

Many Coloradans would love to work year-round in and around our mountain communities, but they are forced to take other jobs that can ensure them year-round employment. Subsequently, our ski areas often recruit visa holders to run the lifts, work in the resorts, and cover the winter months because they oftentimes can't recruit locals for such short-term employment. In effect, this bill we passed last night will help create year-round demand in our mountain communities and provide the year-round employment that Coloradans need. This is a win-win situation.

For those who earn a job because of this bill, it will be very welcome news from a Congress they see as increasingly ineffective and disengaged.

As I have implied and said already, I represent a State where the use and the enjoyment of the outdoors is just who we are. It is why we live in Colorado. One could say it is in our blood, but it is also in our wallets. Tourism and outdoor recreation is the No. 1 economic driver for our State. Activities such as hiking, skiing, shooting, and angling contribute over \$10 billion a year to our economy, supporting over 100,000 jobs and generating \$500 million in State tax revenue.

This is not limited to Colorado. The Outdoor Industry Foundation found that outdoor recreation activities add over \$730 billion to the national economy every year. In fact, during this time of economic uncertainty, outdoor recreation and tourism are two very bright spots in our economy. Perhaps most important, this is an area of our economy that continues to grow. It has grown by more than 6 percent in just 2011, and it has outpaced U.S. economic growth more generally.

More Americans are spending time outside, enjoying nature and getting exercise. I have long felt it is in the National interest to encourage Americans to engage in outdoor activities that can contribute to our health and wellbeing. But as Americans enjoy recreating outdoors, they are also supporting a large and growing industry of supply stores, manufacturers, guides, hotels, and other important businesses that are the backbone of many rural communities.

Ski resorts are a major component of this economic sector in Colorado, many western states, and, indeed, many places throughout the country. This bill is a huge priority for them and its passage—while long overdue—is truly a remarkable move that will help job creation all across the country.

Michael Berry, president of the National Ski Areas Association, said it best when he noted:

Ski areas serve as a portal to the country's national forests. Bringing summer and year-round recreation to rural communities is the No. 1 priority in Washington for ski areas today. We are anxiously awaiting to plan and implement year-round operations at ski areas, create year-round jobs and encourage more kids and families to enjoy the great outdoors. All of this will of course benefit

the rural communities in which ski areas are located.

The ski areas have been great partners in this effort, and I cannot wait for President Obama to sign this important legislation into law so they can begin immediately creating the important and well-paying jobs Americans are desperately waiting for.

At a time when it seems as though Congress is too wrapped up in partisan wrangling to find commonsense ways to create jobs, this is a remarkable achievement. It signals to job seekers everywhere that not only are we capable of finding creative ways to create jobs, but that when we put our minds to it, we can set aside our differences and work together.

I hope this bipartisan action will catch on and that we can continue to chip away at both our unemployment numbers and our record of partisan dysfunction.

Here is what is most important to note: The outdoor recreation industry is a part of our economy across our country and there is very significant growth occurring. So this is an important achievement because we have been tied up in partisan knots. We showed last night we can actually do something on behalf of the American people that will help create jobs.

I wish to particularly acknowledge the staff who worked so hard on this piece of legislation. Scott Miller, a longtime staffer on the Energy and Natural Resources Committee, worked tirelessly, as did a former staff member of mine, Doug Young, who now works for the Governor of Colorado, John Hickenlooper. We began this work in the House of Representatives, where the Presiding Officer and I both served. I wish to thank also, in special fashion, Wendy Adams and Stan Sloss, who persevered time and time again as we fought through a series of procedural holds and other setbacks. While economic challenges still face our country, this is a positive step forward.

I wish to thank all my colleagues for supporting me in this effort.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2112, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2112) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs for the fiscal year ending September 30, 2012, and for other purposes.

Pending:

Reid (for Inouye) amendment No. 738, in the nature of a substitute.

Reid (for Webb) modified amendment No. 750 (to amendment No. 738), to establish the National Criminal Justice Commission.

Kohl amendment No. 755 (to amendment No. 738), to require a report on plans to implement reductions to certain salaries and expenses accounts.

Durbin (for Murray) amendment No. 772 (to amendment No. 738), to strike a section providing for certain exemptions from environmental requirements for the reconstruction of highway facilities damaged by natural disasters or emergencies.

McCain amendment No. 739 (to amendment No. 738), to ensure that the critical surface transportation needs of the United States are made a priority by prohibiting funds from being used on lower priority projects, such as transportation museums and landscaping.

McCain amendment No. 741 (to amendment No. 738), to prohibit the use of appropriated funds to construct, fund, install or operate certain ethanol blender pumps and ethanol storage facilities.

Sanders amendment No. 816 (to amendment No. 738), to provide amounts to support innovative, utility-administered energy efficiency programs for small businesses.

Landrieu amendment No. 781 (to amendment No. 738), to prohibit the approval of certain farmer program loans.

Vitter amendment No. 769 (to amendment No. 738), to prohibit the Food and Drug Administration from preventing an individual not in the business of importing a prescription drug from importing an FDA-approved prescription drug from Canada.

Coburn amendment No. 791 (to amendment No. 738), to prohibit the use of funds to provide direct payments to persons or legal entities with an average adjusted gross income in excess of \$1 million.

Coburn amendment No. 792 (to amendment No. 738), to end payments to landlords who are endangering the lives of children and needy families.

#### AMENDMENT NO. 739

The ACTING PRESIDENT pro tempore. Under the previous order, the time until noon will be equally divided between the Senator from Arizona, Mr. MCCAIN, and the Senator from California, Mrs. BOXER, or their designees.

The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent that the final 10 minutes of debate prior to noon on the McCain amendment No. 739 be equally divided between Senator MCCAIN and myself or our designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. To lead us off on this very important amendment and to explain why it is important to not support the McCain amendment is a senior member of the Environment and Public Works Committee and a great member of that committee and a great supporter of the environment and transportation, Senator CARDIN of Maryland. I yield him 6 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I thank Senator BOXER for her extraordinary leadership as chair of the Environment and Public Works Committee.

She has stood for legislation that will allow us to rebuild our roads, our bridges, our infrastructure in this country, to create jobs, and make America competitive.

I rise to oppose the McCain amendment, and I will give three reasons why: First, jobs; secondly, the transportation enhancement programs help our traveling public. It is what they want, what they need; third, there is a safety issue.

First, on jobs. Let me point out that the Transportation Enhancements Program represents 1.5 percent of the annual Federal surface transportation funds—1.5 percent—a relatively small amount of money of the total pie. But it is interesting that the projects funded by the Transportation Enhancements Program actually yield more jobs per dollar spent than the funds that are used for the traditional transportation programs. So on a jobs basis, we actually get more jobs from a lot of the projects that are in the Transportation Enhancements Program.

Secondly, let me talk about the type of programs involved. We are talking about bicycle paths. We are talking about when people travel on a road and there is a pull-off where one can safely view the scenery. These types of projects we are talking about could be jeopardized by the McCain amendment.

I know my colleague from Alaska talked yesterday about the safety issue, but let me underscore it. Today, more accidents are caused from our pedestrians and our bicyclists. They are on the rise. There are actually an increased number of fatalities related to cyclists and pedestrians. Fourteen percent of roadway fatalities involve cyclists or pedestrians and two-thirds of these accidents occur on Federal highways. Accidents involving pedestrians and cyclists result in far more serious injuries. While motorist fatalities are on the decline, pedestrian and cyclist fatalities are on the rise.

When we have a pull-off on a highway where someone can pull their car safely off in order to look at the vista, that is the way it should be. In my own State of Maryland, we are constructing the Harriet Tubman scenic byway so people can visit the Eastern Shore of Maryland and see firsthand where Harriet Tubman operated the Underground Railroad. These roads are county roads. These are roads which are narrow and on which we have a lot of commercial traffic as well as people who just want to look at the scenes. The State of Maryland should have the flexibility of using these transportation enhancement funds in order to do what the traveling public wants them to do; that is, to provide a safe experience for the motorists to be able to enjoy our transportation highways. That is what the Transportation Enhancements Program allows our States to be able to do. The McCain amendment would jeopardize those funds.

So the Transportation Enhancements Program offers flexibility to our States

to be able to provide the whole array of transportation options. It is a very small part of the overall transportation budget. It provides those enhancements that the traveling public wants and needs. It creates jobs, and it allows for greater public safety.

So for all those reasons, I urge my colleagues to reject the McCain amendment.

With that, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARDIN. Madam President, I ask unanimous consent that during this debate, all time that elapses during quorum calls be equally charged to both sides of the debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARDIN. With that, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. Madam President, the Transportation Enhancements Program that the McCain amendment would essentially cripple was established in 1991 in a bipartisan transportation bill signed by President George H.W. Bush, and it has been continued in subsequent bipartisan transportation bills which passed in 1998 and 2005.

This program benefits all Americans by making significant investments in safety, helping to reduce congestion, expanding transportation choices, and it strengthens local economies, provides jobs, protects the environment.

This amendment eliminates seven of the activities eligible under the Transportation Enhancements Program, and it prevents any funds from being spent on those activities.

Here is the thing about the TE Program, the Transportation Enhancements Program: There are things in it we need to reform. Senator INHOFE and I, along with Senator VITTER and Senator BAUCUS, are working very hard, and we have a bill, a bipartisan bill. The Acting President pro tempore is a proud member of our committee. We are going to mark up that bill very soon. Yes, it needs reform. But this amendment takes a meat ax to a very

important program, and it would have far-reaching and unintended consequences.

By prohibiting any funds to be used on these activities that Senator MCCAIN has singled out, this amendment actually eliminates the flexibility of our States and prevents them from spending funds on activities which are necessary to construct and maintain our highway system.

So even setting aside the loss of jobs that would incur as a result of the McCain amendment, let me tell you the other unintended consequences. But maybe Senator MCCAIN intended that there would be fewer jobs. But I am assuming he did not intend, for example, this kind of a situation.

In the case of historic bridges, a bridge could be deficient, but under this amendment we could not fund a rehabilitation project because the bridge is historic. Because he says we cannot spend any money on historic sites, a regular fix to a bridge that happens to be historic would not take place.

I just happened to have finished a book I strongly recommend: "The Great Bridge: The Epic Story of the Building of the Brooklyn Bridge." What a story David McCullough tells. That bridge was built in the 1800s. It is historic. Under the McCain amendment, they could no longer get funds. That is the unintended consequence because it is historic. So even though it is probably one of the heaviest traveled bridges—and the Acting President pro tempore could attest to that—in our Nation, imagine this amendment which would not allow bridges such as this to get funded. It is a poorly drafted amendment. I do not know, maybe this was intended. I cannot imagine it was intended, but this is the truth. This is what would happen.

We also have in this amendment a prohibition on the use of funds for landscaping, which is necessary to complete any Federal aid highway project in order to prevent erosion along a highway. So I happen to be a person who believes, when we do a project, it ought to look good, it ought to make people feel good. Landscaping is important and it creates jobs and it cleans the air. OK. But setting all that aside, it is a safety question because a lot of times those plants will hold the soil in place and stop erosion when we have strong and heavy rains.

Yesterday, our friend from Alaska, Senator BEGICH, mentioned the Seward Highway outside Anchorage and how scenic overlooks were added to provide a safe place for tourists to pull over. Under the McCain amendment, as I understand it, we could not spend money on scenic overlooks. But let me tell you, in the case of this particular scenic outlook, it was necessary for safety because people were so inspired, before the scenic outlook, they would just pull over in a dangerous way, have no place to go, and it was not good for safety.

I wish to talk about the Transportation Enhancements Program in Senator MCCAIN's State of Arizona. The demand is so strong from Arizona for these funds that Arizona submitted three times what they were actually able to get under the Transportation Enhancements Program. For example, in 2006, 72 applications requested \$31 million in local project TE funding, but only \$11 million was awarded to 24 projects.

In Safford, AZ, TE funds are being used to improve five intersections and the surrounding streetscapes along Main Street to provide safer means of travel for pedestrians. According to the city of Safford, in Arizona, this project provides a viable transportation component dedicated to pedestrian safety within the increased vehicle traffic on Main Street. This downtown project to improve safety, mobility, and commerce was supported by the town of Thatcher, the Safford Downtown Association, and the Graham County Chamber of Commerce.

Again, we have a situation where I believe this amendment has very adverse consequences to our local people, to our States.

Right now, the way TE is in our bill—the old bill—it is up to the States whether they want to do this. No one can force them to spend the money on this. They have the flexibility.

So now seven ways of using these funds would be taken away from the States. Let's be clear on it. This is a State decision how they spend this money. They do not have to take this money. They make the decision themselves. This amendment would take away that ability.

There is also a prohibition on controlling outdoor advertising in the McCain amendment. That means if a State wanted to remove outdoor advertising, they could not use any Federal funds to do it, and they could not effectively control their advertising, which is required under current law. Again, they are supposed to control outdoor advertising, but the funds would not get to them to do that. I think if we ask the average person, they want their local people to have control over these things. So we need to defeat the McCain amendment or table the McCain amendment.

My friend from Arizona also is telling us that 10 percent of surface transportation funding goes to transportation enhancements. That is not correct. The Transportation Enhancements Program represents a tiny fraction of the Federal highway program—about 2 percent—not 10 percent, as my colleague JOHN MCCAIN said. Furthermore, the seven activities prohibited by the amendment have represented less than 1 percent of the entire Federal highway program.

This amendment is making a dramatic and sweeping policy change in what should otherwise be a clean appropriations bill. It represents an issue we have been discussing at the EPW Committee for quite some time in the context of a multiyear surface trans-

portation reauthorization bill, which, as I said at the outset, is the proper vehicle for such a policy change.

I thought we had decided as a Senate—Republicans and Democrats—we should not legislate on these bills. Senator MCCAIN does not like seven things in the Transportation Enhancements Program. Maybe I do not like two things or Senator GILLIBRAND may not like four things. It is not up to one colleague to stand here and decide, without any hearings or any discussion, what they do not like in a particular bill.

I do not think that is the way we should legislate, especially since the TE Program is run by the States. We make the funds available. They decide whether they want the funds for those activities. They do not have to do it. They do not have to take the funds. They do not have to do any of the eligible projects. So it, at the moment, has a lot of flexibility built in. As we reform in the next bill, we will look at some of the areas where we think we can make this a better program.

Believe me when I tell you that Senator INHOFE and I have been working very closely on this, along with Senator VITTER and Senator BAUCUS. So we think we are going to have a very good reformed TE Program. This is not the place to change a program that our States like. They like it because it is flexible. They like it because it has a number of ways they can use the funding.

So we are going to have a bill. It is called MAP-21, which stands for Moving Ahead for Progress in the 21st Century. It is going to have a lot of reforms in it. It is going to consolidate a lot of programs. It is going to be a bill most of us can embrace and be happy with. It is going to have a reform TE Program, and that is the way to do this. There will be significant reform. But it is not right, in my view—and we will see how the vote goes—for one Senator to say: I do not like seven things that are in this potpourri of things we can use TE for, so I am saying we cannot do it. We cannot use the funds.

It is just not right, and I pointed out how this is worded in such a fashion that bridges such as the Brooklyn Bridge and other historic bridges could lose all their funding as a result of the way this is drafted.

So let's turn away from this McCain amendment. We know what works around here. What works around here is bipartisan cooperation, coordination. I see the Senator from Texas, Mrs. HUTCHISON, in the Chamber. She works so closely with Senator ROCKEFELLER, and I will tell you what that means. It means we have wonderful progress in the Commerce Committee, which we would never have. Senator INHOFE and I work very closely in the EPW Committee. Everyone kind of smiles about it because they know on the environment side we do not work closely. That is true. We know that. He thinks global warming is the biggest hoax ever perpetrated on the American people. I

think it is happening. It is real. So we know we do not see eye to eye on that, and we have decided that is just a fact. So we do not engage in long arguments about it. We pursue our agendas, and we try to get the votes. But on infrastructure, he is one of the most conservative, I am one of the most liberal Members here. The fact is, there is no daylight between us on infrastructure because he believes that is one of the major functions of our government and I do, too, and it makes a lot of sense.

I want to note the McCain amendment is opposed by the National Association of Counties, the American Association of State Highway Transportation Officials, the National League of Cities, the National Trust for Historic Preservation, and the U.S. Travel Association. America does not support this amendment.

This is a group of bipartisan organizations. When you look at the National Association of Counties, I started as a county supervisor. You have Republicans, Democrats, Independents, everything in between.

Highway Transportation Officials is completely nonpartisan. National League of Cities, we have Republicans and Democratic mayors and councils; National Trust for Historic Preservation, again a mixture of different views. And the U.S. Travel Association. I mean, I do not know how that breaks down, but it certainly is a bipartisan group.

Please, I hope people will turn away from the McCain amendment. It is not good for jobs. It is going to hurt jobs. It is going to have the unintended consequences of not allowing us to fix some of our most deficient bridges. It goes against the people we are supposed to represent here, the people out there on the ground: our county officials, our State highway transportation officials, our city officials, and those who work so hard to preserve the history of this greatest Nation in the world.

We cannot turn our backs on historic preservation. Otherwise we do not know what our past was. I cannot tell you how many mistakes were made in California where in the early years we did not realize what we were losing. What people would give back to get back some of those old courthouses that were torn down—I cannot tell you—from the 1800s. And they could have been fixed up. But people did not have the foresight. This McCain amendment would do real damage.

The U.S. Travel Association, you know, we are talking here about small businesses. We are talking about people who work in recreation, in airline travel. They do not want to see this happen, this McCain amendment. So I am assuming Senator MCCAIN will be here. We have reserved the last 10 minutes before noon.

At this point I think I have said all I can say to persuade my colleagues, who

I hope are listening in their offices, that they should turn away from the McCain amendment.

I yield the floor and I would suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COBURN. Madam President, I wish to speak for a moment in regard to amendment No. 739, which is Senator MCCAIN's amendment. Senator MCCAIN has been very careful with this amendment, to make sure, in terms of enhancements, that he excluded those things that were most important to a lot of people in this country in terms of alternate transportation.

This amendment, which limits the expenditures, mandatory expenditures on enhancements of the Highway Trust Fund money, does not include—in other words, it would not prohibit funding for bicycle paths, or pedestrian and bicycle facilities, pedestrian and bicycle safety, and education activities, the conversion of abandoned railway corridors to trails, for either trails or bicycle paths. It would not prohibit funding for environmental mitigation of highway runoff pollution, reduce vehicle-caused wildlife mortality, maintain habitat connectivity, and it would not prevent funding for the acquisition of scenic easements and scenic or historic sites. I think Senator CARDIN might have related something other than that. I wanted to clarify that for my colleague who cannot be here.

What a lot of Americans do not realize is that we have several hundred thousand bridges in our country that are substandard, in disrepair, or are at great risk for those who travel over them. And by mandating that 10 percent of highway funds have to be spent on nonhighway needs, at a time when our country is running massive deficits, has almost \$15 trillion worth of debt—as a matter of fact, we are in excess of \$15 trillion worth of debt right now, that we should make sure we only apply those enhancements to the things that are most specifically needed.

We do have a commitment from Senator BOXER and Senator INHOFE that we will have some flexibility with enhancements in the future on the next highway bill. What Senator MCCAIN is trying to do here will legitimize that and certainly does not harm the purpose of that.

Basically what Senator MCCAIN's amendment would do, funding this bill for 7 of the 12 transportation enhancement activities, is it would prohibit funding for scenic and historic highway programs, including tourist and welcome centers. We should not be building a welcome center when there is one

bridge in any State that is a danger for the American people who are going across it.

Landscape and scenic beautification are nice things. But you know, when you are down making hard choices about the things that are most important, that is not one of them. Historic preservation we cannot have as a priority now. Rehabilitation and operation of historic transportation building structures or facilities; we should not, in fact, spend that money on archeological planning and research when, in fact, we have dangerous bridges that people are coming across every day.

Finally, although transportation museums are great, that cannot be a priority today when we are borrowing \$13 trillion every year to keep the transportation trust fund at a level that will not allow us to increase the level at which we resolve these difficult bridges. We cannot continue to borrow that \$13 trillion. So this is a common-sense amendment. It is a modification of what I have offered in the past. It is a smarter amendment. It is a better amendment. It still allows the bicycle community and the enhancements associated with that to continue.

I would remind my colleagues, the Federal Highway Administration obligated \$3.7 billion in enhancement funds for 10,857 projects between 2004 and 2008.

That included \$1 billion for signing, beautification, and landscaping. That billion dollars could have fixed well over 5,000 bridges that are dangerous today.

There was \$224 million on projects to rehabilitate and operate historic transportation buildings. Another 2,500 bridges could have been fixed for that. And \$28 million to establish 55 separate transportation museums.

It is not about not wanting the money to get out there, about targeting the bicycle community—it is absolutely protected in this—but it is about ordering our priorities. If there is anything we have not done a good job of in Congress over the last 10 or 15 years, it is making hard choices about what is a priority and what isn't. I think the vast majority of Americans would think the safety of the bridges they drive across is more important than any of these things Senator MCCAIN is saying we are going to limit in this bill.

Of the 604,000 bridges in the United States in 2010, 24 percent of them are deficient. This includes 69,000 that are structurally deficient. In other words, they have significant deterioration, and they have had to have load reduction carrying capacity limitations placed upon them. And 77,410 bridges are functionally obsolete; they don't meet the criteria of design standards.

These figures expose a nationwide problem of deficient bridges as well as the misplaced priorities of Congress. We need to fix this, and I am in support of the McCain amendment.

I yield the floor at this time and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, this amendment is about white squirrel sanctuaries, museums, roadside landscaping, Lincoln highway, roadside museums, antique bike collections—my favorite is the National Corvette Museum Simulator Theater. I will try to go to that one, since my first purchase as a young naval officer was a wonderful Corvette, which I remember with great affection. I would like to go back into their simulator theater.

Then, of course, there are wildlife echo passages. We have some great pictures here of some of the things. I think the squirrel sanctuary is good. But one of my favorites is, of course, the roadside museum featuring a giant coffee pot. I am a coffee drinker, so I think a coffee pot is pretty nice.

You know, we have some fun stuff here. Here we have 60 antique bikes for a bicycle museum. They paid \$440,000 for 60 antique bikes for that museum. Again, I think bicycle museums are nice. But it is also a fact that more people travel over deficient bridges every day—that is 210 million people—than go to McDonald's. So we have these projects here—and, obviously, full disclosure, we picked some of the more interesting and exciting ones to get our colleagues' attention. But the fact is that we have deficient bridges and we have highways that need to be repaired.

What I am saying here is let the States decide their priorities. Do not force the States to set aside 10 percent of their funding for these so-called transportation enhancement activities. If they want to have enhancement activities—and we do—I am so pleased, when driving through Phoenix and Tucson, to see the bougainvillea, the cactus, and other things that have been built there and put in, which have been very helpful. But those decisions on those State highways were made by the State of Arizona and the cities and the counties.

Instead, we have forced every State in America to use 10 percent of their taxpayer dollars, which are in the form of gasoline taxes, which were originally put in to build the national highway system in America under the Eisenhower administration, which they pay—they pay that. At the same time, we have a situation, such as the deputy director in southern Nevada of the Nevada Department of Transportation, saying:

It is really getting out of hand to where these pots of money have those constraints associated with them and you can't spend money where you want to.

That is what this is all about. This is a fundamental philosophical difference that we have about where taxpayer dollars should go and who decides. That is what this amendment is about. I want the mayor of Phoenix to decide where the money goes. I want the Department of Transportation in Arizona to decide where the money is best spent. We should not be forcing people to spend money on things that are not necessary anymore.

I think a white squirrel sanctuary is probably an important thing and squirrel lovers all over America are overjoyed. But who loves this boulder? Really, \$498,750 to beautify an interchange with decorative rocks?

It is not as if this money is spent in a vacuum. It is that we have to set priorities. I want the States to set those priorities, rather than them be mandated by some provision enacted in the Senate, which does not have a good handle on what those States' priorities are.

I note the presence of the Senator from Washington, who wishes to use a few minutes in opposition to the amendment. I look forward to hearing her eloquent opposition. Maybe she will change my mind.

I yield to the Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I would very much like to thank the Senator for yielding me time and will take just a couple minutes in rising to speak in opposition to the McCain amendment No. 739.

I believe the intent of my colleague is to prohibit the use of funds communities across the Nation use for streetscaping and bike and pedestrian paths and transportation improvements that help separate motor vehicles from local wildlife.

I believe communities should determine for themselves, as they have done for decades, how to use those funds. And the proper place for updating these laws would be in the reauthorization process. So I oppose the amendment on those grounds alone.

However, the amendment goes much further than that. It actually prohibits the use of funds in the entire division C; that is, the Transportation, and Housing and Urban Development Appropriations Act, for any landscaping or historic preservation. So this impacts not just the Department of Transportation but also HUD. In particular, it would prohibit cities and towns from using their CDBG dollars for eligible activities, such as historic preservation or basic landscaping or streetscaping activities.

It actually prohibits the use of funds for the rehabilitation or operation of historic transportation buildings, structures, and facilities. That would cripple Amtrak. There are over 126 stations that Amtrak services in 41 States that are on the National Register of Historic Places. Under this amend-

ment, Amtrak would not be able to operate or rehabilitate any of them. Amtrak could not make any improvements to stations to comply with access requirements for persons with disabilities under the Americans with Disabilities Act. Amtrak could not even operate in Union Station.

The amendment would also prohibit the structural preservation and rehabilitation of historic bridges, such as the Brooklyn Bridge, or other covered bridges in the Northeast.

This amendment goes too far, and it is not appropriate for the Transportation-HUD appropriations bill we are currently considering. So I urge my colleagues to oppose the McCain amendment.

Again, I thank my colleague for yielding time to me.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, I believe I heard the Senator from Washington say that it would prohibit activities by Amtrak. I know of nothing in this page-and-a-quarter amendment that would in any way affect Amtrak or the Brooklyn Bridge. In fact, I would like for the money to be used to repair bridges because there are so many thousands of bridges in the country. There are 146,633 deficient bridges in this country. I would hope the Senator from Washington would agree with me that deficient bridges are a threat and a danger. I believe it was in the State of Washington where one collapsed, as I recall.

So you can distort this amendment if you want to. You can say it would be the end of Western civilization as we know it. You can say this will cause irreparable harm and damage. It doesn't, my friends. It doesn't. It just says that none of the amounts would be for scenic or historic programs or tourist and welcome centers. And we are not prohibiting these things from being built. If the States want to build them, if the counties want to build them, if the cities want to build them, let them do it. But right now we are mandating that 10 percent of the money they get go to certain purposes, which results in this outcome.

So I say, with respect to my colleagues who are opposing this amendment, if my colleagues would like to amend the amendment so that it doesn't have the Draconian effects that are predicted here, I would be more than happy to amend the amendment to make sure that doesn't happen. What I am trying to say and what this amendment clearly says in its 10 lines on the front and 4 lines on the back is that we think these things are unnecessary in light of the fact that we have so much infrastructure in need of repair.

So, again, I had no contemplation that civilization would be affected so terribly by such an amendment which would try to give the director of transportation in southern Nevada the ability to be able to say: It is really get-

ting out of hand to where these pots of money have these constraints associated with them, and you can't spend money where you want to. That is what this amendment is all about, my friends.

I have been engaged in many debates on the floor of the Senate on various amendments, but to construe this very short amendment as somehow inhibiting or harmful to the work that needs to be done is obviously, in my view, fairly transparent and certainly not applicable to this amendment.

Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Three minutes 22 seconds.

Mr. MCCAIN. If Senator INHOFE would like to use that time, I would be happy to yield to him.

Mr. INHOFE. I have a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. It is my understanding that the last 10 minutes would be equally divided, but perhaps the Senator from Arizona has already used maybe 2 of those minutes. Is that correct? I just want to be recognized for, say, 6 minutes in opposition.

The ACTING PRESIDENT pro tempore. Is this in addition to the 5 minutes that the Senator was allocated, so a total of 11 minutes of debate?

Mr. INHOFE. Well, let me clarify. It doesn't make any difference to the Senator from Arizona or to me how much time I have. I need to have about 5 minutes to clarify a couple of things.

Mrs. BOXER. Madam President, I am happy to yield my 5 minutes to Senator INHOFE at the appropriate point.

Mr. INHOFE. I think the appropriate time is here.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. First of all, I disagree with the Senator from Washington for a different reason than the Senator from Arizona disagrees with her. I think his amendment goes too far—not just far enough but too far—and I think it is very important that people understand.

Let me talk to the conservatives, let me talk to the Republicans, because this is certainly misunderstood. It wasn't drafted that way to carry out the intent of the Senator from Arizona, I am quite sure. This amendment doesn't eliminate the mandate that States have to spend 10 percent of their surface transportation funds on transportation enhancements.

Now, for clarification purposes, the 10 percent really is not represented properly. It really should be 2 percent. It is 2 percent of the State's total highway program. That happens to equal 10 percent of the Surface Transportation Program. But let's go ahead and use the 10 percent.

There are currently written into the law 11 eligible transportation enhancement activities. There is not room to put them all up, but we will put up this

chart. What the Senator from Arizona is saying is that you still have to spend 10 percent of your surface transportation money on transportation enhancements, but he is saying the States have to use it on his transportation enhancements. Those are the bike and pedestrian facilities, the bike and pedestrian safety, rails to trails. The bikers are going to be very happy with this. They are the only ones coming out ahead should this be passed.

Now, environmental mitigation in our law is restricted specifically to wildlife, bridges and tunnels, and to stormwater runoff enhancements. Now, stormwater runoff is taken care of anyway; these are the enhancements.

So what this amendment is saying is that we are going to have to spend this 10 percent on bicycles and on various types of wildlife, bridges, and tunnels so that the turtles can get under the highways and not get run over, and that is not what I know the Senator from Arizona wants.

In other words, we are taking the flexibility away from the cities, away from the States, and saying to them: You have to spend your 10 percent, and you have to spend it on these four things. I would just suggest to you that in my State of Oklahoma, these are not the four things on which we would want to spend it. I come down here all the time, and there is this mentality that we have in Washington: No idea is a good idea unless it comes from Washington. Well, in my State of Oklahoma, we have a great highway program. I want them to have the latitude to decide what is really best.

Now, the chairman of the Environment and Public Works Committee, Senator BOXER, and I have disagreed on environmental issues tooth and nail. We have fought with each other more than any two people on the floor of the Senate. She knows I have done everything within my power to do away with all transportation enhancement requirements. I have done this.

If this amendment had eliminated the mandate that States spend 10 percent of their Surface Transportation Program funds on all transportation enhancements, I philosophically would have supported it. If the McCain amendment had said that we want to do away with all transportation enhancements, I would have philosophically supported it. The problem with that is we would not be able to get a highway bill done.

I often say that I have been actually ranked as the most conservative member of the Senate probably more than anyone else, but I have also said I am a big spender in two areas: No. 1 is national defense and No. 2 is infrastructure. That is what I think we are supposed to be doing here—roads and bridges.

I am sure my colleagues will recall that during the debate on the extension of the highway bill last month, Senators BOXER, COBURN, REID, and I worked out an agreement that reforms

the Transportation Enhancement Program which would be included in the next highway bill that the EPW Committee will be marking up next month. I hope we will be marking this up next month. These reforms would allow the States to make a determination as to how they want to spend their funds.

To go back to this 10 percent, the idea behind this is this would increase what we are able to do and let the States have the discretion, so they can totally eliminate all enhancements. The States can do that. But they also would be allowed to use the 10 percent of the surface transportation funding on the various programs that are out there having to do with endangered species and the burying beetle and all that. That is where the problems really are.

So I don't think we should mistakenly vote for the McCain amendment and say to the people in this country: You have to spend 10 percent of your surface transportation funds on these four things. And again, the bikers would love the bike trails and all that, but I don't believe that is what we should be doing here.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Arizona has 2 minutes 55 seconds.

Mr. MCCAIN. Madam President, again, the question is, What do we do with the money? And obviously, when taxpayers are told that, with 146,633 deficient bridges in this country, that we don't need to be spending it on the examples I have provided—I hope it is well understood that if those projects are felt needed by the States and the counties and the elected officials in the States, then they should be able to go ahead with them, but if they don't choose to, they should also have the right not to. It is time some of this kind of stuff stopped.

I hope my colleagues will vote in favor of the amendment.

I yield the remainder of my time.

Mr. INHOFE. I would ask the Chair how much time I have remaining.

The ACTING PRESIDENT pro tempore. No time is remaining.

Mr. INHOFE. I ask unanimous consent that I have 30 seconds remaining.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. I only want to say that I agree with everything the Senator from Arizona is saying in terms of the bridges. I have fought for the bridges and highways.

I have tried my best to get rid of all the enhancements—all of them. But to have an amendment that says to my State of Oklahoma: You still have to spend 10 percent of your surface transportation funds, but you have to spend it on bike trails and turtle bridges, I think that is wrong.

I yield the floor.

## EXECUTIVE SESSION

NOMINATION OF MARK RAYMOND HORNAK TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NOMINATION OF ROBERT DAVID MARIANI TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NOMINATION OF ROBERT N. SCOLA, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

The ACTING PRESIDENT pro tempore. Under previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of Mark Raymond Hornak, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania, Robert David Mariani, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania, and Robert N. Scola, Jr., of Florida, to be United States District Judge for the Southern District of Florida.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 10 minutes of debate, equally divided in the usual form.

Who yields time?

The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise to speak on both nominees. I will start with Bob Mariani. And I refer to him that way because I have known him a long time, but his full name is Robert David Mariani. Bob Mariani is someone I know to be a person of not just high intellect and ability but also someone with great integrity.

Bob Mariani was born in Scranton, PA—the same city in which I was born. I still live there and so does he. He received his law degree cum laude in 1976 from the Syracuse University School of Law and also received his college education cum laude from Villanova University, graduating within the top 10 percent of his class. He was ranked second within his major field of study as an undergraduate.

Bob Mariani is a well-respected lawyer and advocate in northeastern Pennsylvania. He has received the highest rating—well qualified—from the American Bar Association. He spent 34 years as a civil litigator in Scranton, PA, where he specializes in labor and employment law. Since 2001, he has been the sole shareholder in the law firm that bears his name. He was also the sole proprietor of a similar law office that bears his name from 1993 to the year 2001, and a partner as well in an earlier iteration of that law firm,