

TRANSPORTATION BILL COMPARISONS TOTALS FOR 2004–2009—Continued  
(\$ IN BILLIONS)

	Pres. FY06 budget	House passed (109th)	Senate re- ported (109th)	Senate passed (108th)
Commerce—Safety .....	6	6	6	7
Subtotal, Contract Auth. ....	273	273	275	310
Authorized Discretionary Transit BA .....	9	11	9	10
Highway Emerg. Relief Supplemental .....	2	n/a	n/a	n/a
Advertised Bill Total .....	284	284	284	319

In FY 2005, \$2 billion was appropriated from the highway trust fund for the Federal-aid highway emergency relief program to provide funds to repair damage from the 2004 hurricanes and to clear the backlog of emergency relief program requests. The Administration includes this funding in its revised reauthorization proposal, but the House and Senate proposals do not.

NOTE: Totals may not add due to rounding.

Mr. GREGG. Those points having been made, I acknowledge defeat on this point. I admire, as I said, the chairman of the committee for being a successful chairman who knows how to get things done around here. We may disagree on occasion, but my admiration for him certainly does not abate in any way because of those disagreements. In fact, my respect grows. But do not expect we will disappear. We were not wilting violets around here on the Committee on the Budget. We will continue to try to make points on the points of order we think are appropriate.

Mr. INHOFE. Madam President, before the chairman of the Committee on the Budget leaves, there are some areas where an honest disagreement can take place. One is on the idea that if we try to establish a policy in this country that addresses something that is an emotional need or desire of any of these Members and it has nothing to do with transportation, that should not be borne on the backs of the highway trust fund.

We talk about the ethanol provision which I opposed, but nonetheless we had that, the Senator is right, and the cost of that. If they want to pay for it, let them pay for it out of the general fund. Why should the highway trust fund be paying for policies?

And the same is true on the deficit reduction. I stood in the Senate at that time that took place saying I was for deficit reduction but not on the backs of the highway trust fund. The reason I say that is because I have considered this to be somewhat of a moral issue. People go to the pump and they pay tax for gasoline. There is an assumption, as wrong as it is, that money should go to repairing roads and highways and bridges. I do disagree in that respect.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask unanimous consent that the pending amendment be set aside so the Senate may consider amendment No. 606.

The PRESIDING OFFICER. There is no amendment pending.

RECESS SUBJECT TO THE CALL OF  
THE CHAIR

The PRESIDING OFFICER. The Chair declares the Senate in recess subject to the call of the Chair.

Thereupon, at 12:02 p.m., the Senate recessed until 1:02 p.m. and reassembled when called to order by the Presiding Officer (Mr. DEMINT).

The PRESIDING OFFICER. The majority leader is recognized.

## CAPITOL SECURITY THREAT

Mr. FRIST. Mr. President, we had a short recess for about an hour because of a security threat that, by now, has been covered well in the media. I wish to take this opportunity to thank the Capitol Police and the various assistants throughout the Capitol because when we have that sort of alert, which comes very quickly, very unexpectedly while we are in session here, but at the same time this huge Capitol Building with literally hundreds and thousands of people working in this complex having to stop and evacuate in an orderly way is a real challenge.

So I thank everybody, including our guests, because at the same time we have all of us who are working here in this Capitol structure, there are guests visiting throughout the Capitol. Everybody left in an orderly way and in a way that was safe and calm. As far as I have heard in talking with the Sergeant at Arms, there were no injuries. When you have that sort of rapid departure, that is always a risk.

Our Capitol Police, Sergeant at Arms, and the Secretary of the Senate all responded in a way that we can all be proud of. Most importantly, the offending aircraft is now on the ground, and the pilot and whoever else was in the plane are being questioned.

Now I am happy to turn to the Democratic leader.

Mr. REID. Mr. President, I am grateful that the distinguished Republican leader would come to the floor of the Senate and acknowledge the people who look after us every day. The training of our Capitol Police force is exceptionally good. I was with them, as was the distinguished Republican leader, and I am amazed at their professionalism as they took us away.

I am an alumni of different universities, a proud lawyer, and a number of other things I have had the good fortune of working with over a number of years, but I am an alumni of the Capitol Police. I am very proud of that. I recognize that the work I did those many years ago as a Capitol policeman

pales in comparison to the problems that face this beautiful building of the American people.

I am so confident that we have the best police force in the world here on Capitol Hill. They have to deal with bomb threats and all kinds of chemical problems. The Republican leader, who is a doctor, worked through the anthrax problem; I wasn't involved with that. But they are experts at that. They are aware of anything that is going on in the world regarding terrorism because of these evil people from around the world. This is, if not the No. 1 target, one of the top targets.

I appreciate and commend and applaud the majority leader for coming here immediately and recognizing these people who look after us every day. Every day, we see them standing around doors, and they don't appear to be working real hard, but it is on days such as this that they earn their pay over and over again. I am glad and happy that I had the experience to be a Capitol policeman, and I look forward to continually being protected, along with the American public, in this great building by these wonderful men and women.

The PRESIDING OFFICER. The majority leader is recognized.

TRANSPORTATION EQUITY ACT: A  
LEGACY FOR USERS—Continued

Mr. FRIST. Mr. President, due to the recess, I ask unanimous consent that notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 2 p.m.

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

Mr. FRIST. Mr. President, 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. 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, regular order.

AMENDMENT NO. 606 TO AMENDMENT NO. 605

The PRESIDING OFFICER. The clerk will report the amendment that was sent up just before the recess.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE], for himself, and Mr. LAUTENBERG, proposes an amendment numbered 606.

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

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

The amendment is as follows:

(Purpose: To establish the effect of a section of the United States Code relating to the letting of contracts on individual contributions to political campaigns, and to require the Secretary of Transportation to consider State laws that limit political contributions to be in accordance with competitive procurement requirements)

After section 1703, insert the following:

**SEC. 17. LETTING OF CONTRACTS.**

Section 112 of title 23, United States Code, is amended by adding at the end the following:

“(g) EFFECT OF SECTION.—Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.”.

At the end of subtitle G in title I, add the following:

**SEC. 17. DUTIES OF THE SECRETARY OF TRANSPORTATION.**

Section 5323(h) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and identifying appropriately;

(2) by striking “A grant or loan” and inserting the following:

“(1) IN GENERAL.—A grant or loan”; and

(3) by adding at the end the following:

“(2) PROCUREMENT REQUIREMENTS.—The enactment of a law or issuance of an order by a State that limits the amount of money that may be contributed to a political campaign by an individual doing business with a grantee shall be considered to be in accordance with Federal competitive procurement requirements.”.

Mr. INHOFE. May I inquire of the Senator about how long he will be taking for his opening remarks?

Mr. CORZINE. I thank the Senator from Oklahoma for his courtesy. I suspect that my statement will be somewhere in the neighborhood of 10 minutes and Senator LAUTENBERG an additional 5 minutes.

Mr. INHOFE. I ask unanimous consent that at the completion of the remarks of the senior Senator from New Jersey, the junior Senator be recognized.

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

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I once again thank the Senator from Oklahoma.

Before I begin, I echo the remarks of the majority leader and minority leader congratulating and thanking the members of the Capitol Police for their efforts in protecting all of us, which they so ably do day in and day out. It is a testimony to their forethought that we were so efficiently able to move from the Capitol and protect

folks. We are blessed with their efforts. I also thank the Sergeant at Arms and the Secretary of the Senate for their efforts and look forward to saying “thank you” personally to all of the individuals involved.

I think I have asked that the pending amendment be set aside and we move to amendment No. 606, if I am not mistaken. Is that correct?

The PRESIDING OFFICER (Mr. ISAKSON). Amendment No. 606 is the pending question.

Mr. CORZINE. Mr. President, I rise today with my colleague, Senator LAUTENBERG, who will be joining me in a minute, to offer an amendment to the SAFETEA Act, S. 732. Our amendment addresses a serious problem where Federal highway and mass transit contracts are awarded by States, those situations where Federal money and State money are intermixed in contracting administered by the State. These contracts are often or can be influenced, either by perception or reality, by political contributions. The Government contracting issue I am speaking of is commonly known as “pay to play.”

To address this issue in situations where States administer these contracts with both Federal and State money or where Federal money is administered by the State, Senator LAUTENBERG and I are offering this amendment to allow States to set contracting rules that limit campaign contributions by contracting providers. This is something that has been in Federal law for over 50 years where there are straight Federal contracts. Unfortunately, there have been far too many cases across the country where in these circumstances businesses have made contributions to public officials or campaign committees and then expected to influence the awarding of Government contracts. It is not an attractive situation.

Last year, two Governors lost their careers in public service due to pay-to-play scandals in their States. Other high-profile instances of pay-to-play corruption have occurred across the Nation, particularly in my home State where, on a bipartisan basis, our State legislators and Governors have reacted. But this is not unique to New Jersey. It has gone from New Jersey to California, from Philadelphia to Los Angeles and beyond. The problem is widespread and needs to be addressed.

Corrupt practices of pay-to-play have serious implications for the public. They have the effect of limiting competition in many ways because those who give political contributions then get the edge on those who might want to compete to do the business. They often reduce the quality of infrastructure projects—I will talk about a couple of situations that we see, particularly in my home State—and they lower the confidence of the public in elected officials and in public service in general.

Finally, and most important—this certainly is the case in my State—they

raise the cost of doing business for the government and ultimately to the taxpayer.

This practice is often more like legalized bribery than I think any of us would like to admit, and it results in a corruption tax that all citizens end up bearing. So I think there is a reason to make sure that we act.

I regret to say this disease has really impacted my State of New Jersey. It is something that, unfortunately, has infected both sides of the aisle in the State, both parties. It really needs to be addressed.

Just last month, dozens of local public officials—and I mean dozens, both Democrats and Republicans in one of our counties—were indicted for soliciting or taking bribes from people doing business with their towns, and it was often in conjunction with political contributions. Sadly, New Jersey taxpayers have been hit with this hidden corruption tax, higher costs of doing business in our State, and I think it needs to be moved against.

Our Governor, with bipartisan support in both Houses, was able to institute a serious pay-to-play ban that requires that any political contribution be less than \$300 from anyone who wants to do business with the State. It is a straightforward, easy situation.

Honestly, time after time we have had the public trust broken in this contracting procedure, where Federal and State funds have been misused. We had a motor vehicle inspection contract where there was only one bidder. It was a cost-plus contract that ended up being over \$200 million above cost. It ended up costing the Federal Government and the State a lot more than was necessary. Again, it is a corruption tax. We have had other places—the EZ-Pass toll collection system—where politically favored vendors were able to win no-bid contracts. It seems to me we need to make sure we put competition on a level playing field. That is what this amendment is all about.

Fortunately, New Jersey and several other States, as I suggested, have, on a bipartisan basis, addressed this issue. It is about contracting law, however, not campaign finance. It is setting the rules for who has the ability to bid. Unfortunately, the Department of Transportation recently informed the State of New Jersey that these commonsense limits may not apply to highway or mass transit contracts that use Federal funds. The Department of Transportation argued that it might limit competition when, in fact, I do not understand how limiting the amount of a campaign contribution has anything to do with whether someone is going to qualify to participate in a contracting bid. The State is now seeking an injunction in the Federal courts and there will be all kinds of litigation about this over a period of time. Whether it gets overruled or not, I think it is appropriate to institute the possibility that, if a State legislature wants to take the stand that they

would like to set rules for contracting, on contracts they administer, they have the ability to do it.

I think this is important, both for promoting competition but also for ensuring that there is clarity and confidence in the public bidding process, not only in my State but in a number of other States which have also bought into these kinds of rules. It is really a cross-section across the country in various places.

I have here a series of States—Illinois, Kentucky, Ohio, West Virginia, South Carolina—a number of places. These are States, as shown in the light green, that already have bills before their State legislatures. There are an enormous number of local jurisdictions that have also done it: Los Angeles, San Francisco, Oakland, Chicago—24 jurisdictions in my own State of New Jersey.

We think this is an important States rights issue. We should be able to enact laws that fight corruption without interference from the Federal Government. I hope we will look at this in a context that we want to make sure that what would work in those individual States is actually attended to.

Banning pay-to-play is consistent with current Federal practice when it is only Federal contracts that are being awarded. The Government already bans pay-to-play for Federal contracts that are awarded directly.

The Securities and Exchange Commission, along with a municipal rule-making board, prevents pay-to-play when Government bond issues are at stake—again, a contracting issue, not a campaign contribution rule. In fact, I was instrumental and involved in this as an employer on Wall Street 10 years ago, to ban contributions from bond underwriters because it interfered too regularly with the overall process.

We think we can make a difference. These rules have worked when they have been instituted. They certainly have in the bond underwriting business, and they have Federal rules. The Federal Government is refusing to allow States such as New Jersey to enact similar contract reforms. I think this is an important step going forward.

I want to clarify something about this amendment. We are not establishing a Federal pay-to-play rule in Federal highway contracting. Some of the opponents would have you believe that. Those rules are already set by the Federal Government. It is merely respecting the rights of the State to establish and maintain their own State contracting practices. It only impacts contributions to State-level candidates, not Federal-level candidates. Federal campaign finance laws are in no way affected.

This commonsense measure has the support of a number of groups that work to protect the integrity of government spending: Public Citizen, Common Cause, the Brennan Center for Justice.

I ask unanimous consent to have letters of endorsement from these groups printed in the RECORD.

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

THE CAMPAIGN LEGAL CENTER,  
Washington, DC, May 5, 2005.

Re Safe-TEA/TEA-LU Highway Bill and the Government Contracting Reform Amendment

DEAR SENATOR: The Campaign Legal Center strongly urges you to support the Government Contracting Reform Amendment to the Safe-TEA/TEA-LU Highway Bill, which protects the right of states to enact and enforce "pay to play" laws.

For more than 50 years federal law has prohibited political contributions to federal candidates from federal government contractors. In recent years, state and local governments around the nation have followed Congress' lead by enacting similar "pay to play" laws to protect the integrity of the procurement process.

The right of states to enact and enforce "pay to play" laws has recently come under threat. Late in 2004, the Federal Highway Administration determined that a New Jersey State Executive Order limiting the size of political contributions from government contractors to state candidates violates federal law competitive bidding requirements, established by 23 U.S.C. § 112, for state highway construction contracts involving federal funds.

This Federal Highway Administration action affects not only New Jersey, but also threatens enforcement of similar "pay to play" laws in Kentucky, Ohio, South Carolina and West Virginia. Further, the Highway Administration action curtails the right of other states around the nation to enact their own "pay to play" laws.

The Government Contracting Reform Amendment sponsored by Senators Corzine and Lautenberg amends 23 U.S.C. § 112, which establishes the competitive bidding requirement for contracts involving federal highway funds, to state that "Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign."

Similarly, the Government Contracting Reform Amendment amends 49 U.S.C. § 5323, which establishes general provisions for the award of contracts involving mass transportation funds, to make clear that state "pay to play" laws "shall be considered to be in accordance with Federal competitive procurement requirements."

State laws restricting political contributions from government contractors are consistent with, and advance the purposes of, the federal law contracting requirements for highway and transit funds. Competitive bidding requirements, and reasonable restrictions on contributions from contractors who do business with the government, both advance the government's interest in avoiding real and apparent political corruption and preserving the integrity of the contracting process.

We urge you to support the Corzine-Lautenberg Government Contracting Reform Amendment to the pending Safe-TEA/TEA-LU Highway Bill, to protect states' rights to enact and enforce "pay to play" laws.

Sincerely,

MEREDITH MCGEEHEE,  
PAUL S. RYAN.

BRENNAN CENTER FOR JUSTICE

AT NYU SCHOOL OF LAW,  
New York, NY, April 27, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment

U.S. Senate,  
Washington, DC.

DEAR SENATORS: I write on behalf of The Brennan Center for Justice to support Senator Jon Corzine's "pay-to-play" reform protection amendment to S. 732, the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005." Since its inception in 1995, the Center's Democracy Program has been working in the area of campaign finance reform on federal, state, and local levels. We believe that the amendment is important for ensuring that states maintain the flexibility to choose effective tools for protecting the integrity of government contracting.

Systems for government contract bidding have long sought to satisfy the laudable and compatible goals of contracting with low-cost and ethical bidders. For example, current federal law regarding state transportation projects that use federal money provides that "[c]ontracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility." 23 U.S.C. § 112(b)(1) (emphasis added). Federal law expressly charges the state transportation department with establishing the criteria of responsibility. 23 C.F.R. § 635.114(a).

Several recent scandals regarding government contracting in New Jersey prompted New Jersey to establish a criterion of responsibility for government contracting, which prohibited the state from contracting with an entity that has contributed to a candidate for or holder of the office of Governor, or to any State or county political party committee, within certain time frames. See New Jersey Executive Order 134 (September 22, 2004). The executive order explicitly stated that "the growing infusion of funds donated by business entities into the political process at all level of government has generated widespread cynicism among the public that special interest groups are 'buying' favors from elected officeholders." Id. Courts have recognized that contributions from government contractors present a severe risk of engendering corruption or the appearance of corruption, and thus have generally upheld "pay to play" contribution bans. See, e.g., *Blount v. SEC*, 61 F.3d 938,944-48 (D.C. Cir. 1995) (upholding constitutionality of SEC regulations that prohibit municipal finance underwriters from making campaign contributions to politicians who award government underwriting contracts); *Casino Ass'n of Louisiana v. State*, 820 So. 2d 494 (La. 2002), cert. denied, 529 U.S. 1109 (2003) (upholding ban on contributions from riverboat and land-based casinos); *Gwinn v. State Ethics Comm'n*, 426 S.E.2d 890 (Ga. 1993) (upholding ban on contributions by insurance companies to candidates for Commissioner of Insurance).

Recent action by the Federal Highway Administration, however, has threatened to strip New Jersey and other states of their capacity to determine criteria of responsibility, undermining legitimate state efforts to protect against corruption, or the appearance thereof, in government contracting. The FHA took the unprecedented position that it would not authorize federal funds for use in New Jersey transportation contracts because of Executive Order 134. The FHA took this position even in light of the scandals in New Jersey, and despite the facts that (1) all bidders would have notice of New Jersey's responsibility criteria and (2) contracting awards still would be granted to the

lowest bidder. The State of New Jersey is challenging the FHWA's position in court. In the meantime, however, New Jersey was forced to rescind much of its executive order since it, like most states, significantly relies on federal funding for many of its transportation contracts. No state should be forced to compromise legitimate and well-grounded efforts to protect the integrity of its government in order to receive federal transportation funds.

The FHWA's position could also undermine the FHWA's goal of awarding contracts only to responsible bidders and may risk actual, or the appearance of, corruption in the process of choosing bidders. Without rules prohibiting "pay to play" arrangements, states may deem entities "responsible" not because they have displayed any objective characteristics of responsibility, but rather because they have made contributions to government officials. Federal ethical standards should provide a floor beneath which a state may not go, but federal law should not be used to restrict a state from implementing stricter ethical standards that it deems necessary to protect the integrity of its government.

Senator Corzine's amendment proposes that a provision be added to the Safe-TEA Act of 2005 stating that "[n]othing in this section may be construed to prohibit a state from enacting a law or issuing an order that limits the amount of money an individual, who is doing business with a state agency for a federal-aid highway project, may contribute to a political campaign." For all the reasons discussed above, we urge you to adopt the amendment to ensure that federal highway funding provisions are not wrongly interpreted to permit interference with state efforts to both prevent corruption or the appearance thereof and restore public confidence in its government.

Sincerely,

SUZANNE NOVAK.

PUBLIC CITIZEN, COMMON CAUSE,  
PUBLIC CAMPAIGN, DEMOCRACY 21,  
CENTER FOR CIVIC RESPONSIBILITY,

April 28, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment.

DEAR SENATOR: Next week you will be considering the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005" (Safe-TEA Act). Public Citizen, Common Cause, Democracy 21, Public Campaign and the Center for Civic Responsibility urge the Senate to adopt the Corzine "pay-to-play" amendment to the bill respecting states' rights to address the problem of corruption in government contracting.

Sen. Jon Corzine's amendment proposes that a sentence be included in the Safe-TEA Act, as was done in the House version of the bill, allowing states to implement a very narrow and limited reform of government contracting procedures: restricting potential government contractors from making large campaign contributions while negotiating a government contract to those responsible for awarding the contract.

Known as "pay-to-play," many state and local governments are being burdened by the all-too-common practice of a business entity making campaign contributions to a public official with the hope of gaining a lucrative government contract. This practice of attempting to skew the awarding of government contracts in favor of large campaign contributors has taken a serious toll on public confidence in state and local governments across the nation.

Last year, two governors in one week—Gov. George Ryan of Illinois (once considered for a Nobel Peace Prize) and Gov. John

Rowland of Connecticut—lost their careers in public service due to pay-to-play scandals. A trial is currently underway in the City of Philadelphia concerning corruption charges in the awarding of government contracts with some members of Mayor John Street's administration. Similar scandals have recently racked California, Hawaii, New Jersey, and the City of Los Angeles.

Unfortunately, the Federal Highway Administration (FHWA) has decided to make it difficult, if not impossible, for states to address this serious problem. For example, the FHWA has decided to punish New Jersey for reforming its contracting system by withholding federal highway funds from the state. We believe you will agree with us that this federal intervention is unjustified and counterproductive. That is why we urge you to support language that makes clear that states have the right to ensure that their contracting procedures conform to the highest ethical standards and offer the best value for taxpayers.

New Jersey Gov. Richard Codey reluctantly suspended the state's pay-to-play rules for competitive bid contracts pending the outcome of a court challenge to the FHWA decision. [New Jersey v. Mineta] "This is a temporary measure forced on us by the federal government," Codey said. "I am not happy about it. In making this necessary, the federal government is dead wrong, but I cannot jeopardize nearly \$1 billion in federal transportation funds."

The FHWA has placed itself in the odd position of imposing its preference for a disclosure-only regime on states and localities that have decided a stronger pay-to-play policy is necessary to address their problems of corruption in government contracting. As the FHWA memorandum opines: "... the disclosure of lobbying and political contribution efforts for the year preceding a contract bid is a reasonable means to meet the DOT's Common Rule requirement that the city assure that its contract award system performs without conflict of interest. This is distinct from a provision that actually excludes those making otherwise legal contributions from competing for a contract."<sup>2</sup>

Many state, local and non-governmental jurisdictions strongly disagree with the FHWA: disclosure is necessary but not sufficient to end actual or apparent corruption in government contracting. Instead, New Jersey and four other states, the federal government and the Securities and Exchange Commission, along with dozens of local jurisdictions, have opted for a narrowly-tailored system of contribution restrictions on government contractors, in addition to disclosure requirements, as a more effective means to curtail pay-to-play abuses.

Sen. Corzine has introduced the pay-to-play protection amendment before you this week, which would add to the Safe-TEA Act: "Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign."

Pay-to-play restrictions are far from draconian measures. They are a narrow remedy that focus exclusively on a specific problem. Pay-to-play restrictions are easy for the business community to live with—the SEC's Rule G-37 championed by former SEC Chair Arthur Levitt, which served as a role model for New Jersey's pay-to-play policy, has not resulted in draining the pool of bond bidders—and pay-to-play restrictions are limited in scope and constitutional.

The Federal Highway Administration may believe it knows better than the states how to address their problems of actual and perceived corruption in government con-

tracting, but the FHWA has not yet had to suffer the consequences of corruption scandals that the states have faced. The Senate should join the House and include this amendment to the Safe-TEA Act of 2005 allowing the states the authority to assure their citizens that contracts are awarded on merit.

For more information, please contact Craig Holman, Public Citizen, at 202-454-5182. Respectfully Submitted.

Mr. CORZINE. Mr. President, I also want to note the House of Representatives included a similar measure in its version of the Transportation bill. It was a bipartisan amendment sponsored by New Jersey colleagues, FRANK LOBIONDO, a Republican, and BILL PASCRELL, a Democrat. This was passed unanimously, the same language, by the House.

In my view, this is an imperative step to allow States to have better control and more transparency and honesty in their contracting processes. I think it will move to save money for our States and put in place a greater sense of credibility for the public when it deals with its oversight of public contracting. I think we owe the taxpayers this, and I urge my colleagues to support the Corzine-Lautenberg amendment. We should join the House, in my view, in instituting this ability for States to control their own contracting process.

I yield the floor.

I understand my colleague, Senator LAUTENBERG, along with our other colleagues who left the Senate at the time of the recess, will be returning to speak to this amendment. I will yield the floor, but I would appreciate it if we could reserve the right of Senator LAUTENBERG, upon his arrival, to come back and be next on the queue to speak.

THE PRESIDING OFFICER. Is the Senator asking unanimous consent in a formal request?

Is there objection to the Senator's request to allow Senator LAUTENBERG the ability to speak when he returns to the Capitol?

Mr. BOND. I would amend that request to say, when I am finished speaking, Senator LAUTENBERG may speak.

THE PRESIDING OFFICER. Is there objection? Is there objection to the request as modified? Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, there are a number of things that need to be cleared up as we consider this amendment. First, the Senator from New Jersey has mentioned that several States have their own pay-to-play restrictions. But according to the Federal Highway Administration, those States are ones that are restricting contributions where there are not competitive bids. They are talking about no-bid contracts.

I do not doubt that New Jersey has had problems with no-bid contracts. I will leave it to my colleagues to discuss some of those problems. What we are talking about is changing the competitive bid system so that one State

can opt out of a mandate that the Federal Government has imposed. That mandate is, when using Federal aid to highway dollars, you have to bid it competitively because when we as national taxpayers are funding projects, then we have a right to see that they are done on a competitive-bid basis, to make sure that the Federal taxpayers get the best bargain for their money.

The name of my colleague, the other Senator from New Jersey, is attached to the amendment. I find it interesting that his reputation is one of sanctioning and penalizing States that do not conform to Federal laws, so it was alarming to me to see this amendment from the New Jersey Senators that will exempt them from complying with Federal regulations. In my State there are a lot of things our chosen Representatives, the people who serve Missouri in the Missouri General Assembly, choose not to do. There are various mandates that impose burdens on our State that will limit its ability to get funds. If we are going down the road of exempting our States from mandates of the Federal Government on Federal highway aid dollars, I think the Missouri General Assembly and the Missouri Governor would pass along to me quite a number of mandates they wish to have taken off of their backs.

We just passed another mandate to take \$900 million out of the highway trust fund to pay for storm water improvements for local governments. I think that is an unfortunate mandate; it was adopted by a very close vote. I hope we will be able to revisit it. But when you start exempting a State from the competitive bid contracts to allow them to impose their own campaign finance laws through the Federal highway aid system, that, to me, does not seem to be a proper use of the Federal highway tax dollars. We have a right to expect that we get the best bargain for the money and that is through competitive bids.

This amendment, as I read it, limits competition and changes the current Federal process. Political contributions have absolutely no effect on the selection of Federal aid highway projects because, unless otherwise approved by the Secretary, construction projects are awarded only on the basis of the lowest responsive bid that meets the established criteria, based on the State's department of transportation engineering estimates.

Very simply put, unless the Secretary of Transportation waives it, you have to take what the State Department of transportation has put together in its request for bids, and make the best bid complying with that, that is responsive, at the lowest price.

That does not offer opportunities for corruption. There may be people in New Jersey and other States who find other ways to corrupt the system. I do not deny that. I think they should be punished. But there is no reason, in my view, to repeal the competitive bid standards. If States want to regulate

their State projects by limiting competition, by all means, they should be free to do it.

If it is a State contract, States can put in anything they want. There are other States, as I mentioned earlier, that currently have pay-to-play laws in place, but there are four States that have pay-to-play laws, two of which—Ohio and South Carolina—only apply to no-bid contracts having no effect on highway and transit projects because these are let under the competitive low-bid method.

I believe the Senators from New Jersey think they are being singled out by the Federal Highway Administration as Kentucky and West Virginia have similar pay-to-play laws—but both Kentucky and West Virginia have exceptions to their provisions. Kentucky excludes contracts awarded competitively on the basis of the lowest and best bid, while West Virginia's exception is the restriction that only applies during negotiation and performance of the contract.

These provisions are clearly different from what the Senators from New Jersey seek for their State. To open the process in other States, we do not need to have Federal aid highway dollars used as a means of changing campaign finance laws or changing the competitive bid process which gives us the best bid on the projects that are funded with Federal dollars.

I don't want to see State laws preempting Federal laws, but if we are going to go down that road, as I said, I have a number of amendments, and I would certainly ask support for all the areas that Missouri wants to exempt from some of the mandates, many of which I think are unnecessary from the Federal Highway Administration laws.

At this point, I urge my colleagues not to support this amendment because it provides a very different standard which New Jersey is attempting to use in its award of competitive-bid contracts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. If I might ask the Senator from Missouri, if he has read the New Jersey legislation, in no way by my reading of that legislation does it supersede the competitive bidding requirement.

Mr. INHOFE. Will the Senator yield?

Mr. CORZINE. Yes.

Mr. INHOFE. Mr. President, I ask unanimous consent, notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 3 o'clock. We are extending it from 2 o'clock to 3 o'clock because of the evacuation.

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

Mr. CORZINE. I see the Senator from Missouri is no longer in the Senate, but I make very clear the amendment Senator LAUTENBERG and I are proposing in no way undermines the standard that there need be competitive bids in

the Federal highway funds or in Federal funds that mix both State and Federal dollars.

This is about contracting rules that would encourage competition, not discourage competition. I believe if we were put side to side with Kentucky and West Virginia, we would find the New Jersey contracting rules are parallel. We would find this is one of the reasons the House unanimously agreed to this because it is an additional step that in no way undermines the standards that exist by the Federal Government.

Again, it reflects the desires of the State legislature and the Governor to have stronger, stricter rules on contracts administered by the State.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I start by commending the chairman of the Environment and Public Works Committee for his work on behalf of getting the funding raised for the Transportation bill.

It is critical. There is not a State that would not like to see more money for highways, transit or whatever else they do—perhaps even for long-distance rail service.

The manager of the bill, the chairman of the committee, had to wrestle with not only his conscience, but colleagues who felt differently. There were over 20 "no" votes. I wonder if those Senators would forgo the extra money that resulted from the increase in the size of the bill. Perhaps that could be polled.

I thank my colleague, Senator CORZINE, for generating this amendment which I share in sponsoring to ensure integrity in highway contracting. My friend and colleague from New Jersey has always fought against corruption in public activities and contracting. I am proud to stand and fight alongside him to make sure every State has the right to make choices about how it conducts its campaign financing laws and how it looks to better management of the process so corruption is avoided. That is what this is about.

One has to look at the bill. It is relatively simple. Frankly, I thought it would be something that could be accepted on its face by unanimous consent. There is no punitive measure in here.

I understand our colleague from Missouri said I was big on sanctions. How right he is. I am big on sanctions. We raised the drinking age to 21. When our colleague, Senator DOLE, was the Secretary of Transportation under President Reagan, we sanctioned States who did not put that into law.

Guess what the outcome is. Twenty thousand young people have been saved over the last 21 years. That is what the sanctions did. Would it be better to not have sanctions and have the freedom for the teens to get on the highway and kill themselves? I don't think so. It

worked. We tried the carrot. But there were not enough carrots to take care of it, so we had to use the stick. That is what you do. That is what the red lights are for. It is a stick. It says: Do not cross over when traffic is going the other way, et cetera.

We are a nation of laws. That is what the structure of our society is. There are sanctions against those who would try to buy a gun permit when they are spousal abusers. There are sanctions. They go to prison. Yes, I like that kind of sanction.

When we look at what we are trying to do, unfortunately, the U.S. Chamber of Commerce says it should not happen, it reduces competition. Nothing could be further from the truth because now the little guys who, in their judgment, make a campaign contribution—we foster that notion around here: Contribute if you can. Contribute even if you cannot, we sometimes say. But it happens. Money flows. So we say to some small contractor or some attorney or some engineer who has a two-person business: Well, maybe there is an exemption for small business. But, on balance, they are saying the smaller companies cannot make a contribution because then they would be barred from competing. Competing with the big guys? It is outrageous.

So this amendment fixes a problem in Federal highway law that actually prevents States from taking effective steps to curb contracting abuses.

Earlier this year, the Federal Highway Administration withheld some \$250 million in highway funding from the State of New Jersey. It had already been allocated. What happened? We had to change the law. We had to open a loophole so people could contribute, even though our Governor at the time and the legislature agreed: No, we should not permit it. I am not defending it. I am saying I defend States rights. And many of the people here, particularly our friends on the other side, defend States rights. I think the State ought to be able to decide whether it wants to clean up the campaign finance laws.

Spokesmen for the FHWA said a State contracting rule designed to prevent actual and potential corruption was “inconsistent” with current Federal law. I do not know where they get that one.

What had New Jersey done? The State had simply banned certain large political contributions by recipient of State contracts. Its mission was to ensure fairness and transparency in the contracting process, and our State ought to be commended for it. Instead, New Jersey was punished for exercising its own judgment. The Governor signed it. The legislature passed it, the Governor signed it, and it became law. Why cannot we do that?

The relevant Federal law, section 112 of the highway title, calls for competitive bidding. The administration has taken the strict view that if some bidders are excluded, that could limit

competition. Would we say that in the vetting of a company's executive leader, if he had a criminal past and they did not make a contribution, it would be all right? No, it certainly would not be all right for that company to start doing State business. But the fact is, if the playing field is tilted toward one company, there is no true competition. Maybe the big guys can afford to do that. They can rule the roost. But that is what our State wants to protect against.

States should not have to choose between receiving Federal highway dollars they need and restoring public confidence in the Government contracting process. What an anomaly we had here a little while ago. We had people voting to increase highway spending when it is threatened that the President is going to veto it, and we are way over the limit the White House proposed for the highway bill. Seventy some Senators said: Oh, yes? Impose limits? Well, we are not going to stick with your limits. We are going to raise the limits because our States need bridges and highway fixing and investments in transportation. That is what we want—70 some Senators. So it was not all Democrats. It was a mix.

It is hypocritical to continue to prohibit States from taking effective measures to maintain the integrity of their contracting process. Federal law already prohibits political contributions from Federal Government contractors. So why shouldn't States be allowed to do it, if they want to—one State by itself, any State that wants to do it? This amendment simply allows States to enact similar reforms when they so choose.

The House of Representatives has already approved a similar provision in its version of the transportation bill. I ask my colleagues to support this amendment to promote good Government, to promote competition. It is a vote for States rights, and a vote against corruption in public contracting.

Once again, I commend my colleague from New Jersey, Senator CORZINE, for his initiative.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri.

Mr. TALENT. Mr. President, I thank the Chair for recognizing me.

I want to take a few minutes, if I can, to pause from this debate on the amendment to make a few comments about the underlying highway bill. I wanted to have a chance to do this when we debated the motion to waive the budget point of order, but I was not able to do so because of the unanimous consent agreement that limited time for debate.

So I thought I would do it now because I am very grateful to my friends, the managers of this bill on both sides of the aisle, Senator JEFFORDS and Senator INHOFE, my good friend and a zealous worker for better transportation infrastructure, Senator BOND

and, of course, Senators GRASSLEY and BAUCUS for their amendment which we adopted earlier increasing the size of this highway bill. I thought it was important that those of us who feel strongly about this come down and say so.

We have a problem with transportation infrastructure. The problem is getting to be so big that awareness of it has penetrated even here in Washington. But everybody in America, at least everybody in Missouri I talk to, already knows about it, and has known about it for a very long time. Because they have to drive on these roads. They have to use the rail and the transit. For them, it is not an abstract question of public policy. For them, it is a question of getting where they need to go, to do what they need to do, safely and on time, to make this country run. It is getting harder and harder because the roads are no good.

I am going to try to contain my frustration about this issue. It is hard because this is not rocket science. A lot of the issues we confront here are very difficult.

This really isn't that difficult. We know how to build roads. We know we need to do it. The question is whether we have the will to do what we obviously need to do and what will empower our people to help us create the wealth and opportunity that will then enable us to do the other things we need to do.

I said there was a problem before. The statistics have been repeated often enough, but I guess in the Senate nothing is ever said quite enough so I am going to repeat them. Thirty-two percent of the Nation's roads are in poor or mediocre condition; 37 percent of the urban roads are in poor or mediocre condition; 28 percent of the bridges are substandard. I can show you some substandard bridges in Missouri. As a result of this, our Nation loses about \$65 billion a year in lost man-hours and lost productivity because people are stuck on the highways. A recent report said it was three times what it used to be in 2003. We lose \$50 billion a year in extra maintenance costs because our cars and our vehicles are damaged as a result of the bad roads.

Who among us has not had the experience of hitting a pothole and saying to ourselves, “There goes that shock absorber. That is another front-end alignment I will have to get”?

This is common knowledge throughout America. The Department of Transportation studied it in 2002, 3 years ago. The problem hasn't gotten any better since then. They concluded—and this is a rather big study—that \$375 billion is what we needed in the next highway bill to address the problem. We don't have \$375 billion in this bill. We have under \$300 billion. We have less than we had last year. We have more than we would have had, if not for the heroic efforts of the bill managers. But we don't have enough even with what they have added. Yet



people on this floor say that this is too much.

This is a problem I have been working on with my friend from Oregon, Senator WYDEN. We believe it is time to begin using bonding as part of our Transportation financing package. We have proposed the Build America Bond Act. A number of people have joined us in cosponsoring the bill. My friend from New Jersey is one of them. This is legislation that would create a federally chartered, nonprofit corporation that would issue about \$38 or \$39 billion in bonds and set aside \$8 or \$9 billion of that in a fund which would then accumulate interest over time and be used to pay off the principal. Then we would have \$30 billion for immediate investment in the Nation's transportation infrastructure.

We could get that money out in the next construction season or two. We could begin taking some of these vital projects that are constantly moved to the right, moved from 2010 to 2015, to 2020, and start moving them back to the left on the time line. We could build some of the bridges we need, fix some of the roads that are substandard.

We also have a provision in the bill that says some of the bonds have to be in low enough denominations that Americans can purchase them, average folks can go out and buy a \$50 bond, a \$25 bond, knowing that they are investing in American roads, transportation infrastructure, and jobs to make America competitive for the future.

I am pleased that we have made some progress on this. The bill managers were good enough to include a provision for the underlying corporation in the bill. We don't have authority to issue the bonds yet, but we have the corporation in the bill.

I am also very grateful to the managers of the bill for including in the substitute amendment my amendment to authorize private activity bonds, \$15 billion in transportation highway infrastructure bonds.

These bonds could be issued in a partnership between States and localities and private companies for specific projects. The localities would repay the principal through a variety of revenues, including annual appropriations or charging rent for the infrastructure that was built. Since the bonds are tax exempt, it means the holders would pay no taxes on them to the Federal Government. They would be preferred by the market. We could get \$15 billion in a kind of bond money out there right away to begin addressing the problems that the country is facing.

Nobody really argues with what I have said. That is one of the things that is frustrating. The people who supported the budget motion, who want the bill to remain small, don't argue that there is no problem. You can't argue the fact that there is a problem. What they say is: We can't fix the problem because we have a deficit. We can't spend more money on transportation infrastructure because we already have a deficit.

Investment in transportation infrastructure is dynamic. That means it helps grow the economy. It helps produce revenue. We understand that in every other context. Nobody argues with that in any other context except the highway bill. All the economic models say about \$1 billion in investment in transportation infrastructure produces 47,500 jobs. Every dollar invested returns \$5.75. That is the multiplier effect.

The same people who are saying we can't spend money on highway and transportation infrastructure will stand up in the context of a trade bill and say: The reason it is OK to pass an open trade bill—and I have supported many of them—even though we will be trading with countries that have lower wage rates than we do, is that we are still competitive because we have a more sophisticated financial system, a more sophisticated telecommunications system, and a more sophisticated transportation system. They are right. That is one of the reasons we can be competitive with countries that pay lower wage rates because we can get our products to market because decades and decades and decades ago other Senators and other Congressmen had the foresight to invest in transportation infrastructure.

I know we have a budget deficit. We have a transportation deficit. It isn't going to get better if we don't do anything. Saying we can't invest in transportation infrastructure because we are worried about the budget is like a farmer who is hard pressed saying: You know what, I am afraid my cash flow isn't what it should be. I am not going to buy fuel for the combine.

It is like a homeowner saying: The budget is tight. I am really hard pressed. I am not going to fix the hole in the roof because that might cost money.

This is a problem that is not going to get better if we don't do anything about it. Every 5 or 6 years we pass another highway bill, and the people who are concerned about the cost say: It is bigger than it was 5 or 6 years ago. Yes, it is bigger. Every year, even though the highway bill is bigger, the gap between what we are spending and what we need gets bigger, too.

This year, even under the amendment we adopted earlier, we have about a \$80-billion gap. I guarantee, if we don't do something about it, 5 years from now it will be bigger than that.

What do the people who opposed the amendment on budget grounds want to do? What can you do to build more transportation infrastructure? You can raise taxes. They don't want to do that. I understand that. It is hard to raise gas taxes when gas prices are up. That is a hard thing to do. They don't like bonding either. That is out. They don't want general revenue to be used for highways. That is out. Now they are saying they don't want other streams of revenue. Even though it would pay for it, they don't want that used either.

So they are all for fixing infrastructure as long as we don't use taxes, bonding, general revenue, or any other revenue to do it.

Stop and ask yourself a question for a second: What is the domestic achievement of the Eisenhower administration that people remember? The building of the interstate highway system. Roll Call magazine, one of the Capitol Hill magazines, did a survey of congressional scholars and asked them what the most significant bills were that the Congress passed in the last 50 years. No. 4 on their list was the interstate highway bill passed in the 1950s, which they pointed out intensified economic growth, boosted domestic tourism and made possible just-in-time manufacturing processes.

How can anybody say that investment in transportation infrastructure does not produce economic growth?

I know we have a vote coming up soon. I will close by saying a couple things. In the first place, the bill where we now have it—I was going to say it is the least we should do, but the truth is it is not as much as we should do. I urge the bill's managers to go to conference with this bill as it now is and do everything possible to hold this number or, if possible, find some way to inject more money into transportation infrastructure this year. I know they are committed, and they are going to try to do that. I urge them to stand by their commitment. This is worth doing, and it is worth doing now. We cannot afford to give another 5 or 6 years away to the locusts and then come back here and face the same problem we have now, except it is bigger.

I believe in the people of this country. I am not one to focus on the problems we have. Any Senate, any time in the Nation's history, if it wants to focus on the problems of the country, can get discouraged. I know we are fighting a war now, and we have education issues and health care issues we have to address, and they are all very big.

The reason I am optimistic is I believe in the American people. I believe in the productivity and ingenuity of the American people. The answer to all these problems, broadly speaking, is to empower them, to let them have the resources they need—which is one of the reasons I have been for tax reduction—so they can make the economy grow. Let them do what they do in their everyday lives, raising their families, doing their jobs, running their small businesses, to keep the economy growing and make us prosperous and strong and free. But the American people cannot on their own build roads. They can do a lot of things on their own or together in private businesses or associations of one kind or another, but they cannot build roads. That is a job the Government has to do. We will deal with the transportation deficit, and the American people will deal with the budget deficit as well if they can

get to work in the morning. Let's help them do that.

I congratulate the managers on adopting the amendment. I hope we can do even better in conference.

I yield the floor.

Mr. INHOFE. Mr. President, I do have a statement I wish to make in opposition to the Corzine amendment; however, the junior Senator from South Dakota is here. I would like to yield to him for up to 6 minutes.

The PRESIDING OFFICER. The Senator does not have the right to yield time.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I thank the distinguished chairman for his good work in moving this bill along. This is legislation that is long overdue. It is time that we move forward to vote so we can get help to these highway departments across this country, particularly in States such as mine, Northern States, where we are going to lose the construction season if we don't get something done, get a bill passed, and get a permanent authorization in place.

I speak in opposition to the pay-to-play amendment that has been offered to the Transportation bill.

For my colleagues who might not be aware of this issue, the Acting Governor of New Jersey issued an executive order last September which blocks anyone who makes political contributions to state officials, candidates or parties in excess of \$300 from bidding on any contract for services, material, supplies or equipment or to acquire, sell or lease any land or Federal building where the value of the contract exceeds \$17,500.

While it is clearly New Jersey's prerogative to institute such pay-to-play laws when it comes to State contracting, this New Jersey executive order effectively violated the free and open competition provisions governing Federal Aid Highway and Transit Contracting and went much further than pay-to-play laws in other States.

It's my understanding that New Jersey's Acting Governor, Richard Codey, issued this executive order in response to corruption and kick-backs that were uncovered with respect to no-bid State contracts.

Seeing that almost all of the contracts that occur under the Federal Highway and Transit programs are based on sealed low-bid contracts, the Senate should not adopt this amendment because it would undo the existing uniform rules that all States must follow when it comes to Federal contracting.

Congress has specifically stated in past highway and transit authorizations that we should encourage fair and open competition.

Congress should encourage competition by cultivating the broadest group of competent qualified contractors to do the work. We want to ensure that we are getting the best work done for the best price.

The low bid system was used to build our interstate system and National Highway System. It provides the highest quality product at the lowest possible price through competition. It should be maintained and strengthened, not weakened by adopting the amendment by the Senator from New Jersey.

Soon after New Jersey's Acting Governor issued his Executive Order last year, the U.S. Department of Transportation was forced to withhold a portion of New Jersey's transportation funding because the State was not complying with Federal contracting requirements—this was done after the U.S. Department of Transportation attempted to work this issue out with New Jersey Officials.

Soon thereafter, the New Jersey legislature stepped in and passed a bill on March 22, 2005 that excludes Federal aid highway funding from the Governor's previous pay-to-play executive order—thereby restoring New Jersey's Federal transportation funding.

I share the Senator from New Jersey's concern about illegal activity when it comes to no-bid contracting. However, there is nothing that currently prohibits states from taking action to prosecute those responsible for such illegal activities.

Further, since the current low-bid sealed contracting process used on Federal transportation contracts protects against instances of corruption or impropriety, and the fact that the New Jersey legislature has ensured that its pay-to-play regulations don't impact Federal transportation contracts, I'm a little puzzled why this amendment is needed—unless of course the Senator from New Jersey is seeking to change the existing Federal contracting process.

Federal contracting law already includes a process for the exclusion of contractors who have acted illegally—and the Federal Government also has a debarment process that prohibits contractors who have committed fraud or bribery from bidding on future contracts.

Because the State of New Jersey is currently suing the U.S. Department of Transportation in Federal district court concerning the previous withholding of Federal transportation funds, now is not the time for the Senate to weigh-in on this matter. The Senate should allow the court to hear the case on its merits.

My colleagues will also be interested to know that the Senate Environment and Public Works Committee rejected this amendment when we marked up the transportation bill on March 16.

The U.S. Department of Transportation has informed me that there has not been one single case of kick-backs or corruption with regard to low-bid Federal aid highway contracts in New Jersey.

Most importantly, the U.S. Department of Transportation opposes this amendment and has informed me that

the Corzine Amendment would create an unmanageable patchwork of local restrictions and requirements when Federal aid funds are used on a project.

I urge my colleagues to vote against this amendment and to allow the Federal Highway Administration and those State governments that are so interested in getting a highway bill put into place to enable them to address the critical transportation needs this country faces, to get this highway bill passed and defeat this amendment.

I yield back the remainder of my time.

Mr. INHOFE. Mr. President, first, I agree with the comments of the Senator from South Dakota. He has dramatically shortened my speech against the Corzine amendment because he said some things I would have said. I emphasize that the problem is not with sealed bids, it is with no bids. It could be that they have unique problems in New Jersey, but I would not want those problems that are there to encumber what we are trying to do in States such as Oklahoma and New Hampshire and South Dakota. There had been abuses that are pretty well known in New Jersey.

An example is the case of the law firm of DeCotiis, FitzPatrick, Cole & Wisler, which has reportedly thrived by exploiting a system that encourages politicians to reward their political contributors with State contracts that are no-bid contracts—not low-bid but no-bid contracts.

The Record, a New Jersey paper which did an extensive investigation into this DeCotiis firm and their relationship to public officials, stated in a December 2003 article that:

A sweeping review of DeCotiis's work for towns and public agencies shows how high rollers in this pay-to-play sweepstakes reap huge returns from investments in the right politicians. In a study of DeCotiis's legal bills for towns and public agencies across New Jersey, as well as interviews with dozens of elected officials, the Record has found that the DeCotiis firm billed at least 128 government entities for nearly \$26.6 million during the 2½-year period starting January of 2001. From Alpine to Atlantic City, in 15 of New Jersey's 21 counties, and in many departments of State government, DeCotiis's lawyers are charging the taxpayers for contracts that, under Jersey law, can be awarded without competitive bidding.

I have other examples of corrupt kinds of dealings, but I believe my point has been made that here the issue is with no-bid contracts, not sealed-bid contracts.

I question, also, the constitutionality of something in terms of the first amendment, but that has not even been discussed.

There could be a problem. I would be sympathetic to the problem and perhaps the Senator from New Jersey will be holding a position in the not too distant future where he can deal directly with some of the problems that are within the State of New Jersey but are not all over the country.

So I join my colleague from South Dakota in urging the defeat of the



amendment, and at the appropriate time I plan to move to table the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I appreciate the comments. I can understand the point of view if the bipartisan legislation from the State of New Jersey would in any way interfere with low-bid, sealed contracts on Federal projects. I would not be in favor of this, either. No-bid contracts should not be an accepted way of doing business in government. At least from the legal advice and understanding that I have of the New Jersey legislation, it does the opposite. It requires that it would conform both to Federal regulations and adds the additional element that there be restrictions on those participating who have contributed more than \$300 in a contract that is over \$17,500.

Practically speaking, the reality is that the Department of Transportation, and Republican and Democratic administrations in New Jersey—and I suspect this can very well be the case in other places—sets specifications. Those who both lobby and contribute often arrange those specifications, so there are situations where those who have the ability to participate in the bidding contracts are limited and those specifications are written in a way that gives a bias to the contracting exercise. All this legislation that the State of New Jersey is asking for, its States rights ability to impose, are supplemental to the rules and regulations that the Department of Transportation is taking, and I believe it will protect the public and enhance the confidence for the State of New Jersey.

It is not an imposition on any other State. They do not impose these pay-to-play rules. It has no impact on another State. We are only asking for the ability of the State of New Jersey to put down the rules that the State legislature, on a bipartisan basis, believes will lead to lower costs and greater transparency to the bidding process.

I understand there is a difference of view, but I feel strongly about it and ask my colleagues to consider the fact that this is a supplemental and in no way undermines Federal regulations, does not impose this standard on any other State, and does go a long way toward dealing with concerns that people on both sides of the aisle in my State believe are undermining public trust and raising the cost to the Federal Government and the State government in doing business in our State.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I appreciate the comments, even though I disagree with them, of the Senator from New Jersey. I know he is sincere. I know there is a problem and he is trying to correct the problem and there is an honest difference of opinion.

I ask unanimous consent that a letter from the U.S. Chamber of Com-

merce opposing the Corzine amendment, a letter from the American Road & Transportation Builders Association opposing the Lautenberg-Corzine amendment, and also a letter from the Transportation Construction Coalition, which is, I believe, almost every labor union in the United States, be printed in the RECORD.

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

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA,  
Washington, DC, May 10, 2005.

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

DEAR SENATOR AKAKA: As the Senate continues debate on H.R. 3, the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21), the U.S. Chamber of Commerce strongly opposes an amendment by Senators John Corzine (D-NJ) and Frank Lautenberg (D-NJ) that attempts to change federal competitive highway and transit contracting rules.

For over 25 years, federal law has forbidden states from implementing "pay-to-play" provisions for state highway and transit construction contracts (23 USC §112). Federal highway and transit contracts are awarded in an open-bid environment, and it is unnecessary to have an individual state attempt to change these federal contracting rules.

In November 2004, the state of New Jersey passed an executive order with language that included federal highway and transit contracting in the state's "pay-to-play" provisions. On January 21, 2005, the U.S. District Court for New Jersey ruled against the state and reaffirmed the federal statute, which led to New Jersey's final "pay-to-play" law continuing the longstanding exemption of "pay-to-play" for federal competitive highway and transit contracting.

Supporting the Corzine/Lautenberg amendment would adversely affect the ability of business leaders to support candidates, and thus, undermine the importance of allowing business executives and their employees the ability to legally participate in the political process, while other groups would not be impacted.

The U.S. Chamber of Commerce will consider using votes on or in relation to this issue for inclusion in our annual "How They Voted" ratings. The U.S. Chamber of Commerce is the world's largest business federation representing more than three million companies and organizations of every size, sector and region.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN ROAD & TRANSPORTATION  
BUILDERS ASSOCIATION,  
Washington, DC, May 9, 2005.

DEAR SENATOR: As the Senate continues debate on H.R. 3, the federal surface transportation program reauthorization bill, the American Road & Transportation Builders Association (ARTB) urges you to oppose an amendment by Senator FRANK LAUTENBERG that would modify federal transportation procurement standards to allow states to penalize transportation construction firms that participate in the political process.

The Lautenberg amendment would allow states to preclude individuals who have made financial campaign contributions to state and local officials from competing for federal-aid highway and transit construction work. By excluding individuals who exercise their right to participate in the political process, the amendment would contradict

the open competitive bid system of procurement that has been a hallmark of the federal transportation programs for almost 50 years. Under this system, contracts are awarded to the lowest qualified bidder. Political contributions, or the lack thereof, have no role in the awards outcome.

An ARTBA analysis of Federal Highway Administration (FHWA) bid data for the period 1958 to 2003 found that winning highway contractor bids on federally-funded projects have averaged 6.7 percent below the government's own internal cost estimates for the advertised jobs. In total over the 45-year period, the winning contractor bids have come in \$22.8 billion under estimated cost.

This analysis proves that the low-bid system works in the public interest. It also shows that highway contractors have been giving the public outstanding value for their tax dollars. Transportation construction industry contractors routinely build highways and bridges that meet exact government specifications for materials, quality, durability and environmental protection for substantially less than the government expects to pay.

Consequently, we urge you to protect the integrity of the open competition, low-bid system for transportation construction work and oppose the Lautenberg amendment to H.R. 3.

Sincerely,

T. PETER RUANE,  
President & CEO.

TRANSPORTATION CONSTRUCTION  
COALITION,  
May 9, 2005.

DEAR SENATOR: The 28 national associations and construction unions of the Transportation Construction Coalition (TCC) urge you to oppose the Lautenberg amendment to H.R. 3, the highway and transit program reauthorization bill. The Lautenberg amendment would restrict competition for federal highway and transit work and apply a nationwide solution to a state-specific issue.

The Lautenberg amendment would allow states to prevent companies from performing federal-aid highway and transit work funded by this bill if they made legal contributions to state and local elected officials. The amendment is based on a New Jersey law that significantly limits competition for transportation construction work by blocking any individual that made political contributions of more than \$300 from bidding on any contract that exceeds \$17,500.

The "pay to play" laws of other states typically focus only on no-bid contracts. The New Jersey version, however, applies to a much broader class of projects. Highway and transit projects are typically procured using the lowest competitive bid method, which requires an objective and public evaluation of sealed bids.

Congress has specifically stated in past highway and transit reauthorization bills that states should encourage fair and open competition. States accomplish this objective by cultivating the broadest group of competent qualified applicants to perform transportation construction work and by excluding companies that have acted illegally. The low bid system was used to build the nation's highway system and provides the highest quality product at the lowest possible price.

We urge you to oppose the Lautenberg amendment to H.R. 3. The amendment would significantly undermine the federal commitment to the competitive bid system.

Mr. INHOFE. Mr. President, I move to table the Corzine amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), is necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 119 Leg.]

#### YEAS—57

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Dorgan	Murray
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Reid (NV)
Bond	Frist	Roberts
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Hagel	Shelby
Burr	Hatch	Smith
Byrd	Hutchison	Specter
Chambliss	Inhofe	Stevens
Coburn	Isakson	Sununu
Cochran	Jeffords	Talent
Conrad	Kyl	Thomas
Cornyn	Landrieu	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

#### NAYS—40

Akaka	Feinstein	Mikulski
Bayh	Gregg	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed (RI)
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Snowe
Corzine	Levin	Stabenow
Dodd	Lieberman	Wyden
Durbin	Lincoln	
Feingold	McCain	

#### NOT VOTING—3

Coleman	Dayton	Domenici
---------	--------	----------

The motion was agreed to.

Mr. INHOFE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

Mr. INHOFE. Mr. President, there has been a great misunderstanding around here as to how we came up with offsets, how we are going to take care of paying for an additional amount of money in this package.

I compliment the chairman of the Finance Committee, Senator GRASSLEY, along with the ranking minority member of the committee, Senator BAUCUS, for the hard work they have put in on this legislation and, quite frankly, disagree with the criticism to which they have been subjected.

I want to reemphasize, if I could, that it is important we get this legislation done. I am very pleased we have

two more amendments that are down here. The deadline for the filing of amendments is now over as of right now. We do have several amendments. We are going to invite these people to bring their amendments down. I am pleased there are two amendments that are already down here. We look forward to taking up those amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

#### AMENDMENT NO. 625

Mr. LAUTENBERG. Mr. President, I call up amendment No. 625.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DODD, proposes an amendment numbered 625.

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

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

The amendment is as follows:

(Purpose: To provide funding for motorcycle safety programs in States without universal helmet laws)

At the end of subtitle D of title I, add the following:

**SEC. \_\_\_\_ UNIVERSAL HELMET SAFETY STANDARD FOR OPERATION OF MOTORCYCLES.**

Section 153 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "fiscal year—" and all that follows through "(2) a law" and inserting "fiscal year a law";

(2) in subsection (f)—

(A) in paragraph (2), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)"; and

(B) in paragraph (3), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)";

(3) in subsection (h)—

(A) in paragraph (1), by striking "subsection (a)(2)" and inserting "subsection (a)"; and

(B) in paragraph (2), by striking "subsection (a)(2)" and inserting "subsection (a)";

(4) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(5) by inserting after subsection (h) the following:

"(1) MOTORCYCLE HELMET USE LAWS.—

"(1) FISCAL YEAR 2009.—If, at any time in fiscal year 2008, a State does not have in effect and is not enforcing a law that makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet, the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2009 under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(2) FISCAL YEAR 2010 AND THEREAFTER.—If, at any time in fiscal year beginning after September 30, 2008, a State does not have in effect and is not enforcing a law described in paragraph (1), the Secretary shall transfer 3 percent of the funds apportioned to the State

for the succeeding fiscal year under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(3) APPLICABLE PROVISIONS.—Paragraphs (3), (4), and (5) of subsection (h) shall apply to obligations transferred under this subsection."

Mr. LAUTENBERG. Mr. President, I offer this amendment to address motorcycle safety on our roads. In 1995, Congress repealed the motorcycle helmet law, which I authored in 1991. Since the law has been repealed, motorcycle deaths have nearly doubled, and my amendment would simply reinstate the helmet law.

Head injuries are one of the leading causes of death in motorcycle crashes. Under my amendment, States that do not require motorcycle riders to wear helmets would have funds, but they would have them shifted to motorcycle safety programs.

Last month, the Department of Transportation released preliminary findings that over 3,900 people were killed in motorcycle crashes last year. This is almost double the number of motorcycle crash victims of 10 years ago when the Federal helmet law was repealed.

If we look at the chart, we see what happened since 1996, the year of operation after the law was repealed. We had a much smaller number, and it grew on a regular pattern up to 2004, the last recorded year.

This is not just a matter of more riders on the roads. The rate of deaths per mile traveled has almost doubled as well. We have learned an important lesson from this data: Helmets save lives. Repealing helmet laws have led to more deaths.

By coincidence, I had a talk with one of our colleagues before when we were voting on the previous amendment. He recalled for me the fact that he had a motorcycle accident. During the time of the fall, he said, as he bounced around the pavement, he thanked the Lord that he was wearing a helmet that had a face piece to it. It saved him from what they said would have been almost instant death.

Funny enough, when people look at me and they see the white hair, they can't believe I am an expert skier, having done so for 59 years. I have two children who are competitive skiers, one lives in Colorado, and I have a granddaughter who is on her way to becoming a competitive skier. We are skiers. Skiing is in our blood, and we ski fast and hard. I had a fall 2 years ago, 2 days after I bought a helmet. I hadn't worn it for the 50-some years before that. When I fell, I fell so hard I did a tumblersalt in the air—and I'm not an acrobat—and I landed on my head. I didn't realize, for a month, I was hurt, until my vision started to blur and my balance was unsteady. I was rushed to a hospital—I was with my wife in New York City—and the next day on an operating table and had what they call a hematoma. Doctors had to go on two sides of my head with

a drill or whatever they use to get there and drain the fluid that had gathered. I thank God regularly that I am in the condition I am after that kind of accident. But the difference was that helmet. I had the helmet 2 days.

I went back to the ski shop, and I said: I thought this was supposed to prevent my getting hurt. He pointed to a tiny crack in the helmet, and he said to me: If you hadn't been wearing this helmet, that crack would have been through your skull, and we would not have been here talking about it. So I am a confirmed user of helmets.

I had been on the board of a hospital in New Jersey and worked very closely with our principal medical school and its hospital. I talked to the emergency room physicians. I know that much of the head and neck trauma that comes about comes about as a result of motorcycle accidents.

A Transportation Department survey showed that from 2000 to 2002, helmet use among motorcycle riders dropped from 71 percent to 58 percent nationally. They stopped using helmets, mostly.

The Transportation Department found that in those States where universal helmet laws had been repealed, helmet use plummeted from 99 percent to 50 percent. In other words, where helmet laws are on the books, almost every rider wears a helmet. Where there is no such law, only about half of the riders are protected against head injury.

My amendment, to be simply understood, would reinstate the minimum safety standard which first was enacted in 1991. This is not a matter of ideology or so-called States' rights. It's a matter of doing what is right. Helmets save lives. Universal helmet laws work.

No matter what some people might suggest, riding without a helmet is not a victimless indiscretion. Motorcycle crashes burden our health care system and the taxpayers unnecessarily. The Transportation Department estimates that unhelmeted riders involved in crashes cost taxpayers \$853 million in the year 2002 alone.

Riders without helmets are much more likely to suffer brain injuries, which obviously are often slow healing, with long-time hospitalization. It costs twice as much to treat a patient who does have brain injuries.

I don't think taxpayers ought to be saddled with the costs of motorcyclists who sustain serious injuries because they want to feel the wind in their hair. I urge my colleagues to vote to help save the lives of so many of their constituents who are motorcycle enthusiasts. I once rode a motorcycle. In my earliest moments, I slipped and fell and picked gravel out of my legs for about 2 weeks thereafter. But we don't want to stop the sport. We want to spare the families of the motorcycle riders and their friends from needless loss and to spare taxpayers from bearing the costs of risky behavior.

I want to read a comment that we received. It is by Joe A—to protect his testimony. This is his testimonial to his NXT helmet.

On May 13th, 2004, I was riding my Harley through the small college town of Newark, Delaware, when a distracted student in the oncoming lane decided to make a left turn about 15 feet in front of me. I was going about 25 miles per hour and she appeared to be doing the same. In an instant, I collided head on, flew off my bike and into her windshield.

I did a 'head plant' which took out the windshield, rolled me over the car and onto the roadway beside the car. This left about a 4-inch gouge in my helmet but no serious head injuries. The paramedics were amazed . . . that I was able to carry on a lucid conversation with them. Thanks to your superior product, I was able to walk out of the hospital about an hour and a half later with no serious injuries.

My doctor told me that without my helmet I would have been dead or had severe brain injury and it's an impressive fact that I'm able to write this e-mail and send pictures three days after the accident. I have no doubt that without your helmet the outcome would have been very different for me.

Mr. President, it makes sense to do what we can to protect the public. Again, this is not telling anybody that they should ride or should not ride. We say, when you ride, don't spend my money, please. Don't burden the Medicare or health care insurance programs with your lingering injury or your death or other family problems. Don't burden us. You have no right to do that.

I urge my colleagues to vote for the amendment. It promotes the minimum safety standard for motorcycles, significant funding which can be used for other health care essential studies on childhood diabetes, asthma, autism, and many other afflictions that wreak havoc on families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the distinguished Senator from New Jersey for bringing his amendment to the Senate. We have been urging Members to bring their amendments to the Senate. I thank him also for the very thoughtful, sincere, and articulate way he expressed and explained his amendment. I disagree, but I know he has strong feelings, and we are anxious to get a vote on his amendment.

It is my hope—and I know the ranking minority member, Senator JEFFORDS, agrees—to get as many of these votes lined up for, perhaps, stacked votes. We do not have a time yet, but I assume that would be acceptable with the author of this amendment to stack these votes with perhaps some other amendments.

Currently, 21 States and the District of Columbia have helmet laws; 26 States have limited helmet laws, including my State of Oklahoma. Ours are for 17 and under. Only four States, as I understand, have no helmet requirement.

As recently as last year when we were discussing the highway bill, the U.S. Department of Transportation released a statement in which they said:

The administration opposes sanctions and withholding State funds, both of which would jeopardize important State level safety programs in infrastructure maintenance programs already in place.

Let me share a personal experience. Many years ago, back in the middle 1960s, I believe 1967, my first year in the State legislature, my first act in January of 1967, I came to Washington, DC, to testify before the Environment and Public Works Committee chaired at that time by Jennings Randolph of West Virginia. I was impressed with myself coming up to testify before this lofty committee that I now chair.

I was protesting Lady Bird's Highway Beautification Act of 1965. The reason was it was withholding funds, our funds, in order to accomplish a policy which we could agree or disagree on.

I have to admit to the Senator from New Jersey that I come from a little bit of a prejudiced perspective because I would be concerned about mandates for quite some time.

The highway bill is important for addressing real transportation infrastructure needs, but I question it is a place to spend a lot of time for other policies.

I will share with the Senator from New Jersey a study done last year of the California Motorcycle Safety Program, designed by Dr. John Billheimer, completed in 1996, that found that rider training dramatically reduces accidents and thus eliminates injuries and fatalities. Specifically, the study stated:

An analysis of statewide accident trends shows that total motorcycle accidents have dropped by 67 percent since the introduction of the California Motorcycle Safety Program with a drop of 88 percent among those under 18-year-old drivers.

There is much that can be done to dramatically reduce fatalities. I can recall we were debating a motorcycle helmet law in the State senate many years ago in the 1970s when testimony came forth that a helmet will impair one's vision to some degree, that there are sometimes accidents that have occurred because of the restriction. I know there have probably been studies on that, but it is something to be considered.

I fundamentally oppose this type of approach. I know consistency is not always something we have in this Senate, but it is consistent with my feelings over the last 30 years in addressing this type of situation.

I believe the Senator from New Jersey has every right to get a vote to measure the Senate, so at the appropriate time it would be my intention to table the amendment, call for the yeas and nays, and stack this with perhaps some of the other amendments, maybe the amendment of Senator HARKIN,

who is prepared to offer his amendment now.

Mr. LAUTENBERG. Mr. President, I was heartened at the beginning of the remarks by my colleague from Oklahoma and couldn't wait to hear the rest of it. Then I realized I could have waited.

My colleague is an adventurous fellow who sometimes flies airplanes without fuel. He is quite a daredevil. I support some of the enthusiasm he has for a chance-taking. It is amazing I got as far as I did in life, but here I am with a few broken things here and there.

In all seriousness, there is no transfer of funds; there is no loss of funds. Any money that is not used to promote helmet wearing is used for motorcycle safety within that same State. I was pleased to hear there is a way to protect lives besides using helmets. But when we saw what happened when the helmets came off, they were not blinded by any helmet problems for the most part, they were just killed.

The United States DOT has a helmet design that will not impair vision but will promote safety. That is the critical issue.

I hope between now and the time a vote occurs that the intelligent leader of the committee, who cares about people, will see a difference in view than that which was initially expressed.

I yield the floor.

Mr. INHOFE. Mr. President, again, I am hoping that Senator HARKIN is on his way and is prepared to offer his amendment. I look forward to considering that.

In the meantime, let's keep in mind we now have a limited period of time in which to work. The time is here. We are open for business. We want to have the amendments sent to the Senate. We invite our Members to do so.

In the meantime, I will reconfirm and restate one of the reasons for the urgency of this bill. Not only is this one of the largest bills of the year, it is thought by many to be the most important bill we will consider in that it is a matter of life and death.

We have core safety programs. If we were operating on an extension we do not have in this bill, we will not have the core safety programs and people will die. It is as simple as that, if we do not get this done.

Consequently, it is always worth repeating how important it is to get the bill completed and what would happen if we do not. We are in our sixth extension. This extension expires May 31. On May 31, if we do not have something in place, we have another extension. If we have an extension as opposed to a bill, there is not a chance to improve the donor status. There are many States that are donor States, like my State of Oklahoma. Under this bill as it is now, the minimum donor State of 90.5 percent would be increased to 92 percent, which does not sound like a big increase, and is not as large as I would like, but it means hundreds of thousands of dollars to each State.

Without the bill, we will not have that. We will just have an extension of what we have today at 90.5 percent. We would have no new safety core programs if we are not able to pass this bill.

Again, we have talked about the difficult job in putting together a fair formula. The fair formula is one that no one thinks is fair. Perhaps we have a fair formula as a result of that type of analysis. One of the factors in the 20-some factors of a formula is the fatalities of the States. My State happens to be a high-fatality, per capita State, so there is a consideration in the formula for that. If we do not pass the bill, we will not have any of the safety programs.

Right now, we have some streamlining provisions that took us—and I am sure the distinguished ranking minority member, Senator JEFFORDS, would agree with this—we spent 3 years coming up with what we can do to protect the environment and at the same time streamline the process of building roads so we do not come into delays that are costly delays and use up our mile dollars. We have done that. We have come to a lot of compromises.

It is kind of interesting, I think those of us on the committee, who all supported these streamlining provisions, did not really like the way they turned out. I thought they were not strict enough. Some thought they were too strict. Nonetheless, they are there. But if we do not pass a bill, we do not have them, so they are still going to be stumbling along trying to build roads with all kinds of obstacles out there that are obsolete.

If we do not pass a bill, we will not have the ability to use the innovative financing that is given to the States. This bill, for example, has recognized something that I believe is very important; that is, we should expand the opportunity of the States to have more chances to get involved, more opportunities to use innovative financing methods that may work. My State of Oklahoma is different from the State of Vermont, for example. What works in Vermont may not work in Oklahoma. But we recognize that. This bill will allow the States to be able to start being creative in expanding their ability to pay for more roads in a way that is a custom that would be workable within their States. That is a very important aspect of this legislation.

If we are operating on an extension and do not have a bill, we are not going to have this program called the Safe Routes to School. The Safe Routes to School Program is one that is certainly supported strongly by the Senator from Vermont, as well as many of the Members of the other body. This is something that many people feel very strongly about, that some people think is one of the most important parts of this bill: the Safe Routes to Schools. This will save young lives in America. If we do not pass this bill—and we are not going to pass it if we are working

on an extension—young lives could very well be lost.

One of the biggest problems we are having right now—I know my State of Oklahoma is not a lot different from other States—is we are sitting back there with the department of transportation, we are sitting back there with highway contractors who have the labor set up, all ready to go to work, all ready to repair roads, to build roads, to build bridges, and there is no certainty. They do not know for sure we are going to pass a bill. If we do not pass a bill, we may be on a 1-month extension, we may be on a 2-week extension, we may be on a 1-year extension. There is no way we can plan ahead and get the most from our dollars if we do not have a bill. There would be 5 years remaining on this bill for people to be able to plan for the future. So that certainty is very important.

A lot of the States are border States. My State of Oklahoma is not a border State, but a lot of them are. They have to deal with the NAFTA traffic. This bill has a borders program as well as a corridors program built into it to take into consideration some of the unique problems that come with the expanded traffic from trade. If we do not pass a bill, we will not have any help for these people. If we do pass a bill, we have provisions to be helpful to them.

The bill calls for a national commission to explore how to fund transportation in the future. There are some ways, if you look way down the road, maybe 5 years from now or 10 years from now, where maybe—just maybe—we can do something different for a change.

We have said several times here, and others have mentioned it, that this interstate highway program initially came into being many years ago, back in the 1950s, when Dwight Eisenhower was President of the United States. He observed during World War II, when he was General Eisenhower, that he was not able to get the troops and supplies moved around the country, to get them in place, to be shipped over to fight our battles.

When he became President, what is the one thing everybody remembers about Dwight Eisenhower? They remember the roads program, the highway program. It was funded in a way with taxes the same way we are funding it today. So we are talking about a half century, nearly, that we have been funding this program the same way. With this bill, we have established a commission that will look at new ways of partnering, new, creative ways of funding roads.

I can tell you, many people have come to our committee—we have had hearings on this—and they have talked about how much better we can do it if we just have a chance to get away from this mold we have been living in, the methods we are using and have been using for the last half century. If we just operate on an extension, we do not have a chance to do any of that.

This bill is more than just a highway bill. We have talked about bridges and highways a lot. But this is an intermodal transportation bill. A lot of people do not realize it, but my State of Oklahoma is actually a navigable State in terms of barge traffic coming in and out of the State. We have chokepoints with regard to train travel, channel travel, air travel. This bill addresses those chokepoints. At the present time, without this bill, that is not going to happen.

Lastly, and this is probably the most important thing, the bill has firewall protections to make sure people—I have always thought of this as a moral issue. If somebody is driving up to the pump and he or she pays that tax, I never hear anyone complaining about the high taxes on motor fuel because they recognize and believe all that money is going to go to road improvement, to new roads and new bridges. But, in fact, that is not the case because, like any trust fund, the propensity of people in elected positions—whether it is State or Federal—to spend the taxpayers' money is insatiable. They will go and rob these trust funds, whether it is the Social Security trust fund, the highway trust fund, or any of the other trust funds we have, and put it in other programs. It is when nobody is looking. Well, we have firewalls in this bill that would preclude that from happening.

One of the things I liked about the bill we had last year was that we changed all those provisions where they had been using trust fund money to support policies that have nothing to do with transportation. We are, to a great extent, going to be doing that with this bill, too.

So the urgency of passing this bill is upon us. We have to do it this week. It would be Monday at the latest, but this week, I would say, in order to get it to conference, come back from conference, have the conference report adopted in both the House and the Senate, and then signed by the President. We can do that if we move expeditiously now, but if we do not, it is not going to happen. We have a May 31 deadline. What is today? May 11. Today is May 11. So we have 20 more days to get this all the way out of the Senate, into conference—of course, the House has already passed the bill, so they are waiting for us now—have it considered in conference, and then have it sent back here. That is not much time.

Things do not happen very quickly around here. But I know Senator JEFFORDS and I will do everything that is necessary in that conference to make sure we come out with a good bill, get that bill back here, passed the House, passed the Senate, and to the President's desk, to have a highway bill. If we do not do it, none of these 10 things I mentioned are going to happen—none of them.

There may be parts of the bill you don't like. There are parts of the bill I do not like. But I hope people realize

that just operating on an extension, after we are on our sixth extension now, is no way to do business. We are here to do a better job for the American people.

Hopefully, some people will be coming down to the Chamber.

I yield the floor to Senator JEFFORDS.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank again Senator INHOFE and Senator BOND for their leadership on this bill. I am glad to be here on the Senate floor continuing to debate this important legislation.

This managers' package we have before us today will increase the funding in our legislation \$11.2 billion and ensures that all States will have the resources necessary to improve their highways, roads, and bridges.

This package will be the catalyst that helps get this bill completed the way it I should be—fully funded. I sincerely thank Senators GRASSLEY and BAUCUS for their tremendous efforts in crafting the finance title of this proposal.

This package will create jobs. It will save lives. It will reduce travel time. And it will improve the quality and structure of our Nation's surface transportation system.

Just this week, the Texas Transportation Institute at Texas A&M University released its annual Urban Mobility Report. This highly respected report once again tells us we need to do better when it comes to transportation in this country. The report tells us that traffic congestion delayed travelers 79 million more hours—79 million more hours—and wasted 69 million more gallons of fuel in 2003 than in 2002.

The report tells us that overall in 2003, there were 3.7 billion hours of travel delay and 2.3 billion gallons of wasted fuel, for a total cost of more than \$63 billion. But this bill is about more than reducing traffic congestion. The U.S. Bureau of Transportation Statistics says there are approximately 45,500 transportation-related fatalities per year, 94 percent of which occur on highways. That is because over a quarter of our interstates remain in poor or mediocre condition. Fourteen percent of our bridges are structurally obsolete. This is unacceptable. Something must be done.

That is what we are trying to do here today. We have worked very diligently to reach a compromise that will move us forward in safety, commerce, environmental protection, and congestion reduction.

I encourage all Senators to come to the floor and offer their amendments sooner rather than later. Let's get this bill done so our States can get started with their critical work. Let's get this bill done this week so we can move it to conference with the House as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for his excellent statement. I agree with all of it.

I see the Senator from New Jersey is not in the Chamber, but let me make one comment. When I was talking about the withholding of funds and the Federal mandates, he is accurate in the fact that funds would not be withheld. It would mandate that 3 percent of the money of the portion of funds that would go to his State would be taken from the surface transportation program, the National Highway System, and the interstate maintenance programs. That is the problem I have. In a way that is withholding money. That is a mandate that is backed up by withholding funds.

It is my understanding we have two Members who are due to bring their amendments. We encourage them to come.

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

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

#### AMENDMENT NO. 652 TO AMENDMENT NO. 605

Mr. DORGAN. Mr. President, I have an amendment I would like to have considered. My amendment is No. 652, which I have filed and is at the desk.

The PRESIDING OFFICER. The pending amendment is temporarily laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 652.

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

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

The amendment is as follows:

(Purpose: To provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices)

At the end of chapter 3 of subtitle E of title I, add the following:

#### SEC. 15. INVESTIGATION OF GASOLINE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation.

(b) REPORT.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

- (1) the results of the investigation; and
- (2) any recommendations of the Federal Trade Commission.

Mr. DORGAN. Mr. President, first, we are deliberating in the Senate about

a highway bill. I appreciate the work the chairman of the committee and ranking member have done on this piece of legislation. It has been a long and tortured process to get this piece of legislation to the floor of the Senate. While I may not agree with every single line in the bill, I admire their work. I think their work is commendable, and it will advance this country's interests. For that reason, I intend to support the legislation.

I think with respect to this country's future, its economy, future opportunities in expanding our economy, there is nothing that more quickly expands the country's economy or more quickly provides opportunity all across this country than the investment Congress makes in a program that provides for highway and bridge construction and road maintenance and repair. It is a sure way to put people to work immediately all across this country.

This highway bill has been long delayed, but now while it is on the floor, I also want to not only commend the committee for its work, I want to offer an amendment that deals with something that relates to it.

Let me discuss briefly the amendment and then describe why I want this amendment considered on this bill. My amendment simply deals with the price of gasoline and asks the FTC to, within 90 days of the legislation being enacted, conduct an investigation of gasoline prices in this country. Let me describe a bit of the background for this. I don't allege there is corruption, price fixing, or collusion. What I do know is this: When big companies get bigger and more companies become fewer companies, there is a capability to influence the marketplace in a significant way. I chaired the hearings in the Senate that investigated the Enron situation. Now, having sat in the chair investigating what Enron did with respect, not to gasoline, but with respect to electricity sales on the west coast, the creation of strategies called Death Star, Fat Boy, Get Shorty—all of which were strategies to literally steal from the pockets of people living on the west coast. They bilked people out of billions of dollars by manipulating and overpricing with respect to the electricity market. We know that now and we also know that some executives from that company are on trial, about to go on trial, or have finished their trials, and some have been sentenced to 10 years of hard tennis at a minimum security prison. Others will get a stiffer penalty. It was wholesale stealing from the American people. Why? One, because they could; and, two, because there are people who are corrupt in their hearts engaging in these practices.

I don't allege the same exists with oil. I don't have any idea with respect to oil and the price of gasoline. I understand that the circumstances with oil are complicated. Sixty percent of the oil we use in this country—incidentally, the increased usage substantially

is for transportation—comes from off our shore. The pricing for oil coming from the spot market relates to supply and demand, I am sure, but the supply largely comes from Saudi Arabia, Iraq, Kuwait, Venezuela, and others. Now, we are really fooling ourselves if we think it is not holding America hostage and our economic future hostage with 60 percent of our oil coming from off our shores and most of it coming from troubled parts of the world.

If, God forbid, terrorists should interrupt the flow of oil into this country tomorrow night, our economy would be belly up very quickly. So that calls for and begs for a new energy policy, instead of simply saying that our exclusive energy policy is digging and drilling, which we must do; but if that is our exclusive policy, that is a "yesterday forever" policy. We need a new energy policy on the floor of the Senate.

I also think even as all of these events are occurring—the price of oil increasing, the spot market showing the price of oil is \$50 or \$52 or \$55 a barrel, and the price of gasoline is increasing at the pumps, and you drive up to a gas pump someplace and somebody is driving a 6,500- or 7,000-pound car, perhaps a humvee, and you wonder a little bit about how all this works. When I drive up next to a humvee and everybody has a right to drive a humvee I think of the Latin term, "totus porcus." I am not sure why I think of that. When somebody sits there with a 7,000-pound vehicle, with one person in the vehicle going to work, you wonder about that. The marketplace probably takes care of some of that, although somebody who is going to buy a humvee probably doesn't care much about the price of gasoline.

The price of gasoline is an interesting phenomenon in our country. As the price of oil goes up, and we hear about it on the news, all of a sudden, that day or the next day the price of gasoline goes up with a blink of an eye, following the price of oil. Then the price of oil comes down a bit, and the price of gasoline doesn't move down with quite the same rapidity. Something interesting is going on. I would like to discuss a bit of it.

Since 1990, the number of major oil and gas companies has gone from 34 to 13. The number of refining companies has gone from 13 to 7. The other day, I noticed that while we have very high prices for oil and gasoline, Exxon Oil had the highest profit ever for a corporation—record profits. So I am asking myself the question: Why should an oil company have record profits just because the price of oil is high and the price of gasoline is higher? Has the margin between those two prices changed with respect to those that are delivering it? The answer comes in the evaluation of what has happened to total revenues and to net income for the major oil companies. As we have gone from more to fewer oil companies, what we see is now, with the price of oil and gasoline in many cases at near

record levels, so, too, are the profits of the oil companies. There have been profit increases year to year of 108 percent, 79 percent, 101 percent, 152 percent, 1,000 percent, 400 percent—these are the major oil companies and the increase in their profits from 2003 to 2004.

Question: Given what we know about what has happened in some areas and in some industries with respect to manipulation of supply and demand and manipulation of prices, should we not have aggressive oversight and investigation to make sure the consumer is protected? I don't have the information to come to the floor to say there is something fundamentally wrong in the pricing strategy, but there are some indications, it seems to me, that some enterprises that have now merged successfully and become larger and stronger and have better capability to be involved in affecting the market in a more deliberate way are increasing their profits because they can, not because there is aggressive and robust competition, but because they have the economic clout to do it.

I am wondering if on behalf of the American consumers we ought not have aggressive oversight and aggressive investigation.

Now, we have seen activities from very large oil companies in the Congress. The House of Representatives, by the way, just passed an energy bill saying we need more incentives for these energy companies to be exploring for more oil and natural gas, at a time when the oil prices are at a record high. Even the President says that doesn't make any sense at all. It is interesting while they are wanting more tax incentives to explore for more oil, they are busy buying up stock with extra profits. That is what they are doing: they are not putting those profits in the ground. I find that interesting as well.

I think the FTC is the appropriate agency to investigate gas prices. I think, on behalf of American consumers, we ought to take a hard look at it, and the FTC is the place to do it. I pulled up at a four-way stop sign near Mohall, ND, one day, and there was an old car in front of me, and it was well used and well worn, with the back bumper kind of askew and not much of a paint job left. It had four or five people in it, and it was belching smoke out of the back end. They had a plain, simple little bumper sticker. The bumper sticker from this old wreck of a car that is now stopped at a four-way stop said: We fought the gas war and gas won.

Well, the message from that old car, "gas won," is a message I think everybody understands. We are talking about a big industry that has consolidated and merged so that there are far fewer companies, with much greater market clout, and I think we need substantial oversight. The basic consumer protection statute enforced by the Federal Trade Commission is in section 5(a) of the Federal Trade Commission



Act. It provides that unfair or deceptive acts or practices in or affecting commerce are declared unlawful. Unfair practices are defined to mean those that:

cause or are likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

In the State of North Dakota, a State I represent in the Senate, we actually drive a lot because we are a State that is 10 times the size of the State of Massachusetts. We have 642,000 citizens and we drive a lot. In fact, it is interesting; we drive almost twice as much per person as they do in New York. The average North Dakotan drives twice as much per person per year as a New Yorker, which means of course the burden of the gas tax itself is twice as high, but that is all right. We understand that. We like where we live. North Dakota is a wonderful State. But because gasoline is a significant issue for us and the price of gasoline is important for people who drive as much as we do, it is very important to us that we see that these prices are fair.

It is hard for me to understand how at a time when the oil prices have spiked and gasoline prices have risen substantially, how the profit margin has increased so dramatically for the oil companies themselves if in fact this is a competitive market. If it is not a competitive market, then I think there needs to be substantial investigation to see whether the consumers are being gouged.

Let me say again when I chaired the hearings about the manipulation of the market and the grand theft that occurred with the Enron Corporation bilking billions of dollars from consumers on the west coast, California, Oregon, Washington, and so on, it was unbelievable to see what those companies did because they could. They had larceny in their heart and they decided to profit to the tune of billions of dollars by literally stealing from consumers. As I have said before, I am not alleging that is happening here. I do not have the foggiest idea what the mechanics are for the pricing strategies or what has led to record profits for the oil companies.

All I know is the oil companies are bigger. They have more muscle. They have more capability to affect the marketplace, and I believe when there are fewer competitors and less competition, there is a responsibility on behalf of consumers to ask for a referee to look over their shoulder and see that everything is all right.

I only wish we had done that earlier in the Congress when it was quite clear that the wholesale prices for electricity charged by Enron and others in the west coast marketplace—I only wish we had been more aggressive and we had demanded the Federal Energy Regulatory Commission and others to be in there up to their neck in investigating what was going on, but the

Congress was late. The Federal Energy Regulatory Commission was asleep from the neck up. As a result, there was grand theft on the west coast from those markets, particularly by the Enron Corporation. Let us not let that happen with other industries.

Again, I do not allege that is the case here. I do not have the foggiest idea what the ingredients are of these pricing strategies, but I would like the Federal Trade Commission, on behalf of the American people, to take a good hard look. So my amendment would provide that be the case 90 days following the enactment of this legislation, and we would then have the benefit of a formal Federal Trade Commission study of gasoline pricing.

I think on behalf of the American people, given this time, given these circumstances, we ought to expect that and demand that and that is what I do in this amendment.

I yield the floor, and 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. GREGG. 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. We are encouraging Members to come to the floor. The Senator from Iowa is prepared to offer an amendment, and another behind him. I am hoping we will be able to get these amendments so we can perhaps have some stacked votes tonight—maybe 6 o'clock or so—whenever the leadership on both sides agrees that is the appropriate time.

I will state again how significant it is we pass this bill. It will be very costly in terms of dollars if we do not get it completed. There are a lot of programs incorporated in this lengthy bill that I do not agree with and we debated them for 3 years. I had to lose some and I won some.

This is one I don't think there is one member of the committee I chair of 10 Republicans and 8 Democrats who will say they got everything they wanted. Maybe that is a sign that we did a pretty fair job. We need to have the bill passed.

We need to do what we can to avoid another extension. An extension causes all of the 10 problems I outlined a few minutes ago. There is a clear right and wrong in this case. 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. 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 do have at least one amendment, the Lautenberg amendment, that is ready for a

vote. It might be that the Harkin amendment will be ready for a vote also, if the Senator can get ready in the next 30 minutes. I announce it is our intention to have a vote at 5:30, and there will be either one or two or even three votes, depending on what comes down between now and 5:30.

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

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

AMENDMENT NO. 618 TO AMENDMENT NO. 605

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 618 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER, proposes an amendment numbered 618.

Mr. HARKIN. 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:

(Purpose: To improve the safety of non-motorized transportation, including bicycle and pedestrian safety)

At the end of subtitle D of title I, add the following:

**SEC. \_\_\_\_ NONMOTORIZED TRANSPORTATION SAFETY.**

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking “The Federal” and inserting the following:

“(1) IN GENERAL.—The Federal”; and

(2) by adding at the end the following:

“(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

“(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

“(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

“(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

“(3) NONMOTORIZED TRANSPORTATION GOAL.—

“(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

“(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

“(4) RESEARCH FOR NONMOTORIZED USERS.—

“(A) FINDINGS.—Congress finds that—

“(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

“(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

“(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

“(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

“(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

“(I) by the Department of Transportation; and

“(II) by State transportation departments.

“(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

“(iii) DEPARTMENT OF TRANSPORTATION ALLOCATION.—Effective beginning with the third full fiscal year that begins after the date of enactment of this paragraph, the Secretary shall allocate at least 10 percent of the research funds that are allocated by the Department of Transportation for each fiscal year to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

“(5) METROPOLITAN PLANNING ORGANIZATIONS.—

“(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

“(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

“(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

“(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

“(C) LONG-RANGE TRANSPORTATION PLANS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

“(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

“(II) includes an improved target level for bicycle and pedestrian trips; and

“(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

“(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

“(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.”.

Mr. HARKIN. Mr. President, the amendment I am offering, on behalf of Senators KENNEDY, OBAMA, CARPER, and myself, calls for several simple adjustments to current practices at the Federal, State, and local level. The costs are minor, but the impact on safety for those who walk and ride bikes would be large. With the safety improvements that could result from this amendment, I believe we could increase pedestrian and bike traffic, and we could increase exercise to the benefit of American's health. We can reduce traffic congestion, and we can provide for safer travel for those who want to walk or ride a bike.

At the outset, I want to acknowledge that there are funds in the bill for increased bike paths and trails. We have kept the enhancement money. That is all well and good. I don't know the exact amount of money, but there is a quite a bit involved. The problem is there is nothing in current practice that requires State departments of transportation or metropolitan planning organizations to integrate in their planning upfront for bike paths and sidewalks when they are planning highways. Again, I think a lot of the good money for bike paths and trails will be used to redo and retrofit what they should have done in the first place. That is what we always seem to be doing—we'll fix it up and add something later on. That always costs more money.

What this amendment does is it says: Let's have them at the initial planning stage integrate into their planning sidewalks and bike paths.

The fact is, our current transportation system has been engineered in a way that is, in many cases, unfriendly and often very dangerous to nonmotorized travel. Again, my amendment promotes Federal, State, and local actions to make walking and biking safer and to increase the total number of walking and bicycling trips.

Specifically, the amendment requires each State to adopt a “complete streets” policy to accommodate bicyclists and pedestrians by ensuring that all users are considered when com-

munities are built or modernized. While studies show that Americans would like to bike and walk more, many roads do not have sidewalks or bike paths, making them dangerous for pedestrians and bike riders. In many cases, traffic lights do not allow enough time for the elderly or people with disabilities or children to safely cross busy intersections. Meanwhile, we are constructing new housing developments without sidewalks. Go out and take a look at some of the new housing developments being added in any State. A lot of times there is not even a sidewalk. How can you ask kids to walk to school if they don't have a sidewalk?

My wife and I get up every morning. We have a mile route that we walk. We have sidewalks for part of the way, and there aren't any sidewalks for the rest of the way. Again, it is about getting this integrated in the initial planning.

While studies show that Americans would like to bike and walk more, many roads don't have sidewalks or bike paths. It is dangerous for pedestrians. We are building roads without bike lanes. Quite frankly, we are heading in the wrong direction. Quite frankly, to promote more healthy living, we must promote people walking or biking more. I will have more to say about that in a minute.

Experts I talk to tell me that even a modest increase in pedestrian and bike traffic will get some cars off the road. That can have a significant positive impact on traffic congestion and gridlock. Research shows that often a surprisingly small increase in the number of cars can make the difference between a smooth flow of vehicles and a time-wasting traffic jam.

According to the U.S. Department of Transportation, the number of trips that are taken that are 1 mile or less is about one out of four. In other words, about 25 percent of all trips taken are 1 mile or less. Nearly half of all the trips taken in this country are under 5 miles. So it wouldn't take a huge shift to have an effect on traffic congestion. The path to safer travel on foot or by bike is also the path to a smarter, healthier, more efficient vehicle transportation system.

Each of the provisions in my amendment is intended to help us move forward toward safer travel for people in vehicles, pedestrians, for people who use bikes or people who use wheelchairs, or for people simply trying to cross a road safely in a neighborhood.

When we debate the highway bill, we typically talk about the Nation's infrastructure deficit, about jobs and economic competitiveness, the movement of goods, and other broader transportation goals. But we neglect other matters that are of real concern to people all across America in terms of transportation. For example, what are we doing to improve the safety of pedestrians and bicyclists?

In the Washington, DC, area we have recently experienced a rash of pedestrian fatalities. All across the country

bicyclists put their lives at risk on roads that make no accommodation for nonmotorized traffic. No one denies that over the years we have built a transportation system that neglects and endangers nonmotorized travel. Again, this costs us dearly in terms of needless loss of life or permanent disabilities caused by accidents.

It also has other consequences. When we give people no alternative to using their cars, they use their cars. So we add more and more vehicles to our roads and highways, 25 percent of which are used for trips of less than a mile. This translates into traffic delays, congestion, often gridlock. We simply must give more attention to the safety of pedestrians and those who use bicycles or who walk or who use wheelchairs.

It is pretty shocking when we look at the statistics. Our Federal system for tracking fatalities, known as FARS, tells us that during the decade from 1994 to 2003, nearly 52,000 pedestrians were killed in traffic accidents in the United States. During the same 10-year period, more than 7,400 bicyclists were killed. Though the data is less reliable with regard to injuries, we know the number of nonfatal injuries ran into the hundreds of thousands during that same 10-year period.

In 2003, the most recent year for which we have data, nearly 5,000 pedestrians and more than 600 bicyclists were killed in the U.S., again, with many more thousands injured. Fully 13 percent of all transportation fatalities are pedestrians and bicyclists—13 percent. That is a rate far in excess of the share of trips taken by pedestrians and bicyclists. The bottom line is it is disproportionately dangerous to be a pedestrian or bicyclist in the U.S. This is one big reason why people are opting not to walk or ride a bicycle. Instead, they are getting in their cars and they are contributing to traffic jams. Again, about 25 percent are going less than a mile, and over half of the time they are going less than 5 miles.

The journey to work data in the 2000 census tells a dismal story. Compared to 1990, despite a big increase in population, the number of people who walked to work fell by almost three-quarters of a million—727,000, to be exact. In 1990, 3.9 percent of Americans walked to work. Ten years later, in 2000, that had fallen to 2.9 percent—a 25-percent decline in the number of Americans who walk to work, in a 10-year period of time.

These various statistics tell us that many fatalities and injuries to pedestrians and bicyclists are preventable if we make the safety of nonmotorized travel a higher priority, and that is exactly what my amendment is intended to do, to put it into the planning stage and make it a higher priority. This amendment, I guess you could say, is also designed to significantly reduce the number of car trips taken.

As I said, consider that trips of a mile or less represent the highest share

of all car trips we make every day—a quarter of all of those trips. This means there is a huge, untapped potential to shift a significant portion of these short-distance trips to foot or bicycle, if we make some modest adjustments and if we step up our focus on safety.

A 2003 transportation research board study showed that residents of neighborhoods with sidewalks were 65 percent more likely to walk than residents of neighborhoods without sidewalks. That kind of makes sense. As I said, my wife and I take a mile walk in the morning, and we have sidewalks part of the way, and part of the way we are out in the street. Fortunately, there is not a lot of traffic at that time. More than once, we have been walking down the street where there are no sidewalks and you don't hear a car coming and they slip by you. I have often thought what if I happen to step one way or the other while walking and do not hear that car coming. That is why people don't walk more.

A study in Toronto documented a 23-percent increase in bicycle traffic after the installation of a bicycle lane. Think about that. They put in a bicycle lane and there was a 23-percent increase in bicycle traffic because people are more safe. They can travel on a bicycle and know they are not going to get hit. As a Senator who is a chief sponsor of the Americans with Disabilities Act, which we passed 15 years ago, I can testify that stepped-up attention to pedestrian improvement and access will be enormously beneficial to people with disabilities and also to our growing population of seniors.

Right now, about 85 percent of bus and rail users get to the bus stops and subway stations on foot. Many are people with disabilities. And seniors have no choice but to rely on costly paratransit services; they cost a lot of money. A lot of times we pay for it out of taxpayer dollars. We can reduce those costs by building new walkways and improving the existing walkways.

I have something here that was put out by the National Association of County and City Health Officials called Public Health and Land Use Planning and Community Design.

It says here that a Texas study—that is the State I referred to earlier—found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. I will repeat that. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop.

One of the reasons we passed the Americans with Disabilities Act was so more people with disabilities would get into the workforce. More often than not, they rely on a bus to get there. How are they going to get to the bus stop if they don't have a sidewalk on which to even get to the bus stop?

Over 55 percent of all pedestrian deaths occur in neighborhoods that are

often designed with no sidewalks or otherwise inadequate pedestrian accommodations. So, again, in terms of helping people with disabilities make sure they can get to a job, or get to shopping, or whatever they need to do, they rely upon transit services, buses. But if they cannot even get to the bus stop, what good is it?

Over the last two generations, we have seen dramatic changes in how children go to school. As recently as 30 years ago, up to 70 percent of children were walking or riding bikes to school. Outside of every school you would see bicycle racks loaded with dozens of bikes. Not anymore. Today, nearly 90 percent of our kids are traveling to school in vehicles, mostly buses. But if you checked the high school parking lots, you know it is cars, too. In addition, a growing number of parents are driving their kids to school, putting further stress on the roadways during the morning rush hour. Again, the logical alternative is to provide safe, convenient options to encourage children to walk or bike to school.

I was saying earlier to Senators on the floor, I remember my own two daughters, when they went to public school out in Virginia. We live about a mile from school. Well, there was a sidewalk about a third of the way, and about two-thirds of the way there was no sidewalk. It was a busy thoroughfare. How are you going to let them bike? You are not going to let them walk. So they got a car to drive a mile. I would not let our kids walk on that street and neither would our neighbors. Again, they will come along later and retrofit a sidewalk and that will cost more money, or they will put in a bike path later. Why don't we do it up front, get the planning done up front?

That is what this amendment is all about. Our focus in a transportation bill, I believe, should not strictly be on moving vehicles. We should be more broadly focused on moving people and making it possible for more people to move themselves by foot or by bicycle. For every American who opts to get to work, school, or the grocery store by foot or bicycle, that is less costs for road building and maintenance, zero contribution to traffic congestion, zero costs in terms of pollution and environmental degradation. Every walking and bicycle trip that substitutes for a car trip, especially during rush hour, makes a big difference.

In local situations, where we can encourage hundreds or thousands of people to shift to walking and bicycling, this can have a dramatically positive impact on the transportation system.

So improving and expanding sidewalks and bike paths is not only about safety, it is about maximizing the performance of our transportation systems. Again, the good news is, to make a positive difference, large numbers of vehicles do not need to be moved off a congested roadway. Just some of them need to be moved. It is the incremental user that spells the difference between

free-flowing traffic and time-wasting congestion, and that is why any thoughtful, effective transportation policy for this Nation must aim for at least modest gains in walking and bicycling.

So again I have talked about how, by investing in sidewalks and bike paths, we can reduce the stresses on our transportation system. I have also talked about how this can improve safety for pedestrians and bikers. There is one other huge benefit that, by itself, would justify passing this amendment. Simply put, by encouraging more Americans to spend more time walking and biking, we can have a major positive impact on their health and their wellness. We can reduce the incidence of obesity and chronic diseases. This, in turn, will lead to savings in health care costs, including Medicare and Medicaid.

Ninety million people in the United States are living with chronic diseases, and many of these can be prevented through changes in lifestyle—for example, by eating nutritious foods and getting plenty of physical exercise. I wish to stress, physical exercise. When all is said and done, aside from tobacco use and genetic predisposition, there are essentially two things that lead to chronic disease: Poor nutrition and lack of physical activity. They also contribute to being overweight and obese.

So we need to be doing everything possible to encourage Americans to engage in more walking and bicycling. We can begin by making it possible for more young people to walk or to bike to school.

Currently, only 8 percent of elementary schools and 6 percent of high schools provide daily physical education year round for all students. More than one-third of youngsters in grades 9 to 12 do not engage regularly in vigorous physical activity. No wonder we have an epidemic of childhood obesity. No wonder that American adolescents rank as the most overweight in the industrialized world.

And the picture is just as bleak for adults. Almost 40 percent of American adults are sedentary. In the United States, only six percent of trips are by walking or biking, compared to 49 percent of trips in Sweden and 54 percent of trips in Italy.

Research shows that the amount of time people spend in their cars correlates more strongly with overweight and obesity than income, education, gender, or ethnicity.

One remarkable study compared the health of people living in walking-and-biking-friendly cities with the health of people living in sprawling, car-dependent suburbs. The study, published in 2003 in the *American Journal of Health Promotion*, found that people living in counties marked by sprawling development are likely to walk less and weigh more than people who live in less sprawling counties. In addition, people living in more sprawling coun-

ties are more likely to suffer from high blood pressure. These results hold true after controlling for factors such as age, education, gender, and race and ethnicity.

One does not need a Harvard study to establish another correlation: The correlation between the decline in physical activity and skyrocketing health-care, Medicaid, and Medicare costs. We build subdivisions without sidewalks, schools without playgrounds, and cities without bike lanes, and then we wring our hands about rising rates of overweight, obesity, and chronic disease. We systematically neglect wellness, fitness, and common-sense disease prevention and we are shocked, shocked that health care costs are ravaging Federal, State, and corporate budgets.

Someone once defined insanity as doing the same old thing over and over again and expecting a different result. Well, our current health care approach is, by definition, insane. In fact, in America, today, we don't have a true health care system, we have a sick care system. If you are sick, you get care. We continue to spend hundreds of billions on pills, surgery, treatments, and disability. But we are under-funding, cutting or eliminating programs designed to keep people fit and well and out of the hospital.

We cannot go on like this. We are choking our economy. We are exploding the Federal budget. And we are, literally, killing ourselves.

Consider the obesity epidemic. Some 65 percent of our population is now overweight or obese. The incidence of childhood obesity is now at epidemic levels. Alarm bells are going off all over the place. But our Government has done virtually nothing.

And the Federal budget is being eaten alive by health care costs. It is also State budgets. It is family budgets. And it is corporate budgets.

Look at the numbers. Last year, nationally, we spent more than \$100 billion on obesity alone. Medicare and Medicaid picked up almost half of that tab.

This is unwise. It is uneconomic. And, as we now know, it is totally unsustainable. If we are going to control Medicare and Medicaid costs, and private-sector health care costs, as well, we need a radical change of course. We need a fundamental paradigm shift toward preventing disease, promoting good nutrition, and encouraging fitness and wellness. This will be good for the physical health of the American people. And it will be good for the fiscal health of Government, corporate, and family budgets.

That is exactly what this amendment is about. Yes, this amendment is a step towards reducing the burdens and stresses on our transportation system. It will improve safety for pedestrians and bikers. By encouraging walking and bicycling, it will also have significant health benefits. And, as a consequence, it will help to hold down health care costs and reduce the burden on Medicare and Medicaid.

Now let me explain the specific ways that my amendment will help us to capitalize on these opportunities.

My amendment asks the Secretary of Transportation to report to Congress each year as to how the Federal research dollars provided in this legislation are advancing progress on safety and other issues related to walking and bicycling.

It also asks the Secretary to establish goals for increasing walking and bicycling, and to set milestones toward achieving these goals.

Looking into the future, it asks each State department of transportation to have a policy statement on "complete streets," so that when they undertake projects funded under this highway bill, some consideration must be given to the needs of non-motorized users.

Larger metropolitan planning organizations—that is, regional transportation agencies serving 200,000 or more people—can choose to adopt a "complete streets" policy or satisfy certain criteria in their planning process. And these agencies must show how their long-range plans and transportation improvement programs will increase walking and bicycling. It does not require that sidewalks or bikeways be built along side rural roads or intercity roads.

Finally, under my amendment, these large metropolitan planning organizations, or MPOs, are encouraged to work with their local governments on improvements designed to increase biking and walking. In addition, the MPOs would be directed to designate a bicycle and pedestrian coordinator, a move that would be in line with a requirement placed on state transportation departments dating back to the 1991 ISTEA law.

Each of these provisions is designed to better align our current law practices with key features of the bill before us.

In the SAFETEA bill, the committee has provided for important financial commitments to bikes and trails. But we need to fully integrate the needs of pedestrians and bicyclists into the complete transportation process.

There are also provisions in my amendment regarding how we conduct Federal research activities. This is designed to expand our knowledge of effective pedestrian and bicycle safety practices, and to help our State and local partners understand the best methods and practices for addressing these safety needs.

Provisions in this "Complete Streets" amendment will help us to ensure that we are designing transportation projects, up front, with pedestrian and bicycle safety in mind, so we don't have to keep going back and retrofitting. So many of the programs in the SAFETEA bill involve re-doing and retrofitting what we didn't do right in the first place. In the future, as each State adopts a "Complete Streets" policy, this can be avoided.

Finally, this amendment attempts to set modest goals for increasing the

number of walking and bicycling trips, while reducing pedestrian and bicycle fatalities.

I believe that this modest package of policy improvements can and will make a significant difference. I am very pleased by the broad range of organizations that enthusiastically endorse this amendment.

Mr. INHOFE. Will the Senator yield?  
Mr. HARKIN. Yes.

Mr. INHOFE. We are trying to lock in votes for tonight, and I was preparing for a unanimous consent request, but to do that we would have to give—I think the Senator needs to give the other side at least a couple of minutes to respond. The request would be to have two votes take place beginning at 5:30 on the Lautenberg amendment and the Harkin amendment. Could I interrupt the Senator to make that unanimous consent request?

Mr. HARKIN. Absolutely.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent that—

Mr. HARKIN. Wait just a second, Mr. President. The Senator said he wants to do what at 5:30?

Mr. INHOFE. We want to ask unanimous consent to proceed to a vote on the two amendments beginning at 5:30.

Mr. HARKIN. Well, I had a request from Senator CARPER who wanted to speak. I assume Senator BOND may want to speak. I do not know. That is only 7 more minutes.

Mr. INHOFE. I have been informed, if we are not able to get it at this time, we will not be able to have the votes tonight. I would rather have them tonight.

I ask unanimous consent that at 5:30 today, the Senate proceed to a vote in relation to the Lautenberg amendment No. 625 to be followed by a vote in relation to the Harkin amendment No. 618, with no second degrees in order to the amendments prior to the votes and with the time until then equally divided; provided further that there be 2 minutes equally divided for debate between the votes.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa is recognized.

AMENDMENT NO. 618, AS MODIFIED

Mr. HARKIN. Mr. President, reserving the right to object, I wonder if the Chairman would permit me to modify my amendment by striking lines 6 through line 16 on page 5 dealing with research.

Mr. INHOFE. Yes. There is no objection to that. That will be included by UC.

Mr. HARKIN. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 618), as modified, is as follows:

At the end of subtitle D of title I, add the following:

**SEC. \_\_\_\_ NONMOTORIZED TRANSPORTATION SAFETY.**

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking “The Federal” and inserting the following:

“(1) IN GENERAL.—The Federal”; and

(2) by adding at the end the following:

“(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

“(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

“(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

“(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

“(3) NONMOTORIZED TRANSPORTATION GOAL.—

“(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

“(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

“(4) RESEARCH FOR NONMOTORIZED USERS.—

“(A) FINDINGS.—Congress finds that—

“(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

“(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

“(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

“(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

“(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

“(I) by the Department of Transportation; and

“(II) by State transportation departments.

“(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

“(5) METROPOLITAN PLANNING ORGANIZATIONS.—

“(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall

designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

“(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

“(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

“(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

“(C) LONG-RANGE TRANSPORTATION PLANS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

“(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

“(II) includes an improved target level for bicycle and pedestrian trips; and

“(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

“(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

“(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.”.

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

Without objection, it is so ordered.

There will be 2½ minutes per side remaining on this amendment.

Mr. HARKIN. Mr. President, I wanted to make sure the Senator from Missouri had adequate time to speak. I think I have made my case. I wanted to point out who is in support of this amendment. I have a nice chart that says it all. The American Association of Retired People, the Association of Metropolitan Planning Organizations, the MPOs, are in favor of this, as well as America Bikes, Natural Resources Defense Council; Paralyzed Veterans of America, again, because of the disability issue; America Walks; the American Heart Association strongly supports this; the American Public Health Association; the American Society of Landscape Architects; the American Planning Association, among a lot of others, are in favor of this amendment.

I hope we can adopt this amendment for a number of reasons, not the least of which is for the health and welfare of the American people and to get more people walking and biking but to get it done upfront, so when they are planning, it is integrated upfront, and that

is really what this amendment does, in essence.

This amendment asks for upfront planning, that they have a policy statement, that metropolitan planning organizations have a complete streets policy, that all of this is done upfront. Let us quit coming in and backfilling and putting in bike paths and sidewalks after the fact. Let us get it done upfront. That is really what this is all about.

I ask unanimous consent that letters from the following national organizations be printed in the RECORD: the Surface Transportation Policy Project, AARP, America Walks, the National Center for Bicycling and Walking, the Metropolitan Planning Organizations, the League of American Bicyclists, The American Society of Landscape Architects and the National Resources Defense Council, and a fact sheet from the National Association of County & City Health Officials.

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

SURFACE TRANSPORTATION  
POLICY PROJECT,  
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Surface Transportation Policy Project, I am writing to indicate our strong support for the "Complete Streets Amendment" you will offer during Senate debate on the SAFETEA legislation.

Your amendment proposes important, albeit modest, improvements to prompt the federal, state, regional and local partnership to embrace policy actions that will help expand travel options in the U.S., focusing specifically on improving safety for pedestrians and bicyclists.

The simple policy adjustments you are proposing are complementary to the other important provisions in the bill, notably the renewal of the Surface Transportation Program and its Transportation Enhancements Program as well as the inclusion of new initiatives to promote "fair share" expenditures under the Safety program and the Safe Routes to School program. These programs bolster state and local efforts to retrofit transportation facilities now in place and help "complete our streets" in communities throughout the nation.

Importantly, your amendment, with its emphasis on the adoption of "Complete Streets" policies by state transportation departments and the largest metropolitan planning organizations, will help ensure that, going forward, all users—transit users and other pedestrians of all ages, including those with disabilities, as well as bicyclists—are given full consideration in how we design new and modernize existing facilities with the federal dollars SAFETEA makes available. It also calls upon the U.S. Transportation Department to report on how research funds are deployed to facilitate walking and bicycling and prompts the Secretary to exert more leadership to make these trips safer and more frequent. Finally, it rightly focuses on the planning process in our largest metropolitan areas where a substantial majority of Americans live and work, insisting that more attention be given to plans and investments that promote broader travel options in these areas.

We strongly support this amendment and urge your colleagues to incorporate these

provisions during full Senate action on SAFETEA.

Sincerely,

ANNE P. CANBY,  
President.

AMERICAN ASSOCIATION OF  
RETIRED PERSONS,  
Washington, DC, May 11, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: AARP commends you for your leadership in offering the "Complete Streets Amendment" during Senate debate on the SAFETEA legislation. Safe mobility options are essential to the independence and well-being of older Americans.

Over one-fifth of persons age 65 and over do not drive. A growing number of older Americans are looking for other mobility choices, either because they have stopped driving, want to reduce their driving, or because they want to be more physically active. Walking is an important travel option for older persons and, under the proper conditions, can provide a safe, healthy transportation alternative for carrying out daily activities. In fact, walking is the most common mode of travel for older persons after the private vehicle.

A recent AARP survey, however, found that one-fifth of persons age 75 and above perceived poor sidewalks, dangerous intersections, and lack of places to rest as barriers to walking. Older persons also have the highest rate of pedestrian fatalities of any age group. We believe it is important that communities provide infrastructure that allows people of all ages to have safe mobility choices, including walking and bicycling.

The Safe and Complete Streets Act of 2005 would help accomplish this goal by:

Requiring that state transportation departments adopt "Complete Streets" policies when constructing new transportation facilities with federal funds, using the Federal Highway Administration's policy statement on accommodating pedestrians and bicyclists as its basis;

Directing the U.S. Secretary of Transportation to promote a goal of increasing the number of pedestrian and bicycle trips, while seeking to reduce accidents involving pedestrians and bicyclists;

Focusing research on the safety of non-motorized travel; and

Requiring metropolitan planning organizations serving a population of 200,000 or more to designate bicycle/pedestrian coordinators and include the safety needs of pedestrians and bicyclists in their long-range transportation plans.

AARP appreciates your commitment and dedication to providing mobility options for all Americans and we look forward to working with you towards accomplishment of this important goal. If you have any further questions, please feel free to contact me, or have your staff contact Debra Alvarez in Federal Affairs Department at (202) 434-3814.

Sincerely,

DAVID CERTNER,  
Director, Federal Affairs.

AMERICA WALKS,  
Boston, MA, May 10, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: I'm writing on behalf of America Walks, a national coalition of more than 60 pedestrian advocacy organizations located throughout the nation, to express our support for your Complete Streets amendment to the federal transportation bill.

Andy Hamilton, President of America Walks, is out of town and asked me to let you know of our organization's support for your efforts.

Communities with sidewalks will encourage people to walk more, which will improve public health while at the same time reducing traffic congestion, particularly around schools.

Complete streets will improve safety. For decades, our roads have been designed with a single-minded focus on moving as many cars as possible as fast as possible. Your amendment will encourage communities to provide resources that enable the roads to also become safe for pedestrians, cyclists, seniors, transit users, and people with disabilities.

Completing the streets is the right thing to do. And especially as our population ages and increases in girth and Safe Routes to School programs increase in popularity, this is the right time to do it!

America Walks appreciates your focus on this very important issue. Your amendment, if passed, will increase transportation choices and safety for all users.

Sincerely,

SALLY FLOCKS,  
Vice-President.

NATIONAL CENTER FOR  
BICYCLING & WALKING,  
Bethesda, MD, May 10, 2005.

Hon. TOM HARKIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HARKIN: I am writing on behalf of the National Center for Bicycling & Walking to express our appreciation and support for your proposed Complete Streets amendment to the transportation bill.

The actions called for in your amendment are the next logical step in a process going back more than 30 years, whereby the Congress has recognized progressive trends related to bicycling and walking emerging at the state, regional, and local levels and incorporated them into our national transportation policy. The policy actions detailed in your amendment will help improve the efficiency and effectiveness of transportation plans, programs, and projects at all levels of government, and provide the American people—people of all ages—with better roads and safer communities.

Our country needs this kind of leadership and support. We are beset by a host of public health challenges such as obesity, physical inactivity, and motor vehicle-related injuries and fatalities. We know we need to be more active and the public health experts have identified walking and bicycling as two of the best opportunities available to improve and maintain our health.

Sadly, the streets in many of our communities are not yet inviting places to take a walk or ride a bike. However, we know how to make them better. Your proposed amendment will ensure that we do what needs to be done, for our health and for the health and well-being of our children and grandchildren.

Thank you.

Sincerely,

BILL WILKINSON,  
AICP, Executive Director.

ASSOCIATION OF METROPOLITAN  
PLANNING ORGANIZATIONS,  
Washington, DC, May 10, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Association of Metropolitan Planning Organizations, we write in support of your amendment to improve the safety of non-motorized transportation, including bicycle and pedestrian safety. Metropolitan Planning Organizations (MPOs) are charged with planning for the nation's transportation needs and they work to protect and improve regions throughout the United States. MPOs



provide a locational nexus for representatives from various modes of transportation to come together in support of a more complete regional transportation system. We believe that your amendment will further the goal of "Complete Streets" and will provide much needed safety improvements for bicyclists and pedestrians, while alleviating congestion on our nation's roads.

We are pleased to see that this amendment targets MPOs in urban areas with populations greater than 200,000. While we recognize the importance of this amendment, we believe that requiring all MPOs to designate a bicycle/pedestrian coordinator would place an undue burden on our smallest members. Those MPOs that represent populations of greater than 200,000 are capable of these additional requirements, assuming that the PL increase to 1.5% that is currently in the Senate bill is realized. We are concerned, however, that if these requirements are imposed without a corresponding funding increase, we may not be able to meet these added expectations. The 2000 census designated 46 new MPOs but no additional funding was provided for these MPOs. As a result, over 350 MPOs are now sharing a pot of money that was established for approximately 300 MPOs.

We believe that "Complete Streets" is an important goal of a regional transportation system. We are pleased to see that you are offering this amendment as part of the transportation reauthorization bill. Please feel free to contact Debbie Singer at 202-296-7051 or dsinger@ampo.org if you have any further questions.

Sincerely,

MAYOR RAE RUPP SRCH,  
AMPO President.

LEAGUE OF AMERICAN BICYCLISTS,  
Washington, DC, May 11, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the 300,000 affiliated members of the League of American Bicyclists and the nation's 57 million adult bicyclists, I am writing to support the inclusion of the "Complete Streets Amendment" as part of SAFETEA.

In ISTEA and TEA-21, Congress established the principle that new road projects and reconstructions should provide safe accommodation of bicycling and walking. While some states are beginning to make progress in this area, federal guidance on this issue has been overlooked by many state and local transportation agencies.

The Complete Streets Amendment seeks to address this issue by simply directing all states to adopt a "Complete Streets Policy" to ensure that states build streets and highways that adequately accommodate all transportation users—including bicyclists, pedestrians, and people with disabilities. In addition, the amendment encourages local action on bike/ped safety, sets goals for non-motorized transportation, and focuses research on nonmotorized travel safety.

These are all important issues to the bicycling community and beyond. Other important issues that we are pleased that the bill managers have already recognized include:

Strengthening our core programs (Enhancements, Recreational Trails, CMAQ, etc.);

Establishing a Fair Share for Safety Provision, which ties safety spending to fatality crash rates by transportation mode; and

Providing a National Safe Routes to Schools Program, which provides funding to improve infrastructure and education to make it safer for our nation's children to bike and walk to school.

We applaud you for your leadership on this issue. Likewise, we applaud the bill managers for their commitment to completing

action on a reauthorization bill that includes good investments that will give all Americans safer places to bike and walk.

The adoption of the "Complete Streets Amendment" does not add to the cost of the overall bill and is, in fact, complementary to the bicycling provisions already included. As such, we support its inclusion in SAFETEA.

Sincerely,

MELÉ WILLIAMS,  
Director of Government Relations.

NATURAL RESOURCES DEFENSE COUNCIL,  
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN, On behalf of NRDC and our 600,000 members, I am writing to express support for your Complete Streets Amendment. This set of commonsense policies would spur new construction and retrofitting of highways and roads that aren't currently accessible to bikers and pedestrians—i.e., "completing the streets" so that all users are welcome, not just drivers.

The amendment is particularly timely, as public health experts encourage Americans to walk and bike as a response to the obesity epidemic. Completing our streets can help to meet this goal. In fact, one study found that 43 percent of people with safe places to walk within 10 minutes of home met recommended activity levels, while just 27% of those without safe places to walk were active enough. And another recent study found that residents are 65% more likely to walk in a neighborhood with sidewalks.

Benefits include more than increased physical activity. Air quality in our urban areas is poor and linked to increases in asthma and other illnesses. Replacing car trips with biking or walking means less air pollution. And if each resident of an American community of 100,000 replaced just one car trip with one bike trip just once a month, it would cut carbon dioxide (CO<sub>2</sub>) emissions by 3,764 tons per year in the community.

In short, I commend you for offering this amendment, which would provide Americans with more transportation choices, improve public health and reduce pollution.

Sincerely,

DERON LOVAAS,  
Vehicles Campaign Director.

AMERICAN SOCIETY OF  
LANDSCAPE ARCHITECTS,  
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the American Society of Landscape Architects, I write to convey our strong support for your proposed "Complete Streets" amendment to the SAFETEA legislation in the 109th Congress. In order to provide for safer and more active communities, we must complete our streets and roadways by ensuring that they are designed and operated to enable access for all users, including pedestrians, bicyclists and transit riders of all ages and abilities. In the past, the concerns of non-motorized transportation users have been bypassed all too often, and your amendment takes a critical, common sense step toward a more comprehensive, integrated and effective transportation system.

Because of our nation's inherent strengths, continued growth, and boundless potential, we sometimes overlook the obvious as we forge ahead. We have arrived at the point where we have to take measures to better accommodate life outside of our automobiles. This is not a simple task, but, with proper planning, the benefits of a visionary approach will far outpace our initial efforts. Your amendment provides an appropriate

and timely framework for those efforts by encouraging planning, prioritizing and research by states and municipalities.

If the Complete Streets Amendment is passed by the Senate, protected in conference, and signed into law along with the rest of SAFETEA, we can forecast the results with a great degree of confidence. Complete Streets will lead to improved safety, and promote a more active American lifestyle, with more walking and bicycling for health. Complete Streets will also help ease the transportation woes with which so many of us are increasingly familiar. Roadways that provide varying travel choices will give people the option to avoid traffic jams, reducing congestion and increasing the overall capacity of our transportation network.

This amendment also has an important place in the transportation bill because Complete Streets make fiscal sense. Integrating sidewalks, bike lanes, transit amenities, and safe crossings into the initial design of a project spares the costly expenses of retrofits later on "down the road."

As practitioners of urban design and revitalization, site planning, land use policy and master planning, landscape architects are continually engaged with public officials, developers and homeowners to design the places in which we live, work, and seek recreational opportunities. The American Society of Landscape Architects heartily encourages creating and improving access to places for physical activity within our communities.

It is not asking too much to make Complete Streets a national transportation priority. The Congress has worked long and hard to craft an effective transportation package, and the Complete Streets Amendment will put the country on the same "planning page," providing us with sound footing as we move towards a stronger, safer, and healthier future. It is our hope that the United States Senate will recognize and endorse the wisdom of the Harkin Complete Streets Amendment. We thank you for your exemplary leadership on this critical component to the overall health, wellbeing, and functionality of our communities.

Sincerely,

PATRICK A. MILLER,  
President.

FACTSHEET—NATIONAL ASSOCIATION OF  
COUNTY AND CITY HEALTH OFFICIALS  
UNDERSTANDING THE ISSUES

Land use, community design, and transportation planning have an impact on the health of communities in relation to diseases and injuries, as well as quality of life and well being. Environmental conditions such as air quality, ground and surface water contamination, and the re-use of brownfields (used lands where expansion or redevelopment is complicated by real or perceived environmental contamination) affect disadvantaged populations more severely, particularly given the current separation between land use planning and public health. Local public health agencies (LPHAs) can ensure that community health is emphasized throughout the planning process by becoming involved during the early stages of land use planning. In order to ensure a better quality of life and the sustainability of our communities, it is important for planners and public health officials to collaborate on healthy solutions to the environmental health problems that exist where we live, work, and play. Planning and design decisions have a tremendous impact on a wide range of public health issues, including:

#### AIR QUALITY

Asthma and other respiratory diseases are caused, in part, by poor air quality. Poor air

quality is tied to pollution emitted from automobiles and other motor vehicles. In the United States, automobiles account for over 49 percent of all nitrogen oxide (NO<sub>x</sub>) emissions, which contribute to smog and lead to serious health matters. Between 1980 and 1994, asthma rates rose by 75 percent. People in sprawling communities drive three to four times more than those who live in efficient, well-planned areas, thus increasing vehicle emissions that contribute to poor air quality.

#### WATER QUALITY

The National Water Quality Inventory: 1996 Report to Congress identified runoff from development as one of the leading sources of water quality impairment, accounting for 46 percent of assessed estuary impairment. In the United States, wetlands are being destroyed at a rate of approximately 300,000 acres per year, much of it for new development. Wastewater also poses a serious threat to water quality. In Florida, it is estimated that onsite sewage treatment and disposal systems discharge 450 million gallons per day of partially treated, non-disinfected wastewater, which can lead to contamination of ground water supplies.

#### TRAFFIC SAFETY

According to the National Personal Transportation Survey, walking accounts for only five percent of trips taken and less than one percent of miles traveled, due in part to a lack of appropriate and safe options for pedestrians. Approximately 4,882 pedestrians were killed by vehicles and 78,000 injured in 2001. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. Over 55 percent of all pedestrian deaths occur in neighborhoods, which are often designed with a bias toward cars, with no sidewalks or otherwise inadequate pedestrian accommodations.

#### PHYSICAL ACTIVITY

Community design often presents barriers to physical activity, contributing to increased risk for obesity, heart disease, diabetes, and other chronic diseases. Barriers include, but are not limited to, the absence of sidewalks, heavy traffic, and high levels of crime. Today, nearly one in four Americans is obese, and at least 50 percent are overweight. As access to recreational infrastructure may be limited, people with disabilities often have less opportunity to engage in physical activity. People are more likely to be physically active if they can incorporate activity into their daily routine. A 1996 report from the U.S. Surgeon General determined that each year, as many as 200,000 deaths are attributable to a sedentary lifestyle.

#### MENTAL HEALTH

According to the Human Environment-Research Lab, studies have shown that exposure to greenspace helps to foster an increased sense of community, and also lessens the effects of chronic mental fatigue, which reduces violence and aggressive behavior. A Cornell University study found that children whose families relocated to areas with more greenspace experienced an increase in cognitive functioning. Lack of accessibility, such as absence of ramps and narrow doorways, can contribute to an increase in isolation for the elderly and people with disabilities. Increased commuting time has been linked with physical and stress-related health problems. It is estimated that for each additional 10 minutes of driving time, there is a 10 percent decline in civic involvement.

#### HAZARDOUS MATERIALS

Hazardous materials are transported, stored, manufactured, or disposed of in many communities. Often, zoning and environmental regulations do not provide for the

separation of incompatible land uses, like placing housing near areas zoned for use or storage of hazardous materials. In addition, hazardous waste sites continue to be a significant concern. The Environmental Protection Agency determined that one in every four children in the United States lives within one mile of a National Priorities List hazardous waste site. The United Nations Environment Programme links exposure to heavy metals with certain cancers, kidney damage, and developmental retardation.

#### SOCIAL JUSTICE

Evidence demonstrates that environmental hazards, air pollution, heat-related morbidity and mortality, traffic fatalities, and substandard housing disproportionately affect low-income and minority populations. Environmental Protection Agency data shows that Hispanics are more likely than Whites to live in air pollution non-attainment areas. Asthma mortality is approximately three times higher among Blacks than it is among Whites. As neighborhoods undergo gentrification, people of a lower socioeconomic status are pushed to the fringes, limiting their access to social services. A lack of public transportation options often exacerbates the problem and leaves minority populations disproportionately affected by less access to quality housing, healthy air, good quality water, and adequate transportation.

#### ROLE OF LPHAS

Because most land use planning occurs at the local level, it is essential that LPHAs become more integrated in the planning process in order to address and prevent unfavorable outcomes for public health. LPHAs must assume a diverse and proactive approach in order to be successful in this role, including:

- Forging partnerships between LPHAs and local planning and transportation officials in order to bring health to the planning table.

- Using data to arm and inform stakeholders and decision makers, substituting national data if local data is unavailable.

- Expanding the role of LPHAs in commenting on development plans.

- Electing health officials to planning boards and other community positions.

- Attending planning meetings regularly.

- Serving as information conduits, keeping abreast of current processes and policies, and disseminating information to community members.

- Adopting local resolutions on health and land use/transportation planning.

#### NACCHO'S ROLE

NACCHO's goal is to integrate public health practice more effectively into the land use planning process by enhancing the capacity of LPHAs to be involved in land use decision making. Through the development of tools and resources, NACCHO strives to promote the involvement of LPHAs with elected officials, planners, and community representatives in regard to health issues and land use planning. Focus groups conducted by NACCHO during the past year explored strategies for integrating public health and land use planning. To learn more, visit [www.naccho.org/project84.cfm](http://www.naccho.org/project84.cfm), or call (202) 783-5550 and ask to speak with a member of NACCHO's environmental health staff.

Mr. HARKIN. This amendment will improve our transportation system. It will improve pedestrian and bicycle safety.

And it will be good for the health and wellness of the American people. I urge my colleagues to join me in a strong, bipartisan vote in favor of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, as noted by the Senator from Iowa, this bill incorporates more for bicycles and pedestrians than most highway users can support. We have been very generous. The activities are eligible under the core programs for the National Highway System, STP, CMAQ, highway bridge funding. They are eligible under scenic byways, Federal lands, rails and trails.

Do not get me wrong. I like bikes. I used to be a big bike rider. I am a big walker. But this is a highway bill. This is not a bill for bicycles and pedestrians. I would urge everyone to get exercise. The proposal we have before us would require my State department of transportation to plan for bicycles, completing Highway 63 from Macon to the Iowa line. Most of my good friends along there are not going to ride a bicycle from Macon to the Iowa line, to the wonderful farm fields in north Missouri or along the hilly mountain paths of Highway 60 in southern Missouri in the Ozark Mountains or Highway 13 or Highway 71.

We have plenty of programs. Bicycle transportation and pedestrian walkways are under here. It provides grants of \$2 million. They want a bicycle clearinghouse like a Publishers Clearinghouse.

The proponent of this amendment says he needs it for the metropolitan planning organizations. Well, if my colleagues will look at section 134(a)(3) contents, the plans and programs for each metropolitan area shall provide for development and operation facilities, including pedestrian walkways and bicycle transportation. Metropolitan planning organizations already are mandated to do that.

Section 1823 has enhancement projects approved. They are eligible for facilities for pedestrians and bicycle activities, preservation for abandoned railway corridors. Similar to the administration's proposed SAFETEA, we elevated SAFETEA to a core program. This part, known as HSIP, there is a mandatory set-aside specifically for bicycle and pedestrian activities. We set it up as \$717 million, and since the overall level of the bill has been raised by \$8 billion, this level has gone up.

There is also the Safe Routes to School Program. If you want people to be safe going to school, the National Highway Traffic Safety Administration said 24 people die a year on average from school bus transportation, but it is far and away the safest way for children to go to and from school. That is by schoolbus.

A number of my colleagues have amendments regarding bicycle and pedestrian activities. It seems that they have some different priorities than the mayors and the community leaders and the State departments of transportation I see in my State. They want to make sure we have roads. If the department of transportation in Iowa and

Missouri want it, they can plan for it, as can the metropolitan planning organizations. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the hour of 5:30 having arrived, the question is on agreeing to the Lautenberg amendment.

Mr. INHOFE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOND. I ask unanimous consent to make a unanimous consent request on an amendment passed?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment agreed to previously, be conformed to the pending amendment—the amendment which is identical to the amendment agreed to, be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I reserve the right to object—I will object.

Objection is heard.

The question is on agreeing to the Lautenberg amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted “nay.”

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 120 Leg.]

#### YEAS—28

Akaka	Durbin	Martinez
Biden	Feinstein	Mikulski
Boxer	Frist	Murray
Byrd	Harkin	Reid
Cantwell	Inouye	Rockefeller
Chafee	Kennedy	Sarbanes
Corzine	Landrieu	Warner
DeWine	Lautenberg	Wyden
Dodd	Levin	
Dole	Lieberman	

#### NAYS—69

Alexander	Collins	Isakson
Allard	Conrad	Jeffords
Allen	Cornyn	Johnson
Baucus	Craig	Kerry
Bayh	Crapo	Kohl
Bennett	DeMint	Kyl
Bingaman	Dorgan	Leahy
Bond	Ensign	Lincoln
Brownback	Enzi	Lott
Bunning	Feingold	Lugar
Burns	Graham	McCain
Burr	Grassley	McConnell
Carper	Gregg	Murkowski
Chambliss	Hagel	Nelson (FL)
Clinton	Hatch	Nelson (NE)
Coburn	Hutchison	Obama
Cochran	Inhofe	Pryor

Reed	Shelby	Sununu
Roberts	Smith	Talent
Salazar	Snowe	Thomas
Santorum	Specter	Thune
Schumer	Stabenow	Vitter
Sessions	Stevens	Voinovich

#### NOT VOTING—3

Coleman	Dayton	Domenici
---------	--------	----------

The amendment (No. 625) was rejected.

#### AMENDMENT NO. 618, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Harkin amendment.

The Senator from Iowa is recognized. Mr. HARKIN. Mr. President, this amendment is about doing what is logical regarding sidewalks and bike paths in the planning stages. You will hear there is money in this bill for sidewalks and bike trails. That is true. But more often than not, we are always doing things after the fact. We are redoing it.

All this amendment says is in the planning upfront, you plan for sidewalks where they are logical. You plan for bike paths where they are logical. You plan it in the beginning, not doing it later on. These are some of the organizations who support the amendment: the American Association of Retired People, the Association of Metropolitan Planning Organizations—they are the ones who have to do the planning; they are in favor of this amendment—American Bikes, Paralyzed Veterans of America—people with disabilities need more sidewalks—the American Heart Association, and the American Public Health Association.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment. This provides tremendous resources for bicycles and pedestrians, more than \$717 million in a mandatory set-aside for bike and pedestrian activities. Metropolitan planning organizations are already required under existing law to plan for bike and pedestrian facilities. What this amendment says is: If you are planning a highway from Leftover Shoes to Podunk Junction in the middle of a State with nobody around, you would have to plan for a bike path. We have a lot of roads through our Ozark hills and farmland where the danger is inadequate two-lane highways. People are not going to ride bicycles along those highways. They need the lanes to drive their cars. Putting an additional planning burden on agencies that don't want or need bike paths is another unwarranted mandate. I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 618, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Sen-

ator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted “yea.”

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 121 Leg.]

#### YEAS—44

Akaka	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Corzine	Leahy	Snowe
Dodd	Levin	Stabenow
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wyden
Ensign	Mikulski	

#### NAYS—53

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Baucus	Enzi	Nelson (NE)
Bennett	Frist	Roberts
Bond	Graham	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Burr	Hatch	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Coburn	Isakson	Talent
Cochran	Jeffords	Thomas
Conrad	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	

#### NOT VOTING—3

Coleman	Dayton	Domenici
---------	--------	----------

The amendment (No. 618), as modified, was rejected.

#### AMENDMENT NO. 610 TO AMENDMENT NO. 605

Mr. NELSON of Florida. Mr. President, on behalf of Senator FEINGOLD, I ask unanimous consent to call up his amendment 610 and ask that it be set aside after reporting by the clerk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for Mr. FEINGOLD and Mr. LEAHY, proposes an amendment numbered 610.

The amendment is as follows:

(Purpose: To improve the accuracy and efficacy of identity authentication systems and ensure privacy and security)

In section 179(a) of title 23, United States Code (as added by section 7139(a)), insert “previously verified as accurate” after “other information”.

In section 179(a) of title 23, United States Code (as added by section 7139(a)), strike “with a system using scoring models and algorithms”.

In section 179(d)(1) of title 23, United States Code (as added by section 7139(a)), strike “use multiple sources” and insert “ensure accurate sources”.

In section 179(d)(3) of title 23, United States Code (as added by section 7139(a)), strike “and” at the end.

In section 179(d) of title 23, United States Code (as added by section 7139(a)), strike paragraph (4) and insert the following:

“(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

“(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

“(6) include procedures to ensure accuracy and enable applicants for commercial driver’s licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

“(7) ensure that the information-based identity authentication described in this section—

“(A) can accurately assess and authenticate identities; and

“(B) will not produce a large number of false positives or unjustified adverse consequences;

“(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

“(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.”.

#### JUSTICE FOR TODD SMITH

Mr. NELSON of Florida. Mr. President, just today I initiated an effort to ask Peruvian President Alejandro Toledo to reopen an investigation into the brutal torture-murder of a young journalist from my state.

The 28-year-old reporter, Todd Smith, was found dead 15 years ago, his body discovered in Peru’s violent coca-producing region. This son of a Florida appellate judge worked for The Tampa Tribune, and was investigating the drug traffic in the northern Peruvian jungle.

Officials in Peru were quick to say the murder was the work of the Shining Path—a Maoist insurgent group said to be involved in protecting cultivators of the coca plant. Specifically, Peru’s Interior Ministry said Todd had been captured by Maoist rebels and possibly sold to drug traffickers for \$30,000.

Four years later, a secret counterterrorism trial in Peru resulted in a Shining Path guerrilla being sentenced to 30 years in prison for taking part in the murder.

He was the only person ever tried for the crime—and even he reportedly has received an early release. Little else was known.

Now, however, the transcript of that secret 1993 trial has emerged, including an intelligence report that identifies a businessman who founded a Peru airline as one of the masterminds behind Todd’s killing. The complete court file was obtained by a Lima-based institute for a free press and society.

According to one of several detailed intelligence reports in the trial tran-

script, the guerrillas who tortured and strangled Todd were working for Peru businessman Fernando Zevallos, and two others allegedly involved in the drug trade.

But Zevallos—labeled a Peruvian cocaine kingpin last year by the Bush administration—was never charged in the case. The New York Times quotes American and Peruvian authorities as saying he has evaded justice for so long by bribing court officials and killing witnesses.

It has been over 15 years since a son of Florida and a member of the fourth estate was tortured and strangled to death in the jungles of Peru—and clearly, justice has yet to be served.

In January, I went to Peru and there I established a working relationship with President Toledo and was joined by Ambassador Ferrero, Peru’s ambassador to the United States.

Today, through proper diplomatic channels, I made a formal request that President Toledo immediately reopen the investigation into Todd Smith’s death; and, that his government cooperate fully with our State Department and FBI. And Ambassador Ferrero told me he “would put all [his] effort into this.”

I hope my Senate colleagues will join me in demanding that justice finally be served in this case.

Todd’s parents, and his two sisters, deserve no less.

Mr. President, I am going to bird-dog this with everything I have to see that this case is brought to justice. I do believe the Peruvian government clearly has an interest, now that the secret court files have come to light, to get to the bottom of this. I earnestly hope we will get the cooperation of the Peruvian government in reopening the investigation. There is no excuse, when an American newspaper reporter is brutally tortured and murdered, that we should not have all the facts. If it leads, in fact, to this businessman, then so be it. We owe this especially to this family in Florida that for so long has not known any of the facts of this brutal killing of their son.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

#### AMENDMENT NO. 742 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment previously agreed to, be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. TALENT, proposes an amendment numbered 742.

The amendment is as follows:

(Purpose: To require notice regarding the criteria for small business concerns to participate in Federally funded projects)

At the end of subtitle H of title I, add the following:

#### SEC. 18. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

The PRESIDING OFFICER. Without objection, the request is agreed to.

The amendment (No. 742) was agreed to.

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

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

#### MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that we now go into a period of morning business, providing that each Senator can speak up to 10 minutes.

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

#### HONORING OUR ARMED FORCES

##### SERGEANT DAVID RICE

Mr. GRASSLEY. Mr. President, it saddens me to report today that another young Iowan has fallen courageously in service to his country as part of Operation Iraqi Freedom. Sergeant David Rice, a fire support specialist with the 1st Battalion, 5th Field Artillery Regiment, 1st Infantry Division, died on April 26 when his vehicle overturned near Muqdadiyah. He was 22 years old.

David grew up in Sioux City, IA, and attended East High School where he excelled in football, wrestling, and track and field. He joined the Army after graduating from East in 2001 and was on his second tour of duty in Iraq.

David Rice is remembered by friends and family as a hard-working, quiet leader. In memory of Sergeant Rice, I would like to recognize today all of our military men and women, like David, who have been the quiet, dedicated leaders who have helped see our country through this difficult time. My prayers go out to the family of Sergeant David Rice, his father David, his mother Laurinda, and his sister Stevie. They should know that his leadership and sacrifice have not gone unnoticed but have earned him the gratitude of a Nation.