

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that the following members of the Joint Committee on Taxation staff be given the privilege of the floor during the ISTE debate: Lindy Paull, Ben Hartley, Tom Barthold, Judy Owens, Steve Arkin, Joe Nega, Carolyn Smith and Maxine Terry.

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

Mr. CHAFEE. Mr. President, we have two amendments that have been cleared on both sides. I will start with the Inhofe amendment.

AMENDMENT NO. 1705 TO AMENDMENT NO. 1676

(Purpose: To improve the provisions relating to contracting for engineering and design services)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] for Mr. INHOFE, proposes an amendment numbered 1705 to amendment No. 1676.

The text of the amendment follows:

On page 135, strikes lines 2 through 5 and insert the following: "aid highway funds, or reasonably expected or intended to be part of 1 or more such projects, shall be performed under a contract awarded in accordance with subparagraph (A) unless the simplified acquisition procedures of the Federal Acquisition Regulations apply."

On page 135, line 7, insert ", or salary limitation inconsistent with the Federal Acquisition Regulations," after "restriction".

On page 135, line 15, strike "cost principles" and insert "procedures, cost principles," after "the".

On page 135, line 24, strike "process, contracting based on" and insert "procedures of".

On page 136, line 12, strike "process" and insert "procedure".

Mr. CHAFEE. Mr. President, this amendment deals with contracting for engineering and design services. It would ensure that the engineering- and design-related aspects of a project promote competition, foster the use of innovative technologies and ensure consistency in the pricing of engineering and design contracts.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1705) was agreed to.

AMENDMENT NO. 1706 TO AMENDMENT NO. 1676

(Purpose: To allow funding under the surface transportation program for programs to reduce motor vehicle emissions caused by extreme cold start conditions)

Mr. CHAFEE. Mr. President, I have an amendment on behalf of Senator ABRAHAM. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] for Mr. ABRAHAM, for himself, and Mr. LEVIN, proposes an amendment numbered 1706 to amendment No. 1676.

The text of the amendment follows:

On page 183, at the end of line 23 insert the following:

(5) in subsection (b)(9), by striking "section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

Mr. CHAFEE. Mr. President, this amendment would allow funds that are allocated under the Surface Transportation Program to be used for programs to reduce motor vehicle emissions caused by extreme cold-start conditions.

The problem is that in the northern States when cold weather comes, the starting of an engine is the highest emission point from the engine. Ninety percent of engine wear happens when the car is started. The engine wear in cold climate conditions is twice this amount.

This amendment has been cleared by both sides. What it will do is permit these funds to be used for some kind of heaters that might be installed to warm up the catalytic converter or other aspects of the engine so that when it is started, it will not start cold and will not have the heavy emissions that occur absent some warming techniques.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, we reviewed the amendment, and we think it is a good idea.

I also ask unanimous consent that Senator LEVIN be added as a cosponsor.

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

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1706) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the votes by which these two amendments were agreed to.

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that John Hemphill and Michael Ling, fellows on the Environment and Public Works Committee, be given the privilege of the floor during debate on S. 1173.

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

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

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

Mr. BAUCUS. Mr. President, we are operating under an agreement that the Senator from Kentucky was to begin debating his amendment at 12:30. That was 35 minutes ago. I know that the chairman of the committee, Senator CHAFEE, and myself very much want to help the Senator from Kentucky by finding time for him to debate this amendment—offer it and debate it. We reached this agreement with the Senator from Kentucky some time ago, over an hour ago, that he would be here at 12:30 to offer the amendment. The chairman has been so very gracious in accommodating Senators right and left and from all parts of the country to exercise their rights. I inquire as to where might our tardy Senator be, or when is he going to be here?

Mr. CHAFEE. Mr. President, I don't know where our errant brother is. We are ready. I think the ranking member makes a good point. We have been waiting. The agreement was that we were going to start at 12:30. In the famous words of the Senate, the Senator has been described as being "on his way" for the last 45 minutes. So I hope he will be here soon. I must say that I am thinking of, at quarter past, getting up and proposing—and that's 7 minutes from now—that all time after that be deducted from the proponents' side. Let's wait and see. I am going to make an effort to round up the Senator from Kentucky and see if we can't get started.

Mr. BAUCUS. In fact, I agree with the chairman and say that if he is not here by 1:45, it would only be fair to the rest of the Senate that time be charged against him.

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. TORRICELLI. 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. TORRICELLI. Mr. President, I ask unanimous consent to proceed in morning business for 10 minutes.

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

CALLING FOR A VOTE ON JAMES HORMEL

Mr. TORRICELLI. Mr. President, last week, President Clinton called upon the Senate to use but one principal criteria when considering nominations for ambassadors to the United States. In his words, that criteria simply stated is: "Will he or will he not be a good ambassador?"

Over 30 years ago, the Senate was confronted with a similar situation to one before us today. This body was asked to assess whether Patricia Harris

should be approved to be U.S. Ambassador to Luxembourg. She was a prominent lawyer. There was no question about her qualifications. Indeed, during the course of her career, she went on to be Secretary of HUD and of HEW. But, in 1965, Patricia Harris represented the first African American woman to become an American ambassador. The Senate then was left with a challenge of meeting what Thomas Jefferson considered our highest calling. That is, in his words, whether this would be a nation of "equal opportunity for all and special privilege for none."

I cite the judgment of the Senate in confronting the nomination of Patricia Harris for Ambassador to Luxembourg because the Senate now faces a similar choice. President Clinton has sent before the Senate the name of Mr. James Hormel to become Ambassador to Luxembourg. Mr. Hormel was a member of the U.S. delegation to the U.N. Human Rights Commission. Last May, the Senate approved the nomination for him to serve as an alternate representative to the 51st session of the U.N. General Assembly. Last October, the Foreign Relations Committee recommended Mr. Hormel as our envoy to Luxembourg. But for a few of my colleagues, that is not enough. Just as Patricia Harris met opposition to her nomination as Ambassador to Luxembourg, Mr. Hormel is now being prejudged by some because of his sexual orientation.

Mr. President, I rise today not simply to advance the nomination of Mr. Hormel, but I rise against those who would prejudice his qualifications based simply on the prejudice because of his personal lifestyle and his sexual orientation. I believe that fairness and decency require that Mr. Hormel be afforded his God-given right to serve his country in a position for which he is clearly qualified.

No one can argue with his professional experience, his academic achievement, or the qualifications that led this Senate previously to send his name to be a member of our representation to the United Nations or that led the Foreign Relations Committee to recommend his service as an ambassador.

Mr. Hormel received a doctorate degree from the University of Chicago Law School. He served there as a dean of students. He is a member of the Board of Managers of Swarthmore College, from which he graduated.

Mr. Hormel is a committed philanthropist and public servant. He serves as chairman of the Equidex Corporation and has donated millions of dollars to some of the most important charities in America. They include the Virginia Institute on Autism, the Catholic Youth Organization, the American Indian College Fund, United Negro College Fund, and the Jewish and Children's Family Services. In recognition, he has received numerous awards and was named Outstanding Philanthropist by the National Society of Fundraising Executives.

He is a member of the board of directors of the San Francisco Symphony, the San Francisco Chamber of Commerce, the Human Rights Campaign, and the American Foundation for AIDS Research. He is founding director of the City Club of San Francisco, a club created to bring together community leaders of diverse backgrounds.

Mr. President, as the Secretary of State, Secretary Albright, said, "... Mr. Hormel has demonstrated outstanding diplomatic and leadership skills. He will be an excellent United States Ambassador to Luxembourg."

Mr. President, what else could this Senate ask of a nominee to be an American Ambassador, with leadership in corporate fields, in civic pursuits, a philanthropist, a leader of great American universities? What other American Ambassadors have better backgrounds, proven community service, or come with higher praise? This isn't about Mr. Hormel's qualifications. It isn't about his ability to serve as an Ambassador. This has become a referendum on Mr. Hormel's lifestyle, the most private intimate matters of his sexual orientation.

It is said by some colleagues in this institution who stand in opposition to his nomination that his lifestyle is inappropriate and that he is representing a country that is overwhelmingly Catholic. They failed to note, indeed, that the country of Luxembourg itself has spoken favorably of Mr. Hormel's potential service as our Ambassador.

My colleagues know that Mr. Hormel has spoken candidly about his potential service in Luxembourg and has made clear that he will not use his position to advocate his own views or his own private agenda. Indeed, my colleagues know that American Ambassadors are appointed and confirmed to serve solely the interests of the U.S. Government. Whether it is their political views, their religious views, or their sexual orientation, the advance of any of those opinions would be inappropriate by an American Ambassador. They serve in this position for one purpose and one purpose only: to advance the views of the U.S. Government.

Yet, Mr. Hormel, like Patricia Harris before him, stands in a historic position, potentially being confirmed by the U.S. Senate, and has made pledges which should be unnecessary—indeed, are unprecedented—and made several pledges to this institution:

First, to limit his charitable giving to 501(c)(3) organizations and to only donate through private foundations that do not bear his name. He doesn't have to do so, but he has.

He has pledged to prohibit any organization from using his name as a fundraising tool. He doesn't have to, but he made this pledge.

He has pledged to remove his name from any fundraising or charitable activities conducted by outside organizations.

He has pledged to resign from all boards of directors, except Swarthmore

College and the San Francisco Symphony.

Yet, critics of Mr. Hormel argue that he is somehow out of step with American life or American values.

Mr. President, it is Mr. Hormel's critics who are out of step with American values. A fundamental principle of this country is that everyone has an opportunity to serve, that everyone is accepted and judged based on their ability to contribute. Mr. Hormel asks to be judged only by that standard.

Mr. President, through the years, from race to gender to religion to ethnicity, this Senate has had to deal with the painful questions of removing prejudice and learning to deal with people based on the content of character that all individuals face equally and fairly as they seek to serve our country. Mr. Hormel asks no more. He has a right to expect no less.

President Clinton has challenged this Senate to judge Mr. Hormel's nomination to be Ambassador to Luxembourg on its own merits. I hope in the great traditions of this institution we will give Mr. Hormel that chance.

Mr. President, I yield the floor.

#### INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

#### AMENDMENT NO. 1708 TO AMENDMENT NO. 1676

(Purpose: To require that Federal surface transportation funds be used to encourage development and outreach to emerging business enterprises, including those owned by minorities and women, and to prohibit discrimination and preferential treatment based on race, color, national origin, or sex, with respect to use of those funds, in compliance with the equal protection provisions of the 5th and 14th amendments to the Constitution)

Mr. McCONNELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] for himself, Mr. GORTON, Mr. SESSIONS, Mr. HUTCHINSON, Mr. ASHCROFT, Mr. HELMS, and Mr. SMITH of New Hampshire, proposes an amendment numbered 1708.

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

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

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

#### PRIVILEGE OF THE FLOOR

Mr. McCONNELL. Further, Mr. President, I ask unanimous consent that Melissa Laurenza, an intern on my staff, be granted floor privileges during the consideration of the amendment that is pending at the desk.