues already know: If you go back to your home State and have a meeting about highway and transportation funding, you better get a big hall. I have had people come out to fill any hall that I have scheduled a meeting in to talk about it because they want to know more. They know it is important. I think this is vitally important.

I know there are some who may take a different view. Some people claim building more roads just causes more traffic. They even say you can't build your way out of traffic congestion. They are the zero sum game people, the ones who say there will just be more congestion.

Well, congestion is getting worse at a frightening pace in America. I believe the primary reason is a lack of adequate highway and public transportation capacity, not only in our major urban and suburban areas but in rural areas as well. As I have said several times, that is why we are killing people in Missouri. We don't have adequate highway transportation, particularly in rural areas.

Even as we spend more wasted time sitting in gridlocked traffic, many well-intentioned Americans, spurred on by the rhetoric of some of the extreme advocacy groups who want us all to ride bicycles—and I love to ride bicycles, but those won't get me to work and back, particularly when we have icy roads, as we do here, or when we have to take more people with us—are convinced that adding road capacity only causes more traffic congestion, more air pollution, more waste of precious fuels.

I think the answer to that is very clear: Research data from the U.S. Environmental Protection Agency, U.S. Department of Transportation, and the Texas Transportation Institute and common sense, if you and I just sit back and think about it, proves just about the opposite. The real problem is our lack of resolve to provide meaningful solutions to traffic congestion through new capital and operational investments. The failure to do so actually results in tons of unnecessary air pollution and billions of gallons of wasted motor fuel.

The Zogby poll found that 70 percent of America is facing a transportation capacity crisis, and all of these people realize we need, as a nation, the investment in transportation.

Talk about a drag on the economy, according to the Texas Transportation Urban Mobility Report, absent substantial new investments in highway and public transportation capacity, transportation operations across the Nation, the economic cost of traffic congestion in the Nation, lost productivity, wasted motor fuel will grow from about $67.5 billion in 2000 to almost $100 billion by 2009. That is one of the reasons we seek to have the investment. Yes, $255 billion is a large amount. It is not all going to highways. It comes from highway user taxes, but it goes to mass transit; it goes to congestion mitigation; it goes to scenic easements, to other things that improve the environment in which we live.

If we don't make these investments, the Texas Transportation Institute forecasts that over this period the average road speed in America's 675 largest urban communities will fall from about 42.3 miles per hour to 40.3 miles per hour. If you believe, as I do, that time is money, that reduction will continue to grow what is really a hidden tax levied on American consumers as transportation labor productivity decreases and costs increase.

Another one of the problems we have with congestion is pollution. The good news, according to the U.S. Environmental Protection Agency data, is that motor vehicle emissions have declined dramatically since the 1970s, thanks in part to the developments in new automotive and motor fuels technology. Emissions of carbon monoxide are down 45 percent since 1970, volatile organic compound emissions are down 60 percent, particulate matter emissions are down 47 percent, nitrogen oxide emissions are down 5 percent, and lead emissions have been eliminated.

The bad stuff is being reduced. We are getting the bad stuff out. This remarkable environmental achievement, which is responsible for most of the air quality improvement in the United States over the past three decades, was accomplished at the same time the number of licensed motor vehicles in the United States grew 87 percent and total vehicle miles traveled soared by 125 percent. Unfortunately, traffic congestion is retarding clean air progress just as it is retarding American productivity and economic growth.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. BOND. Mr. President, as in executive session, I ask unanimous consent that at 3:55 today, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 457, the nomination of Mark Filip to be U.S. District Judge for the Northern District of Illinois.

I further ask unanimous consent that following 5 minutes for debate equally divided between the chairman and ranking member or their designees, the Senate proceed to a vote on the confirmation of the nomination; further, that following the vote, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

Mr. REID. Mr. President, reserving the right to object, I ask my friend if he would be willing to modify this. We have been asking people to come over and offer amendments. Senator DORGAN is here to offer a germane amendment. He only wants 8 minutes to speak to offer his amendment. I ask that the consent request be modified to have the pending amendment set aside and that Senator DORGAN be allowed to offer his amendment and speak for up to 8 minutes, and then we adopt the Senator's consent as indicated.

I would also say that I am not sure anybody is going to use any time on our side on the nomination anyway. I think adequate time will be preserved.

The PRESIDING OFFICER. Is there objection to the modification?

The Senator from New Hampshire.

Mr. GREGG. I would ask what the Durbin amendment does and does not do.

Mr. REID. The Dorgan amendment deals with farmers' transportation of hazardous products. I have just glanced at it. It appears there is an inordinate burden placed upon farmers to transfer a load of gas to their farms.

Mr. GREGG. What would the amendment of the Senator from North Dakota be to? Mine was a second-degree amendment, I believe.

Mr. REID. We are just laying what is pending aside. His would be a separate, independent amendment to the substitute that is now pending.

Mr. GREGG. And after his was disposed of, mine would be properly in order; is that not correct, Mr. President?

Mr. REID. That is right.

The PRESIDING OFFICER. Does the Senator from Missouri agree to the modification?

Mr. BOND. Reserving the right to object, there is some question on this side about the amendment being an amendment to the commerce title, and at this point we are not prepared to give consent to that. We want to work with the Senator who has been working in good faith, but I have been asked, since this is a matter that relates to a different section of the bill, to hold off. We can work through this if we can go with the original consent.

The PRESIDING OFFICER. Objection is heard to the modification. Is there objection to the original consent request?

The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, if I might be recognized following the vote to offer the amendment, that is fine. You may want to work on this amendment some. It is not an amendment of great moment except to family farmers who are concerned about this. I would like to be able to offer the amendment. I have been down in the capital office hearing the Senator talk about the need for people to come up and offer amendments. This is a germane amendment. I would love to offer it and be able to debate it. In any event, if we go ahead

with this vote, which is fine with me, if I could be recognized following this vote to offer my amendment, I would very much appreciate that.

I would ask the Senator from Missouri whether I might be recognized following the vote.

Mr. BOND. Mr. President, on this side I am not authorized to enter into that type of UC. I assure the Senator and my colleagues on the other side we will work with them. There is a concern about moving into the commerce title. We will work with him if we can move forward on the consent for the judge vote; then we will work on this, if we can get consent for that.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, I will go along with what the Senator from Missouri requests. It is kind of unfair to the Senator from North Dakota. We have been begging people to offer amendments. He shows up to offer one and now we cannot do it. It doesn't seem very fair. We may be waiting a long time based upon statements by the chairman in the Chamber. I am happy—

Mr. DORGAN. Mr. President, reserving the right to object—and I will not object—if you want Members to come to the floor with germane amendments, I am here. I have been hearing that a lot today. I have one and it is not a big amendment. What I hear being said at the moment is perhaps you want to go through this bill by title, which is something I have not heard before. It should be open to amendment at any point. That is the reason that, for the last hour or so, I put this amendment together.

My hope is that the Senator from Missouri and those managing will understand, when we are ready to offer an amendment, you ought to welcome it. I hope when I seek recognition, you will allow me to offer it. I expect to speak 8 or 10 minutes. If you want to lay it aside then and work on it, I am happy to do that. I shall not object.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Missouri?

Mr. REID. Mr. President, when are we going to have the vote? It is past 4 o'clock.

Mr. BOND. I believe at this point it is necessary to revise the unanimous consent. First, I say to my friend from North Dakota that the title he wants to amend has not been offered. That is a problem on which we are going to have to work. We have only offered the EPW portion.

I asked unanimous consent that there be 5 minutes equally divided between the chairman and the ranking member and, thereafter, there be a vote on the nomination of Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

I renew my request. Following the 5 minutes, I ask unanimous consent that the Senate proceed to a vote on the confirmation and, following the vote, the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF MARK R. FILIP TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The PRESIDING OFFICER. The clerk will state the nomination.

The legislative clerk read the nomination of the Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I take just a few moments to introduce to my colleagues the nominee on whom we are going to be voting in a couple of minutes. I recommended Mark Filip to President Bush. President Bush nominated him. Senator DURBIN concurred in my recommendation to President Bush. I thank Senator DURBIN for his support in this effort. I also thank Chairman HATCH and Senator LEAHY on the Judiciary Committee, and all members of the Judiciary Committee, for helping to move this nomination forward to the floor.

I think one of the most difficult tasks most of us have in the Senate is finding outstanding nominees to the Federal judicial branch of Government. In many cases, at least from my perspective, the choice has been very difficult. Oftentimes, we will get 80 applicants for a single district court judgeship opening in Chicago and you have to pick just one person. That one person, obviously, is very happy and you have many others who are disappointed that they did not get chosen.

In this case, I was elated to find a person of such outstanding credentials that I could wholeheartedly recommend him to the President. I think in the case of this nominee, Mark R. Filip, we are in fact lucky to have someone of his caliber who is willing to leave a very lucrative practice in the private sector. He is now a partner at Skadden Arps' Chicago office. He is willing to leave that very prestigious position to move into public service and become a district court judge in the Northern District of Illinois.

Mark Filip lives in Winnetka, IL, with his wife Beth. They have four sons.

Mark grew up in Chicago and attended the University of Illinois at Champaign. He graduated summa cum laude from the University of Illinois. While there, he received many academic fellowships, including the prestigious Phi Beta Kappa fellowship. After graduating from U of I, he won the highly sought after Marshall Scholarship to attend Oxford. While there, he received a B.A. and M.A. in jurisprudence and won first class honors at Oxford. Returning from his Marshall scholarship to the United States, he matriculated at the Harvard Law School. He did similarly well at Harvard. He became an editor of the Harvard Law Review.

In Mark Filip's second year at Harvard, he won the Sears Prize, which is given annually to the two students of the second year class who achieved the highest grades. Ultimately, in the early 1990s, Mark Filip graduated magna cum laude from Harvard Law School.

He began his professional career in Chicago, serving as an associate at Kirkland & Ellis, one of the best and oldest firms in Chicago. After a couple of years in the Kirkland & Ellis Chicago office, he moved to the U.S. Attorney's Office and became an assistant U.S. attorney in the Northern District of Illinois, where he gained a lot of experience in a wide variety of criminal cases that he prosecuted successfully, including racketeering, white-collar crime, public corruption, tax fraud cases; and he successfully defended the U.S. Attorney's Office on appeal in many of those cases.

Mark Filip returned to the private sector. After leaving the U.S. Attorney's Office, he became an associate at Skadden Arps in 1999, and in 2001 he became a partner at Skadden Arps.

In recent years, he has been an adjunct professor of law at Northwestern University and the University of Chicago Law School, both outstanding institutions.

Now, again, I emphasize how delighted I am to be able to present to my colleagues in the Senate such a well-qualified nominee, Mark Filip, who is a very young man. He has four children, who range in age from 8 months to 6 years. He is in his late thirties, and I expect that if he goes on the district court in Chicago at this early age, he may well have the opportunity to rise to the circuit court of appeals.

I neglected to mention that between law school and his professional career, he had two very prized judicial clerkships. He served as a law clerk to Steven Williams on the DC Court of Appeals and then as a law clerk for Supreme Court Justice Scalia.

I am confident, having researched and talked to all those he has worked with over the years, that there is no question he will make a superior district court judge.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, today, we are considering the nomination of Mark filip to the U.S. District Court for the Northern District of Illinois. The vote today on Mr. Filip is the second vote on a judicial nominee this year, and demonstrates the Democrats'

remarkable cooperation on judicial nominations despite years of intensified Republican partisanship and unilateralism.

Over the past 2 weeks, I have shared with the Senate several disappointing developments regarding judicial nominations: The Pickering recess appointment, the renomination of Claude Allen, and the theft of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats cooperated to confirm a nominee last week and are cooperating to confirm another district court nominee today. We do so without the kinds of delays and obstruction that Republicans used with President Clinton's judicial nominees.

Last week, I discussed the recess appointment of Judge Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit, which was President Bush's most cynical and divisive appointment to date. That appointment is without the consent of the United States Senate and is a particular affront to the many individuals and membership organizations representing African-Americans in the Fifth Circuit who have strongly opposed this nomination. Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a presidential appointment to the Federal bench. The Pickering recess appointment is another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts.

The second disappointing development I spoke about last week was the renomination of Claude Allen as a nominee to the fourth Circuit. Two weeks ago, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary

Third, last week, I also mentioned with disappointment the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the committee. As revealed by the chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and to people outside of the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct and possibly, criminal laws. We do not yet know the full extent of these violations. But we do need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to be able to resume our work in the spirit of cooperation and mutual respect that is so necessary to make progress.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. With the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of September 11 and their aftermath, as of today, the Senate will have confirmed 171 of President Bush' nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly 4 years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1994.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 when Republicans controlled the Senate during the Clinton Presidency, years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit judges confirmed during any of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the Federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton Presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

This week, the chairman of the Senate Judiciary Committee will hold a third hearing for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are confirmed in a Presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority all year, and it took until July 31 to have a hearing for the third circuit court nominee. By that standard, Chairman HATCH has now moved seven times more quickly than he did for President Clinton's nominees in 1996.

In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, as of tomorrow we will have held hearings for three circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be done for the entire year.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House and Republican majority that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this administration continues down the path of confrontation. While there have been controversial nominees whom we have opposed as we exercise our constitutional duty of advice and consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

That we are proceeding to confirm Mark Filip today is another example of extraordinary Democractic cooperation to fill vacancies in the Federal judiciary, despite the Republicans' consistent and unprecedented attacks. Unfortunately, Mark Filip is another young, Federalist Society member whose record raises concerns, just as the record of far too many of President Bush's judicial nominees.

First, Mr. Filip is only 37 years old. He has been out of law school less than 12 years and just a decade ago he was clerking across the street for Justice Scalia. Second, his record demonstrates a partisan, political background. Mr. Filip worked as a volunteer Republican election monitor in Broward County, Florida during the manual recount of ballots in the contentious 2000 election. Mr. Filip has also made several contributions to Republican candidates and political action committees. While in law school,

he was vice president of the Harvard Law School Federalist Society and he authored an article entitled ''Why Learned Hand Would Never Consult Legislative History Today.'' In this article, Mr. Filip argues that legislative history should be rejected by judges because it reflects nothing more than the desires of congressional staff and lobbyists, and because it does not reflect the majority will of Congress. More important, Mr. Filip wrote that, when confronted with statutory language that would lead to an absurd result, a judge should apply his or her own reasoning rather than legislative history.

The senior Senator from Illinois met with Mr. Filip to address his background and suitability to be a Federal judge.

Senator DURBIN is a thoughtful man and I respect his judgment. Senator DURBIN's willingness to supply this nomination says alot. I am hopeful that Mr. Filip will be a person of his word; that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge. I also sincerely hope that Mr. Filip will treat all those who appear before him with respect, and will not abuse the power and trust of his position. Sometimes, we take a risk allowing a nominee to be confirmed. This is, frankly, one of those times.

Unfortunately, the Senate has taken a risk and confirmed other nominees of this President who assured the committee that they would follow precedent and would not be results-oriented. In their brief time on the bench, they have already proven to be judicial activities eager to roll back individual rights and limit the authority of Congress to protect civil rights. A number of President Bush's 30 circuit court nominees already confirmed by the Senate have written significant opinions that show their bias in favor of powerful business interests over individual Americans.

For example, Jeffrey Sutton was one of Bush's most controversial appellate court nominees to be confirmed. At the time of his nomination, his record raised serious concerns. He had aggressively pursued a national role as the leading advocate of States' rights and pushed extreme positions in order to limit the ability of Congress to act to prevent discrimination and protect civil rights. His answers to questions posed by Judiciary Committee members did not show that he would be able to put aside his years of passionate advocacy in favor of States' rights and against civil rights. After a lengthy floor debate, he was confirmed by a vote of 52–41, which was the fewest votes in favor of any judicial nominee in the last 20 years and more than enough negative votes to have sustained a filibuster.

In less than 1 year on the bench, he has already issued a dissenting opinion essentially in favor of States' rights and that would have limited Congress' authority under the Commerce Clause. In this case, decided in December, the question was whether a core function of municipal government—the provision of firefighting services—impacts interstate commerce such that an individual can be indicted under a Federal antiarson statute for destroying a fire station. The majority Sixth Circuit panel held that the fire station was used in an activity affecting interstate commerce, relying on the express language of the statute.

Judge Sutton's dissent is a remarkable opinion whose beginning evidences that he has turned his passionate advocacy into judicial activism. His opinion begins, ''Some say the world will end in fire, Some say in ice.'' Judge Sutton concludes that the Federal arson law only applies to buildings with an ''active employment for commercial purposes,'' thereby seeking to narrow the law significantly. His opinion forcefully states that to ''conclude otherwise is to embrace the view that even the most attenuated connections to commerce will suffice in prosecuting individuals under this statute.'' In Judge Sutton's view, arson is a local crime and the ''National Legislature'' had not clearly conveyed its purpose to regulate an area traditionally regulated by the States.

Ironically, his dissent cautions that ''Federal courts should not casually read a statute in a way that alters the Federal-State balance.'' However, he himself ignores the plain language of the statue and legislative history in his attempts to do just that—to alter the balance in a way that favors his own personal and ideological view of States' rights.

John Roberts is a second controversial nominee who, in his few months on the bench, has already displayed a preference for pursuing political and ideological goals above following precedent. Judge Roberts recently issued a troubling dissent from a decision by the full D.C. Circuit that would have indulged another request by the Bush administration to keep secret the records of Vice President CHENEY's energy task force.

The case was part of a continuing effort on behalf of the Vice President to avoid compliance with numerous court orders requiring him to provide records of his meetings with the National Energy Policy Development Group. Two nonprofit organizations brought litigation claiming that the Vice President's task force had violated Federal law by not making its records public. In order to maintain the secrecy of these records, the Vice President had filed an emergency petition for a remedy that the majority noted ''is a drastic one, to be invoked only in extraordinary situations.'' The majority in the case stated that, were they to accept the Vice President's arguments, they would in effect ''have transformed executive privilege from a doctrine designed to protect Presidential communications into virtual immunity from suit'' and noted that ''the President is not 'above the law,' he is subject to judicial process.''

The full D.C. Court of Appeals denied Vice President CHENEY's petition for rehearing en banc. Judge Roberts dissented. He would have indulged the Vice President's desperate attempts to avoid compliance with court orders by granting a motion for rehearing, despite the fact that the D.C. Circuit's five judge majority was the fourth panel of judges to hold that these records must be made available.

A third example of a recently confirmed Bush nominee who has continued to pursue his ideological and political agenda on the bench—as many of us feared at the time of his nonimation—is Judge Dennis Shedd. Judge Shedd wrote the opinion in a ruling so hostile to organized labor that one of the most conservative judges on that court harshly stated that Shedd's opinion ''overstepped [the] boundaries of a reviewing court.''

In this case, the National Labor Relations Board and an administrative law judge found that an employer had unlawfully solicited nine of its employees to sign antiunion statements and had unlawfully withdrawn recognition of the union. Judge Shedd ignored the applicable standard of review and asserted his own view of the facts to conclude that the NLRB had erred in its determination. Approaching the case from a position hostile to organized labor, Judge Shedd ''reconstructed'' the facts of the case, and allowed an employer, who had previously been found to have used illegal tactics in order to decertify a union, to escape any responsibility. Judge Wilkinson's strong dissent highlighted the expertise of the NLRB in examining an employer's conduct and that the reviewing court's role was limited to determining whether the NLRB had taken a permissible view of the evidence.

In other cases, as many of us had feared, President Bush's circuit court nominees are already handing down decisions to roll back individual rights, civil rights and Congress' authority. Among these are:

A majority opinion by Judge Gibbons, on the Sixth Circuit, which fails to provide accommodation to a person with multiple sclerosis under the Americans with Disabilities Act;

A dissent by Judge Shedd in a bankruptcy case, which would have led to foreclosure on a family farm—a decision which the majority said ''misses the mark''; and

A dissent by Judge Rogers in a Title VII case involving illegal retaliation against an African-American employee which would have made it difficult for any employee to present their retaliation claims to a jury.

The President has claimed time and again that he seeks only to fill the bench with judges who will follow the rule of law. He claims that he ''has no litmus test'' for determining who will

and will not be appointed—that he makes his decisions based on the qualifications of the candidates. Despite these statements, the President's nominees seem to have certain striking similarities. They seem to favor powerful interests over individuals. They favor States' rights over civil rights. And many of them are all loyal Federalist Society members and committed to the political agenda of the most conservative wing of the Republican Party. The Senate's constitutional duty to provide advice and consent on judicial nominations is vital in these circumstances—Federal judges must be devoted first and foremost, not to a political platform or certain parties, but to the rule of law, the Constitution, and the basic principles of fairness and justice.

If we are to allow the President to pack the courts with political party loyalists and radical right-wing ideologues, we will cease to have a Government of laws and will end up with a Government controlled by the views of a few. We would risk having a judiciary that functions as a rubber stamp for any right wing argument, policy, or political goal sought to be achieved via the courts.

Yet, despite the troubling records of so many of Bush's confirmed judges and the other disappointing developments this year, Senate Democrats have confirmed vast members of nominees who have come to the Senate floor and are today again making sure that the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton was in office. Today, we proceed to confirm a judicial nominee in spite of the President's recent actions, those of Senate Republicans, and serious reservations about this nominee.

Mr. Filip's nomination was reported favorably to the Senate last October. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November, or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Mark Filip and his family on his confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Mark R. Filip, of Illinois, to be a U.S. District Court Judge for the Northern District of Illinois?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—96

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

NOT VOTING—4

Edwards	Kerry
Hollings	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

The Senator from Nevada.

Mr. REID. Mr. President, very briefly, we have just approved the 171st judge during the Bush administration. There have been 171 judges approved. To my knowledge, there have been four he submitted who have not been approved, other than those who are going through the committee process. So the score is 171 to 4. A good average, I think.

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

The PRESIDING OFFICER. Under the previous order, the Senate will continue consideration of S. 1072.

The Senator from Missouri.

AMENDMENT NO. 2265 WITHDRAWN

Mr. BOND. Mr. President, I withdraw amendment 2265.

The PRESIDING OFFICER. The Senator has that right.

The Senator from North Dakota.

AMENDMENT NO. 2267

(Purpose: To exempt certain agricultural producers from certain hazardous materials transportation requirements)

Mr. DORGAN. Mr. President, prior to the vote I indicated I had an amendment. I want to begin the discussion very briefly of the amendment. The amendment is one I have worked on for some while. It deals with a relatively small issue with respect to the context of this bill, but a rather large issue for family farmers. Let me describe what it is.

There was a justifiable effort to address issues dealing with homeland security by the Department of Transportation. They issued regulations that would regulate the shipment and transport of hazardous material in commerce in amounts that require the shipment to be placarded and also to implement security plans for that shipment.

The difficulty and the problem is this. The way the Department of Transportation developed this rule, the rule will apply to family farmers, for example, who have a 120-gallon fuel service tank in the back of their pickup truck. Those farmers are not going to have a security plan for that pickup truck and for that service tank.

It is perfectly logical to want to regulate for safety purposes the shipment of hazardous materials.

Let me give you an example of where this goes when the definitions are not carefully crafted. I was a senior in high school when myself and two of my best friends decided to go to the Black Hills of South Dakota for a weekend. It was a pretty big deal for us. We took a pickup truck and we had a 120-gallon service tank full of gasoline. We had a few dollars, and we bought 120 gallons of gasoline and a relatively new pickup, for three seniors in high school. We were prepared to have a pretty good time. If that happened today, we would under the current rules be required to have a security plan in place prior to taking our pickup truck and 120 gallons of regular gasoline on our trip to the Black Hills of South Dakota. Three high school seniors are not going to have a security plan to get enough gasoline to go to the Black Hills and have a good time. Why would we need a security plan? Because anything over 110 gallons of fuel, propane, chemicals, or hazardous materials will be required to have a security plan. Forget about three seniors who went to the Black Hills.

How about a farmer who has that 120-gallon service tank in the back of his pickup truck who stops at a local cafe and goes in to buy a cheeseburger? He is in violation of this rule by the Department of Transportation unless he can physically see his pickup truck through the window because he will be required to have a ''security plan'' and have a placard.

Again, when I was a young boy, my dad sent me to Dickinson, ND to get 5

or 6 30-gallon drums of spray pesticides and herbicides. It is done all the time. That would, of course, violate the rule these days unless I had a security plan for my trip to Dickinson to pick up 4 or 5 30-gallon drums of chemicals to spray on the crops in the field near Regent, ND.

That is what this rule now would provide. It is a bad rule. It does not mean, in my judgment, to include family farmers. It doesn't mean to put them in handcuffs with respect to the way they handle chemicals and propane and gasoline. But in fact it does. I don't want farmers to be in violation of the rule or in violation of the law. I don't think the Department of Transportation or the Congress, in implementing this rule, anticipated this kind of burden with respect to family farms.

In fact, the University of Illinois Extension Service put out an extension agriculture update. Let me describe what it says. It states the rule by DOT says persons, including farmers, who ship or transport hazardous materials in commerce in amounts that require the shipment to be placarded, must develop and implement security plans by September 25, 2003. Examples of materials to which the security plan apply include explosives such as dynamite, detonators, pesticides, fertilizer, hydrous ammonia, ammonia nitrate, and fuels such as gasoline and propane. If you ship or transport fertilizers, pesticides, gasoline, propane and packages or containers that are larger than 119 gallons, or the total quantity you ship or transport at any one time is more than 1,000 pounds, then you must have a security plan. If you are a supplier who delivers the pesticides, fertilizers, and fuels you use to your farm, then you don't need that security plan. And if you only transport fertilizers, pesticides, and fuels between the fields of your farm, then you don't need to have a security plan. But if you drive to town to get the chemicals, fertilizers, or fuel, then you have to have a security plan.

Incidentally, the text I have just read from is part of a U.S. Department of Transportation fact sheet, and it was entitled ''Hazardous Materials Transportation Security Requirements, Applicability to Farmers and Farming Operations.'' That was available from the Department of Transportation's Web site earlier this fall. But it now has been removed. It is gone. You now can't find it. If you ask where did this come from, what happened to it, why is it gone, I don't have the foggiest idea. All I know is what it said, and it doesn't say it anymore. Now we are told the Department of Transportation is putting this security plan on hold despite the fact it is the rule, and they are now beginning to discuss the issue with the U.S. Department of Agriculture. They are discussing it with State departments of transportation, and the American Farm Bureau.

That is also in the piece of information from the University of Illinois Extension Service.

First of all, when the Department of Transportation does a rule, you would expect they would do it right side up. You do the consultation first. Then you develop the rule having knowledge of how people react to it and what their notion is of how it should work and how it would apply. In this case, apparently they wrote a rule dealing with hazardous material transportation, including basic fuels and chemicals, and now are beginning to consult with others about how this would impact family farmers.

I am offering an amendment that clarifies using the definition of family farmers in the farm bill, and that this does not apply to family farmers in the routine business of family farming. Somebody with a pickup truck and a service tank in the back full of gasoline that is moving around is not going to have to have a security plan to do that. Someone who is hauling a few 30-gallon drums of chemicals from the shop in town out to their farm doesn't need a security plan to do that. If we are going to have every family farm developing security plans, who is going to enforce that? Who is going to inspect it? Who is going to determine whether it meets DOT inspections and requirements and specifications?

I just think this is a circumstance where it is a template that is put over everything that doesn't fit at all for family farmers. Family farmers do a pretty good job out on the farm. They work hard and try hard. They are the Americans who live with hope. They put a seed in the ground and they hope. They hope it rains, they hope it grows, they hope it doesn't hail, and they hope the insects don't come. They hope they don't get drought or too much moisture, and they hope, finally, if they are able to get it harvested they can haul it to the elevator and get a decent price. They don't ask for a lot. They certainly ask us to stay out of their way with respect to rules and regulations that don't make basic common sense and that do not meet the test of common sense.

This attempt by the Department of Transportation, laudable as it might be, to try to require the development of security plans for the movement of large quantities of hazardous material—certainly dynamite, detonators, and so on, I understand that. But when you talk about gasoline and farm chemicals, we must understand there is a difference between substantial movement from commercial operators and the ordinary transportation of farm chemicals and farm fuel by family farmers around this country.

For that reason, I have offered an amendment that I hope will meet the test of changing this regulation in a manner that represents some basic common sense and relieve the burden from family farmers. As a matter of fact, family farmers are not complying with this. They really effectively cannot comply with it. The Department of Transportation has indicated to some that they would probably not enforce it. You have the Agriculture Extension Service telling farmers, here is what you have to do to comply with the rule that is virtually unenforceable and really doesn't make any sense.

When we see things here that do not meet a test of common sense, what we ought to do is legislate and change it. That is what I propose to do with respect to the hazardous materials transportation requirements.

Let me again say I believe there is a requirement for us to be concerned about the movement of hazardous materials in our country. I fully support the Department of Transportation. They have a difficult and vexing job to try to respond to all of these things. But this particular rule does not meet the requirements, and does not meet the test of common sense dealing with family farmers.

I have not yet offered the amendment. I would like to send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2267.

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

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

The amendment is as follows:

On page 880, after the item following line 6, insert the following:

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term ''eligible person'' means an individual or entity that is eligible to receive benefits in accordance with section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a).

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports or offers for transport a fertilizer, pesticide, or fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to—

(1) security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation); and

Mr. DORGAN. Mr. President, I have described the amendment in some detail. I say to my colleague from Oklahoma I would be happy if he would like to have the amendment approved now. But, if not, if there are some issues with respect to language or some discussions we should have with you and your staff about the breadth of this, I would be happy to do that as well. This bill will be on the floor for a number of days. I am only anxious to make certain we dispose of this and approve it before we complete this bill. My attempt is, of course, to cooperate with those who are managing the bill.

Mr. INHOFE. Mr. President, I appreciate that very much. It is probably a good idea to set it aside at this time. We will have ample time later to discuss it.

Mr. DORGAN. I have no objection to it being set aside when others wish to offer amendments. I appreciate the cooperation of the Senator from Oklahoma and the Senator from Vermont.

Mr. GREGG. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DORGAN. What is the objection to? There is no unanimous consent request.

The PRESIDING OFFICER. There was no unanimous consent.

Mr. DORGAN. I don't believe there was a unanimous consent request.

The PRESIDING OFFICER. There was no unanimous consent request propounded.

Mr. DORGAN. So there can be no objection to a unanimous consent request never made.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Hampshire.

Mr. GREGG. I was under the impression there was a unanimous consent request to set the amendment aside. I take it that did not occur.

The PRESIDING OFFICER. That request was not propounded. The Senator from North Dakota indicated he would not object if such a request were made.

Mr. GREGG. Then obviously I do not object.

Mr. INHOFE. Mr. President, that is not set aside by unanimous consent.

There may be others in the Chamber who want to be heard concerning the highway bill. If that is not the case, I will go ahead and continue discussing this. It is our hope to go through it section by section. We are quite a ways along in doing that.

First, I will restate some of the comments I made in the past about this bill. We have spent in the committee an entire year working on this legislation. We have had numerous hearings on various environmental concerns, procedural concerns. We had State representation at hearings about many of the parts of the bill that will end up giving the States more responsibility to take care of some of their needs. We had a chance to talk about some of the problems voiced in the Senate.

As far as the position of the administration, I do not know what more we can do. We have gone through the objections they had, or the three statements they made, in terms of finding it not to be acceptable. These have been met.

We have serious infrastructure needs now. The State system is 50 years old; 32 percent of our major roads are in poor or remedial condition; 29 percent of the bridges are structurally deficient. I am more emotional regarding the 29 percent bridge figure because Oklahoma ranks No. 1. Missouri is No. 2 in percentage of bridges that are structurally deficient.

We have 36 percent of the Nation's urban rail vehicles and maintenance facilities in substandard or poor condition. And 29 percent of the Nation's bus fleet and maintenance facilities are in substandard condition. The list goes on.

I am particularly sensitive to this, having served for 8 years in the other body on the Environment and Public Works Committee, where we talked about this and watched this as the reauthorizations took place. I participated in both ISTEA and in TEA–21, in both cases, serving at that time in the other body.

I know the way things were done were a little distasteful for me, but we came up with three authorization bills. It is our hope to be deliberate and spend, as we have, a year in looking at all the problems, seeing what would be better than the system used before.

In the past, we had section 1104, minimum guarantees. That has been replaced by the Equity Bonus Program. The minimum guarantees were arbitrary, politically driven percentages each State had. It was the thought that when you get to the point where you have enough votes to pass it, you did not care. We did not want to do that. So we took into consideration the donor status of States, we took into consideration the rapid growing States, States such as Texas, California, Nevada, and Florida, and we actually have ceilings as well as floors to try to satisfy as many people as possible.

Yesterday, we had a number of people come to the floor saying the formula was unfair. We took each State, State by State, which I am happy to do. We have the capability of doing it, again, to show that it is not unfair. We have a formula now and everyone benefits. There is no State that gets less than 10 percent more than they had before and it takes care of the problems.

The donor States have always been a problem. My State has been a donor State since the program began. So the fact that we will all end up with a 95-percent status is very significant.

We have never adequately handled the safety problems. We know about the deaths on the highway: 43,000 people each year dying on the highway. While the percentage has not gone up, the numbers have. We are addressing that.

The intermodal connections and freight movement were never adequately addressed by the previous bills. These are addressed.

Streamlining, so that many of the problems we have—some environmental, some other types of problems—can be dealt with more rapidly and in advance so we can keep the construction going.

We have the IPAM program that will take these programs that are ready to go and get them moving right away. If we are going to do it, do it now and get the people employed. A lot of people are concerned about jobs. Certainly there is no bigger job anywhere.

It has been a long process. I know some Members just do not want a bill, but we will get through the process. We will get a bill and get people back to work and rebuild the infrastructure.

We left off on section 1612. I will handle a couple of sections. The Senator from Missouri will arrive in about 5 minutes with some subjects to address.

Section 1613 is the improved interagency consultation.

Mr. GREGG. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. GREGG. Does the Senator mind, after he finishes his statement, that I be allowed to speak?

Mr. INHOFE. Anyone who wants to speak so long as it is on the highway bill.

Mr. GREGG. I ask unanimous consent that after the completion of the statement of the Senator from Oklahoma, I have 5 minutes.

Mr. INHOFE. I have completed my remarks and there is no objection.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2268 TO AMENDMENT NO. 2267

Mr. GREGG. I send an amendment to the desk which second degrees the amendment of Senator DORGAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2268 to amendment No. 2267.

Mr. GREGG. 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:

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2003''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services

of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' means any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to from and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring reinforcement through State courts of—

(A) all rights, responsibilities, and protections provided by state law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in a appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout,

sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. GREGG. This is the same amendment I offered before. Obviously, it was removed from being in order because the underlying amendment was withdrawn, so I have reoffered it to keep it in the batting order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I was happy to do that. I will continue going through section by section.

When we talk about improved interagency consultation, this is another area where this bill is different from the reauthorizations we had in the past. We had intra-agency consultation as well as consultation at the various levels of Government. The States have a much larger voice in the recognition that they are more aware of the problems that exist than we are in Washington. It is very positive. Therefore, the States and MPOs are encouraged to consult with State and local air quality agencies in developing criteria from CMAQ projects and when making decisions as to which projects and programs to fund.

Section 1614 is the evaluation assessment of the CMAQ projects. To ensure that information on successful CMAQ projects is widely available, the Department of Transportation is directed to consult with the EPA to evaluate and assess a representative sample of CMAQ projects to maintain and disseminate a database of these projects.

Section 1615 is synchronized planning and conformity timelines, requirements, and horizon. Currently, the schedules for demonstrating conformity are not the same as the schedules for adopting long-range transportation plans and transportation improvement programs. That is TIPS. This disconnect has caused some areas to be in a continuous planning and conformity cycle.

In response to this inconsistency, the bill aligns the long-range plan updates, TIP updates, and conformity determinations for metropolitan areas on consistent 4-year cycles. Heretofore, there were various cycles and this conforms them to each other.

The bill also changes how far into the future the conformity determination must look to more closely match the length of time covered by the State's air quality plan referred to as a State implementation plan, or SIP plan.

Currently, conformity determinations take a 20-year outlook on the transportation planning side, even though most SIPs cover no more than 10 years. Obviously, we are trying to conform them with each other.

Section 1616 is in regard to the transition to new air quality standards. EPA plans to designate nonattainment areas for the new 8-hour ozone standard, that we have gone through just a few years ago, and the new fine particulate standard, at PM2.5, this year. Areas that have not previously been designated as nonattainment for the same pollutant will have 3 years to submit SIPs which include the motor vehicle emissions budget used to determine conformity. However, only a 1-year grace period is allowed before having to demonstrate conformity. Because of this, an area may have 2 years during which it must use some other means of demonstrating conformity.

Nonattainment areas are given the option of using the motor vehicle emissions budget from an approved SIP for the most recent prior standard for that pollutant. For example, an area that is in nonattainment for the 1-hour ozone standard and is designated as being in nonattainment for the new 8-hour ozone standard may use its 1-hour budget to determine conformity until it has an approved budget for the 8-hour standard.

Nonattainment areas are also given the option of using other currently available tests for demonstrating conformity without an approved air quality SIP.

Section 1617 is in regard to reduced barriers to air quality improvements. Nonattainment areas can use transportation control measures, such as HOV lanes, transit projects, park-and-ride lots, ride-share programs, and pedestrian and bicycle facilities to improve air quality. These TCMs are often included in the State's air quality SIP. Currently, if a State determines it would be better served by substituting one type of TCM for another, the State must already have a substitution mechanism in its approved State implementation plan or it must revise its plan.

This bill provides a substitution mechanism for all States, provided that the TCM to be substituted achieves the same or greater emission reductions as the TCM being replaced, based on analysis using the latest planning assumptions and current models.

Now, it has been our intention, as we announced before, that the chairman of the Transportation Subcommittee, Senator BOND, would be recognized at this time for the purpose of——

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask for the yeas and nays on the Gregg amendment.

Mr. INHOFE. Madam President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma does have the floor. I apologize.

Mr. INHOFE. Thank you, Madam President.

Section 1618 is in regard to the air quality monitoring data influenced by exceptional events.

This bill directs EPA to promulgate regulations governing the handling of air quality-monitoring data influenced by exceptional events, such as forest fires or volcanic eruptions, certainly something of great interest to the Senator from Arizona. These types of natural activities should not influence whether a region is meeting its Federal air quality goals.

The EPA is also required to reevaluate its approach to modeling carbon monoxide emissions from motor vehicles to ensure that it is appropriate for cold-weather States, such as Alaska.

MORNING BUSINESS

Mr. INHOFE. Madam President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 30 minutes each.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. MCCAIN. Madam President, reserving the right to object, would that preclude me from offering the request for the yeas and nays on the Gregg amendment?

The PRESIDING OFFICER. It would indeed preclude you.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Madam President, I withdraw my—reserving the right to object, and I will not object, I will just tell the managers of the bill that I intend to ask for the yeas and nays on the Gregg amendment when we return to the bill tomorrow.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

The Senator from Oklahoma still has the floor.

Mr. INHOFE. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

BIPARTISAN CAMPAIGN REFORM ACT

Mr. MCCAIN. Madam President, I join my friend from Wisconsin on the floor to discuss the entire issue of the Bipartisan Campaign Reform Act and also at a time when the Federal Election Commission is about to make some decisions regarding implementation of this legislation.

I think it is very important that as the Federal Election Commission is considering making these rules, that it be made very clear what the intent of the authors of the legislation was. Because as I will go into in my statement, it was the Federal Election Commission that created the loopholes that caused the explosion of soft money in American politics. It was not court decisions.

It is not accidental that the Senator from Wisconsin and I have proposed legislation to fundamentally restructure the Federal Election Commission. In the meantime, the Federal Election Commission must understand and read the U.S. Supreme Court decision—I quote from the Court's ruling—stating:

> The main goal of [the national party soft money ban] is modest. In large part, it simply effects a return to the scheme that was approved in Buckley and that was subverted—

Madam President, the words the U.S. Supreme Court used:

> subverted by the federal electioneering efforts with a combination of hard and soft money. . . . Under that allocation regime—

That was a decision by the Federal Election Commission—

> national parties were able to use vast amounts of soft money in their efforts to elect federal candidates.

Now, I hope the Federal Election Commission gets our message. We do not, and will not, stand for the creation of new loopholes to violate this law.

Senator FEINGOLD and I began, in 1995, with our first effort to reform this system. It took us 8 years until the final decision by the U.S. Supreme Court upholding the constitutionality, in a historically ironic decision entitled McConnell v. FEC. I hope the irony of those words is not lost on my colleagues. We will not stand for the Federal Election Commission—which they already have—subverting this law. We will not stand for it. We will use every method available to us to be sure that the law is enforced as it is written and intended and declared constitutional by the U.S. Supreme Court.

It is time for the Federal Election Commission, rather than being an enabler to those who want to subvert the laws, to be a true enforcer of the law, a role which they will find strange and intriguing and certainly unusual for that Commission.

I might add, too, we still have two members of the Federal Election Commission who declared their firm conviction that this law was unconstitutional. If they still hold that belief, as at least one of them has stated recently, they should recuse themselves from further involvement in a law they believe is unconstitutional. In fact, resignation would probably be in order so someone who believes in the constitutionality of this law, as affirmed by the U.S. Supreme Court, would be empowered to enforce it.

In 1995, my dear friend Senator FEINGOLD and I first introduced legislation designed to limit the influence of special interests on Federal campaigns. We began our fight because it had become clear to us that our campaign finance system was broken and this breakdown was having a detrimental effect on our democracy. Seven years, four Congresses, several rewrites, countless hours of debate, amendments, and much hard work by dedicated grassroots activists later, the Bipartisan Campaign Reform Act became law on March 27, 2002.

I know my friend from Wisconsin agrees with me. We could not have done it without the thousands of Americans who made our cause their cause. We could never have achieved this goal. They will have our undying gratitude.

Last month, following an illegal challenge, the Supreme Court ended the 7-year-long battle when it upheld the act, or BCRA, in the case of McConnell v. FEC. For me it was one of the Court's most needed and welcomed opinions. In light of this landmark victory, I want to congratulate those who worked so hard to secure it and to talk about the work that remains to be done to strengthen our democracy and to empower all Americans through civic participation.

We can already see some benefits from these years of hard work. No longer can a Member of Congress call the CEO of a corporation or the head of a labor union or a trial lawyer and ask them for a huge soft money donation in exchange for access to high-level Government officials. That cannot happen today. Just last week, Roll Call reported that for the first time in many years, the two parties did not hold any high-donor fundraisers at the Super Bowl. The article stated:

> With soft money banned, the parties have come to the conclusion that the yield at a Super Bowl fundraiser doesn't justify the expense.

However, let me be clear, this in no way means reform is complete. Our work and the work of thousands of Americans engaged at the grassroots level, the efforts of numerous reform groups, is far from over. While the basis for BCRA, that large, unregulated political contributions cause both the appearance and reality of corruption by elected officials, is self-evident, mustering the evidence needed to prove this to the Court was an extraordinary feat. The mountain of evidence that was compiled, however, provided a solid foundation for the Supreme Court's decision to close loopholes through which were flowing hundreds of millions of dollars in soft money.

The evidence collected included sworn statements from elected officials acknowledging they had been forced to raise large contributions for the political parties, internal memos from political party leaders to elected officials reminding them who gave big contributions prior to key votes, and testimony from business leaders who were provided a ''menu of access'' by party officials showing how $50,000 gets you a meeting with an elected official, $100,000 gets you a 15-minute meeting with another elected official.

The strength of the evidence on the extent of corruption and the appearance of corruption as well as the creativity with which the campaign finance laws were being evaded led the Supreme Court to uphold BCRA, which sought to close the loopholes that had been opened in the Federal Election Campaign Act.

Significantly, the evidence also led the Supreme Court to find that Congress needed and possessed broad authority to enact laws to reduce the corrupting influence of unregulated money in politics. The Court also made a powerful statement about the so-called regulators of the corrupting soft money system, the Federal Election Commission. According to the Court, the soft money system was the result of a series of loopholes opened by the FEC and exploited by the party committees. I also quoted what Justices Stevens and O'Connor wrote.

While the Supreme Court in the McConnell case recognized the role the FEC had played over the years in eroding the campaign finance laws, it was not asked to consider the rules the commission adopted just last year to implement BCRA—rules that, true to the FEC's history, undermined the integrity of campaign finance law. The

Court, however, may soon be asked to do this. Shortly after the FEC took a big bite out of BCRA through its rulemaking process, Representatives SHAYS and MEEHAN filed a lawsuit challenging the regulations. This action is on a fast track in Federal District Court.

Since its inception, BCRA has been reviled by the political party establishments that decried the eminent demise of our two-party system. Yet in the midst of a hotly contested Presidential campaign, evidence suggests the opposite is true. Under BCRA, both the Democratic and Republican national parties are reporting a resurgence of grassroots support and significant increases in new hard money donors. In fact, recent figures show there have been 600,000 new hard money donors to the Democratic Party and 1 million new Republican hard money donors. That is what we intended.

The Court was right to uphold the new reform law. Implemented correctly, it will go a long way to restoring people's faith in our democratic system. That said, reform is not a one-time fight. We must continue the work to strengthen our democracy and reconnect the people to the political process. The adoption and Court sanction of BCRA enables Congress to push forward with important reforms that help improve our system of Government and reduce barriers to political participation.

It is critical that we ensure BCRA is not negated by widespread circumvention of the new law by the FEC and by outside political committees. While we are challenging FEC's implementing regulations, we must also act to restructure the commission so it will not only implement campaign finance laws effectively but actively enforce them.

The American political system needs an agency that will give effect to our campaign laws fairly and free from the partisan influence that currently dominates the commission structure. Without this key reform, no campaign finance reform law can work well.

We must fix the ailing Presidential public funding system. For many years, the system gave Americans a viable opportunity to run for our highest office and increased competition in our Presidential elections, but the system is now outdated and bankrupt. Senator FEINGOLD and I have introduced a proposal to fix it, and we are committed to educating the public about the importance of doing this and to building the coalition needed to make it happen.

Ongoing reform efforts are needed not only at the Federal level but also at the State level. Working at the State level, we can help to restore faith in the political process by improving contribution disclosure laws, promoting clean election programs, and encouraging an independent and noncorrupt campaign finance system.

To break down the barriers to political participation, we must improve ballot access, promote open primaries, and fix the redistricting process.

This is not a partisan issue. It should not advantage one party over the other. What reform does is create transparency, equality, and participation, and inspire confidence in those we represent. The strength and real muscle in this fight lies with the American people. During the long battle in the Senate to pass campaign finance reform, we called on the American public to make their voices heard on Capitol Hill. They answered, and the impact was astounding. The phone calls, e-mails, and letters that flooded into Members' offices had a tremendous impact. Constituent communications translated into votes for reform.

Reform is an ongoing process. It didn't end with Teddy Roosevelt in 1907, and it will not end with JOHN MCCAIN and RUSS FEINGOLD in the Senate. I am very much a realist. From the beginning of this fight, I have said that as soon as the soft money loopholes addressed in BCRA were closed, there would be very smart people all over Washington trying to find ways around the law. I am sad to report these folks wasted no time in attempting to circumvent it again.

The recent creation of certain new organizations under section 527 of the Internal Revenue Code is the first broad-scale attempt to undermine BCRA.

Let me be clear on one thing. There are many legitimate 527 organizations whose method of operation is not in question here. They are nonpartisan. They work to do the things we want to further the goals of democracy. There are, however, some groups that have recently been set up for the sole purpose of raising or spending tens of millions of dollars in soft money to influence the 2004 Presidential and congressional elections.

Madam President, various groups have been created expressly to spend large sums of soft money on partisan voter mobilization drives and sham ''issue advocacy'' to influence Federal elections. These groups have as their overriding, if not sole purpose, the influencing of Federal elections.

Federal election law requires such groups to register as political committees with the FEC. Federal political committees may only accept and spend hard money—that is, money limited in amount and source. I will repeat that if a 527 is nonpartisan in nature, we have no problem. If a 527 is engaged in partisan activity, they then fall under the same restrictions that any other political committee does that is engaged in partisan activity. That should be obvious to the Federal Election Commission.

These new groups, however, which have made clear that their purpose is to influence Federal elections—they have not made any bones about it—have purportedly set up ''non-Federal'' accounts to accept corporate and labor union funds and large contributions from individuals. They plan to use these moneys, we are told, to finance partisan voter drives and run sham issue ads aimed at influencing the 2004 Federal elections. This blatant end run around the campaign finance laws should not be tolerated.

When a political committee has an overriding purpose to influence Federal elections, it cannot be allowed to circumvent campaign finance laws by establishing a ''non-Federal account'' and claiming that the money being raised and spent to influence Federal elections is not for that purpose. These committees cannot be permitted to transform contributions that are clearly for the purpose of influencing Federal elections into ''allowable soft money'' simply by depositing those funds into ''non-Federal accounts.'' These groups are clearly political committees that should be registered as such with the FEC and must operate accordingly within the hard money amount and source limitations.

After the success of McConnell v. FEC, we cannot sit idly by and allow this potentially massive circumvention of campaign finance laws. BCRA finally closed soft money loopholes and, again, new ones should not and cannot be tolerated. I am pleased to see that the FEC has recognized the immediate need to examine these soft money problems. I hope the Commission will not make the mistakes it has made in the past and will act swiftly and comprehensively to protect the integrity of our campaign finance laws.

Madam President, I also wish to comment on one of the things that happened. We have seen, in the last Presidential campaign, a dramatic reduction in negative campaign ads run by the various candidates. Why is that? It is because of an amendment that was added by the Senator from Maine, Ms. COLLINS, and the Senator from Oregon, Mr. WYDEN, which was called ''stand by your ad,'' I believe. Guess what. Every time there is a message, the candidate says, I am so and so and I approve of this ad. They would not approve a lot of the trash put in and negative attacks, which has one effect, we all know, and that is drive down voter turnout. It has a very salutary effect.

I have to admit that I never thought of that in the 8 years Senator FEINGOLD and I looked at every aspect of campaign finance reform; we had not thought of that amendment. It has a marvelous positive affect, having the candidate say: I am so and so and I approve of this ad.

I also say there was a marvelous team that argued our case before the U.S. Supreme Court. I ask unanimous consent to have a list of names printed in the RECORD.

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

Lawrence H. Norton, Richard B. Bader, Stephen E. Hershkowitz, David Kolker, Theodore B. Olson, Peter D. Keisler, Paul D. Clement, Malcolm L. Stewart, Gregory G.

Garre, Douglas N. Letter, James J. Gilligan, Michael S. Raab, Dana J. Martin, Terry M. Henry, Rupa Bhattacharyya, Andrea Gacki.

Roger M. Witten, Seth P. Waxman, Randolph D. Moss, Edward C. DuMont, Paul R.Q. Wolfson, Purt Neuborne, Frederick A.O. Schwarz, Jr., Charles G. Curtis, Jr., David J. Harth, Michelle M. Umberger, Bradley S. Phillips, E. Joshua Rosenkranz, Alan B. Morrison, Scott L. Nelson, Eric J. Mogilnicki, Michael D. Leffel, A. Krisan Patterson, Jennifer L. Mueller, Stacy E. Beck, Jerrod C. Patterson, Fred Wertheimer, Alexandra Edsall, Trevor Potter, Glen M. Shor.

Mr. MCCAIN. Madam President, I particularly thank Mr. Ted Olson, the Solicitor General, who entered into this situation as one who did not agree with campaign finance reform and became a strong advocate. He made compelling arguments to the U.S. Supreme Court. I also thank Seth Waxman and his team of lawyers, who did a marvelous job. There are so many people and so many organizations that continue to work on our behalf.

Finally, I wish to make two closing points. One, the Federal Election Commission cannot be allowed to undermine this law. The U.S. Supreme Court is very clear about the role of the Federal Election Commission. So we cannot let these 8 years of hard work—not because of Senator FEINGOLD and me but because of the thousands and thousands of Americans who worked so hard to clean up this system that has either corruption or the appearance of corruption associated with it.

Finally, one of the great pleasures of my life in public service is to have the opportunity to know and appreciate and have the undying and everlasting friendship of my dear friend from Wisconsin, who is one of the most honest and decent Americans with whom I have ever had the privilege of knowing and serving. I would be honored to serve with him under any circumstance.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, let me say how fitting it is that the Senator from Maine is presiding at this point, who has made a tremendous contribution to our efforts on campaign finance reform. It is a tremendous privilege to come to the floor with my good friend and longtime partner in campaign finance reform, the senior Senator from Arizona, Mr. MCCAIN. Everybody knows we fought side by side for nearly 7 years to see our bill enacted into law.

Finally, on December 10, nearly 2 years after President Bush signed the bill, the Supreme Court upheld our work against a constitutional challenge. It has been a long and hard struggle, and, frankly, we could not possibly be happier with the result. The Court's decision in McConnell v. FEC is a complete vindication of our effort to help rid politics of the corruption of soft money. We are very proud of and also humbled by the Court's ruling.

We are not here to gloat. It is not polite or useful to do so. But if I had a dollar for every time someone said on this floor or in the media that our bill would never stand up in court, I would actually be a wealthy man. Rather, we are here to thank our colleagues who joined with us to pass this historic reform, to review the Supreme Court landmark decision, and briefly take a look forward, as Senator MCCAIN has already done. As we often noted during the debate, the McCain-Feingold bill was not intended to be the last word on the topic of campaign finance reform. The Court's decision will serve as a guidepost for future reform initiatives.

First, I thank all of the Members of this body who worked so hard with us to pass the bipartisan Campaign Reform Act.

For many, this was a labor of love. For others, it was a difficult fight because of resistance from their own party or from political or campaign advisers. In the end, as Senator MCCAIN said it so well, this bill passed because the American people demanded it and because courageous Senators and Members of the House were willing to stand up to the defenders of the status quo.

I particularly thank the Democratic leader, Senator TOM DASCHLE, and his counterpart at the time in the House, Representative DICK GEPHARDT. Their leadership and strong support made it possible to get the bill through all the complicated legislative obstacles we faced and onto the President's desk.

Also deserving of special thanks is the core bipartisan group of supporters of reform who worked closely with us to pass the bill. Senators LEVIN, COLLINS, LIEBERMAN, THOMPSON, SNOWE, SCHUMER, JEFFORDS, COCHRAN, CANTWELL, EDWARDS, and KERRY all made major contributions to the law that the Supreme Court upheld.

I think it is actually hard to imagine a more clear statement from the Supreme Court than the one delivered in December in McConnell v. FEC. The margin of the Court was narrow, as it often is in complicated and highly contested cases. But the majority could not have been more emphatic that what we did in McCain-Feingold was a constitutional approach to the problems of soft money and also phony issue advocacy that Congress identified and we tried to address.

I have to tell you, that was enormously gratifying after the hard work we did in this body to pay attention to the Court's previous decisions. It meant a great deal to me personally that we looked at what the Court had said about the first amendment of the Constitution and crafted our legislation with respect to that. That is exactly what we did.

We drafted this bill specifically to be consistent with what the Court had said in the past in analyzing the first amendment implication of campaign finance legislation. We worked hard to shape a legislative record demonstrating the need for the reforms we proposed.

In upholding the law, the Court recognized the difficult and painstaking work we did to stay within the constitutional framework set out in previous cases.

The Court said:

> We are mindful that in its lengthy deliberations leading to the enactment of BCRA, Congress properly relied on the recognition of its authority contained in Buckley and its progeny.

I was particularly pleased at the deference the Court showed to congressional judgments about the problems with the system and the best way to address them. That deference has often been lacking in recent opinions in other areas, but this time the Court realized that Congress has special expertise in this area and needs to have the authority to actually address real world problems in the way that it believes will be most effective.

This is enormously important for the future of reform. It shows that the Court understands that under our Constitution, Congress is not powerless to address threats to the health of our democratic or political processes.

In no way, of course, did the Court give to Congress unbridled power. It simply upheld a reasonable and measured response to the soft money problem that many on both sides of the aisle had come to believe was extremely harmful.

One aspect of the Court's opinion is worth noting as we look forward to future reform efforts. The Court laid responsibility for the soft money problem squarely where it belongs, and as Senator MCCAIN just did again—with the Federal Election Commission. As Senator MCCAIN noted, the Court specifically stated that the FEC ''subverted'' the law by allowing soft money to be used to aid Federal candidates.

The Court said:

> [T]he FEC's allocation regime has invited widespread circumvention of FECA's limits on contributions to parties for the purpose of influencing Federal elections.

The Supreme Court agreed with us that soft money was a loophole that Congress could legitimately try to plug, and that the loophole was improperly created by the FEC. With this validation of the position taken by reformers for many years, the Court underlined a cautionary note that we have sounded many times before on this floor. No law in this area can be self-executing. To be successful, campaign finance reform must be implemented and enforced by an agency that is dedicated to carrying out the will of Congress, not to frustrate it.

The new law instructed—instructed—the FEC to act quickly to develop regulations to explain and implement BCRA. Time after time, instead the FEC adopted rules that weakened the law. Senator MCCAIN and I participated in those rulemaking proceedings, but our advice on many important issues was ignored.

As currently structured, the FEC seems simply incapable of properly applying the law that this Congress enacted. Virtually every complicated

issue is approached from a political perspective, and the political parties have extraordinary sway over the Commission's actions.

Senator MCCAIN and I viewed the BCRA rulemaking process as a test, if you will, a final chance for the FEC to change its approach and to finally begin to faithfully enforce the law in a nonpartisan fashion. We were very disappointed in the result. We have, therefore, concluded that the FEC, as currently constituted, cannot provide the strong and consistent enforcement of the Federal election laws that this country needs. So together we have proposed to replace the agency with a new body, the Federal Election Administration.

We need to have an agency led by people who are respected by both sides of the aisle and will carry out their responsibilities in a nonpartisan manner rather than simply having representatives from each of the parties canceling each other out with a partisan approach to their jobs. Our bill makes individuals who have worked for or served as counsel to parties or candidates ineligible to serve as administrators.

We have no illusions that this reform will be easy to pass. Those who opposed our bill will undoubtedly oppose replacing the agency that is responsible for the rulings that made our bill necessary and that continue to undermine the new law. But reform of the FEC is essential if the will of Congress and BCRA is to be carried out.

I am also pleased to join Senator MCCAIN in introducing a bill to reform the Presidential public funding system. That system did actually work well for seven consecutive Presidential elections from 1976 to 2000. In those elections, Republicans were elected four times and Democrats three times and challengers actually defeated incumbents in three out of the five races where an incumbent was a candidate.

This year, unfortunately, candidates from both parties have opted out of the public funding system for the primaries. Everyone knows the system needs to be updated to keep it functioning in future elections.

I happen to come from a State that had a very good public funding system for State elections for many years. In fact, I won my first race for the Wisconsin Senate, frankly, only because of that system. But the legislature in my State failed to update and revise that system to keep pace with the changing realities and costs of political campaigns, and now hardly anyone uses it. We can't let that happen to the Presidential public funding system.

Again, when I look at the Presiding Officer, I know these kinds of systems can work because they have made them work in her State of Maine. The bill we have introduced is a starting point only, much like the first McCain-Feingold bill in 1995. We want to work with our colleagues on both sides of the aisle to come up with a bill that this Senate can support to preserve the public funding system that has served the country so well since the excesses of the Watergate era demonstrated that private financing of Presidential elections is really not a very good thing for our democracy.

I hope our colleagues will work with us over this year to perfect a bill that can be quickly passed in the next Congress after this Presidential election has been held.

Senator MCCAIN and I have also introduced a bill to provide free air time to congressional candidates. The cost of television advertising has skyrocketed, and we believe the Nation's broadcasters, who make great profits from a public resource—the airwaves—should contribute to improving the democratic process. I look forward to continuing to discuss this bill with our colleagues as well.

We do not expect any one of these three major reform bills will be considered on the Senate floor this year. But there is one bill that can and should be enacted very quickly. That is a bill we have introduced to require electronic filing of Senate campaign finance reports. Right now, the Senate lags way behind the House in providing current and complete disclosure of contributions to and expenditures on our campaigns. This is really an embarrassment. It is possible the Rules Committee can quickly correct this problem, but if not, Senator MCCAIN and I have introduced a bill to bring the Senate into the 21st century, and we should enact it promptly.

Again, I thank all my colleagues who supported the McCain-Feingold bill. I hope they are as proud of their accomplishment as I am of them. I am convinced we have begun to change this system for the better. Senator MCCAIN discussed there is already evidence of that. I think as the 2004 campaign heats up, we will see plenty more examples of how the system has improved, but we cannot rest on our laurels. We saw what happened when Congress essentially left the field for 20 years after passing the post-Watergate reforms. We must be vigilant to protect what we did in BCRA, and we must look ahead and continue to fight for a campaign finance system that enhances, rather than suffocates, the power of individual citizens and voters in our democracy.

Finally, I again express my admiration and appreciation for all Senator MCCAIN has done on this issue. For one final time I thank him for calling me in late 1994 and saying he wanted to work with me on this project. Next time tell me it is going to take 8 years. I am more than grateful for this terrific opportunity to not only work with a great American hero, but to have my name associated with him to the point where Senator MCCAIN has said that some people think my first name is MCCAIN.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

CHURCHILL AND THE GREAT REPUBLIC EXHIBIT

Mr. WARNER. Madam President, I was privileged today to go to the Library of Congress where, under the auspices of Mr. Billington, the Librarian of Congress, a very wonderful exhibit is opening entitled—and I hold up the volume: ''Churchill and the Great Republic.'' The exhibit formally opens tonight.

In attendance today were one of Churchill's daughters, his grandson, and other members of the Churchill family. It was a very moving experience. I encourage my colleagues to find time in the next week or 10 days to avail themselves of this very historical exhibit put together by Dr. Billington.

The ceremony today, marking the opening, was attended by the President of the United States, and I, together with my good friend Senator LUGAR, Senator BOB BENNETT, and a number of Members of the House of Representatives, were privileged to be in attendance.

I ask unanimous consent that following my remarks, the full text of the President's speech at this auspicious occasion be printed in the RECORD.

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

(See exhibit 1.)

Mr. WARNER. Madam President, I think we are at a remarkable crossroads of history. In terms of the survival of republics, this is about the great republic, about freedom, and about all of those things we hold very dear.

I do not intend to make a political speech, but I say without reservation I think President Bush has given remarkable leadership, certainly in the aftermath of 9/11, an unprecedented attack on our sovereignty, the people of the United States of America, parallel in many respects to Pearl Harbor but indeed more awesome than Pearl Harbor in some respects. We are fortunate to have at the helm in the United States a strong President, a man of courage and of wisdom. I try in my modest way to support his leadership and that of those he has selected as his principal team.

I found this speech very remarkable today, and I would like to read just a paragraph:

> When World War II ended, Winston Churchill immediately understood that the victory was incomplete. Half of Europe was occupied by an aggressive empire. And one of Churchill's own finest hours came after the war ended in a speech he delivered in Fulton, Missouri. Churchill warned of the new danger facing free peoples. In stark but measured tones, he spoke of the need for free nations to unite against the communist expansion. Marshal Stalin denounced the speech as a ''call to war.'' A prominent American journalist called the speech an ''almost catastrophic blunder.'' In fact, Churchill had set a simple truth before the world: that tyranny would not be ignored or appeased without great risk. And he boldly asserted that freedom—freedom was the right of men and women on both sides of the Iron Curtain.

Churchill understood that the Cold War was not just a standoff of armies, but a conflict of visions—a clear divide between those who put their faith in ideologies of power, and those who put their faith in the choices of free people. The successors of Churchill and Roosevelt—leaders like Truman, and Reagan and Thatcher—led a confident alliance that held firm as communism collapsed under the weight of its own contradictions.

Today, we are engaged in a different struggle. Instead of an armed empire, we face stateless networks. Instead of massed armies, we face deadly technologies that must be kept out of the hands of terrorists and outlaw regimes.

Yet in some ways, our current struggles or challenges are similar to those Churchill knew. The outcome of the war on terror depends on our ability to see danger and to answer it with strength and purpose. One by one, we are finding and dealing with the terrorists, drawing tight what Winston Churchill called a ''closing net of doom.'' This war also is a conflict of visions. In their worship of power, their deep hatreds, their blindness to innocence, the terrorists are successors to the murderous ideologies of the 20th century. And we are the heirs of the tradition of liberty, defenders of the freedom, the conscience and the dignity of every person. Others before us have shown bravery and moral clarity in this cause. The same is now asked of us, and we accept the responsibilities of history.

I find those words very moving, and with a deep sense of humility I commend this President.

This is a picture of Churchill and Roosevelt. Years hence, there will be a picture of President Bush and Prime Minister Blair. If I may say, again with a sense of humility, historians will eventually parallel the Churchill-Roosevelt era with the Bush-Blair era, when two individuals of somewhat contradictory ideologies and, if we may say, party background, nevertheless came together in this hour in the aftermath of 9/11 and formed an alliance, brought together other nations that valued freedom, and formed a coalition that has now deposed a tyrant who, by any fair standards, was indeed a danger to the free world.

I say to the President with complete respect, I think historians someday may call this speech today a runner-up to the Fulton, MO, speech.

I yield the floor.

EXHIBIT 1

REMARKS BY THE PRESIDENT ON WINSTON CHURCHILL AND THE WAR ON TERROR

The PRESIDENT: Thank you all very much. I'm honored to join you as we welcome a magnificent collection to the Library of Congress. I've always been a great admirer of Sir Winston Churchill, admirer of his career, admirer of his strength, admirer of his character—so much so that I keep a stern-looking bust of Sir Winston in the Oval Office. He watches my every move. (Laughter.)

Like few other men in this or any other age, Churchill is admired throughout the world. And through the writings and his personal effects, we feel the presence of the great man, himself. As people tour this exhibit, I'm sure they'll be able to smell the whiskey and the cigars. (Laugher.)

I appreciate Jim Billington for hosting this exhibit, and for hosting me. It's good to see Marjorie. I appreciate the members of Winston Churchill's family who have come: Lady Mary Soames, who is a daughter; Winston Churchill III, the man bears a mighty name, and his wife, Luce; Celia Sandys, who is a granddaughter. Thank you all for coming. We're honored to have you here in America.

I'm pleased to see my friend, the Ambassador from the United Kingdom to America, Sir David Manning and Lady Manning here, as well. I appreciate the members of Congress who have come—the Chairman. We've got a couple of mighty powerful people here, Winston, with us today—Chairmen Lugar and Warner, Senator Bennett, Congressmen Bill Young, Doug Bereuter, Jerry Lewis, Tom Petri, Vern Ehlers and Jane Harman. I'm glad you all are here, thanks for taking time to come.

This exhibit bears witness to one of the most varied and consequential lives of modern history. Churchill's 90 years on earth, joined together two ages. He stood in the presence of Queen Victoria, who first reigned in 1837. He was the Prime Minister to Elizabeth II, who reigns today. Sir Winston met Theodore Roosevelt, and he met Richard Nixon.

Over his long career, Winston Churchill knew success and he knew failure, but he never passed unnoticed. He was a prisoner in the Boer War, a controversial strategist in the Great War. He was the rallying voice of the Second World War, and a prophet of the Cold War. He helped abolish the sweat shops. He gave coal miners an eight-hour day. He was an early advocate of the tank. And he helped draw boundary lines that remain on the map of the Middle East. He was an extraordinary man.

In spare moments, pacing and dictating to harried secretaries, he produced 15 books. He said, ''History will be kind to me—for I intend to write it.'' (Laughter.) History has been kind to Winston Churchill, as it usually is to those who help save the world.

In a decade of political exile during the 1930s, Churchill was dismissed as a nuisance and a crank. When the crisis he predicted arrived, nearly everyone knew that only one man could rescue Britain. The same trait that had made him an outcast eventually made him the leader of his country. Churchill possessed, in one writer's words, an ''absolute refusal, unlike many good and prudent men around him, to compromise or to surrender.''

In the years that followed, as a great enemy was defeated, a great partnership was formed. President Franklin Roosevelt found in Churchill a confidence and resolve that equaled his own. As they led the allies to victory, they passed many days in each other's company, and grew in respect and friendship. The President once wrote to the Prime Minister, ''It is fun to be in the same decade with you.'' And this sense of fellowship and common purpose between our two nations continues to this day. I have also been privileged to know a fine British leader, a man of conscience and unshakable determination. In his determination to do the right thing, and not the easy thing, I see the spirit of Churchill in Prime Minister Tony Blair. (Applause.)

When World War II ended, Winston Churchill immediately understood that the victory was incomplete. Half of Europe was occupied by an aggressive empire. And one of Churchill's own finest hours came after the war ended in a speech he delivered in Fulton, Missouri, Churchill warned of the new danger facing free peoples. In stark but measured tones, he spoke of the need for free nations to unite against communist expansion. Marshal Stalin denounced the speech as a ''call to war.'' A prominent American journalist called the speech an ''almost catastrophic blunder.'' In fact, Churchill had set a simple truth before the world: that tyranny could not be ignored or appeased without great risk. And he boldly asserted that freedom—freedom was the right of men and women on both sides of the Iron Curtain.

Churchill understood that the Cold War was not just a standoff of armies, but a conflict of visions—a clear divide between those who put their faith in ideologies of power, and those who put their faith in the choices of free people. The successors of Churchill and Roosevelt—leaders like Truman, and Reagan, and Thatcher—led a confident alliance that held firm as communism collapsed under the weight of its own contradictions.

Today, we are engaged in a different struggle. Instead of an armed empire, we face stateless networks. Instead of massed armies, we face deadly technologies that must be kept out of the hands of terrorists and outlaw regimes.

Yet in some ways, our current struggles or challenges are similar to those Churchill knew. The outcome of the war on terror depends on our ability to see danger and to answer it with strength and purpose. One by one, we are finding and dealing with the terrorists, drawing tight what Winston Churchill called a ''closing net of doom.'' This war also is a conflict of visions. In their worship of power, their deep hatreds, their blindness to innocence, the terrorists are successors to the murderous ideologies of the 20th century. And we are the heirs of the tradition of liberty, defenders of the freedom, the conscience and the dignity of every person. Others before us have shown bravery and moral clarity in this cause. The same is now asked of us, and we accept the responsibilities of history.

The tradition of liberty has advocates in every culture and in every religion. Our great challenges support the momentum of freedom in the greater Middle East. The stakes could not be higher. As long as that region is a place of tyranny and despair and anger, it will produce men and movements that threaten the safety of Americans and our friends. We seek the advance of democracy for the most practical of reasons: because democracies do not support terrorists or threaten the world with weapons of mass murder.

America is pursuing a forward strategy of freedom in the Middle East. We're challenging the enemies of reform, confronting the allies of terror, and expecting a higher standard from our friends. For too long, American policy looked away while men and women were oppressed, their rights ignored and their hopes stifled. That era is over, and we can be confident. As in Germany, and Japan, and Eastern Europe, liberty will overcome oppression in the Middle East. (Applause.)

True democratic reform must come from within. And across the Middle East, reformers are pushing for change. From Morocco, to Jordan, to Qatar, we're seeing elections and new protections for women and the stirring of political pluralism. When the leaders of reform ask for our help, America will give it. (Applause.)

I've asked the Congress to double the budget for the National Endowment for Democracy, raising its annual total to $80 million. We will focus its new work on bringing free elections and free markets and free press and free speech and free labor unions to the Middle East. The National Endowment gave vital service in the Cold War, and now we are renewing its mission of freedom in the war on terror. (Applause.)

Freedom of the press and the free flow of ideas are vital foundations of liberty. To cut through the hateful propaganda that fills the airwaves in the Muslim world and to promote open debate, we're broadcasting the message of tolerance and truth in Arabic and Persian to tens of millions. In some cities of the greater Middle East, our radio stations

are rated number one amongst younger listeners. Next week, we will launch a new Middle East television network called, Alhurra—Arabia for ''the free one.'' The network will broadcast news and movies and sports and entertainment and educational programming to millions of people across the region. Through all these efforts, we are telling the people in the Middle East the truth about the values and the policies of the United States, and the truth always serves the cause of freedom. (Applause.)

America is also taking the side of reformers who have begun to change the Middle East. We're providing loans and business advice to encourage a culture of entrepreneurship in the Middle East. We've established business internships for women, to teach them the skills of enterprise, and to help them achieve social and economic equality. We're supporting the work of judicial reformers who demand independent courts and the rule of law. At the request of countries in the region, we're providing Arabic language textbooks to boys and girls. We're helping education reformers improve their school systems.

The message to those who long for liberty and those who work for reform is that they can be certain they have a strong ally, a constant ally in the United States of America. (Applause.)

Our strategy and our resolve are being tested in two countries, in particular. the nation of Afghanistan was once the primary training ground for al Qaeda, the home of a barbaric regime called the Taliban. It now has a new constitution that guarantees free election and full participation by women. (Applause.)

The nation of Iraq was for decades an ally of terror ruled by the cruelty and caprice of one man. Today, the people of Iraq are moving toward self-government. Our coalition is working with the Iraqi Governing Council to draft a basic law with a bill of rights. Because our coalition acted, terrorists lost a source of reward money for suicide bombings. Because we acted, nations of the Middle East no longer need to fear reckless aggression from a ruthless dictator who had the intent and capability to inflict great harm on his people and people around the world. Saddam Hussein now sits in a prison cell, and Iraqi men and women are no longer carried to torture chambers and rape rooms, and dumped in mass graves. Because the Baathist regime is history, Iraq is no longer a grave and gathering threat to free nations. Iraq is a free nation. (Applause.)

Freedom still has enemies in Afghanistan and Iraq. All the Baathists and Taliban and terrorists know that if democracy were to be, it would undermine violence—their hope for violence and innocent death. They understand that if democracy were to be undermined, then the hopes for change throughout the Middle East would be set back. That's what they know. That's what they think. We know that the success of freedom in these nations would be a landmark event in the history of the Middle East, and the history of the world. Across the region, people would see that freedom is the path to progress and national dignity. A thousand lies would stand refuted, falsehoods about the incompatibility of democratic values in Middle Eastern cultures. And all would see, in Afghanistan and Iraq, the success of free institutions at the heart of the greater Middle East.

Achieving this vision will the work of many nations over time, requiring the same strength of will and confidence of purpose that propelled freedom to victory in the defining struggles of the last century. Today, we're at a point of testing, when people and nations show what they're made out of. America will never be intimidated by thugs and assassins. we will do what it takes. we will not leave until the job is done. (Applause.)

We will succeed because when given a choice, people everywhere, from all walks of life, from all religions, prefer freedom to violence and terror. We will succeed because human beings are not made by the Almighty God to live in tyranny. We will succeed because of who we are—because even when it is hard, Americans always do what is right.

And we know the work that has fallen to this generation. When great striving is required of us, we will always have an example in the man we honor today. Winston Churchill was a man of extraordinary personal gifts, yet his greatest strength was his unshakable confidence in the power and appeal of freedom. It was the great fortune of mankind that he was there in an hour of peril. And it remains the great duty of mankind to advance the cause of freedom in our time.

May God bless the memory of Winston Churchill. May God continue to bless the United States of America. (Applause.)

The PRESIDING OFFICER. The Senator from Iowa is recognized.

THE PRESIDENT'S BUDGET

Mr. HARKIN. Madam President, I have had a chance now to look over the President's budget. What with being out of our offices and stuck over in the Capitol and not being able to see some of the people we were supposed to see and conduct business as usual, I have had the chance to look at the budget. Of course, I had heard it was kind of bad. I read some of the preliminary reports, but it was not until I really started digging into it and looking at some of the fine print and getting out a calculator and adding it all up that I realized how stupefyingly bad this budget is. It almost defies logic.

After going through it, I can sum up his election year budget in four words: More of the same. More tax cuts for the wealthy, more massive spending increases on things such as Star Wars and, of course, that nice trip to Mars we are going to take, more giveaways to special interests, and more massive budget deficits.

This is Mr. Bush's fourth budget submission, so now I think we can take stock. We can size up the full 4-year fiscal record of this administration. Quite frankly, the irresponsible actions of this administration over 4 years boggle the mind.

In just 4 years, Mr. Bush has put in place trillions of dollars in tax cuts, overwhelmingly for the very wealthy. In spite of the huge deficits, the President now is demanding that those tax cuts be made permanent. At the same time, he is proposing tens of billions of dollars on new spending programs, and this includes untold billions for trips to the Moon and Mars. There is billions more for Star Wars, which Mr. Bush intends to build now and test later.

President Bush has taken the projected 10-year surplus of some $5 trillion that he inherited from President Clinton and turned that into a projected 10-year deficit of nearly $5 trillion. Think about that. In 4 short years, this President and this administration have taken a $5 trillion surplus and turned it into a $5 trillion deficit, a $10 trillion swing. As I said, it just boggles the mind.

By any measure, this is an astonishing record of economic mismanagement and economic malpractice. In fact, I challenge my colleagues to cite any President in the 215-year history of our Republic who has compiled such a record of sheer recklessness.

The White House now says the deficit in the current fiscal year will be $521 billion. That is bad enough, but that is not the worst of it. Far more dangerous are the long-term, permanent, structural deficits that will result. Mr. Bush dares to claim he has charted a course to cut the deficit in half in 5 years. This has about as much credibility as his claim that Iraq possessed massive stockpiles of weapons of mass destruction. The fact is that, after 4 years, Mr. Bush has zero credibility on the budget.

Let's look at his past projections and promises. In 2001, Mr. Bush promised: ''We can proceed with tax relief without fear of budget deficits.'' That turned out to be untrue.

In 2002, Mr. Bush reassured us: ''Our budget will run a deficit that will be small and short term.'' That turned out, also, to be untrue.

In 2003, Mr. Bush again assured us: ''Our current deficit is not large by historical standards and is manageable.'' That also is turning out to be untrue.

This year, President Bush claims that the massive deficits he has created will be magically cut in half in 5 years' time. Is there any Senator in either party who believes that promise? I don't think so. Mr. Bush has not just created a structural budget deficit, he has created a structural credibility deficit. Few credible economists believe him anymore.

The Washington Post sized up this budget in an editorial yesterday morning. The editorial was titled ''Bogus Budgeting.'' The editorial stated that:

> The Bush administration 2005 budget is a masterpiece of disingenuous blame-shifting, dishonest budgeting and irresponsible governing.

The reality is that the deficits will persist at high levels even if the economy stays healthy. Year after year they will stay at high levels, until the baby boomers start to retire, and then the deficits will explode.

If we look at the operating budget—that is not counting the surplus that comes from the Social Security taxes—the picture becomes crystal clear. Under the operating budget—again, excluding Social Security surpluses—Bush has a huge $675 billion deficit for this year. That is equal to 5.9 percent of our GDP, our gross domestic product, the second highest operating deficit since 1946.

But President Bush claims this operating deficit will drop to $470 billion in just 2 years. Then, according to his own

budget documents, the operating deficit begins to rise, reaching $500 billion in 2009—deficits as far as the eye can see.

There are three huge problems here. No. 1, we are continuing to add debt at a very rapid rate. No. 2, the glidepath is not downward to lower deficits but upwards to bigger deficits, and it rises more rapidly as we begin paying Social Security benefits to the baby boomers and, as the Social Security surplus shrinks, the true direction of the budget disaster under Bush's plan becomes clear. No. 3, the Bush budget does not include costs that we all know we are going to have.

For example, get this. The Bush budget does not include any additional funds for Iraq after September 30 of this year. In other words, for 2005, beginning October 1 of this year, fiscal year 2005, there are zero dollars for Iraq. We will have no troops there? We will have no support going to Iraq? After September 30 it is just going to all end? Does anyone believe that? Yet this budget has zero dollars in it for Iraq after September 30 of this year. That alone ought to tell you this budget is bogus.

The 2001 tax bill left a timebomb called the AMT, the alternative minimum tax. In 2001, fewer than 2 million, mostly wealthy, taxpayers paid it. By 2010, if it is not changed, over 30 million taxpayers will be paying it, mostly middle-class families. Nobody around here believes that is going to be allowed to happen. Everyone understands it will be fixed, probably at a cost of over $400 billion. So, what does the Bush budget do? It just fixes it for 1 year. Again, bogus.

What do these huge deficits mean, coming ahead? They mean we are increasingly dependent on the Chinese, Japanese, Korean, and other foreign governments and investors who buy our Treasury bonds.

I said to someone the other day, after looking over this budget and looking over who is loaning us money to buy our bonds, we are actually borrowing money from the South Koreans to finance our deficit.

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

Mr. HARKIN. I am pleased to yield.

Mr. REID. I was struck by the statement made by the Senator from Iowa, that this budget includes not a penny for our troops and the other programs we have going on in Iraq. The question I ask the Senator is, Does this kind of remind you of what took place last year? Does the Senator remember that the President came and asked for a supplemental of $69 billion early in the year, and then later came and asked for $87 billion, in 1 year?

Mr. HARKIN. That is right.

Mr. REID. Does the Senator from Iowa think for 1 minute we are going to spend no money in Iraq, after last year having had two supplementals in the amount of more than $150 billion?

Mr. HARKIN. I tell you, the Senator from Nevada has put his finger on it. Look, everyone knows, we had the $69 billion last year. We knew it wasn't enough, so he had to come back and ask for $87 billion. He got that. We also know that is not enough. Yet the President has the audacity, as the Senator has pointed out, to have a budget that on September 30 of this year has no money for Iraq.

I say to my friend, no one believes that. Yet the President puts it in his budget as though it is factual.

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

Mr. HARKIN. Yes, I am delighted to yield.

Mr. REID. Does the Senator believe that in the Pentagon and in the bowels of the White House they have already prepared the documents for a supplemental appropriations bill to take care of the funding in Iraq and poor little Afghanistan, about which we seem to have just forgotten?

Mr. HARKIN. The Senator from Nevada is very perceptive. He has been here a long time. My good friend from Nevada knows how these things work, and he is absolutely right. The Senator is right. We all know that. The Pentagon already has figures put together. In the bowels of the White House they have figures put together. They already know it is going to cost money for next year.

Again, I guess I respond to my friend by asking him, why wouldn't they be honest with us? Why wouldn't they be honest and put this in the budget? because everyone knows the facts—that it is going to cost some money after September 30.

I ask my friend what possible reason would they have for saying it costs nothing and they are zeroing it out?

Mr. REID. Because they believe, in my opinion, we will do whatever is necessary to fund the key things that are important. I am sure down there they have taken into consideration the programs they say they are going to cut. I believe this is just a prelude to having these people accomplish indirectly what they can't do directly; that is, decimate and in effect void the Social Security laws that have been in effect for this country for more than 70 years. Those people do not believe in Social Security. They don't believe in Social Security.

I carry this with me, because I want people to know I don't make this up. It is my wallet. It is kind of worn. I am not going to read all of it. But let me just read a couple of statements from Senator Robert Dole, our friend, who is a nice man and does a good job now on television being a commentator. This is a direct quote. He said:

> I was there fighting the fight, one of 12 voting against Medicare because we knew it wouldn't work in 1965.

He is one of the patriarchs of the Republican Party who gives advice and counsel to the President of the United States today. He doesn't like Medicare, and most other people at the White House do not like Medicare.

Listen to this one:

> Medicare has no place in a free world.

I am not making this up.

Mr. HARKIN. Who said that?

Mr. REID. The recently departed majority leader of the House of Representatives, Dick Armey.

That is only part of what he said.

> Medicare has no place in a free world.

I am not making this up. That is what he said.

> Social Security is a rotten trick. I think we are going to have to bite the bullet on Social Security and phase it out over time.

These people are doing indirectly what they cannot do directly. They are going to rob this Government of all the moneys they have until they have no choice but to say what we have to do is basically do away with the Social Security program; do away with Medicare. Let the private sector take care of it. If you want some retirement benefits, get it at your job; and if the job doesn't, save it.

Social Security is a rotten trick. That is what they think. But my mother and father who drew Social Security—actually, my dad didn't. He died too early. But my mother did. I don't think it was a rotten trick. I can remember my grandmother. I was a little boy. Every month she got what we called and she called her ''old age pension.'' That was Social Security. That was what gave my grandmother independence from her eight children. She got her check. She didn't have to depend on her children. She was a widow. She got her Social Security check.

I thank my friend very much for talking about this budget, which is as phony as a six-dollar bill.

Mr. DURBIN. Madam President, will the Senator from Iowa yield for a question?

Mr. HARKIN. Yes.

I thank the Senator from Nevada for his questions and for answering one of my questions, too. The Senator is right. There is a part in this budget where essentially the administration points out that with the huge deficits, the Social Security system will be unsustainable in its present form. Talk about code words. There is a code word for privatization. Charge Social Security, turn it over to the private marketplace, and let people take a chance on whatever. I think the Senator from Nevada is absolutely right. I will not say every Republican, because I can't cast the net that far. But I would say there are forces in the Republican Party—the Senator mentioned Senator DOLE and Dick Armey. Newt Gingrich said he wanted Medicare to wither on the vine and also led the charge to try to privatize Social Security.

There are forces at work and they are in control of the Republican Party now that do not like Medicare. They do not like Social Security, and they will do whatever they can to get rid of it. I believe this budget is a step in that direction.

I yield to my friend from Illinois for a question.

Mr. DURBIN. I want to ask the Senator a question through the Chair. I thank the Senator from Nevada for his comments.

But I have before me the budget. It is now in four different books. I have the lead book. By the time you get to page 14 of the President's budget, right in the front end of it, in the introduction, ''Winning the War On Terror,'' is a long section on removing the threat of Saddam Hussein. It talks about Operation Iraqi Freedom, the removal of Saddam Hussein, and the responsibility of the United States in Iraq.

If I understand the Senator from Iowa correctly, despite the fact this is in the opening introduction of the budget, you can pour through this entire budget and not find a single penny—not one cent—that is going to be spent by the United States of America in waging the war in Iraq after September 30 of this year.

Is that my understanding of what the Senator from Iowa said?

Mr. HARKIN. The Senator from Illinois is absolutely right. I didn't believe it myself when I was first told of this. I started digging in the budget along with my staff. I said surely someplace in this budget they must have some money in there to fund our operation in Iraq.

You will look until your dying day and you will not find one penny in that budget for our operations in Iraq after September 30, you will just find a note about possible funding.

Mr. DURBIN. I ask the Senator from Iowa through the Chair this question: Has he heard any member of this administration suggest we will be withdrawing all of our troops from Iraq before September 30 of this year?

Mr. HARKIN. I think the Senator asked a very good question. I don't know. I have not heard them say that. But that is what the budget implies.

Mr. DURBIN. I am sure the Senator has visited with his National Guard in Iowa as I have visited them in Illinois. They have been told just the opposite. The Guard and Reserve have been activated and told they will be gone for a year or 18 months in service to our country. It is clear that once there we are going to support them. We will give them what they need to come home safely with their mission accomplished. But we can't do it for nothing.

My question to the Senator from Iowa is, Why would the President of the United States refuse to include in his budget one penny to wage this war in Iraq and this war in Afghanistan? What is the purpose behind short-changing this budget and making it look cheaper than it actually is? I ask the Senator from Iowa if he has any opinion.

Mr. HARKIN. I will just say to my friend all you have to do is go back and look at 2002, 2003, and 2004. Look at the last 3 years of the Bush budget and you can see what happened. They have dug themselves and our country into a huge fiscal hole. Now what they want to do, rather than trying to get out of it, is going to dig us even further into that hole and try to make it look not so bad. They are trying to cut here and cut there, and doctor things up a little bit so it doesn't look quite so bad. They put zero money in there for Iraq.

Mr. DURBIN. If I might ask another question——

Mr. HARKIN. It is a shell game. That is all it is.

Mr. DURBIN. The Senator realizes that only 4 years ago we had a $236 billion surplus that we were strengthening Social Security with, paying down America's debt, and reducing the mortgage our children will have to carry. And now, if I am not mistaken, we are going to be faced with this budget which is the largest deficit in the history of the United States of America.

My question to the Senator from Iowa is this: In basic terms for those following this discussion, how do we pay for the debt? I am told every minute the Bush administration spends $991,000 more than we take in in taxes. This results in a $520 billion deficit this year. I ask the Senator from Iowa, How do we balance the books? Where do we turn with a deficit like this to help balance the books?

Mr. HARKIN. We are not going to balance it. But I tell you what they are doing. Effectively, they are going hat in hand to the Chinese, and they are saying, Please loan us some money. The Chinese will buy our bonds. Japan is buying our bonds. I think Japan now is the single largest owner of bonds. I think China is No. 2, if I am not mistaken.

Mr. DURBIN. Japan is $526 billion, and China—I can give you the exact number. I think the figure is $144 billion.

Mr. HARKIN. From China?

Mr. DURBIN. China.

Mr. HARKIN. And they will keep buying more and more and as the huge deficits pile up America's debt. This is going hat in hand to China and Japan and South Korea and many other countries. To do what? To finance huge tax breaks for the wealthy.

Mr. DURBIN. I ask the Senator from Iowa to complete the thought; the obvious question which I ask which we ought to consider, where does China get the dollars to buy the debt of the United States? Where does China have a surplus of dollars coming in? What is it about China that they end up with all of these dollars?

Mr. HARKIN. I ask my friend from Illinois, what is the trade deficit we have with China?

Mr. DURBIN. That is exactly the answer. It is a trade deficit.

Mr. HARKIN. So we have a huge trade deficit with China. We are buying everything from China. They get the dollars, and we go hat in hand, a debtor nation, and effectively say, please, buy our bonds.

Mr. DURBIN. And I ask the Senator from Iowa, in your home State of Iowa and my State of Illinois, we have lost 20 percent of our manufacturing jobs in the last few years; America has lost 3 million jobs under this President, more than any President since the Great Depression. So as we have lost these jobs and lost these businesses, and our economy is sinking—a jobless recovery is no recovery where I live—we see other countries who now take over our manufacturing jobs, like China, and because they are selling more to the United States, they have dollars and turn around and own our debt.

So our workers do not have the jobs, their children have the debt, and China is holding the mortgage. Is that the fact?

Mr. HARKIN. The Senator is on to something. First of all, they are getting our dollars for the products they make and send to this country with cheap labor, with no Social Security protections for the workers. They get all those dollars. They then buy our debt, they buy our bonds. The Senator is right. They buy the bonds and then there is interest on the bonds, a lot of interest. So who gets the interest payments? The Chinese get the interest payments.

So our workers lose their jobs, the jobs go to China, we buy their goods, they get the dollars, they buy our bonds, and the Senator is absolutely right. It is the workers' families, the kids who now have to pony up to pay the interest charges.

Now, I ask the Senator, looking ahead, if, in fact, we have these huge budget deficits which are going to roll on year after year, that means someone has to finance this debt. So we will still be going back to the Chinese and the Japanese, the Europeans and others, to buy our debt.

I ask the Senator, if you are in the position of having a lot of money and you are buying debt, do you want high interest rates or low interest rates?

Mr. DURBIN. I say to the Senator from Iowa, clearly what we have here is a scarce commodity—dollars. And the people who can come up with the dollars want to get paid more for coming up with them in terms of interest. As the interest goes up that is being paid for those holding our debt overseas, it runs up the interest rates in America in terms of how we can expand our businesses.

So we have lost the jobs. We have lost the manufacturing. And with interest rate pressure going up from all of the debt, we are making it more difficult for businesses to rebound, build in America, and create American jobs.

Is the Senator from Iowa aware of the figures given by Senator KENT CONRAD on the Budget Committee that by 2009, every American will have as their personal share of our American mortgage, our American debt, $35,283, so that the debt tax from the Bush administration on every individual American will be over $35,000.

I ask my friend from Iowa if he believes the people in his State, let alone

any other State, have a notion that President Bush's failed economic policy is building up the mortgage on every single American and American family for years to come.

Mr. HARKIN. The Senator is right. I ask the Senator to repeat this figure.

Mr. DURBIN. By 2009, each American's share of the debt will total $35,283.

Mr. HARKIN. That is bad enough in itself. I say to the Senator, also by 2009, the interest payments on this debt that we are piling up under this budget that we have will lead to $980 for the credit card of every man, woman, and child in America. In other words, a family of four will pay nearly $4,000 just in interest on the debt in just that year. They are not buying it down but just paying the interest charges. And, with the policies of this administration, they will just grow and grow. We know what happens to families as they have a growing difficulty just paying the interest on their credit cards.

Where is a big chunk of that interest rate payment going?

Mr. DURBIN. Certainly it goes overseas.

And I ask the Senator from Iowa, the President said in the State of the Union, the key to the future of the American economy is to make the tax cuts for the wealthiest people in America, permanent law.

I ask the Senator from Iowa, as he has traveled his State and I have traveled mine, as well, has the Senator found with the working families, a hue and cry, demands to keep President Bush's tax cuts in place, tax cuts that have basically given us the biggest deficit in the history of the United States and have failed to create jobs? Has the Senator heard this in the State of Iowa?

Mr. HARKIN. Not only have I not heard from the people in the State of Iowa, even friends of mine who have a lot of money, who make a lot of money, have basically told me: You guys are crazy what you are doing back there. You have to get this economy straight.

Even the people who made out under this tax break, if they are honest—and many are—are saying: Wait a minute, this is not right for America, not right for our economy.

Mr. DURBIN. I ask through the Chair, I know the Senator from Iowa has had a leadership position when it comes to education and health issues in his appropriations subcommittee. I ask the Senator from Iowa, is the Senator hearing the same thing I am hearing as you visit school districts in Iowa and sit down with school board members and principals and teachers, regarding No Child Left Behind, which is imposing a requirement for testing kids to find out the progress they are making—and there is nothing wrong with that—but then when they find the kids are falling behind, does the Senator hear in Iowa the same as I do in Illinois, hear that these educators are asking, Why did the Federal Government fail to fund this mandate? Why are you sending us the No Child Left Behind mandate and failing to send the money to help educate the children?

Again, we find this President's budget is not funding his education program. It is underfunding his mandate. Does the Senator find the same thing as he travels through Iowa?

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

The time of the Senator is expired.

Mr. HARKIN. How much time was I allowed?

The PRESIDING OFFICER. There is a 30-minute time limit.

Mr. HARKIN. Under what rule was I allowed 30 minutes?

The PRESIDING OFFICER. We had an order for a 30-minute time limit for morning business.

Mr. SUNUNU. It is my understanding the Senate is in a period of morning business with a time limit not to exceed 30 minutes. I will not take that much time. I wish to speak very briefly and ask a rhetorical question, since I am not allowed to ask a question of a Senator who does not have the floor. But then I would be pleased, if permissible under the rules, to yield the remainder of my time to the Senator from Iowa.

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

SPENDING

Mr. SUNUNU. Mr. President, I happened to come to the floor to hear my colleagues from Illinois and Iowa talking about their concern for the deficit and for spending priorities, and I share their concern.

However, it is worth noting that at this time the pending business of the Senate is a transportation bill that is, by any standards, enormous. It represents an increase of over 40 percent over the previous 6-year bill. It represents a dramatic expansion in the size and scope of Federal Government. It totals over $300 billion. Unfortunately, it seeks to obtain funds by diverting general revenue tax receipts into the highway trust fund, something that has never been done before.

To the best of my knowledge, both of my colleagues who spoke earlier are more than willing to vote for this enormous spending measure.

I just do not think it is credible to take the floor and raise concerns about deficits and spending priorities and, at the same time, be willing to support such a massive increase in infrastructure spending, when we know full well that States are very capable of making sound decisions for this kind of construction and investment. We know full well that it is wrong to divert money from the general revenue fund in order to support an expansion of this funding. And we know full well this bill is significantly in excess of what has been proposed by the President.

While I do not agree with all the priorities in the President's budget, I think it is fair to say that we would have $20 or $30 or $40 or $50 billion more for the priorities my colleagues spoke about if they would join with me in raising concerns about this bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. The Senator is recognized.

THE BUDGET AND THE DEFICIT

Mr. DURBIN. Mr. President, I would like to engage my colleague from Iowa in a dialog on this issue relative to the budget and the deficit.

The question I asked earlier related to the experience of the Senator from Iowa when he traveled his State and the response of the people of Iowa when it came to the suggestion of President Bush that his tax cut program—primarily for the wealthiest people in the country—be made permanent law. And I asked the Senator: I know that everyone likes a tax cut, but what are you finding?

If I might have the permission of the Chair to ask this question of the Senator from Iowa, without yielding the floor——

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

Mr. DURBIN. What are you finding to be the response, as you travel throughout your State, in terms of the President's tax cut policy?

Mr. HARKIN. Mr. President, I reply to my friend from Illinois, as I traveled around my State since we adjourned back in December, I have not heard anything about making this tax cut permanent. I cannot think of one person who came up to me saying that. But I will tell you what I did hear a lot about.

As the Senator pointed out, I heard from my schools on No Child Left Behind, that they are being underfunded. Special education is taking its toll on property taxpayers all over our State, and they are demanding the Federal Government live up to its promise on special education. I am hearing about the loss of manufacturing jobs in our State. And there are no jobs to be had. I am hearing about the need for better health care for people who do not have health insurance in our State.

I am hearing about the high cost of education. So many middle-class families now, and low-income families, are simply being priced out of higher education. It is taking more and more money to get into college. Right now, a Pell grant provides for about—under this budget—30 percent, give or take 1 percent—maybe 31 percent—of the cost of college. Just 4 years ago, it was 40 percent. So we have lost 25 percent of the purchasing power just of a Pell grant. And these are for poor kids to go to college. Twenty-five percent, just in

4 years, has been eroded. Yet this budget keeps Pell grants right where they have been—with not one penny of an increase.

So I say to my friend from Illinois, this is what I hear Iowans talking about.

Mr. DURBIN. If I might further engage my colleague from Iowa in this dialog and go back to the point I made earlier, I say to the Senator, he has been chair and ranking Democrat on the Appropriations subcommittee that is responsible for education and health, and he has done a substantial and marvelous job, including record funding for the National Institutes of Health and amazing efforts to help the funding of education.

I ask my friend and colleague from Iowa to just reflect on what I have found, and I ask if he has found the same. I have gone to good schools in Illinois, and they have told me the results of the testing. The results of the testing, in the most recent rounds of testing in No Child Left Behind, required that the students reach a 60-percent plus of performance in terms of their learning ability and learning attainment, education attainment—60 percent.

In some of the schools I have visited in the suburban areas of Chicago—not in the cities, in the suburban areas of Chicago—here is what we found. When they took the test, we found that the white students in the schools were testing slightly over 60 percent. So they were meeting their target. The African-American students were testing in the 40-percent range; the Hispanic students in the 25- and 30-percent range; and the special education students, the students with disabilities, below 20 percent. All of these subgroups, if there are certain numbers of them in each school, are all expected to hit 60 percent.

I ask the Senator from Iowa if he has had similar experiences, and if he would share them with me and try to answer the question these educators asked. They said: If these groups are not meeting the test scores they are supposed to meet, and we are going to be labeled a failing school because of that, what are we supposed to do? What will you do to help us in terms of mentoring students, tutoring students, afterschool programs, and summer school programs?

My response to them, sadly, is, if you look at President Bush's own budget for No Child Left Behind, he underfunds the promised money for these school districts. The law authorizing No Child Left Behind said this year we would send $34.3 billion to school districts across America to help these kids—$34.3 billion—and the budget only provides $24.9 billion. So we are underfunding it by $9.4 billion.

Mr. HARKIN. Nine billion dollars, yes.

Mr. DURBIN. I ask the Senator, who deals with this appropriation, and the money behind it, where does this leave our schools in Iowa and Illinois, taking the test, finding the challenge, but without the resources to address it? I ask unanimous consent, through the Chair, for the Senator from Iowa to respond, without my yielding the floor.

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

Mr. HARKIN. I say to my friend from Illinois, Lew Finch, who is the retiring superintendent of schools in Cedar Rapids, talked to me about this. There was an article in the paper also quoting him saying that their good schools are failing and they are doing it for the exact reason the Senator from Illinois pointed out. But here is what he said to me.

He said: I fear that all the progress we have made in the past, under things like the Americans with Disabilities Act, IDEA, Individuals with Disabilities Education Act, and integrating students in schools, bringing kids with disabilities into the mainstream of schools—he said: I fear what we are going to start doing is now segregating them out one more time, segregating them out of our schools again because they are being a drag on all the other students.

Mr. DURBIN. Let me add to what the Senator from Iowa said. This year we will celebrate the 50th anniversary of Brown v. Board of Education, 50 years in America where we have said the integration of schools is essential to equality of opportunity. Separate but equal—Plessy v. Ferguson—was rejected by the Supreme Court 50 years ago, moving us toward a colorblind America and the integration of races in America, something essential to put the era of slavery and racism behind us.

Mr. HARKIN. Jim Crow.

Mr. DURBIN. And I say to the Senator from Iowa—and I know how deeply he feels about special education—I feel the same way, the same intensity level about the reaction, as parents walk into the school board meeting and say: This high school that I planned on sending my son to, my daughter to so she could get into a good college, I read in the morning paper is a failing school. Will you tell me why I made the sacrifice to buy an expensive home in the suburbs to send my child to a school for his future or her future and now it is a failing school? Explain it to me.

The educators will put the test scores up, and they will see it is the minority students and the students of Hispanic ancestry, as well as the special education students, who are leading to this conclusion.

Now, two things can happen, I say to the Senator from Iowa. The good thing that can happen is we will say: What can we do to bring all test scores up, particularly for those kids who are not doing well. Well, you will not find the answer in this budget. This budget misses the target by $9 billion in providing extra teachers, extra technology, extra attention. It is not there.

But there is another course we can take that is sinister and ugly. It is the course that says: Incidentally, when those minority students don't come to school, don't go looking for them—would you?—because they are dragging down the test scores. That would be a terrible outcome.

Mr. HARKIN. Or vouchers.

Mr. DURBIN. Or vouchers. And for those—and there are many, even in this Chamber—who have given up on public education long ago, this is the answer to their prayers.

Mr. HARKIN. I know.

Mr. DURBIN. They will get bad test scores and say: Didn't we tell you public education has failed in America? I say to the Senator from Iowa, I think the funding of education is pushing us into a critical moment in the future of public education. Starting just 2 weeks ago, with the signature on the Omnibus appropriations bill, we will have the first Federal funding of a voucher program for private schools in the history of the United States of America.

Mr. HARKIN. Right here.

Mr. DURBIN. Right here in the District of Columbia.

Mr. HARKIN. Absolutely.

Mr. DURBIN. It is an answer to the prayers of those who have a loathing for public education and for the teachers in public schools who many think have the wrong political allegiance, whatever the reason might be. When you put all this together, you realize it is more than dollars. We are moving ourselves to a decision that is calling into question 50 years of American history and more.

I ask the Senator from Iowa, what is his impression as he reviews No Child Left Behind and this funding and the challenges it presents?

Mr. HARKIN. Our budget has basically two purposes. Any budget, whether it is your own personal family budget, a business budget, or the Government budget, has two purposes: One is to balance income and outlays—in other words, what is the income and what are the outlays, try to get some balance between the two—and the second purpose is to set priorities, choices.

I am sure the Senator is like I am. When you have an income, you sit down and say, this is our income. What is our mortgage? What is our car payment? What is our tuition, all those sorts of things. You add it up and you make choices on how you budget.

That is what this budget is. It is about choices, the choices that this President has chosen: tax breaks for the wealthy, continue those and make them permanent; continue to ship our jobs overseas; continue to underfund education, as the Senator has pointed out; and continue this march towards bigger and bigger debt, bigger and bigger deficits that is going to choke off any hope of having a viable Social Security and Medicare system for our kids and grandkids. Those are the choices in this budget.

Mr. DURBIN. I say to the Senator from Iowa, he and I have a mutual friend in former President Bill Clinton who spoke to a group of Democratic Senators a week or so ago. He said: When you look at this budget and you project what this administration and this budget are headed to, it is the concentration of wealth and power in America, the breakdown of our effort to enlarge the middle class in America and, frankly, to accept—sadly—the reality of the haves and have-nots, the disparity in income.

We don't find in this budget an effort to lower the ladder to allow people to come climbing up, as your parents and my parents and we did in our own lives. That is the worst part of this budget, as the Senator said, tax breaks for wealthy people, for this to be the hallmark of this administration for the next year. It has failed to lift the economy. It has failed to create jobs. What it has done is drag us deeply and deeply into debt.

The Senator brought up the issue of Social Security. We went through the Medicare bill, the prescription drug bill. I have certainly been back to talk to my seniors in Illinois about it. What have you found in Iowa as you traveled around about that bill?

Mr. HARKIN. Well, again, people in Illinois are not that much different than the people in Iowa. I hear the same things you hear. People are frightened. They are not frightened of Saddam Hussein. They are not even frightened by Osama bin Laden. They believe we will have the power and the wherewithal to protect our citizens, maybe not with absolute certainty but with enough that they will feel comfortable in their homes and businesses and in their travel.

What they are frightened about is their kids' education. They are frightened about not being able to pay the next health care bill because they don't have adequate health insurance. They are concerned about whether or not there is going to be a viable Medicare system for their parents, and whether their parents will truly get any prescription drug help at all. There is some confusion right now. People were promised a prescription drug benefit. It passed the Congress last year. The President signed it. Now we are finding out that it is not going to help them that much and that most of the money is going to the pharmaceutical companies.

That is what I find. People in Iowa are afraid that we are headed in the wrong direction. I sense this kind of mood among people, that they know it is not right.

Mr. DURBIN. One of the Presidential candidates, one of our colleagues, refers to two Americas, an America for the wealthy and an America for everyone else. What the Senator has just described is what I hear. People who really believed in the American dream thought that with enough hard work and the right values you could succeed. That is what brought my mother as an immigrant to this country and millions like her. Now the concern is that despite your good values, despite your effort, despite your hard work, you can't reach that point of security because the Senator from Iowa is hearing, as I am, retirees finding that their retirement benefits are being cut off. Their health care benefits are cut off.

These people also wonder if Social Security and Medicare will be there when they need it. If we reach the point where we have diminished those institutions through the prescription drug bill on Medicare, through this budget and its raid on the Social Security trust fund for years to come, then, frankly, we have walked away from the heritage we received.

Mr. HARKIN. If the Senator will yield.

Mr. DURBIN. I am happy to yield for a question.

Mr. HARKIN. There was a recent article in Time magazine talking about how life in America now for many middle-income families, low-income families has become a game of chance. The game is kind of rigged against you.

I remember reading a little newspaper article and the headline was: Vietnamese Immigrants Achieve American Dream, Win State Lottery. The story went on to talk about this Vietnamese couple. They bought a lottery ticket and won the lottery. The idea that this is the American dream, a one-in-a-million chance of winning the lottery, that is the American dream, that our life is a roll of the dice, the odds are a million to one against you. No, that is not the American dream. The American dream is what your parents and my parents did, to work hard, to save, to buy a home of their own, to educate their kids and build a better life.

Mr. DURBIN. Let's pursue one aspect of that which has been an issue on which the Senator has been the leader. Not only has this administration cost us 3 million jobs during the 3 years plus that the President has been in office, more jobs lost than any President since the Great Depression, but now, to add insult to injury, the hardest working Americans, the ones who say we are going to keep going, not just 40 hours a week but whatever it takes for our family, those working hard with time away from their family, working overtime to pay the bills, to get the money together for college, would the Senator from Iowa share with those who are following this debate what this administration has done to overtime pay for Americans for the first time in history?

Mr. HARKIN. It is amazing. Last year this administration came out with proposed rules to change how overtime is figured. Those changes were made without one hearing, not one. Without any consultation with Congress, they just rolled them out there. There was not one public hearing on it.

Without going into all the fine details, it basically means that up to 8 million Americans will have their overtime pay protection removed.

One person said to me: My time with my family is premium time. If I have to give up my premium time with my family to work overtime, I ought to get some premium pay at time and a half.

That has been in law since 1938, the Fair Labor Standards Act. This administration, with one stroke of the pen, one set of proposed rules is going to undermine overtime pay protections for up to 8 million Americans. I can't fathom why they would want to do this to hard-working Americans.

Mr. DURBIN. What was the name of the law?

Mr. HARKIN. The Fair Labor Standards Act.

Mr. DURBIN. The Fair Labor Standards Act of 1938. Is this not the only time since the passage of this law that any President, Democrat or Republican, has reduced overtime coverage and protection for American workers? This is the first time it has ever been done?

Mr. HARKIN. That is true. I want to be very fair. We have changed the Fair Labor Standards Act a number of times since then because some of the job descriptions, buggy whip manufacturers and buggy harness makers, have gone out, obviously.

But, at the same time, we have always expanded overtime pay protection. So the Senator is right. This is the first time since 1938 where an administration has said we want to restrict, tighten down, the amount of people who are eligible for overtime pay protection.

Mr. DURBIN. To follow up on that point, is my impression correct that the Bush administration didn't just sign the law, they sent out information to employers across America saying here is the way to cut the overtime pay of your employees; that the Bush administration proactively sent out this information encouraging employers to cut their employees off of overtime?

Mr. HARKIN. Well, the Senator is right. Again, this is mind-boggling. I will say this—and again to be as fair as possible—there was one part of the proposal that was good, which was to raise the low-income base from about $8,000 to about $21,000. That means that right now, no matter who you are in this country, if your pay is less than $8,000 a year, you are guaranteed overtime regardless of what you do. Well, that needed to be raised for some time. Nobody argues that. They wanted to raise it to $21,000. We agree with that. But in doing so, they issued advice to employers on how to get around it. They said we are going to raise the base to $21,000, but here is advice on how to get around it. No. 1, what you do is simply work your people longer and you build that into their base pay. So you work them longer, but you don't have to pay them any more.

Secondly, they said if they are near $21,000—let's say $20,500—you may want to raise their pay to $21,000 and then

they are exempt and you save by not paying overtime. There is gimmick after gimmick on how they can basically get around it. I said this on the floor. This is like the IRS issuing advice to tax cheats on how to cheat on their income taxes.

Mr. DURBIN. Under the Bush administration, we have lost 3 million jobs, we have seen thousands and thousands more manufacturing jobs lost in your State and mine—probably gone forever to China and other places, and then this Department of Labor, for the first time in history, decides that hard-working Americans will not be paid overtime and says 8 million of these Americans stand to lose their overtime pay. If the Senator from Iowa will help me, if we could tell those following this debate, what kind of workers are we talking about? I heard Senator KENNEDY say we are talking about nurses and we are talking about people who are involved in firefighting and police protection.

Mr. HARKIN. That is right.

Mr. DURBIN. These are the people, unless protected through a collective bargaining agreement, who could lose their overtime pay. I say to the Senator, I don't know what it is like in his State, but we are desperate for nurses in my State. We are looking all over the world to bring in nurses. Along comes the Bush administration saying here is a way, incidentally, for this hospital to stop paying overtime to nurses. It is a tough profession being a nurse, demanding. We count on them when somebody in our family is ill. What is going on here when we are cutting overtime for nurses? Why would this administration make that part of their economic policy?

Mr. HARKIN. Well, it is one way some unscrupulous employers—I would not say all—will be helped. Again, I must say to my friend that prior to this rule being issued last year by the administration, and even during the debate on this last year, I never had one employer in my State come up to me and say we need that. Not one. Obviously, there are some someplace who want to get it changed. They must have very close friends in the White House. This is one way of working people longer hours. American workers now work a longer work week than any other workers in any other industrialized country right now. Now they want to work them longer and not pay them overtime.

Mr. DURBIN. To close this chapter completely, I want the Senator to tell us about the legislative history. Didn't you ask us to vote on this on the floor of the Senate? Didn't you ask us to say to the administration, no, you cannot cut 8 million people off of overtime. Didn't the Senate decide that? What happened?

Mr. HARKIN. We had a vote here last summer to basically keep this rule from going into effect. It passed the Senate on a bipartisan vote.

Mr. DURBIN. To protect workers.

Mr. HARKIN. Yes, to protect them and their right to overtime. The House of Representatives earlier passed a bill and it lost by about four votes. After we passed it, it went back to the House and they had a big vote to instruct conferees. In other words, telling their conferees to go along with the Senate provision on this. So we had that. We went to conference and before the conference came to this issue, the gavel was banged and we were never invited back. Guess what. What we voted on here and what the House agreed to disappeared, because the administration came in and said they didn't want it in the big appropriations bill we passed a couple weeks ago. So they thwarted the will of Congress, and of the conferees who never got to vote on the issue. Most important, they thwarted the will of the American people. But I have an amendment in my desk drawer and every appropriate opportunity this Senator gets, I am going to offer it here on the Senate floor because American workers deserve to have their overtime protected—nurses, firefighters, police officers, ordinary working people all over America. If they are going to be asked to give up their premium time with their families, they deserve time and a half.

Mr. DURBIN. I will say this and I will yield the floor. We have a mutual friend, Congressman DAVID OBEY of Wisconsin, who has a favorite saying on the floor of the House about Members of Congress posing for ''holy pictures.'' In this situation, with the vote the Harkin amendment asked for in the Senate, Democrats and Republicans said we are against this Bush policy of cutting 8 million Americans off of overtime pay, and then the House of Representatives in instructing conferees said we are against this Bush policy, so that all of us were posing for this big group picture—holy picture—on how we are standing with American workers.

In a matter of 5 minutes, as the gavel is struck in the conference committee, the Bush White House prevailed and this rule striking overtime for 8 million American workers is signed into law by the President. Is that the final result, until your amendment comes along, I hope?

Mr. HARKIN. The final result is the rules are still pending. They have not implemented them yet. As I understand it, they want to get the rules finalized by March, which is next month. So they want to finalize the rules, put them out there, and it is going to be very hard for us to turn them back again. But we will. The American people will not stand for having their overtime pay protection taken away. Time and a half, for time over 40 hours a week is something every American worker deserves. Some families rely on that extra time. They give up premium time and they work longer so they make a little extra money to get their kids through school. Now we are going to say we are going to work you longer, but we are not going to pay you overtime. The American people won't buy that. We are going to continue to fight here to protect their overtime rights.

Mr. DURBIN. I thank the Senator for this dialog about the budget and about issues involving working families in America. I thank him for his leadership time and, again, whether on special education, funding for college expenses, or protecting American workers on overtime, he has been a leader in the Senate and he will continue to be. There is much more that needs to be said about this budget. At this point, I will defer to others who want to join in this conversation.

I yield the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak for about 5 more minutes.

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

Mr. HARKIN. Mr. President, I thank my friend for his kind words and reciprocate by thanking him for his leadership on the floor and in our caucus, and for always being here to respond and make sure we have the information we need on which to base our votes. We served together in the House and we are together in the Senate, and I could not ask for a better neighbor either here or across the Mississippi River.

I will close by again saying this—and I will have more to say about this later. The budget the President has proposed is just one that will harm America. It is going to harm our workers, increase our deficit and, quite frankly, it is going to put in jeopardy the Social Security and Medicare system.

It is a shame all this has been squandered in just 4 years. I believe we in the Senate need to respond, we need to say no to this Bush budget, and we need to have a budget that puts us back on the path we were on just 4 short years ago.

With that, we can have a budget that will be in balance, and we can have a future that is much brighter for our workers, for our children, and for our elderly.

Mr. President, I will have more to say about the budget in the coming days and weeks before the budget resolution is brought to the floor.

I thank the Presiding Officer. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the

Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred on April 13, 2001, in San Antonio, TX. A 39-year-old man was attacked in a park because he was thought to be homosexual. After stopping to examine some rocks, the victim was approached by a man with a knife who held him in a bear-hug before stabbing him in the chest. The attacker used anti-gay slurs as he attacked his victim.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RETIREMENT OF JUDGE BARZ

● Mr. BAUCUS. Mr. President, I rise today to honor a good friend of mine, Judge Diane Barz, who is retiring from her successful career as a Yellowstone County District Court Judge.

Judge Barz is a remarkable woman who has enjoyed a distinguished and wonderful career as a member of the Montana Bar. Judge Braz' career is notably one of ''firsts.'' She was the only woman in her University of Montana Law Class of 1968, was the first female law clerk to the Montana Supreme Court, started the first ''female'' law firm with her colleague Doris Poplar in 1973, was the first woman district court judge, and youngest, and the first female attorney appointed to the bench of the Montana Supreme Court.

Judge Barz has not only been an exemplary attorney and member of the bench, she has been a role model for women and champion for children. Anyone who has worked with Judge Braz knows that what ever she does, she does it with a leading role. Judge Barz has been instrumental in the development of your court in Montana as we know it today. She doesn't just sit back—she gets the job done! As a member of the bench, she has been gentle and compassionate with children and families when the circumstances required it, but she could be as tough as nails when justice demanded it. Most importantly, Judge Braz always aspired to do what was right for the children and families of Montana. We have all been well served by her.●

TRIBUTE TO JOSEPH E. LETA

● Mr. ALLARD. Mr. President, I rise to pay tribute to Joseph E. Leta, whose endless enthusiasm and energy promoted many of Colorado's sportsmen's organizations. Mr. Leta, who passed away on January 14, 2004, was a champion of wildlife and conservation programs. Joe was a lifetime member of numerous sporting organizations which included in Safari Club International, SCIF Sables, Rocky Mountain Bighorn Sheep Foundation, The Mule Deer Foundation, The Elk Foundation, The Alaskan and Canadian Outfitters Association, The Wild Turkey Federation, and The National Rifle Association.

He had a particular passion for Safari Club International and served as President of the SCI Denver Chapter until September 2003. Concurrently and subsequent to his tenure as Chapter President, he was also very active at the National level for SCIF by serving on the Ethics Committee, The Conservation Committee, The Guides and Outfitters Committee, Director of SCIF Nominating Committee, Governmental Affairs Committee, Convention Committee, Humanitarian Committee, and as a Director at Large.

In recognition of Joe's years of dedicated service, the Safari Club International will posthumously present him with the President's Award at SCI's 32nd Annual Hunters' Convention in Reno, NV in January 2004.

As president of the SCI Denver Chapter, he inaugurated the establishment of the SCI Denver Sables, which is a club venue for sports women and men dedicated to preserving our hunting heritage through education. Joe recently proposed that the SCI Denver Chapter establish a scholarship fund for needy junior and senior college students who major in wildlife and conservation management. As a tribute to Joe, the Board of Directors approved the proposal and named the fund The SCIF Sables Joe Leta Hunting Heritage Scholarship Fund.

During Joe's tenure as SCI Denver Chapter President, he presided over such club accomplishments as promoting the Sportsmen Against Hunger Program, which distributed over 3,000 pounds of fresh salmon to Colorado's various humanitarian food banks. He also presided over several revenue generating programs for the benefit of the Colorado Division of Wildlife by promoting big game hunting licenses. Numerous wildlife students at Colorado State University have received educational grants from the SCI Denver Chapter under Joe's direction.

Joe was even instrumental in helping the Wyoming Game and Fish Department by directing SCI funds to construct an anti-poaching cabin in one of Wyoming's more remote regions where unlawful hunting was a problem. Joe was also a champion of the newly formed Colorado Sportsman's Caucus which is a sportsman's support group that interfaces with members of the Colorado Legislature on hunting, fishing and various other outdoor and wildlife issues.

After graduating from Youngstown University and completing a tour of duty in the U.S. Air Force as an x-ray technician, Joe joined Picker International as a sales representative for their Medical Imaging Equipment Division. He retired from Picker after 30 years of service as a regional sales manager.

Joe Leta was born July 16, 1931 in New Castle, PA as the only child of Joseph and Edith Leta. His wife of 49 years, Shirley and their three children, Joseph, Jr., Christopher, Lisa (Charles) Stanley, and one grandchild, Lacy, survive him.

Joe and Shirley resided in Evergreen, CO for the past 26 years and they are members of Christ the King Catholic Church and the Hiwan Golf Club in Evergreen, Colorado.●

MESSAGE FROM THE HOUSE

At 1:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3724. An act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

H.J. Res. 84. Joint resolution recognizing the 93d birthday of Ronald Reagan.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 354. Concurrent resolution to correct technical errors in the enrollment of the bill S. 610.

The message further announced that the House agree to the amendments of the Senate to the bill (H.R. 2264) to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2264. An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3724. An act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures; to the Committee on Banking, Housing, and Urban Affairs.

The following bill was read, and referred as indicated:

H.R. 1446. An act to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6108. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department of Agriculture's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6109. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2003–2004 Marketing Year'' (FV04–982–1) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6110. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Onions Grown in Texas; Decreased Assessment Rate'' (FV03–959–4) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6111. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Pacific Northwest Area—Interim Order'' (DA–01–08–PNW) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6112. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Almonds Grown in California; Decreased Assessment Rate'' (FV04–981–1) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6113. A communication from the Management Analyst, Directives and Regulations Branch, United States Forest Service, transmitting, pursuant to law, the report of a rule entitled ''Predecisional Administrative Review Process for Hazardous Fuel Reduction'' (RIN0596–AC15) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6114. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to a multiyear contract for the Virginia Class submarine program; to the Committee on Armed Services.

EC–6115. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Payment Withholding'' (DFARS Case 2002–D017) received on January 22, 2004; to the Committee on Armed Services.

EC–6116. A communication from the Under Secretary, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02–10; to the Committee on Armed Services.

EC–6117. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Electronic Submission and Processing of Payment Requests'' (DFARS Case 2002–D001) received on January 22, 2004; to the Committee on Armed Services.

EC–6118. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–6119. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report relative to the Defense Task Force on Domestic Violence; to the Committee on Armed Services.

EC–6120. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–6121. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC–6122. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's 2003 annual report for its Sub-Saharan Initiative; to the Committee on Banking, Housing, and Urban Affairs.

EC–6123. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act of 1982 as the apply to the Commission; to the Committee on Banking, Housing, and Urban Affairs.

EC–6124. A communication from the Correspondence Writer, Federal Emergency Management Agency, transmitting, pursuant to law, two copies of correspondences with the Agency and copies of the Agency's response to the correspondences; to the Committee on Banking, Housing, and Urban Affairs.

EC–6125. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule 17Ad–7(f); Recordkeeping Requirements for Registered Transfer Agents'' (RIN3235–AI87) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6126. A communication from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Section 270.38a–1: Compliance Procedures and Practices of Registered Investment Companies; Section 275.204–2: Books and Records to be Maintained by Investment Advisers; Section 275 .206(4)–7: Compliance Procedures and Practices'' (RIN3235–AI77) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6127. A communication from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled ''Rules, Policies, and Procedures for Corporate Activities; International Banking Activities'' received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6128. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Community Development Block Grant Definition for Metropolitan City and Other Conforming Amendments'' (RIN2506–AC15) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6129. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Special Rules Applicable to Public Land Hearings and Appeals'' (RIN1090–AA84) received on January 22, 2004; to the Committee on Energy and Natural Resources.

EC–6130. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Financial Information Requirements for Applications to Renew or Extend the Term of an Operating License for a Power Reactor'' (RIN3150–AG84) received on February 3, 2004; to the Committee on Environment and Public Works.

EC–6131. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, a copy of a document recently issued related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–6132. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Performance Budget; to the Committee on Environment and Public Works.

EC–6133. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, a draft of proposed legislation relative to amending the Surface Mining Control and Reclamation Act of 1977; to the Committee on Environment and Public Works.

EC–6134. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered Status for the Rota Bridled White-eye (Zosterps rotensis) from the Commonwealth of the Northern Mariana Islands'' (RIN1018–AI16) received on January 24, 2004; to the Committee on Environment and Public Works.

EC–6135. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2005–2005 Subsistence Taking of Fish and Shellfish Regulations'' (RIN1018–AI89) received on January 29, 2004; to the Committee on Environment and Public Works.

EC–6136. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, several documents related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–6137. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Revisions to South Carolina State Implementation Plan: Transportation Conformity Rule'' (FRL#7614–7) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6138. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation

Plans; Indiana'' (FRL#7611–5) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6139. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision; 1-Hour Ozone Control Programs'' (FRL#7610–7) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6140. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2004'' (FRL#7615–4) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6141. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Water Quality Standards for Puerto Rico'' (FRL#7613–2) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6142. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to new mileage reimbursement rates for Federal employees who use privately owned vehicles while on official travel; to the Committee on Environment and Public Works.

EC–6143. A communication from the Ambassador, Embassy of Turkey, transmitting, a letter from the Speaker of the Turkish Grand Assembly relative to Senate Resolution 273; to the Committee on Foreign Relations.

EC–6144. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report relative to the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikstan, Ukraine, and Uzbekistan; to the Committee on Foreign Relations.

EC–6145. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–6146. A communication from the Chief of Staff, Federal Mediation and Conciliation Service, transmitting, pursuant to law, the Service's report under the Federal Managers' Financial Integrity Act for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–6147. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6148. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations Redesignating 5 CFR Part 970 as Part 919'' received on January 20, 2004; to the Committee on Governmental Affairs.

EC–6149. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Agriculture for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6150. A communication from the General Counsel, General Accounting Office, transmitting, pursuant to law, a report responding to the requirements of the Competition in Contracting Act of 1984; to the Committee on Governmental Affairs.

EC–6151. A communication from the Director, Trade and Development Agency, transmitting, pursuant to law, the Agency's annual financial audit and related documents; to the Committee on Governmental Affairs.

EC–6152. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for Calendar Year 2003; to the Committee on Governmental Affairs.

EC–6153. A communication from the Special Counsel, Planning and Advice Division, Office of Special Counsel, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment: Correction of Statutory Citation'' received on January 27 2004; to the Committee on Governmental Affairs.

EC–6154. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–291, ''Technical Amendments of Act of 2003''; to the Committee on Governmental Affairs.

EC–6155. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6156. A communication from the Acting Director, Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 2003; to the Committee on Governmental Affairs.

EC–6157. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of the Office of Inspector General for the period from April 1, 2003 through October 31, 2003; to the Committee on Governmental Affairs.

EC–6158. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6159. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act of 1982; to the Committee on Governmental Affairs.

EC–6160. A communication from the Chairperson, Board of Directors, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a letter from the Corporation relative to H.R. 3108, the Pension Funding Equity Act; to the Committee on Health, Education, Labor, and Pensions.

EC–6161. A communication from the Railroad Retirement Board, transmitting, pursuant to law, a copy of the Board's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–6162. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Centers for Disease Control and Prevention's final report to Congress on Human Papillomavirus; to the Committee on Health, Education, Labor, and Pensions.

EC–6163. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Year 2003 Inventories of Commercial and Inherently Governmental Activities; to the Committee on Health, Education, Labor, and Pensions.

EC–6164. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6165. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Assets in Single-Employer Plans; Valuation of Assets; Expected Retirement Age'' received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6166. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans'' received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Lawrence T. Di Rita, of Michigan, to be an Assistant Secretary of Defense.

*Francis J. Harvey, of California, to be an Assistant Secretary of Defense.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Col. George T. Lynn.

Air Force nomination of Vincent T. Jones.

Air Force nomination of Richard H. Villa.

Air Force nominations beginning Robert J. Bernard and ending Oba L. Vincent, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nomination of Harris H. Brooks.

Air Force nominations beginning Paula C. Gould and ending John J. Winkopp III, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nominations beginning Jeffrey S. Alderfer and ending Sandra L. Yope, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nominations beginning Brigadier General Richard W. Ash and ending Colonel Raymond L. Webster, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nominations beginning Brigadier General Robert E. Duignan and ending Colonel Michael N. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Brigadier General Lloyd J. Austin III and ending Brigadier General Barbara G. Fast, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2003.

Army nominations beginning Constance A. Bell and ending Yang Xia, which nominations were received by the Senate and appeared in the Congressional Record on November 25, 2003.

Army nominations beginning Brig. Gen. Conrad W. Ponder, Jr. and ending Col. George J. Smith, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of Margot Krauss.

Army nominations beginning Mark S. Ackerman and ending Richard M. Whitaker, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of Timothy G. Wright.

Army nominations beginning Ida F. Agamy and ending Kary B. Reed, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of David J. King, Jr.

Army nominations beginning Michael G. Gray and ending Paul M. Saltysiak, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nominations beginning Terry R. Moren and ending Christopher Wodarz, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of Amy E. Preen.

Navy nomination of Rear Adm. (Selectee) Albert M. Calland III.

Navy nomination of Rear Adm. James D. McArthur, Jr.

Navy nomination of Todd E. Bailey.

Navy nominations beginning Jennifer R. Flather and ending Marie E. Oliver, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Navy nominations beginning Wing Leong and ending Timothy R. White, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Navy nominations beginning Jonathan Q. Adams and ending Stacey W. Yopp, which nominations were received by the Senate and appeared ion the CONGRESSIONAL RECORD ON JANUARY 22, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

AMENDMENTS SUBMITTED AND PROPOSED

SA 2265. Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SA 2266. Mr. GREGG proposed an amendment to amendment SA 2265 proposed by Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) to the bill S. 1072, supra.

SA 2267. Mr. DORGAN proposed an amendment to the bill S. 1072, supra.

SA 2268. Mr. GREGG proposed an amendment to amendment SA 2267 proposed by Mr. DORGAN to the bill S. 1072, supra.

TEXT OF AMENDMENTS

SA 2265. Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 656, line 14, strike ''movements'' and insert ''improvements''.

On page 657, lines 18 and 19, strike ''that is a public road''.

On page 664, lines 18 and 19, strike ''State transportation department under section 106'' and insert ''recipient of funds under this title''.

On page 668, line 22, strike ''Conduct of scenic'' and insert ''Scenic''.

On page 680, strike lines 5 through 9 and insert the following:

''(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.''.

On page 685, line 2, strike ''replacement and rehabilitation''.

On page 685, line 16, strike ''1101(a)(14)'' and insert ''1101(13)''.

On page 686, line 24, strike ''1101(a)(14)'' and insert ''1101(13)''.

On page 693, line 16, strike ''in recommended alternatives'' and insert ''associated with the future development of the surface transportation system''.

On page 693, lines 20 and 21, strike ''system operations and management'' and insert ''transportation systems operations and management''.

On page 702, line 10, insert ''except as otherwise provided in section 120,'' before ''the Federal share''.

On page 702, line 22, strike ''Federal-aid system'' and insert ''those qualifying''.

On page 703, line 18, strike ''The Federal share'' and insert ''Except as provided in section 120, the Federal share''.

Beginning on page 705, strike line 15 and all that follows through page 706, line 23, and insert the following:

Section 120 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.'';

(2) in subsection (b), by striking ''shall be—'' and all that follows and inserting ''shall be 80 percent of the cost of the project.''; and

(3) by striking subsection (d) and inserting the following:

''(d) INCREASED FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

''(A) nontaxable Indian land;

''(B) public land (reserved or unreserved);

''(C) a national forest; or

''(D) a national park or monument.

''(2) AMOUNT.—

''(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

''(i) is equal to the percentage that—

''(I) the area of all land described in paragraph (1) in a State; bears to

''(II) the total area of the State; but

''(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

''(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.''.

On page 718, strike lines 1 through 9 and insert the following:

''(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

''(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

''(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

''(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

On page 729, lines 21 and 22, strike ''Administrator of General Services'' and insert ''Archivist of the United States''.

On page 734, line 12, strike ''organizations,'' and insert ''organizations and metropolitan planning organizations,''.

On page 734, line 15, insert ''State and'' before ''local''.

On page 736, lines 4 and 5, strike ''receive funds under this section'' and insert ''obligate funds apportioned under section 104(b)(5) to carry out this section''.

On page 738, line 2, strike ''and pedestrians'' and insert ''pedestrians, and other highway users''.

On page 738, line 24, strike ''this section'' and insert ''section 104(b)(5)''.

On page 740, lines 21 through 25, strike ''accidents'' each place it appears and insert ''crashes''.

On page 741, line 5, strike ''The Federal share'' and insert ''Except as provided in sections 120 and 130, the Federal share''.

On page 741, strike line 7 and insert the following:

made available under this section shall be 90 percent.

''(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.''.

Beginning on page 741, strike line 24 and all that follows through page 742, line 6, and insert the following:

(ii) in subparagraph (B), by striking ''tobe'' and inserting ''to be'';

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding at period at the end.

On page 742, between lines 9 and 10, insert the following:

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking ''(d)(2)'' each place it appears and inserting ''(d)(1)''.

On page 742, line 10, strike ''(3)'' and insert ''(4)''.

On page 742, between the matter following line 14 and line 15, insert the following:

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking ''sections 130, 144, and 152 of this title'' and inserting ''sections 130 and 144''.

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting ''under'' after ''State's apportionment''; and

(ii) in subsection (b)—

(I) in the first sentence, by striking ''the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)'' and inserting ''section 104(f) or 133(d)(2)''; and

(II) in the second sentence, by striking ''or 133(d)(2)''.

On page 742, line 15, strike ''(B)'' and insert ''(D)''.

On page 744, lines 15 and 16, strike ''HIGHWAY FACILITIES'' and insert ''RAILWAY-HIGHWAY CROSSINGS''.

Beginning on page 744, strike line 17 and all that follows through page 745, line 6, and insert the following:

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—

''(1) IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside $200,000,000 for the fiscal year to be apportioned to the States and made available for the elimination of hazards and the installation of protective devices at railway-highway crossings.

''(2) APPORTIONMENT.—Funds set aside under paragraph (1) shall be apportioned to the States in accordance with the formula provided in section 104(b)(5).''.

On page 745, strike lines 15 through 24 and insert the following:

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g).''.

On page 746, strike lines 1 through 8 and insert the following:

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

On page 747, line 18, strike ''104(b)'' and insert ''104(b)(3)''.

On page 753, line 11, strike ''The Federal share'' and insert ''Except as provided in sections 120 and 130, the Federal share''.

On page 819, line 17, strike ''120(b)'' and insert ''120''.

On page 824, line 18, strike ''120(b)'' and insert ''120''.

On page 824, line 24, strike ''120(b)'' and insert ''120''.

On page 825, line 23, strike ''120(b)'' and insert ''120''.

On page 838, line 12, strike ''(l)'' and insert ''(k)''.

On page 839, line 2, strike ''apportioned'' and insert ''set aside''.

On page 839, strike lines 9 through 16 and insert the following:

until expended.''; and

On page 839, line 17, strike ''(l)'' and insert ''(k)''.

On page 840, line 9, strike ''1601(b)'' and insert ''1522''.

On page 880, lines 22 and 23, strike ''not more than 2 percent of the''.

On page 890, line 1, strike ''apportioned'' and insert ''available''.

Beginning on page 891, strike line 15 and all that follows through page 892, line 8, and insert the following:

''(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

''(i) providing the needed functions safely, reliably, and at the lowest overall cost; and

''(ii) improving the value and quality of the project.

On page 901, line 13, strike ''CONGESTION.—'' and insert ''CONGESTION''.

On page 905, line 17, strike ''grassland'' and insert ''grasslands''.

On page 906, strike line 17 and insert the following:

''(2) FOREST HIGHWAYS.—

On page 910, line 3, insert ''and'' after the semicolon.

On page 910, strike lines 4 through 11.

On page 910, line 12, strike ''(D)'' and insert ''(C)''.

On page 912, strike lines 16 and 17 and insert the following:

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

On page 920, strike lines 1 through 3 and insert the following:

''(i) the Department of Agriculture; or

''(ii) the Department of the Interior;

On page 929, line 21, strike ''1101(a)(7)'' and insert ''1101(7)''.

On page 930, line 8, strike ''1101(a)(7)'' and insert ''1101(7)''.

On page 933, line 11, strike ''The Federal share'' and insert ''Except as provided in section 120, the Federal share''.

On page 937, line 17, strike ''The Federal share'' and insert ''Except as provided in section 120, the Federal share''.

On page 942, line 11, strike ''1101(a)(15)'' and insert ''1101(15)''.

On page 942, line 18, strike ''1101(a)(15)'' and insert ''1101(15)''.

On page 943, lines 4 and 5, strike ''For purposes of this section,'' and insert ''For the purpose of imposing any penalty under this title or title 49,''.

On page 943, lines 5 and 6, strike ''104(b), 144, and 206'' and insert ''104(b) and 144''.

On page 943, line 14, strike ''2003'' and insert ''1997''.

On page 943, line 17, strike ''2003'' and insert ''1997''.

On page 946, line 14, strike ''The Federal share'' and insert ''Except as provided in section 120, the Federal share''.

On page 947, line 2, strike ''**PILOT**''.

On page 947, line 7, strike ''**pilot**''.

On page 947, line 15, strike ''are—'' and insert ''are to—''.

On page 947, line 16, strike ''to''.

On page 947, line 18, strike ''to''.

On page 947, line 22, strike ''to provide'' and insert ''provide''.

On page 947, line 24, strike ''to examine'' and insert ''examine''.

On page 956, line 12, strike ''ASSISTANCE'' and insert ''SHARE''.

On page 964, lines 9 and 10, strike ''titles I, III, and V'' and insert ''title I''.

On page 965, line 24, strike ''subsection'' and insert ''section''.

On page 971, line 9, strike ''apportioned'' and insert ''authorized''.

On page 971, line 11, insert ''under section 507 of title 23, United States Code'' before the period at the end.

On page 977, strike lines 3 through 8 and insert the following:

(1) $426,200,000 for fiscal year 2004;
(2) $435,200,000 for fiscal year 2005;
(3) $443,200,000 for fiscal year 2006;
(4) $450,200,000 for fiscal year 2007;
(5) $456,200,000 for fiscal year 2008; and
(6) $463,200,000 for fiscal year 2009.

On page 978, in the matter following line 10, strike ''Subchapter I—Surface Transportation'' and insert the following:

''SUBCHAPTER I—SURFACE TRANSPORTATION

On page 978, in the matter following line 10, insert after the item relating to section 510 the following:

''511. Multistate corridor operations and management.

On page 981, line 20, insert ''and appropriate'' after ''practicable''.

On page 989, strike lines 11 through 15 and insert the following:

''(15) the improvement of surface transportation planning;

''(16) environmental research;

''(17) transportation system management and operations; and

''(18) any other surface transportation research

On page 996, line 13, insert ''and innovation'' after ''technology''.

On page 996, lines 16 and 17, strike ''innovative technologies'' and insert ''technology and innovation''.

On page 1004, line 23, strike ''expended by'' and insert ''available for expenditure by''.

On page 1017, line 16, strike ''**ENVIRONMENT**'' and insert ''**ENVIRONMENTAL**''.

On page 1017, line 19, strike ''environment'' and insert ''environmental''.

On page 1025, strike lines 9 and 10 and insert the following:

''(D) planning and environment;

''(E) policy; and

''(F) asset management.

On page 1025, line 15, strike ''highway'' and insert ''surface transportation''.

On page 1025, line 19, strike ''highway'' and insert ''surface transportation''.

On page 1055, line 9, strike ''2004'' and insert ''2005''.

On page 1057, line 22, strike ''22''.

On page 1060, strike line 12 and insert the following:

(d) ALLOCATIONS.—

On each page on which ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'' appears, strike ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'' and insert ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

SA 2266. Mr. GREGG proposed an amendment to amendment SA 2265 proposed by Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place in the amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2003.''

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum event practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representatives of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States

Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by its subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SA 2267. Mr. DORGAN proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit program, and for other purposes; as follows:

On page 880, after the item following line 6, insert the following:

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term ''eligible person'' means an individual or entity that is eligible to receive benefits in accordance with section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a).

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports or offers for transport a fertilizer, pesticide, or fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to—

(1) security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation); and

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SA 2268. Mr. GREGG proposed an amendment to amendment SA 2267 proposed by Mr. DORGAN to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit program, and for other purposes; as follows:

At the appropriate place, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2003''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the moral of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities.'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, medication, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date

enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5 ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organizations representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 4, 2004, at 10 a.m., to conduct a business meeting to consider the proposed Federal Public Transportation Act. The meeting will be held in room S–219 of the Capitol.

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

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, February 4, 2004, at 9:30 a.m., to hear testimony on the administration's Health and Human Services Budget Priorities. The meeting will be held in room B318 of the Rayburn House Office Building.

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, February 4, 2004, at 2 p.m., for a hearing titled ''Preserving a Strong United States Postal Service: Workforce Issues, Day 2.'' The meeting will be held in room 2154 of the Rayburn House Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that a fellow in Senator HILLARY CLINTON's office, Joshua Shank, be granted the privilege of the floor during the pendency of this action.

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

Mr. BOND. Mr. President, I ask unanimous consent that Nick Karellas of my staff be granted floor privileges during the remaining consideration of S. 1072.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to S. Con. Res. 130 (106th Congress), appoints the following individual to the Task Force on Slave Laborers: Virginia Walden-Ford of Washington, DC.

REFERRAL of H.R. 1446

Mr. FRIST. Mr. President, I ask unanimous consent that Calendar No. 318, H.R. 1446, the California missions bill, be referred to the Committee on Energy and Natural Resources.

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

HOMELAND SECURITY TECHNOLOGY IMPROVEMENT ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 416, S. 1612.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1612) to establish a technology, equipment, and information transfer program within the Department of Homeland Security.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Homeland Security Technology Improvement Act of 2003''.

[SEC. 2. HOMELAND SECURITY TRANSFER PROGRAM.

[(a) IN GENERAL.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended—

[(1) by redesignating subsection (d) as subsection (e);

[(2) in subsection (c)—

[(A) in paragraph (7), by striking ''and'' at the end;

[(B) in paragraph (8), by striking the period and inserting ''; and''; and

[(C) by adding at the end the following:

[''(9) overseeing and coordinating a multi-agency homeland security technology, equipment, and information transfer program to allow for the transfer of technology, equipment, and information to State and local law enforcement agencies.''; and

[(3) by adding after subsection (c) the following:

[''(d) TECHNOLOGY, EQUIPMENT, AND INFORMATION TRANSFER PROGRAM.—

[''(1) IN GENERAL.—The Director shall—

[''(A) identify counterterrorism technologies, equipment, and information developed or proven to be effective by—

[''(i) consulting with the Undersecretary for Science and Technology;

[''(ii) establishing an advisory committee comprised of retired and active-duty law enforcement officials from geographically diverse regions;

[''(iii) consulting with State and local law enforcement agencies; and

[''(iv) entering into agreements and coordinating with other Federal agencies to maximize the effectiveness of the technologies, equipment, and information available to law enforcement agencies;

[''(B) make these technologies, equipment, and information available to State and local law enforcement agencies on an annual basis;

[''(C) accept applications from the head of State and local law enforcement agencies that wish to acquire such technologies, equipment, and information to improve the homeland security capabilities of those agencies, and review such applications in coordination with the advisory committee established under subparagraph (A)(ii); and

[''(D) transfer the approved technology, equipment, and information, and provide the appropriate training to the State or local law enforcement agency pending the approval of the application of the State or local law enforcement agency under subparagraph (C).

[''(2) LIMITATION ON ADMINISTRATION EXPENDITURE.—No more than 10 percent of the budget of the technology, equipment, and information transfer program under this subsection may be used for administrative expenses.

[''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2004 through 2014 to carry out this subsection.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Homeland Security Technology Improvement Act of 2003''.

SEC. 2. HOMELAND SECURITY TECHNOLOGY TRANSFER PROGRAM.

(a) IN GENERAL.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) in subsection (b), by adding at the end the following:

''(6) The establishment of a multi-agency homeland security technology, equipment, and information transfer program to allow for the transfer of technology, equipment, and information to State and local law enforcement agencies.'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

''(c) TECHNOLOGY TRANSFER PROGRAM.—In developing the program described under subsection (b)(6), the Secretary, acting through the Under Secretary for Science and Technology shall—

''(1) in close cooperation with the Office of Domestic Preparedness, conduct, on an ongoing basis—

''(A) research and development of new technologies;

''(B) surveys and reviews of available appropriate technologies; and

''(C) tests, evaluations, and demonstrations of new and available technologies that significantly improve the capability of law enforcement agencies in countering terrorist threats;

''(2) in support of the activities described in paragraph (1)—

''(A) consult with State and local law enforcement agencies and others determined by the Secretary, including the advisory committee established under section 430(d);

''(B) work with the National Institute for Standards and Technology and any other office or agency determined by the Secretary;

''(C) at the discretion of the Secretary, enter into agreements and coordinate with other Federal agencies to maximize the effectiveness of the technologies, equipment, and information; and

''(3) provide a comprehensive list of available technologies, equipment, and information to the Office for Domestic Preparedness which shall administer a technology transfer program described under section 430(d).''.

(b) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) TECHNOLOGY, EQUIPMENT, AND INFORMATION TRANSFER PROGRAM.—

''(1) ADMINISTRATION.—The Director of the Office for Domestic Preparedness, in coordination with the Under Secretary for Science and

Technology, shall establish and administer a technology transfer program through which the Director shall—

''(A) make the counterterrorism technology, equipment, and information available to State and local law enforcement agencies each year based on—

''(i) the comprehensive list of available technologies, equipment, and information described under section 313(c); and

''(ii) the needs identified by the advisory committee established under this subsection;

''(B) consult with State and local law enforcement agencies and others, as determined by the Secretary;

''(C) accept applications from the head of State and local law enforcement agencies that wish to acquire such technologies, equipment, and information to improve the homeland security capabilities of those agencies, and review these applications with the advisory committee established under this subsection; and

''(D) transfer the approved technology, equipment, and information and provide the appropriate training to the State or local law enforcement agencies to implement such technology, equipment, and information.

''(2) TECHNOLOGY TRANSFER ADVISORY COMMITTEE.—Under the authority of section 871, the Secretary, acting through the Director of the Office for Domestic Preparedness, shall establish an advisory committee, or designate an existing advisory committee comprised of retired and active duty State and local law enforcement officers, to advise the Director of the Office for Domestic Preparedness and the Under Secretary for Science and Technology regarding the homeland security technology transfer program established under this subsection.

''(3) EXPANSION OF PROGRAM.—Upon the approval of the Secretary, the Director of the Office for Domestic Preparedness may expand the program established under this subsection to transfer technology, equipment, and information to first responders other than law enforcement agencies and revise the advisory committee accordingly.

''(4) LIMITATION ON ADMINISTRATION EXPENDITURE.—Not more than 10 percent of the budget of the technology, equipment, and information transfer program established under this subsection may be used for administrative expenses.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2005 through 2014 to carry out this subsection.''.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee substitute be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1612), as amended, was read the third time and passed.

THE DAY'S EVENTS

Mr. FRIST. Mr. President, we will be closing very shortly but I want to make a couple of remarks on the events of the day. The highlight of the day for me personally was the joint session we had earlier today with the presentation by President Aznar of Spain. His address to Members of the Senate and the House of Representatives very much captured the essence of what makes Spain and the United States of America strong allies and friends in the much broader defense of liberty.

For much longer than many other nations and most other nations, Spain has been a part of United States history and indeed we have been a part of Spain's history. As we look back over the time, that history has been one full of discovery for both sides. It has been an experience rich in harmony and discord.

I was able to talk to the President before as we reviewed that history and after his speech today. It has been a history that has been characterized by wars fought against each other and wars fought alongside each other.

We have had the opportunity to celebrate together the creation of new democracies. We have celebrated together the defense of existing democracies, of old democracies. Together, as we look back over the last several years, we have faced the gravest threats to the security of free people, and through that togetherness and that partnership we have prevailed, advanced, and progressed.

In our hour of need, our response to the acts of terrorism, September 11, 2001, acts that the President referred to—he referred to that day as a terrible day, reflecting, as he did today, that the principles that were attacked that day were the principles Spain had and the United States had, both countries have, and those very principles and values were attacked. I believe he used the words ''brutally attacked.'' In our hour of need, the Spanish people showed us a solidarity, a friendship, and a compassion that very much were the medicine for the soul of our Nation.

Spain—and the President reflects this—has very much been our ally in every sense of the word. It was wonderful for us to be able to welcome him today and to listen to his comments in the Halls of the Capitol of the United States of America.

For me and many others, in the course of the day, as business has progressed on the floor, we have been centered on the response to the ricin attack in the Dirksen Building now a little over 48 hours ago. I am happy to report that everybody is doing fine. A few hours ago I made an announcement that the postal system and that people in the postal system, both inside our buildings and inside our grounds, but also outside, are doing fine, which is very good news. I say that because it is important to realize that this agent ricin is a deadly agent. It is a life-threatening agent and, through exposure, could have hurt many people.

As I said earlier but want to reinforce, we are making great progress in the collection of mail and in examining the Senate office buildings. Officials have moved aggressively. They have moved in an almost symphonic fashion to respond to this insult. As I previously announced, the Russell Office Building will open tomorrow at noon, the Hart Office Building will open Friday at 9 a.m., and the Dirksen Office Building, Monday at 7 a.m. Staff have been patient. Staff have been understanding. Staff have adapted to this terrible incident, working at home and working wherever they can find a space, sometimes in the hallways. I do want to thank my colleagues and the staff for responding in this fashion.

I have previously mentioned that every time I go through the list in my own mind, I leave people out, but all the various people who are working together through the Sergeant at Arms' Office, the Office of the Secretary of the Senate, especially the Capitol Police, the U.S. Marines who are here with us, the Centers for Disease Control and Prevention, the Joint Terrorism Task Force, the Department of Homeland Security, the Environmental Protection Agency, the various law enforcement agencies that have responded, the postal workers, the postal system across the United States of America in what has truly been remarkable when we think of what we have gone through, with anthrax 2½ years ago and a number of other incidents.

Looking back over the 200-year history of this wonderful celebrated building, probably the most celebrated building in the world, the place has been burned down essentially, has been attacked, has been assaulted again and again, but the institution itself, just like the people who are here, who are working here every day, has responded with a resiliency that is truly remarkable. There is a toughness and an ability to bounce right back.

We have not missed a step in terms of conducting the Nation's business in spite of the really tragic occurrence of the last several days.

I will close on this particular issue, again talking about my own staff who responded so admirably. I have my own staff who are in the mailroom, and when they see something is not quite right, they use procedures that they have been trained in and that we have all focused on very much in terms of our procedures. They immediately responded appropriately and handled that operation in an appropriate way with evaluation of the room, notification of the appropriate personnel, and the appropriate response. Without that, people could have been hurt and could have died.

It is nice to be able to see that and commend the people working in such an environment. Unfortunately, these are the realities we have seen, anthrax 2½ years ago, ricin today, Capitol Police officers assaulted in this building and killed not too long ago. The resiliency is truly remarkable in this great institution.

ORDERS FOR THURSDAY, FEBRUARY 5, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m.,

Thursday, February 5. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 10:30 a.m., with the first 22 minutes under the control of Senator ROBERTS or his designee, the following 22 minutes under the control of Senator GRAHAM of Florida or his designee, the following 22 minutes under the control of the majority leader or his designee, and the final 22 minutes under the control of Senator FEINSTEIN or her designee; provided that following morning business, the Senate resume consideration of S. 1072, the highway bill.

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

PROGRAM

Mr. FRIST. Tomorrow morning, following morning business, the Senate will resume consideration of S. 1072, the highway bill. There are currently two amendments pending to the bill. It is my hope that we will be able to work through those amendments early in the day so we can proceed to additional amendments. Senators should expect votes tomorrow as the Senate continues to make progress on the highway bill.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, February 5, 2004, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 4, 2004:

THE JUDICIARY

MARK R. FILIP, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.