

achieve it, they would get these incentive grants.

The PRESIDING OFFICER. The Senator is reminded that he only has 1 minute.

Mr. ALLEN. Thank you.

The purpose of my amendment is to not have the Federal Government as an officious nanny telling the States how to achieve seatbelt usage rates. Twenty-nine States don't have primary enforcement of seatbelt laws and 21 do. Seven States have 90 percent usage. Fifteen States have over 85 percent. The underlying proposal will actually reward States that have lower seatbelt usage only because they have primary enforcement seatbelt laws, while others that do not have primary enforcement seatbelt laws have a higher usage rate.

I don't think the people in the States who have paid into the highway trust fund ought to be dictated to by officious Federal nannies; we should trust the people in the States to make these decisions as opposed to trespassing on those prerogatives.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. PRYOR. Mr. President, I wish to make four points.

First, I voice my opposition to the Allen amendment. NHTSA, in every study I have found, says the best way to reduce fatalities on the highways is for States to enact primary safety belt laws.

Secondly, this bill provides an incentive, not a penalty. That is something we need to remember and understand. This is maybe a departure from past policies, but the bill, as currently written, provides incentives, not penalties.

Third, years ago, the Department of Transportation set an attainment goal of 90 percent. This amendment would move us back to 85 percent. We are moving backward instead of moving toward our goal; we are backing off of the goal.

Fourth, it is not so much about equity or fairness, but it is about saving lives. When you look at the safety groups and listen to the studies and look at the statistics—whatever measure you want to make—this is about saving lives and States having primary safety belt laws.

I thank the chair.

The PRESIDING OFFICER. Under the previous order, all time under rule XII is yielded back.

The question is on agreeing to amendment No. 611 proposed by the Senator from Virginia, Mr. ALLEN.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 14, nays 86, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—14

Alexander	Ensign	Nelson (FL)
Allen	Feingold	Snowe
Baucus	Gregg	Sununu
Bond	Kyl	Vitter
Collins	Lugar	

NAYS—86

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

The amendment (No. 611) was rejected.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

#### TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we are now going to the Sessions amendment.

Mr. SESSIONS. Mr. President, I understand there is a unanimous consent to have 2 minutes, 1 minute on each side. I prefer to have more. I ask unanimous consent we have 3 minutes on each side.

Mr. INHOFE. I object. Two minutes on each side.

Mr. SESSIONS. Two minutes.

Mr. INHOFE. Mr. President, I offer Senator LAUTENBERG a moment to make a statement. He has been working with us on his amendment. It has been withdrawn.

I certainly yield to Senator LAUTENBERG for no more than 5 minutes.

#### AMENDMENT NO. 619, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I appreciate the recognition. I will talk about my amendment No. 619 to crack down on our most dangerous, highest risk drunk drivers—repeat-offender, high-blood-alcohol-content drivers, drivers who have had so much to drink they have nearly double the legal limit of alcohol in their system.

I am proud to have the Senator from Ohio, Mr. DEWINE, as a cosponsor of this amendment. I ask unanimous consent Senator CORZINE be added as a cosponsor.

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

Mr. LAUTENBERG. Our amendment updates the current Federal repeat offender law so that it can be based on measures that have been proven to be effective in preventing drunk driving. It requires alcoholism assessments and treatment when necessary. It would require a 1-year license suspension with at least 45 days of no driving. The rest requires the use of an ignition interlock, a device that only lets the car operate when you blow into it and no alcohol is detected.

As for repeat offenders, it keeps current requirements for short-term jail time, closes a loophole for community service. The National Transportation Safety Board states that from 1983 through 1998 at least 137,000 people died in crashes nationwide involving higher risk drunk drivers. The research funded by the alcohol industry itself showed that 58 percent of alcohol-related deaths in 2000 involved drivers with BAC levels of .15 or above. That is outrageous. That person is totally without ability to function properly. This is consistent with government research that shows for drivers 35 and over, those with a .15 BAC or higher, they are 382 times more likely to be involved in a fatal crash than a sober driver.

It is important to note that our amendment does not create any new penalties for States. It merely updates the current program.

Our amendment does not affect a social drinker and is aimed squarely at higher risk drivers who are the core of the drunk-driving problem in this country. The National Transportation Safety Board, the Mothers Against Drunk Driving, and even groups funded by the alcohol industry, all agree we need to do more when it comes to repeat offenders and drivers with blood alcohol content levels twice the legal limit.

I understand the managers of the bill have agreed to accept the amendment as modified. I am grateful. I thank the managers, Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS, for working with Senator DEWINE and me. The amendment will make a meaningful difference in the number of lives we save each year from the epidemic of drunk driving.

In my early days in the Senate when President Reagan was in office, when Senator Dole was then-Secretary of Transportation, we put in a restriction on age and driving, age on alcohol and driving. We have saved 1,000 young people from dying on the highways every year for more than 20 years.

What a wonderful thing it is for a family not having to mourn the loss of a child, not having to see a policeman at the door in the dark of night.

MADD has been a stalwart ally. Together we will continue to save lives. I am very grateful to Senator INHOFE, Senator JEFFORDS, and the committee for their support on this amendment.

I yield the floor.

Mr. INHOFE. Mr. President, the distinguished junior Senator from Alabama, one of my closest friends, made a very reasonable request for 6 minutes equally divided. If he wants to restate the request, it is without objection.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 6 minutes to be equally divided for debate before this vote.

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

AMENDMENT NO. 646, AS MODIFIED

Mr. SESSIONS. I thank the distinguished chairman. He is one of my favorite Senators. There is no one I respect more. He has worked hard, and so has the committee, to maximize what we can do to improve transportation infrastructure in this country. I respect that.

The problem is, we have passed a budget. The facts are that in pumping more money into highways—which all Members want to see, as this bill does—we have created a \$10.7 billion shortfall. The offsets are revenue enhancements or tax increases that have been proposed either are unlikely to reach that \$10.7 billion and/or will not be approved by the House of Representatives. That is a pretty well-known fact.

In addition, the President has stated he is not going to sign the bill. He started out at \$256 billion. He went to \$283 billion, and that is where he is going to stay.

What can we do to improve funding for highways, which affect every State, every corner of this country, not just certain areas? I proposed an amendment that I believe does the right thing. It does what our constituents pay us to do, and that is to make choices, make decisions.

I have proposed where the bill has a 31-percent increase in spending, we alter that; that we reduce the increased level of spending for matters not critical to our infrastructure; that we reduce the mass transit part of the bill by about \$5 billion, still leaving an increase in mass transit spending.

We can get there. We can be sure the money we spent for highways will be sufficient, the President will sign the bill, and we will be fiscally responsible and be within our budget.

We are spending almost \$300 billion. Can't we stay within the budget? Can't we be fiscally responsible and tight in how we spend this money?

My amendment reduces some of the increases in the other accounts, including mass transit. By the way, 46 percent of the mass transit funds are spent on four States in this country alone, and that does not count \$8 billion in bureaucracy and overhead that goes with that in research. This would be the right approach.

I thank my colleague, Senator INHOFE, for his work on the bill. I know he has tried to do the impossible, which is to get more and more for our highways without having to bust the budget. I am afraid that is what we are doing. If we do this, we will fund highways for every State in the country. We will put the money where we need to, in concrete, so that every citizen can use for 100 years from now. The result is good for our budget and our integrity as we go through this process.

This is the first big bill that deals with a budget conflict. We do not need to fail a test on the first piece of legislation.

I thank Senator INHOFE for allowing me the additional time. I believe this is an important amendment. I urge my colleagues to vote fiscally responsibly, to affirm the budget, and pass legislation that will give us highway spending levels that we want and that the President will sign.

I yield the floor.

Mr. JEFFORDS. I yield myself such time as I may consume.

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

Mr. JEFFORDS. Mr. President, several days ago, 76 Members of this body voted to support additional investment in this Nation's surface transportation program.

They did not vote for an extravagant increase, instead they voted for a modest 4 percent increase over the President's request. With this modest increase, we will barely be able to keep pace with the enormous maintenance needs facing our surface transportation system with little left over for improvement.

Now the junior Senator from Alabama asks to return to an inadequate level of investment.

He asks the American family to waste additional time and money stuck in traffic. He asks us to vote to let more of our Nation's roads and bridges fall into a state of disrepair—all over a modest 4 percent increase.

I will vote against the Sessions amendment and I urge my colleagues to do the same.

Mr. INHOFE. I have a unanimous consent request to make. I ask unanimous consent that Lautenberg amendment No. 619 be modified with the changes at the desk and be accepted. Further, I ask that upon disposition of the Sessions amendment, the Inhofe substitute amendment, as amended, be agreed to, all without intervening action or debate.

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

The amendment (No. 619), as modified, was agreed to, as follows:

Strike section 1403 and insert the following:

**SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.**

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

**“§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence**

“(a) DEFINITIONS.—In this section:

“(1) BLOOD ALCOHOL CONCENTRATION.—The term ‘blood alcohol concentration’ means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

“(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms ‘driving while intoxicated’ and ‘driving under the influence’ mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

“(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

“(A) IN GENERAL.—The term ‘higher-risk impaired driver law’ means a State law that provides, as a minimum penalty, that—

“(i) an individual described in subparagraph (B) shall—

“(I) receive a driver’s license suspension;

“(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

“(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

“(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

“(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual; and

“(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

“(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

“(I) receive a driver’s license suspension; and

“(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

“(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual.

“(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

“(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 7 consecutive years; or

“(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence.

“(4) LICENSE SUSPENSION.—The term ‘license suspension’ means, for a period of not less than 1 year—

“(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

“(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

“(5) MOTOR VEHICLE.—

“(A) IN GENERAL.—The term ‘motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

“(B) EXCLUSIONS.—The term ‘motor vehicle’ does not include—

“(i) a vehicle operated solely on a rail line; or

“(ii) a commercial vehicle.

“(b) TRANSFER OF FUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

“(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

“(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

“(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

“164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.”.

The amendment (No. 605), as amended, was agreed to.

AMENDMENT NO. 646, AS MODIFIED

Mr. INHOFE. Mr. President, in these 2 minutes, let me suggest two things I don’t want to happen. I don’t want my good friends who are conservatives on the Republican side to vote for this Sessions amendment with the idea that this is a conservative amendment. If you want to prove yourself and your conservative credentials as this being the way to do it, it is not.

I am looking at the current rating of the American Conservative Union. I am very proud of Senator SESSIONS because he is the ninth most conservative Member of this Senate. But guess who the No. 1 most conservative is. It is me. I stand here opposing—though I hate to do it—this amendment for that one reason.

The second reason is, this is very important. Inadvertently, I know it was not the intent of the Senator from Alabama, they omitted the wrong sections. So the sections of title I they amended are section 1101 and 1103 and nothing in title III. If you want to give guaranteed spending, you have to get to title III or section 102 of title I. That is where it is.

So all we have done with this amendment is attempt to reduce the contract authority which does not make any difference in terms of how much money is going to be spent. It is very important for people to understand that because I would not want them to be thinking you will be able to reduce something by doing it.

Second, the other point I want to make is, we have a Finance Committee. It is headed by Senator GRASSLEY, and the ranking minority is Senator BAUCUS. They have done a great

job. We have gone to them with this bill and said we need to be able to pay for this, but we need a little bit more money. Can you find it? They found it.

The Joint Tax Committee validated what they said and, consequently, we have something that will not add to the deficit. It will do a little better job of taking care of donor States that will not be taken care of if this amendment should pass. I ask Members respectfully to reject the Sessions amendment.

Have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 646, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 16, nays 84, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—16

Brownback	Frist	McCain
Burr	Graham	Sessions
Coburn	Gregg	Sununu
Cornyn	Hagel	Thomas
DeMint	Hutchison	
Enzi	Kyl	

NAYS—84

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

The amendment (No. 646), as modified, was rejected.

Mr. INHOFE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

RAIL CROSSING SAFETY FUNDING

Mrs. BOXER. Mr. President, I am pleased that this bill that we are considering has provisions to address this Nation’s problems of grade crossings and the need for grade separations.

According to the Federal Railroad Administration, “grade crossings are the site of the greatest number of collisions and injuries” in the railroad in-

dustry. In 2000, there were 3,502 incidents at grade crossings.

This year in Glendale, CA, there was a tragic commuter train crash that resulted in 11 deaths and more than 200 injured.

In addition, the large volume of freight train traffic from California’s ports to the rest of the Nation is a public safety hazard in many communities in California where traffic—including emergency vehicles—is severely delayed at these grade crossings.

In Riverside, CA, from January 2001 to January 2003, trains delayed ambulance and fire protection vehicles 88 times. This translates into more people possibly dying from health emergencies such as heart attacks, and larger and more deadly fires. If there is another terrorist attack, imagine what would happen if emergency first responders could not get across the tracks.

That is why I am pleased that this bill includes my language to require the Federal Railroad Administration to make recommendations to Congress on ways to fix this.

I am also pleased that this bill includes funding that States may use to separate railroad tracks and roads, and I am wondering whether the Senator from Missouri would enter into a colloquy on this matter.

Mr. BOND. I am happy to. And let me say that I agree with the Senator from California that there is a serious problem with grade crossings in this country, and I commend her for her leadership on this issue.

Mrs. BOXER. As I understand it, the Freight Transportation Gateways program has a provision—the “Freight Intermodal Connections on the National Highway System”—that would allow States to use a portion of their highway funds to build bridges and tunnels for grade separations. California would receive \$73 million each year.

Mr. BOND. Yes, this program would allow California—and all States—to use 2 percent of its National Highway System funding for three purposes, one of which is to eliminate grade crossings.

Mrs. BOXER. A second provision is the “Elimination of Hazards Relating to Railway-Highway Crossings,” which provides at least a \$178 million set-aside from the Highway Safety Improvement Program each year for the elimination of hazards at railway-highway crossings. Does this include projects on grade separations?

Mr. BOND. Yes, up to 50 percent of this funding could be used for grants specifically for grade separations.

Mrs. BOXER. Finally, there is a third provision that authorizes grants for rail line relocation projects. This would create a grant program that would allow States to receive funding to improve rail lines that pass through a municipality. This includes projects on grade separation. As a member of the Senate Commerce Committee, I am

pleased that Chairman STEVENS and Ranking Member INOUYE included this provision.

These provisions are a good start. I hope to continue to work with my colleague to ensure that Federal funding is available to help States and localities undertake grade separation projects so we can improve safety and relieve congestion where railroads and highways meet.

Mr. BOND. I will be happy to continue working with the Senator from California.

Mrs. BOXER. I thank the Senator.

#### REINFORCED CONCRETE DECKING

Mr. SANTORUM. Mr. President, I will discuss steel grid reinforced concrete decking—a product that I understand to have significant technological benefits and the ability to accomplish the goals of bridge and highway officials across the country. I am told that the following are benefits of steel grid: long service life; rapid and/or staged installation; and reduced maintenance costs and closures. Despite these benefits, states are hesitant to use steel grid reinforced concrete decking because of the initial cost per square foot of steel grid. However, because of construction benefits and the fact that steel grid weighs much less than the cast-in-place deck alternative, it is my understanding that using this product can reduce the total cost of a project. Because this type of deck system is underused, I urge your support for language in the conference report that highlights the benefits of steel grid and encourages the further development and use of this product.

Mr. INHOFE. Mr. President, I thank the Senator from Pennsylvania for his attention to steel grid reinforced concrete decking and the potential it holds. I look forward to working with Senator SANTORUM on this issue.

#### DIRECT DELIVERIES OF AVIATION FUEL

Mr. SMITH. Mr. President, I would like to ask a question of the chairman of the Finance Committee.

I am concerned about the application of one of the fuel tax provisions of the JOBS bill. Some people were cheating, by paying no tax on aviation fuel and then selling the fuel for highway use. To prevent this, we moved the collection point upstream, to the point at which fuel is removed from the rack.

At the same time, we created exceptions, for situations where there is little risk of evasion. One important exception is for fuel delivered by pipeline to a secure airport that goes from a secure fuel tank at an airport terminal directly into a commercial aircraft.

Here is the problem. Fuel suppliers often enter into long-term contracts to deliver fuel throughout an entire region. In some cases, they don't have their own fuel tanks at a particular airport. So the company enters into a contract with a fuel supplier, referred to as a "position holder," who does have fuel available at that airport. In these cases, when planes come in for refueling, the legal title to the fuel

shifts from the position holder to the reseller, then to the airline when the fuel goes into the commercial aircraft.

The concern is that situations like this may be disqualified from the exception because some believe the passage of title means that the fuel is not considered to go "directly" from the position holder to the commercial aircraft. As a result, the transaction could be subject to the burdens of the new rules even though I believe there is absolutely no risk of evasion.

In the chairman's markup, I filed an amendment to address this concern by clarifying that these so-called "flash title" transactions qualify for the exception, as long as they meet all of the other applicable requirements. I understand, however, that some believe my amendment was unnecessary because the transactions could already qualify.

This is an important matter to me. It affects many companies, including a Salem, OR, company that employs more than 100 people and provides an important service to airlines throughout my State.

I would like to get a clarification of this point. Is it the chairman's understanding that a transaction that otherwise qualifies for the exception in section 4081(a)(2)(C) and 4081(a)(3) and (4), which allows commercial aviation to self-assess fuel tax at the commercial rate, when the commercial airline receives fuel at one of the secure airports through the hydrant system exception, is not disqualified merely because of the incidental transfer of title from the original position holder to the reseller, and then to the commercial airline?

Mr. GRASSLEY. Yes, so long as the commercial airline fuel transaction takes place on one of the secure airports listed by the Treasury, then, that also is my understanding.

Mr. SMITH. Mr. President, with that understanding, I thank Chairman GRASSLEY for his assistance in this matter. It is important in order to avoid imposing unnecessary burdens on companies in Oregon and all across the country that provide aviation fuel.

Mr. LEVIN. Mr. President, the surface transportation reauthorization bill that was reported out of the Environment and Public Works Committee increased Michigan's rate of return on all highway funds apportioned to States to 92 percent of our share of contributions to the highway account of the highway trust fund. However, a significant change in the funding formula was made through a substitute offered on the Senate floor which resulted in over \$8 billion in apportioned highway funds being added to the bill to help certain States, including some donor States. The rate of return for all States on that \$8 billion ranges from 37 percent to 550 percent. Under the substitute bill, Michigan receives the lowest rate of return of all States on the distribution of that new money. Only 12 States have a rate of return on this new money that is below 90 percent.

In recognition of Michigan's disproportionately low share of the new

funding, the managers gave assurances that corrective measures would be considered before the bill was passed by the Senate.

While a solution has not been identified yet, I would appreciate the assurances of the managers that in conference they will make every effort to address and correct this disproportionate treatment.

Mr. INHOFE. I understand and appreciate the Senator's concerns. While I cannot make any guarantees on a final outcome, I will continue to work to see if there is a way to address the critical needs of his State.

Mr. BAUCUS. I agree with the comments made by my colleague, the chairman of the Environment and Public Works Committee. I understand the concerns raised by the Senator from Michigan. I appreciate his leadership and knowledge of transportation issues and I will continue to work with him as this bill progresses.

#### HOUSEHOLD GOODS MOVERS

Mr. LOTT. Mr. President, I rise to discuss 2 amendments to the Commerce Committee's title of this bill addressing the regulation of the household goods moving industry. The Subcommittee on Surface Transportation and Merchant Marine, which I chair, developed a strong package to provide further protections to consumers that use movers to ship their belongings. Principally, our provisions are designed to address fraudulent and extortionary practices used by movers who take consumers' goods "hostage" and request exorbitant fees in exchange for releasing their worldly possessions.

Mr. INOUYE. These protections are needed because, while the Federal Motor Carrier Safety Administration, FMCSA, assumed the regulatory duties for the household goods moving industry previously entrusted to the Interstate Commerce Commission, inadequate Federal statutory protections and limited resources have meant that the interstate moving industry has essentially gone without oversight. FMCSA has received nearly 20,000 consumer complaints since January 2001, and yet until recently has had only one or two employees dedicated to household goods regulation and enforcement for the entire nation.

Mr. LOTT. Senators BOND and PRYOR have filed amendments to this section of the bill dealing with 2 important issues and I want to thank them for their hard work and interest in this topic. Senator INOUYE and I worked with Senator BOND to craft a version of his amendment which I have offered and we are prepared to accept Senator PRYOR's amendment with the understanding that we will continue to work together to perfect these provisions through the conference process with the House.

Mr. INOUYE. Yes, we understand that both Senators have a very strong interest in these provisions, and while I have concerns with the changes that

Senator BOND is proposing which I believe could significantly limit the authority of our State attorneys general in assisting the Federal Government in enforcing these new protections for moving company consumers, we are prepared to accept this language and make a commitment to work with both Senators to improve their provisions moving forward.

Mr. LOTT. Similarly, I know that Senator BOND has concerns with the language proposed by Senator PRYOR that defines who "household goods carriers" are, and therefore who is subject to the new consumer regulations we've proposed. In particular, the Senator is concerned that this definition could impact traditional moving companies' entry into new markets, such as the "u-pack" and "pod" moving and storage services being offered today which might not be covered by this definition. We understand these concerns and will continue to work with Senator BOND to ensure that we craft a fair and workable definition of a "household goods carrier" through the conference process.

Mr. BOND. I thank Senators LOTT and INOUE for their commitments to address this issue in conference. I also raise my concerns with the amendment offered by Senator PRYOR to define the term "household goods motor carrier." Definitions matter, and in this case, meeting the definition of a "household goods carrier" subjects the carrier to certain existing and new regulations that others who do not meet that definition do not have to provide. At the same time, I support excluding express delivery and parcel delivery carriers from the definition of "household goods carrier." As currently drafted, however, I am concerned that the amendment would make it substantially more difficult for an established moving company to enter one of these new markets in which consumers are provided a trailer or container which they pack themselves and which the company then transports for them. The definition, as now offered by Senator PRYOR, would mean that an existing moving company would be subject to these new regulations while others who offer these services, but do not provide traditional moving services, would not be. As this bill moves to conference with the House, I am committed to working with the managers of this title to find a definition that is accurate and fair and that covers the universe of services that are being offered to consumers who are planning interstate moves of household goods.

Mr. PRYOR. I understand the Senator's concerns and the intent of my amendment is not to restrict competition or new entrants into the marketplace, but to ensure that we focus our resources on the problem as we now know it. I'll be glad to work with you to perfect this definition so that we can properly protect consumers while also ensuring a fair and open market place for the many different services now being offered.

Mr. BOND. I appreciate the Senator's commitment, and I also offer to work with you and Senator LOTT and INOUE in conference on the amendment regarding procedures for allowing State attorneys general to pursue enforcement actions against interstate household goods movers in federal court. This amendment, which I have worked out with the managers and is being offered by Senator LOTT, establishes an approval process for actions taken by State attorneys general by the Secretary of Transportation before the AGs proceed in court. The amendment is critical because it establishes a responsible framework with a delineation of responsibilities to the States. The efforts of State governments should be focused on investigating and prosecuting those carriers that are too small or cases of fraud that are too isolated to cause a Federal response. At the same time, Federal agencies should be pursuing complaints of fraudulent activities by large and established carriers. By focusing our enforcement efforts along these lines, we will leverage our resources which will improve the effectiveness of the response to fraud and abuse in the household goods moving industry and ensure that no carrier slips through the cracks. The amendment also will ensure that State cases are legitimate and properly prepared. In addition, the amendment provides intervention and substitution authority for the Secretary if the Secretary believes that Federal Government would be in a better position to prosecute the case.

Mr. PRYOR. As a former State attorney general and the ranking member of the Commerce Committee's Consumer Affairs, Product Safety, and Insurance Subcommittee, I have significant concerns with this approach. I believe the amendment proposes a significant departure from precedent and establishes hurdles that could dissuade State attorneys general from proceeding with their cases, to the detriment of consumers. Allowing State attorneys general to enforce Federal laws and regulations with respect to the transportation of household goods in interstate commerce is perhaps the most important aspect of these provisions, since I believe that State attorneys general are much more likely than the Federal Government to doggedly pursue justice for their citizens in these cases.

Mr. INOUE. I want to thank both Senators for their cooperation on these matters. Senator BOND raises a good point regarding the definition and we understand that this is a complex issue which will require further work by all involved.

Mr. LOTT. Senator PRYOR and Senator BOND, we understand your respective concerns and will work with you on these two issues as we hopefully proceed with his bill in Conference.

#### CLEAN TRUCKS

Mrs. BOXER. President, my amendment begins the process of putting all trucks operating in the United States,

including those from Mexico, on an equal footing for emission standards with American trucks. Beginning in 2007, all trucks, including foreign trucks, operating in the U.S., will have to certify that they are meeting the performance emission standards of the Clean Air Act—the type of standards that American trucks have been required to meet for years. This provision will comply with our trade laws and help improve our air quality by assuring that foreign trucks are meeting our emissions protections. I thank the Senators from Mississippi and Hawaii for working with me on this amendment and for agreeing to accept it.

However, I believe it is only a start. I would have liked to include a provision requiring rebuilt engines to meet the standards in effect at the time the engines were manufactured. Such a provision would have covered more foreign trucks and ensured even cleaner air.

I understand the complications with including such a provision now, and I hope we can address this in Conference.

Mr. LOTT. I thank the Senator from California for her leadership. I understand what she was trying to do with regard to rebuilt engines. However, such a provision would require additional regulations from the Environmental Protection Agency, which is outside the jurisdiction of the Commerce Committee. With all committees at the table during conference, we can look at ways to address this issue.

Mr. INOUE. I agree with the chairman, and I say to the Senator from California that you have my commitment to look into this issue as we hopefully proceed with this bill through conference. That will be the appropriate time to bring this additional matter to the table.

Mrs. BOXER. I appreciate your help on this issue, and I thank both Senators for agreeing to continue to address this issue.

#### PM-10 AND THE CMAQ APPORTIONMENT FORMULA

Mr. KYL. The legislation before us amends the apportionment formula for the Congestion Mitigation and Air Quality, CMAQ, program to include non-attainment and maintenance areas for fine particulate matter, so-called PM 2.5, and to make adjustments for the new 8-hour ozone standard. It does not amend the formula, however, to include non-attainment and maintenance areas for PM-10 particulate matter. Would the senior Senator from Oklahoma be willing to explore the question of whether the CMAQ apportionment formula should include factors for this Federal air quality standard as well?

Mr. INHOFE. I would.

Mr. KYL. I appreciate the Senator's openness to exploring that question. PM-10 is the greatest air quality problem facing Arizona. There are currently 8 PM-10 non-attainment areas in Arizona and the Phoenix metropolitan area is a serious non-attainment area for PM-10. Our CMAQ apportionment should reflect and help us address our

PM-10 air quality problem. Do I have the Senator's assurance that he and his colleagues are open to considering including PM-10 as part of the CMAQ apportionment formula?

Mr. INHOFE. I assure the Senator that I am willing to discuss with my fellow conferees the idea of including in the conference agreement on this legislation language adding PM-10 to the CMAQ apportionment formula.

Mr. KYL. I thank the Senator for his assurance and his consideration.

Mr. HATCH. Mr. President, I am pleased that Congress has worked in a bipartisan manner to pass a long overdue full transportation reauthorization, which has unfortunately been extended on a temporary basis six times and simply must be made permanent.

I congratulate Chairman INHOFE and Ranking Minority Member JEFFORDS for their tireless efforts in moving forward one of the largest bills Congress will consider this year. I am sensitive to the fact that the current spending extension expires at the end of this month. Clearing this legislation through a House-Senate conference before the May 31 deadline may be difficult, but I am hopeful we can move quickly. This is important because the bill will create approximately 47,500 jobs for every \$1 billion in highway spending. This bill will also provide desperately needed funds for Utah roads and create jobs for many hard-working Utahns.

Transportation is an issue in which all Utahns have a stake. Without a doubt, transportation plays a central role in the State's ability and opportunity to prosper economically. As Utah's population continues to grow, its highways are becoming more congested, negatively affecting Utah's ability to compete economically, and ultimately decreasing the quality of life for many of us.

I am concerned that in 5 years, Utahns may be changing the term "rush hour" to "rough 2 hours" because of the heavy congestion on our freeways. The Utah Department of Transportation—UDOT—estimates that in 10 years, peak congestion along the Wasatch front will increase from 1 hour in the morning and in the evening to more than 3 hours. The effect congestion has had on our quality of life is undeniable.

Time after time I have visited with Utah officials who stress that our top priority must be transportation funding, because we simply do not have the money to meet the tremendous demands on our roads. Last year alone, the State of Utah received approximately \$254 million in Federal transportation funding. In addition to the Federal funding received, the State of Utah spent over \$520 million for transportation projects in 2004. Yet, UDOT maintains the state is unable to increase capacity or maintain existing infrastructure at this level of funding. Responding to Utah's serious transportation needs, I voted to increase total

federal funding in the multi-year transportation bill by \$11.2 billion, which would raise Utah's portion from the \$269 million originally included in the bill to \$282 million. Utah desperately needs these funds to fight congestion.

I am encouraged by the transportation projects planned for fiscal year 2006 for the State of Utah. This legislation may help us complete many transportation projects throughout Utah, including: new I-15 interchanges in Ogden, Layton and Provo; commuter rail service from Ogden to Provo and light-rail lines to the airport and South Jordan; highway projects on US-6 in Carbon County and State Road 92 in Utah County; a railroad overpass in Kaysville; and building the Northern Corridor in St. George.

This legislation also contains a provision that addresses an important competitive issue in the transportation sector. At my urging, Chairman INHOFE has agreed to include compromise language that allows qualified companies the opportunity to compete for Intelligent Transportation Infrastructure Program—ITIP—funding. I consider this a significant victory for small companies, and hope that House-Senate conferees will recognize the importance of providing a fair and level playing field for those wishing to access ITIP funds.

Our Nation's transportation infrastructure is in dire need of improvement. I believe this legislation not only addresses these critical needs, but it will create thousands of job opportunities, fight traffic congestion, and improve the safety of our roads and bridges.

As the bill moves to conference, it is my hope that we may come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. FRIST. Mr. President, we are about to vote on the highway bill. I believe we have a strong bill, a bipartisan bill.

I thank Senator INHOFE, Senator BOND, Senator GRASSLEY, Senator STEVENS, Senator LOTT, and Senator SHELBY for their hard work, dedication and leadership to get this bill passed. They have been instrumental to the process and deserve great credit.

I also thank my colleagues Senator JEFFORDS, Senator BAUCUS, Senator INOUYE, and Senator SARBANES for their willingness to work cooperatively on this critical legislation.

The highway bill is a result of a long, bipartisan process. It is based on more than 3 years of work, over a dozen hearings, testimony from more than 100 witnesses, and countless hours of negotiation. It is supported by a deep and broad coalition—from State and local highway authorities to national safety advocates.

And in a few moments, we will finally deliver to the American people legislation that will help build and improve our vast and sprawling infrastructure.

America is interlaced by nearly 4 million miles of roads and highways. The interstate highway system has often been called "the greatest public works project in history."

Our roads, ports and railroads are vital to America's economic success. We know this well in Tennessee where companies like Federal Express, U.S. Express, and Averitt Express are located.

Unfortunately, America's transportation infrastructure has deteriorated badly and our roads have become painfully overcrowded.

Just ask any American commuter. There is bumper-to-bumper traffic, not just during rush hour, but all day long. In our Nation's urban areas, traffic delays have more than tripled over the last 20 years in small and big cities across the country.

In my home State of Tennessee, traffic congestion has increased in all of our major metropolitan areas. Nashville commuters drive an average of 32 miles per person per day. Metropolitan planning organizations are struggling to meet demand.

Because of this congestion, Americans suffer more than 3.6 billion hours in delays, and waste 5.7 billion gallons of fuel, per year, sitting in traffic.

All the while creating more and more pollution. Cars caught in stop-and-go traffic emit far more pollution than cars on smoothly flowing roads.

The American Highway Users Alliance estimates that if we could free up America's worst bottlenecks, in 20 years, carbon dioxide emissions would drop by over three-fourths and Americans would save 40 billion gallons of fuel.

The legislation before use seeks to alleviate these problems in a number of ways.

In addition to improving our roads, the highway bill provides generous provisions to improve the buses and rail systems that make our urban centers thrive.

For Tennessee, this legislation will dramatically increase Federal highway and transit spending and support economic development throughout the State.

Tennessee, which is a donor State, will receive more than \$800 million on average each year to invest in its highway infrastructure. This represents nearly \$4 billion over the next 5 years.

The bill will also provide more than \$296 million over the next 5 years to improve transit for our rural and urban commuters, an increase of 166 percent over the last highway reauthorization bill.

Tennessee's highways have consistently been ranked among the best and safest in the Nation, and these funds will help to reduce congestion, improve safety, and create thousands of new jobs.

Our transportation infrastructure is estimated to be worth \$1.75 trillion. Every \$1 billion we invest in transportation infrastructure generates more

than \$2 billion in economic activity and 47,500 new jobs.

I look forward to passing this critical legislation.

We will need to work to resolve our differences with the House of Representatives so that we can send the President a bill that he can sign into law as quickly as possible. I am confident this can be done.

The highway bill is a roads bill. It is a jobs bill. It promises to help improve every American driver's quality of life.

I thank my colleagues in advance for, literally, keeping America moving forward.

Mrs. CLINTON. Mr. President, I would like to briefly describe my amendment No. 681, which includes modifications to section 1612 of the bill.

I want to thank Senator INHOFE for cosponsoring the amendment, and Senators BOND, JEFFORDS, and BAUCUS for working with me on this important issue and this amendment.

New air quality standards are driving a new round of air quality programs in many of our States. This is good for public health, and I strongly support these new standards. To meet these standards, I believe that new tools and strategies will be required.

I believe that one example of a new strategy that works was demonstrated in my State of New York. Despite making great strides in reducing emissions from a variety of sources, New York City has not yet been able to meet the air quality standards in the Clean Air Act. We are getting there, but it is a tough job, and there is more to do.

After the tragedy of September 11, it was clear that a large number of diesel-powered fleets and other diesel equipment would be operating around ground zero for many months. New York received emergency Federal funds to pay for those contractors. And, partly because they were being paid by Federal tax dollars, and partly because of New York's continuing struggle with air quality issues, diesel equipment operating at ground zero was required to be retrofitted with pollution control equipment, and some Federal funds were used to pay for the retrofits.

Communities across New York and the country face similar challenges, in that emissions from diesel equipment involved in highway construction projects can put a temporary—but significant—increase in emissions in communities struggling to meet air quality standards.

The amendment has three main provisions. First, it requires States to develop emission reduction strategies for fleets that are used in construction projects located in non-attainment and maintenance areas and are funded under this title. Second, it requires EPA to develop a non-binding guidance for the States to use in developing their emission reduction strategies. The guidance will include technical information on diesel retrofit technologies, suggestions on the methods

for inclusion in the emission reductions strategies, and other information that Administrator of EPA, in consultation with the Secretary, determine to be appropriate. Third, it clarifies that States may use CMAQ funding to finance the deployment of diesel retrofit technology and other cost-effective solutions as part of the emission reduction strategies.

I first introduced this provision as an amendment during the debate on the transportation bill last year. That original provision was included in the bill reported by the Environment and Public Works Committee earlier this year. During committee consideration of the bill, it came to my attention that the Association of General Contractors had concerns with the amendment. I am pleased to say that the chairman and I have worked with them to accommodate their concerns, and the revised section 1612 that this amendment contains reflects those negotiations. The Association of General Contractors now supports this provision, and has agreed to actively support it during the conference. I will ask unanimous consent that their letter of support be placed in the RECORD following my remarks.

This amendment will also result in the cost-effective use of CMAQ funds. During the debate over the last reauthorization of the highway programs, Congress asked the Transportation Research Board of the National Academy of Sciences to assess the CMAQ programs. Specifically, Congress asked the board to report on whether CMAQ-funded projects are cost-effective relative to other strategies for reducing pollution and congestion.

The Transportation Board reported its results in a 2002 Special Report 264, the CMAQ Improvement Program, Assessing 10 Years of Experience. The report concluded that "strategies directly targeting emission reduction have generally been more cost-effective than attempts under CMAQ to change travel behavior." It recommended reauthorization of the CMAQ Program with modifications to improve its cost-effectiveness and to enhance its performance in improving air quality. In addition, a recently completed report for the Emission Control Technology Association that builds on this report and other data reaches similar conclusions about the cost-effectiveness of diesel retrofits. I will also ask unanimous consent that this report be printed in the RECORD after my remarks.

This amendment achieves both goals. It improves CMAQ cost-effectiveness by authorizing states to use CMAQ to fund the deployment of diesel retrofits. These are new technologies that have been found by EPA, the Diesel Technologies Forum, and others to be very cost-effective relative to other CMAQ-funded projects to improve air quality.

The amendment will also enhance the performance of CMAQ in improving air quality by financing diesel retrofit technology that reduces emissions of

fine particulate matter, the most serious airborne threat to human health today. This is a problem that everyone agrees is a top air pollution priority. It's why I feel so strongly about this amendment and have worked to fund the EPA's Clean School Bus USA program. Recognizing the seriousness of the problem, the administration has acted as well, promulgating the 2004 on-road heavy duty diesel regulations, the 2010 off-road diesel regulations, the Clean School Bus USA Program, the National Clean Diesel Campaign, and the newly-proposed Clean Diesel Initiative that is in the President's fiscal year 2006 budget proposal.

I am pleased that the Senate will adopt this amendment because I believe it will provide States with additional tools to achieve our Nation's air quality goals. Reducing diesel emissions from construction activities is often the most cost-effective way to improve air quality. This amendment will help make that happen do just that.

I want to again thank Senators INHOFE, BOND, JEFFORDS, and BAUCUS for working with me.

Mr. President, I now ask unanimous consent that the material to which I referred be printed in the RECORD.

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

MAY 12, 2005.

Hon. JAMES M. INHOFE,  
*Chairman, Environment and Public Works Committee, U.S. Senate, Russell Senate Office Building, Washington, DC.*

Hon. HILLARY RODHAM CLINTON,  
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN AND SENATOR CLINTON: We appreciate your leadership for including the diesel engine retrofit provision (Section 1612) in the Senate's highway transportation bill (S. 732). This provision is important to both the construction and the mobile source emission control technology industries that we represent.

At your urging, the Associated General Contractors of America ("AGC") and the Emissions Control Technology Association ("ECTA") have been working together to develop ideas for improving on Section 1612 so that it better conforms to the current marketplace. The amendment that you filed today to rewrite a portion of section 1612 reflects the principles that we have jointly developed, and we believe it is a substantial improvement over the underlying provision. Your new proposal will better accomplish the original goals of the legislation—to reduce pollution by spurring more cost-effective use of funds from the Congestion Mitigation and Air Quality Improvement Program.

Both organizations strongly support your amendment and urge that it be adopted during Senate consideration of the highway bill. Should the Senate adopt the amendment as we hope, our organizations are both committed to working with the conferees to ensure that it is retained in the conference report.

We appreciate your leadership on this important issue, and look forward to working

closely with you to ensure that this important provision is included in the highway bill that is sent to the President.

Regards,

JEFFREY D. SHOAF,  
Senior Executive Director, Government and Public Affairs, The Associated General Contractors of America.

TIMOTHY J. REGAN,  
President, Emissions Control Technology Association.

**CLEANING THE AIR: COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS VS. CURRENT CMAQ PROJECTS**

AN ANALYSIS PREPARED FOR THE EMISSION CONTROL TECHNOLOGY ASSOCIATION  
(By Robert F. Wescott)

EXECUTIVE SUMMARY

A key goal of U.S. air pollution programs, including the Congestion Mitigation and Air Quality (CMAQ) program created in 1990, has been to clean the air in cities to improve public health and lower medical costs. But while the CMAQ program has emphasized reductions of carbon monoxide, hydrocarbons, and ozone, recent research finds that the top air pollution problem in urban areas today is fine particulate matter, which is particles with a diameter of 2.5 micrometers or less (PM<sub>2.5</sub>).

This pollutant, PM<sub>2.5</sub>, is a primary airborne threat to human health today costing more than \$100,000 per ton in health costs. Researchers estimate that PM<sub>2.5</sub> is two to twenty times as harmful to human health as nitrous oxide, more than one hundred times as dangerous as ozone, and 2000 times as dangerous as carbon monoxide on a per ton basis.

Diesel engine exhaust is a source of PM<sub>2.5</sub> emissions in urban areas. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment, such as construction equipment.

Diesel retrofit technology is currently available that is highly effective at reducing PM<sub>2.5</sub> emissions. Diesel oxidation catalysts (DOCs) are well suited for retrofitting older off-road vehicles and diesel particulate filters (DPFs) are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From the point of view of cost effectiveness, diesel retrofits are superior to almost all current CMAQ strategies, including ride-share programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging telecommuting.) Most of these CMAQ strategies cost \$20,000 to \$100,000 per ton equivalent of pollutant removed, and some cost as much as \$250,000 per ton removed.

Under conservative assumptions, diesel retrofits cost only \$5,340 per ton equivalent of pollutant removed. In fact, among all CMAQ strategies, only emission inspection programs appear to exceed the cost effectiveness of diesel retrofits.

Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies. More than 100 million Americans live in areas of the country where PM<sub>2.5</sub> levels exceed the EPA's guidelines.

BACKGROUND

Cleaning the air to improve human health and lower medical costs has been an objec-

tive of U.S. government policy since at least the Clean Air Act of 1970. Concerns about poor air quality, especially in urban areas, led to the creation of the Congestion Mitigation and Air Quality (CMAQ) Program in 1990, which has set aside a portion of transportation monies for the past 15 years to fund innovative projects to reduce carbon monoxide, hydrocarbons, nitrous oxides, and smog in so-called non-attainment areas. Vehicle emission inspection programs, high-occupancy vehicle (HOV) travel lanes, van pool programs, park-and-ride lots, and bike paths are examples of CMAQ projects.

There has been significant progress in the past 35 years in reducing carbon monoxide and hydrocarbon emissions and smog. Scientists, however, have been able to identify new airborne health risks whose costs are now becoming more fully appreciated. Notably, particulate matter (PM) has been found to have especially pernicious health effects in urban areas. Increasingly it is becoming understood that diesel engine emissions in urban areas, both from on-road trucks and buses and from off-road construction and other equipment, are a significant source of fine particulate matter pollution. This leads to a number of questions:

What is the current assessment of the top health risks from air pollution from mobile sources in urban areas?

What is the role of emissions from diesel engines?

How does diesel retrofit technology to clean engine emissions after combustion compare with current CMAQ projects in terms of cost effectiveness?

Are CMAQ funds currently being deployed in the most cost effective manner possible?

This paper examines these questions by reviewing the recent scientific, environmental, economic, and health policy literature.

THE HEALTH COSTS OF AIR POLLUTION

In the 1960s and 1970s they key health risks from air pollution were deemed to come from carbon monoxide, hydrocarbons (or volatile organic compounds, VOCs), nitrous oxides (NO<sub>x</sub>), and smog, and early clean air legislation naturally targeted these pollutants. During the past ten years or so, however, researchers have identified new pollutants from mobile sources that have particularly harmful health effects, especially in urban areas. Top concern today centers around particulate matter, and especially on fine particulate matter. Fine particulates, with a diameter of less than 2.5 micrometers (PM<sub>2.5</sub>), can get trapped in the lungs and can cause a variety of respiratory ailments similar to those caused by coal dust in coal miners. A significant portion of PM<sub>2.5</sub> emissions in urban areas come from off-road diesel equipment. According to analysis by the California Air Resources Board, on-road engines account for about 27% of PM emissions in California and off-road equipment is responsible for about 60% of PM emissions.

Analysis by Donald McCubbin and Mark Delucchi published in the *Journal of Transport Economics and Policy* evaluates the health costs of a kilogram of various air pollutants, including CO, NO<sub>x</sub>, PM<sub>2.5</sub>, sulfur oxides (SO<sub>x</sub>), and VOCs. These researchers estimate health costs from such factors as, hospitalization, chronic illness, asthma attacks, and loss work days for the U.S. as a whole, for urban areas, and for the Los Angeles basin. For urban areas, they find the range of health costs per kilogram of CO was from \$0.01 to \$0.10, NO<sub>x</sub> was from \$1.59 to \$23.34, PM<sub>2.5</sub> was from \$14.81 to \$225.36, SO<sub>x</sub> was from \$9.62 to \$90.94, and VOCs was from \$0.13 to \$1.45. Taking the mid-points of these estimates, a kilogram of PM<sub>2.5</sub> therefore was nearly 10 times more costly from a health point of view than a kilogram of NO<sub>x</sub>, more

than 150 times more costly than a kilogram of VOCs, and more than 2000 times more costly than a kilogram of CO. On a per ton basis, a ton of PM<sub>2.5</sub> causes \$109,000 of health costs, a ton of NO<sub>x</sub> costs \$11,332, a ton of VOCs costs \$718, and a ton of CO costs \$50.

EFFECTIVENESS OF DIESEL RETROFIT FILTERS

Given the high health costs of PM<sub>2.5</sub>, significant effort has gone into the development of technological solutions to deal with the problem. The best technologies involve the use of post-combustion filters with a catalyzing agent, which together trap and break down dangerous pollutants before they are emitted into the air. All new diesel trucks will be required to use these technologies by 2007 according to U.S. EPA rules, and off-road equipment will have to use these technologies by 2010. (Rules require 95% reductions in emissions of several pollutants, as well as a 97% cut in the sulfur levels in diesel fuel.) However, given that the lifespan of a diesel engine can be 20-30 years, it will take decades to completely turn over America's diesel fleet. Therefore, by lowering emissions from older diesels, retrofits are an effective path to cleaner air over the next few decades.

Diesel retrofit filters are highly effective at their chief function: preventing dangerous pollutants from ever entering the air. Diesel oxidation catalysts (DOCs), at \$1,000 to \$1,200 per retrofit, reduce PM by about 30% and can work with current higher sulfur diesel fuels. This yields a large benefit when installed on older, higher-polluting vehicles. In addition to the PM reducing capabilities, these filters can also cut the emission of carbon monoxide and volatile hydrocarbons by more than 70%.

Diesel particulate filters (DPFs), which generally cost \$4,000-\$7,000 per engine, are far more efficient. They are specifically targeted at keeping more dangerous PM out of the air than DOCs. In fact, they can reduce PM<sub>2.5</sub> pollution from each vehicle by more than 90%, yielding an enormous cut in emissions over the life of the diesel engine, even when installed on newer, cleaner diesel vehicles. An additional requirement of DPFs, however, is that the vehicle must run on newer very low sulfur fuels. High sulfur fuel leads to sulfate emissions from the filter due to the very active catalysts needed to make the filters function properly. Thus, DPFs are most effective as a solution for vehicles in urban areas—such as construction equipment and urban fleets—where very low sulfur fuels are already available.

These technologies are not new or experimental; they are already in use around the world. There are 2 million of these technologies already at work in heavy-duty diesel vehicles worldwide. Further, there are 36 million DOCs and 2 million DPFs in use on passenger vehicles in Europe alone, where these technologies are currently being used, reaping cost-effective health benefits over the long term.

THE CMAQ PROGRAM

The CMAQ program is the only federally funded transportation program chiefly aimed at reducing air pollution. Its historical purpose has been twofold: to reduce traffic congestion and to fund programs that clean up the air Americans breath. Within its air quality mission, it is designed primarily to help non-attainment areas (mainly polluted urban zones) reach attainment for air quality standards under the Clean Air Act. Historically many CMAQ projects have tried to change travel and traffic behavior in order to achieve its goals. These transportation control measures (TCMs) have been designed both to reduce traffic congestion as well as improve air quality. An example is a bicycle path. Designed to reduce the number of drivers on the road, bike paths could, in theory,

achieve both goals. Further examples are vanpools, ridesharing and park and ride programs, and HOV lanes: all current CMAQ projects. Other projects have addressed emission reductions directly, as for example, through funding for state automobile emission inspection programs.

As a condition for reauthorizing the CMAQ program in 1998, the U.S. Congress required that a detailed 10-year assessment of the program be conducted. This review was performed by the Transportation Research Board of the National Research Council and was completed in 2002. This review found that CMAQ has been less than successful in reducing congestion and suggested that the most beneficial way for CMAQ to use its funds is to focus on air quality. It also found that TCMs were less cost effective than measures to directly reduce emissions, such as through inspection programs.

Furthermore, the study suggested that CMAQ's focus within the domain of air quality is misplaced. CMAQ programs have targeted the gases considered the most dangerous pollutants for many years, like hydrocarbons, carbon monoxide, and nitrous oxides. While these gases pose recognized health and environmental risks, recent work has shown that the dangers of these substances pale in comparison to the danger of fine particulate matter. In the words of the study, "Much remains to be done to reduce diesel emissions, especially particulates, and this could well become a more important focus area for the CMAQ program." Further, discussing the fact that diesel-related CMAQ programs could be the most cost-effective, the study states, "had data been available on particulate reductions . . . the ranking of strategies focused on particulate emissions . . . would likely have shown more promising cost-effectiveness results."

#### COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS WITH OTHER CMAQ PROJECTS

Given that  $PM_{2.5}$  emissions from diesel engines are a leading health concern, that effective technology exists today to clean the emissions of off-road diesel equipment used extensively in the middle of American cities (non-attainment areas), and that the CMAQ 10-year review highlights the possible use of CMAQ funds for diesel retrofit projects, it is logical to compare the cost effectiveness of these diesel retrofits with current CMAQ projects. The CMAQ Program: Assessing 10 Years Experience (2002) estimates the median cost per ton of pollutant removed for 19 different CMAQ strategies and these estimates provide the comparison base. Published estimates for diesel retrofits are compared with these estimates.

As a first step in comparing the cost effectiveness of pollution reduction strategies, it must be noted that the CMAQ cost effectiveness estimates are presented as "cost per ton equivalent removed from air," with weights of 1 for VOCs, 4 for  $NO_x$ , but 0 for  $PM_{2.5}$ . Relying upon the McCubbin and Delucchi health cost estimates, however, even weighted  $NO_x$  should be considered more damaging than VOCs. That is, even though 0.25 ton (the 1:4 ratio above) of  $NO_x$  removed counts as the CMAQ equivalent of one ton of pollution removed, it has a higher health cost than a ton of VOCs ( $\$11,332 / 4 = \$2,883$  for  $NO_x$  vs.  $\$718$  for VOCs). As a second step, conservatively assume that all CMAQ projects remove the more damaging pollutant ( $NO_x$ ). This still means that a ton of  $PM_{2.5}$  reduction would be worth at least 9.45 tons of regular CMAQ reductions ( $\$109,000$  for  $PM_{2.5}$  /  $\$11,332$  for  $NO_x$ ).

Diesel retrofits are estimated to cost  $\$50,460$  per ton of  $PM_{2.5}$  removed by the California Air Resources Board (CARB). This estimate is very conservative and substan-

tially higher than that cited by industry sources. Using the CARB cost estimate, diesel retrofits cost  $\$5,340$  per ton equivalent of air pollution removed ( $\$50,460 / 9.45$ ), based upon the CMAQ definition of ton equivalent and on the conservative assumption that CMAQ projects remove the most damaging pollutant reviewed. If a less conservative and more realistic assumption is used—that CMAQ projects remove a mix of  $NO_x$  and VOCs—then the cost-effectiveness of diesel retrofits becomes substantially more favorable, and could be as low as  $\$332$  per ton of CMAQ pollutant removed.

This analysis means that diesel retrofits for construction equipment are highly cost effective when compared with current CMAQ strategies. As shown in Table 1 and Chart 2, some CMAQ strategies cost more than  $\$250,000$  per ton of pollutant removed (teleworking), and many are in the  $\$20,000$  to  $\$100,000$  per ton range (traffic signalization, park and ride lots, bike paths, new vehicles, etc.). The only current CMAQ project category that exceeds the cost effectiveness of diesel retrofits is emission inspection programs.

Other studies also conclude that diesel retrofits are highly cost effective compared with current CMAQ projects. The Diesel Technology Forum compared the benefits and costs of CMAQ projects with diesel retrofits for transit buses (for  $NO_x$  pollution reduction) and concluded that retrofits are a better use for CMAQ funds than any other typical CMAQ project, with the exception of inspection and maintenance programs and speed limit enforcement. Also, the California EPA's Air Resources Board has estimated that diesel retrofits have a benefit of between  $\$10$  and  $\$20$  for each  $\$1$  of cost. And the U.S. EPA, in its justification for new on-road diesel rules in 2007 and off-road rules in 2010 estimates the benefits for diesel particulate filters at roughly  $\$24$  for each  $\$1$  of cost.

TABLE 1.—COST-EFFECTIVENESS OF CURRENT CMAQ STRATEGIES AND DIESEL RETROFITS  
(Median cost per ton equivalent of air pollution removed)

	Median cost	Rank
Inspection and maintenance	\$1,900	1
Diesel retrofits	5,340	2
Regional rideshares	7,400	3
Charges and fees	10,300	4
Van pool programs	10,500	5
Misc. travel demand management	12,500	6
Conventional fuel bus replacement	16,100	7
Alternative fuel vehicles	17,800	8
Traffic signalization	20,100	9
Employer trip reduction	22,700	10
Conventional service upgrades	24,600	11
Park and ride lots	43,000	12
Modal subsidies and vouchers	46,600	13
New transit capital systems/vehicles	66,400	14
Bike/pedestrian	84,100	15
Shuttles/feeders/paratransit	87,500	16
Freeway management	102,400	17
Alternative fuel buses	126,400	18
HOV facilities	176,200	19
Telework	251,800	20

Source: All costs from The CMAQ Improvement Program: Assessing 10 Years of Experience, (2002), except diesel retrofit costs, which are from author's calculations.

#### CONCLUSIONS

The top air pollution problem in U.S. urban areas today is almost certainly  $PM_{2.5}$ , which is estimated to cost more than  $\$100,000$  per ton in health costs. A major source of  $PM_{2.5}$  emissions in urban areas is diesel engine exhaust. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment. Off-road equipment in urban areas is a particular problem, because it gives off exhaust at ground level, frequently near large groups of people.

Diesel retrofit technology is currently available that is highly effective at reducing  $PM_{2.5}$  emissions. DOCs are well suited for retrofitting older off-road vehicles and DPFs

are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From a cost effectiveness point of view, diesel retrofits are superior to almost all current CMAQ strategies, including ride-share programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging teleworking.) Only emission inspection programs exceed the cost effectiveness of diesel retrofits based upon conservative assumptions. Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies.

Mr. CORZINE. Mr. President, I rise today to discuss the transportation reauthorization legislation that is pending before the Senate, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or SAFETEA. I commend the managers of this bill, Senators INHOFE and JEFFORDS for producing bipartisan legislation that will help address the safety and congestion needs on our Nation's roads, rails and bridges. I thank the managers for their hard work.

Under SAFETEA, New Jersey will see a 56 percent increase in mass transit formula funds from fiscal year 2005 to fiscal year 2009. It will also see an increase its return on the highway dollar from the current 90.5 cents on the dollar, which is the absolute minimum, to 92 cents on the dollar.

This money is sorely needed. New Jersey is the most densely populated State in the Nation. This is causing gridlock on our roads. According to the latest study by the New Jersey Institute of Technology, the average New Jersey driver now spends 45 hours a year stuck in traffic. I repeat, 45 hours a year. All this time spent behind the wheel does more than hurt New Jersey's quality of life. It also costs us an average of  $\$1,255$  per driver in wasted gasoline and lost productivity—for a total cost of  $\$7.3$  billion a year. That is a huge blow to New Jersey's economy.

I have spent 25 years of my life commuting from northern New Jersey into New York City. I have seen firsthand how tough the commute is getting. People are getting caught in gridlock on roads and bridges that are overcrowded and in need of repair. According to the New Jersey Department of Transportation, to fix New Jersey's 13 most seriously deteriorating bridges will cost  $\$2.03$  billion. And we are facing  $\$1$  billion in pavement and surfacing needs for our highways alone.

New Jersey is the most densely populated State. We need a greater share of funding to repair our roads and bridges. Thanks to the leadership of Senator INHOFE and Senator JEFFORDS, we will begin to see some of that funding under SAFETEA.

However, I must say that I was disappointed when the Senate last week refused to pass the amendment Senator LAUTENBERG and I offered on protecting States from corruption in transportation contracting, a practice commonly known as "pay-to-play". I

believe that this was due in large part to false statements that were made by certain groups and repeated on the floor of the Senate. I would like to take a moment to address both these comments and the continuing need for this measure.

The criticisms fall into three areas: First, that this measure was not needed to ensure fair and open competition for highway and mass transit contracts. Second, that Senator LAUTENBERG and I were trying to impose New Jersey's pay-to-play law on the rest of the Nation. The third criticism was that New Jersey did not need a change in Federal law in order for its own pay-to-play measures to be implemented. All of these points are wrong and I will address each in turn.

The first criticism was that our amendment was unnecessary. The U.S. Chamber of Commerce and certain members of the Senate argued that competitive bidding rules already guarantee fair treatment for all contractors, without any favoritism. That is not true. Governments can and do enact unfair conditions to restrict who may bid. Sometimes those conditions can be subtle, such as requiring a certain size for a company that receives a contract. Sometimes they can be more overt, such as overly burdensome licensing requirements. As a result, the playing field is hardly level for those who would like to compete for contracts.

The second criticism was that Senator LAUTENBERG and I were trying to create a national pay-to-play rule that would apply to every State in the country. That is also not true. We were not establishing a Federal pay-to-play rule in Federal highway contracting. We were merely asking the Senate to respect the rights of states to establish and maintain their own *state* contracting practices. Further, this only impacts contributions to state level candidates. Federal campaign finance laws are in no way affected.

Finally, opponents argued that New Jersey does not need a Federal fix for its pay-to-play problems. That is not true as well. New Jersey enacted a statute that limits contributions from a corporation or individual who does business with the state to no more than \$300. While this is a valuable tool in ensuring that contracts are awarded solely on the basis of merit, a gaping loophole exists due to the fact that the U.S. Department of Transportation will not allow this law to apply to highway and mass transit contracts that use Federal funds. As a result, New Jersey faces a situation where nearly \$900 million in the contracts for Federal highway and mass transit projects that it awards annually are susceptible to corruption. This is a "corruption tax" that New Jersey's citizens must continue to pay, thanks to the Senate's actions last week.

A number of States and cities have enacted pay-to-play statutes that are similar to New Jersey's. This includes

South Carolina, Kentucky, Ohio, West Virginia, and New Jersey, and now Hawaii. In addition, pay-to-play measures have been enacted in the cities of Los Angeles, San Francisco, Oakland, Chicago, and 24 local jurisdictions in New Jersey. Pay-to-Play bills are also pending in Illinois, Connecticut, and New York City. Let me be clear, the Senator's actions have put all of these laws in jeopardy.

It is time for the Senate to ensure that both highway and mass transit contracts can be awarded without the taint of government corruption. We owe the taxpayers nothing less.

Mr. PRYOR. Mr. President, I want to talk briefly about an amendment to this bill that I cosponsored with Senators HUTCHISON and BEN NELSON.

The amendment repealed, for the most part, an unpopular provision that was included in TEA-21 that has never been utilized: the Interstate System Reconstruction and Rehabilitation Pilot Program. It is also known as the Interstate Tolling Program.

I understand the desire to find new ways to finance our ever-growing transportation needs. Our roads and bridges are deteriorating; our freight, truck, and passenger traffic is increasing. According to the American Association of State Highway and Transportation Officials, we need an annual investment by all levels of government of \$92 billion a year just to maintain the current system. To improve it, we need \$125.6 billion a year. This bill addresses only a fraction of those needs, but the increased funding compared to levels contained in TEA-21 is a positive step.

I think we can do better, and I think we have a duty to do better. If we can find ways to provide more money for infrastructure without increasing our Nation's deficit, I believe we should do it. I have voted in the past to increase the level of funding in this bill because I believe it is warranted, it is reasonable, and it is the responsible thing to do.

I applaud efforts to try to find new and innovative ways to finance new road building.

The bill creates a new commission to explore alternative sources of revenue for transportation. I think that is a good idea.

However, I cannot agree that it is a good idea to put tolls on interstate highways that have already been paid for with Federal gas tax dollars. That is what the Interstate System Reconstruction and Rehabilitation Program does.

This pilot program allows tolling of existing lanes on the Interstate Highway. I think that is bad policy, and that is why I have joined Senator HUTCHISON, and Senator NELSON in sponsoring an amendment to strip this program from this reauthorization bill.

My amendment does not affect States' ability to finance new interstate construction using tolls. It does not affect States' ability to convert

HOV lanes to High Occupancy Toll—HOT—add new voluntary use tolled lanes to their Interstates, or toll non-Interstate roads.

The amendment only prevents tolling on existing interstate lanes, which have already been paid for once by federal gas taxes.

I see this as an issue of double taxation.

We are talking about interstate highways that were built using Federal gas tax money. There are those who want to tax the use of these same roads that have already been paid for.

I understand the desire to find new ways to finance road building. In Arkansas, our State leaders have chosen to increase the State gas tax throughout the years in order to meet its road construction needs.

In fact, Arkansas is in the top half of State gas taxes. Arkansas has acted responsibly, and now there is an effort to institute tolls on existing interstate highways because some States don't want to raise their gas taxes. They would rather tax through tolling:) I think that is unfair.

This is an issue that affects poor, rural residents who have limited transportation options the most. Over the past few years, EAS and Small Community Air Service funding has been cut to many rural communities, including those in my State of Arkansas. AMTRAK is in financial turmoil, and over the road buses such as Greyhound have dramatically cut service.

Tolls on existing roads, which have already been financed and paid for by federal gas taxes increase the burden on these people. Again, I think it is simply unfair. Not only am I concerned about the double taxation issue, but I believe this is a safety issue.

Tolls on existing Interstates will produce substantial diversion of traffic to other roads. I believe greater volume of truck traffic on local roads is not something we should encourage by placing tolls on the interstates.

There is also an economic downside to tolling the interstate. Businesses along newly tolled roads which rely on highway travelers—such as truck stops, motels and restaurants—will be hurt economically if significant traffic avoids the toll road.

The bottom line is that I believe allowing tolls on interstate highways that have already been paid for by Federal gas taxes is bad tax policy, is unsafe, and could have very detrimental economic effects. I am hopeful that you will agree with me that tolling existing interstate lanes is a bad idea, and will support our amendment.

Mr. WARNER. Mr. President, I rise today with renewed hope and confidence that this Congress can pass a surface transportation reauthorization bill. As it has been stated before, we have been operating under continuing resolutions—six of them—to keep the Department of Transportation's highway, transit, and highway safety programs running. We have been operating

for 2 years on expired legislation and we are far past due on our commitment to the American people to deliver an updated policy and expanded funding.

Last year both the Senate and House passed bills and the conference committee met for months before we were forced to abandon hopes of completing a conference report as a result of the much discussed disagreement over the size of the bill. This year we will still have a disagreement over the size of the bill but I am optimistic that with the narrowed gap, we will be able to resolve the differences quickly and amicably. I am pleased the Senate will adopt a bill funded at \$295 billion and am hopeful that this funding level can be retained in conference. Our transportation system is bursting at the seams and the Congress must adequately fund this bill to address this myriad of needs. Almost 30 percent of our Nation's bridges are structurally deficient. Thirty two percent of our major roads are in poor or mediocre condition. Our urban centers and suburban communities need expanded and updated transit infrastructure. Americans spend 3.7 billion hours each year in congested traffic. Our State highway departments are forced to cancel or delay projects as costs continue to rise while the revenue does not come.

In addition, we have a responsibility to make our transportation system safer for the traveling public. The President recognizes this and has appropriately named his proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA. Throughout my career in the Senate I have worked with many of my colleagues to address critical safety measures on our Nation's highways. The most effective way to increase safety on our roads is to get people to wear their seat belts. I am a firm believer that the individual States must pass primary safety belt laws. The statistics are clear. More than 50 percent of the fatalities on our highways are individuals who were not wearing their safety belts. My hope is that the incentive grants included in this bill will prompt states to take actions to cut into the tens of thousands of deaths on our roadways each year.

The Committee substitute will increase funding in the bill from \$284 billion as passed by the Environment and Public Works and Finance Committees to \$295 billion. This means an additional \$247.7 million for my home State of Virginia for a total of \$4.7 billion in highway construction over the next 5 years. This represents more than a 32 percent increase over the highway funding in TEA-21. The Virginia Department of Transportation will now be able to restore many projects that had been cut from our transportation plan because of the lack of revenue. We have made small steps in the right direction to address donor States, increasing the rate of return to 92 percent by 2009.

We will also increase funding for transit programs across the country.

While this has traditionally only meant our urban centers, transit has evolved to enable Americans in suburban and even rural areas of our States increased mobility on subways, buses, light rail, commuter railroads, ferries, and vans. More than 80 million Americans do not drive or have access to a car and this robust investment in our transit systems helps not only those Americans but also helps relieve congestion on our Nation's roads.

I wish to thank the chairmen and ranking members of the committees and subcommittees working so diligently on this bill. They and their staffs have been working together for several years toward the ultimate goal and today we take one step closer to that end. Chairman INHOFE, Subcommittee Chairman BOND, Ranking Member JEFFORDS, and Subcommittee Ranking Member BAUCUS have worked openly with the EPW Committee and every Senator in this body to address our concerns and their work is very much appreciated by this Senator. They have worked well with the Finance, Commerce, and Banking Committees to bring this bill together. I know how difficult this bill is to manage and it is my sincere hope that the conference committee will soon be able to resolve differences between the House and Senate bills and send a strong bill to the President. The bill we vote on today increases the revenue for our state highway departments, enhances the safety of our roadways, will help states address environmental pollution from our roadways, and will reduce the congestion millions of Americans deal with each day to help keep our Nation the strongest economy in the world.

Mr. KOHL. Mr. President I would like to explain my vote today against this important legislation, the highway reauthorization bill. I want to explain that my vote was against the unfair treatment of my State, and not a 5-year reauthorization bill. I support consistent and adequate funding of our transportation infrastructure but I do not support a bill that cuts Wisconsin's rate of return unfairly.

A safe and efficient transportation system is critically important to my State. In Wisconsin, the changing seasons require constant maintenance of our roads and bridges. In addition, we have an aging fleet of buses that are in dire need of replacement. A five-year reauthorization is necessary for sustained transportation planning; it will provide jobs, will ensure safer travel on our highways and roads, and will provide transit funding for millions of commuters. I have heard from the people of Wisconsin, and I know they support a 5-year authorization bill.

I share their sentiments on the need for an authorization bill. I also share their sentiments on the bill the Senate passed today. I have spoken to engineers, bus drivers, road builders and businesses throughout my state and the message is the same—don't support

legislation that would drop Wisconsin's rate of return. My support for this legislation would undermine Wisconsin taxpayers who deserve better than 92 cents on the dollar. A vote in favor of this legislation would set a dangerous precedent for treating Wisconsin unfairly.

I recognize the arguments of my colleagues that the overall funding for Wisconsin will increase and I support the addition of \$11.2 billion that the substitute amendment contains. The substitute amendment provides Wisconsin with an additional \$147 million in highway funding over the five year life of the bill. These dollars are absolutely necessary in the State, and I urge the conferees to maintain the Senate level of funding.

What the substitute amendment does not do, however, is greatly change my State's rate of return. Over the life of the bill, Wisconsin will still drop from an average of \$1.02 to an average of 96 cents on every dollar the taxpayers send to Washington. The so-called equity bonus program included in the bill is far from equitable. It includes exemptions based on random criteria; it is a formula stitched together to appease the highest number of Senators possible, not to give each State its fair rate of return.

I remain hopeful that Congress will pass a bill much different than the one the Senate votes on today. I hope that my colleagues will, in conference, repair the damage that is done to Wisconsin under the Senate bill. I hope the final bill gives Wisconsin its fair share. Given the great need for a 5 year authorization bill, I would like to support this legislation. Given its treatment of Wisconsin, I cannot. I hope that will be different when the Senate considers a final bill.

Mr. SARBANES. Mr. President, it is critically important that we move forward with this reauthorization of the Nation's highway and transit programs. Although the funding levels contained in this measure are lower than many of us believe are warranted or necessary to address our pressing transportation infrastructure needs, given the budget constraints within which we had to work, I think we have responded with a reasoned and balanced package that will maintain and enhance our transit, rail and highway systems.

There is a huge backlog of needed repairs, replacements, and upgrades to bring our transportation network—our roads, bridges, transit systems and railroads—up to standards. The Department of Transportation's Conditions and Performance Report estimates that an average of \$127 billion per year is needed over the next two decades to maintain and improve the condition of these systems. Other estimates show an even greater need. This backlog constrains our Nation's economic competitiveness, leaves more and more Americans stuck in traffic, contributes to air pollution and results in unnecessary fatalities.

Just last week, the Texas Transportation Institute released its annual “Urban Mobility Report,” which measures traffic congestion in the Nation’s 85 largest cities. The report found that congestion across the country delayed travelers by 3.7 billion hours and wasted 2.3 billion gallons of gasoline in 2003. That is nearly 80 million more hours and 70 million more gallons of fuel in 2003 than in 2002. Average hours spent in rush hour traffic jams jumped from 16 in 1982 to 47 in 2003. The Washington Metropolitan area continues to suffer the third-worst traffic congestion in the country, costing area drivers an estimated \$2.46 billion in lost time, fuel and productivity, or \$577 per commuter. Equally important, the study found that this area would have the worst congestion in the country if not for our public transportation systems. As these figures show, congestion has a real economic cost, in addition to the psychological and social costs of spending hours each day sitting in traffic. We cannot afford to let these costs of congestion grow any further.

In my judgment, the report underscores the need to bolster investment in our transportation infrastructure and to put in place a sensible, balanced transportation network. Over the past 2 years, we have been working hard in the Congress to do just that: to reauthorize the Nation’s surface transportation program, and to bring our transportation network up to standards. Last year, the Senate approved a measure authorizing \$318 billion in funding over the next six years—an increase of \$100 billion over the previous measure—which, in my view, provided the kind of investment needed to not only prevent further deterioration of our transportation network, but to improve the system, relieve congestion and save lives. Unfortunately, SAFETEA did not emerge from conference due in large part to the unwillingness of the administration and the House leadership to support that level of investment. As a result, we have had to pass six short-term extensions of the previous transportation legislation, TEA-21. The uncertainty inherent in these short-term extensions hinders our State and local partners in their efforts to meet the daily challenges of maintaining our transportation infrastructure and planning for improvements.

The measure that is before the Senate this year provides \$295 billion over the next 6 years in highway and transit funding. That is \$11 billion more than the level recently approved by the House and \$39 billion more than was originally recommended in the President’s reauthorization proposal. For our Nation’s roadways and bridges, this legislation authorizes an average increase of nearly 31 percent in funding to enable States and localities to make desperately needed repairs and improvements. Maryland’s share of highway funding will grow by more than \$820 million over the next 6 years, from

\$2.66 billion to \$3.49 billion, compared to the level provided in TEA-21, to help upgrade our highway infrastructure. This represents an average of more than \$142 million more each year than was provided under TEA-21.

In the next two decades, Maryland’s driving age population is expected to increase by nearly 20 percent, the number of licensed drivers by 25 percent, and the number of registered vehicles by nearly 30 percent—and this will mean significantly more traffic on our roads and pressures on our transit systems. Maryland’s Department of Transportation is facing deficient roads and bridges as well as key gaps and bottlenecks within the State’s transportation system that are known to cause delay and congestion. Maryland has an estimated unfunded capital need for more than \$13 billion in highway maintenance, construction and reconstruction over the next ten years. Clearly, Maryland must have adequate funding to address these transportation challenges and to facilitate overall mobility—and the funds made available under this measure will be a significant help in this regard.

Importantly, the measure preserves the dedicated funding for the Congestion Mitigation and Air Quality—CMAQ—program which helps States and local governments improve air quality in nonattainment areas under the Clean Air Act; the Transportation Enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core TEA-21 programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, TEA-21’s basic principles of flexibility, intermodalism, strategic infrastructure investment, and commitment to safety are retained.

I am especially pleased that the Senate rejected an amendment to strike the stormwater runoff mitigation provision that is contained in the measure, which sets aside 2 percent of a State’s Surface Transportation Program for stormwater runoff mitigation. According to the Environmental Protection Agency, polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40 percent of U.S. waterways not meeting water quality standards. In the Chesapeake Bay region, it is estimated that runoff from highways contributes nearly 7 million pounds of nitrogen, 1 million pounds of phosphorous and 167,000 tons of sediment annually to the bay. In Maryland alone, the Center for Watershed Protection estimates that the 7500 miles of Federal-aid highways generate yearly loads of 1.2 million pounds of nitrogen, 127,000 pounds of phosphorous and 25,000 pounds of sediment into Maryland waterways and eventually into Chesapeake Bay each year. A study by the Chesapeake Bay Commission estimates stormwater retrofit costs at more than

\$2.5 billion across the watershed. The stormwater provision will provide more than \$66 million for the bay States and local governments for stormwater abatement, of which approximately \$12.75 million would be available for Maryland.

For our Nation’s transit systems, the legislation authorizes \$53.8 billion—\$12.3 billion more than provided in TEA-21—to modernize and expand our transit facilities. These funds will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country. Maryland’s formula share of transit funding will grow by nearly 52 percent over the next 6 years—from \$571 million to \$870 million. These funds are absolutely critical to Maryland’s efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, DC, Frederick, and Brunswick, and the Baltimore Light Rail system. Bus systems and paratransit systems for elderly and disabled people throughout Maryland will also receive a big boost in funding. The measure also includes a provision reauthorizing the National Transportation Center—NTC—at Morgan State University. The NTC conducts important research, education and technology transfer activities that support workforce development of minorities and women, and addresses urban transportation problems. In addition, it includes provisions which would address a very important issue for employees of the Food and Drug Administration who will be relocating to the new FDA headquarters at White Oak, MD, enabling the agency to use its own vehicles to offer employees shuttle service to and from the metro system at Silver Spring and potentially other transit facilities. The potential impact of this provision on regional traffic is not insignificant. When construction of the White Oak complex is completed, FDA will house more than 7,000 FDA researchers and administrators at the new facility. By enabling this access from FDA’s new campus to a transit station, we can reduce congestion on area roadways, improve our environment and elevate the quality of life for FDA employees. The legislation also includes a requirement for the Federal Transit Administration to report to Congress on ways to promote improved access to and increased usage of tax-free transit benefits at Federal agencies in the National Capital Region. Increasing use of public transit by federal employees has the potential to greatly aid our efforts to combat congestion and pollution in the region.

I am particularly pleased that the legislation includes the Transit in Parks Act, or TRIP, which I introduced. This new Federal transit grant initiative will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths,

or park waterway access, within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. CARPER. Mr. President, I would like to thank the Environment and Public Works Committee Chairman INHOFE and Ranking Member JEFFORDS, the Banking Committee Chairman SHELBY and Ranking Member SARBANES, Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS, and Transportation Subcommittee Chairman BOND for all their hard work in developing this bill and bringing it to the floor. We all know how important it is that we complete work on it and get it to the President as soon as possible.

We face many challenges in our transportation system. Traffic congestion continues to worsen. In the Philadelphia area—which includes Wilmington, DE—rush hour motorists spent 38 hours in traffic in 2003. The number of cities experiencing 20 hours of delay or more per year has increased from only 5 in 1982 to 51 in 2003. This kind of congestion costs this country approximately \$63 billion a year and wastes nearly 2.5 billion gallons of fuel. We can do better.

This bill would provide Delaware with \$793 million over 5 years to address our transportation needs. These needs include the replacement of the Indian River Inlet Bridge Replacement in Sussex County which carries 16,000 to 18,000 vehicles daily, not including the summer beach traffic. It also includes needed improvements to increase capacity at the I-95/SR-1 interchange, the busiest interchange in New Castle County.

Transit would receive around \$46.5 billion over 5 years, funding the increasing demand for transportation choices, allowing people to get around without a car. This demonstrates our growing awareness that while roads and bridges and highways are important and we still love our cars in this country, more and more people are using transit.

With the congestion we have on our highways, with our increasing dependence on foreign oil, with our increasing problems with air pollution, it certainly makes sense to provide reliable transit for people to get to work, shop or attend a ball game. In the city of

Wilmington, nearly 27 percent of households have no car and 44 percent have only one. This saves families money that can be better invested in home-ownership and their children's education.

In Delaware, we are responding to the demand for more transportation choices by making improvements to allow more SEPTA trains to serve Wilmington and Newark, and we hope to extend rail service to Middletown in the near future. Also, the State is investing in the replacement of our buses to improve transit statewide.

The transit title will also help states fund welfare-to-work transportation programs. In Delaware, our welfare-to-work program provides approximately 3000 welfare recipients with access to jobs by creating alternative transit services in cooperation with other social service providers. This is the only way these participants could access employment and training.

In this important legislation, we are also investing \$5.8 billion in safety programs. This includes an incentive program for states to pass primary seatbelt laws like we now have in Delaware. Wearing a seatbelt is the most important step anyone can take to improve their chances of surviving a car crash, and primary enforcement seatbelt laws are the most effective way to increase seatbelt use. Since Delaware's primary seatbelt law became effective in 2003, seatbelt usage has increased from 75 percent in 2003 to 82 percent in 2004.

We are also creating in this bill a program to make it safer for children to walk to school. A recent national survey found that while 70 percent of parents walked or bicycled to school as children, only 18 percent of their children do today. Parents often say that walking to school is no longer possible because there are busy, fast-moving, multi-lane streets between home and school and often no sidewalks at all.

As more and more children are driven to school, we see traffic jams in school parking lots and increasing pollution around schools. Meanwhile, children lose this simple way to get a little exercise at a time when many American children are struggling with being overweight and 15 percent are now considered obese, putting them at risk of a number of chronic diseases. Through the Safe Routes to School program, states will be able to slow cars around schools, add crossing walks, build sidewalks and organize walking school buses where members of the community walk a school bus route to walk kids to school.

Unfortunately, this bill does not completely overcome the tradition of separating the different modes of travel and treating them as if they are separate systems. The users of the transportation system—the American people—don't use the system that way. The design of highways affects people's ability to access transit, walk to the store or go for a jog. The way we design

our transportation system affects people's quality of life, the amount of pollution in the air, the amount of oil we need, and the amount of polluted runoff in our water.

In fact, when we develop our transportation network without proper consideration of other neighborhood needs, we find ourselves having to spend more money to retrofit streets so that kids may safely walk to school or to decrease the amount of pollution that runs off roads into our rivers and lakes. And when we keep roads separate from transit and transit separate from intercity rail and rail separate from air travel, we miss the opportunity to make the system work more efficiently.

Sadly, this bill, which is supposed to address the Nation's surface transportation policy, barely even mentions it. But later in the year we will have the opportunity to consider what kind of support the Federal Government should provide freight and passenger rail. This is an important area that we have neglected for too long.

I hope as we consider a national rail policy we look at what has worked for highways, transit and air and use it to develop a robust rail system. I also hope that we do not consider rail in a vacuum but rather look for opportunities to coordinate rail investment with other modes of travel—connecting airports to cities through rail for more seamless travel and connecting ports to rail to highways for more efficient shipment of freight.

Finally, because of the need to schedule a vote at 5:30 last Thursday, I was unable to make a statement in favor of Senator HARKIN's complete streets amendment, an amendment that I co-sponsored and strongly supported. So I would like to do so now.

First I would like to thank my colleague, Senator HARKIN, for offering this amendment. I am proud to be a co-sponsor. The adoption of the complete streets amendment would be an important step forward in providing safe transportation options for Americans. It would support active and healthy lifestyles and encourage people to get out of their cars. It would also reduce pollution and our reliance on foreign oil.

It simply requires State transportation departments and metropolitan planning organizations to fully integrate the needs and safety of all road users into the design and operation of federal-aid roads and highways. In other words, as we design our roads, we must consider more than just the needs of cars. We must consider bicyclists, pedestrians, and everyone who uses our roads.

There are deadly consequences when this does not occur. Recently, a young woman from Poland who was working for a year in Lewes, DE, was killed while riding her bike. There are hundreds of young people from Europe who come to work near the beaches in Delaware. Many of them do not have or

cannot afford a car and get around by bicycle.

This particularly young woman, named Katarzyna Reteruk, was leaving her place of employment—Anne Marie's Seafood and Italian Restaurant on Route 1—and was about to turn onto Route 24, when she was hit by a woman leaving her place of employment. Katarzyna was thrown from her bike, struck the hood and windshield of the car, and died a short while later.

This tragic event took place in a rapidly growing area of the State and on a highway that has had increasing congestion over the years. This is a challenge many areas of the country are facing. But we have to ensure that we learn from this tragedy and others like it. We must make improvements to our roadways for motorists—but we must also address the safety and mobility needs of bicyclists and pedestrians.

We often say that we want to encourage people to get out of their cars and be more active. But when there is no place for people to safely walk or bike, we can't expect them to do so. In a time of increasing obesity, especially in our children, the time has come to ensure that opportunities to walk to school or to a friend's house or just for exercise are available in as many places as possible.

By considering the needs of non-motorists, we will improve mobility for those who cannot afford a car—including young people just starting out—and allow a family of 5 to more easily get by with only 2 cars.

We have already included in this bill a program called Safe Routes to Schools to retrofit our roads to make them safer for children to walk to school. This amendment is an excellent addition to that provision in that it would ensure that new road projects are built with pedestrians in mind, saving us from having to spend money to retrofit roads later.

Under the complete streets amendment, State departments of transportation and metropolitan planning organizations would have to: 1, fully integrate the needs of pedestrians and bike riders in the transportation planning process; 2, promote pedestrian and bicycle safety improvements, and 3, set goals for increasing non-motorized transportation.

Metropolitan planning organizations serving 200,000 people or more, such as the one in Wilmington, DE, would have to designate a bicycle/pedestrian coordinator and account for the safety needs of pedestrians and bicyclists in their long term plans.

Finally, the Secretary of the U.S. Department of Transportation would report to Congress annually on the share of research funds allocated to directly benefit the planning, design, operation and maintenance of the transportation system for non-motorized users.

This amendment would build expertise in how we can make our roads safer for bicyclists and pedestrians, while improving our roads for drivers

as well. I hope that we are able to encourage its adoption in conference.

Mr. LEVIN. Mr. President, funding for transportation infrastructure such as roads, bridges and border crossings is a sound investment that increases the mobility of people and goods, enhances economic competitiveness, reduces traffic congestion, and improves air quality. Those improvements in transportation infrastructure are critical to our States, and the Federal highway money that States receive is critical for funding them. In addition, few Federal investments have as large and immediate an impact on job creation and economic growth as transportation infrastructure. The Department of Transportation estimates that every \$1 billion in new Federal investment creates more than 47,500 jobs.

Unfortunately, the formula that distributes Federal highway funds to States is antiquated and inequitable. Historically, about 20 States, including Michigan, have been “donor” States, sending more gas tax dollars to the highway trust fund in Washington than are returned in transportation infrastructure spending. The remaining 30 States, known as “donee” States, have received more transportation funding than they paid into the highway trust fund.

This unfair practice began in 1956 when small States and large Western States banded together to develop a formula for distributing Federal highway dollars that advantaged themselves over the remaining States. Once that formula was in place, they have tenaciously defended it.

At the beginning, there was some legitimacy to the concept that large, low-population, and predominately Western States need to get more funds than they contributed to the system. It was the only way that we could build a national interstate highway system. However, there is no justification today for any State getting more than its fair share. With the national interstate system completed, the formulas used to determine how much a State will receive from the highway trust are simply unfair.

Each time the highway bill has been reauthorized, I, along with my colleagues from the other donor States, have fought to correct this inequity in highway funding. Through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents back on our Federal gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar, and the 1998 bill guaranteed a 90.5-cent minimum return for each State.

Last year, we believed we had another significant victory when the Senate passed a bill that would have given donor States 95 cents on the dollar in the final year of the bill. Unfortunately, that bill died in conference due to the President's veto threat and his unwillingness to accept the funding levels in either the House or Senate bill.

This year's legislation, however, would give donor States just 92 percent of their highway trust fund contributions by 2009. Although that is a small step in the right direction of closing the equity gap, we still have a long way to go to achieve fairness for Michigan and other donor States.

This bill is also a setback from last year's bill because it provides fewer overall transportation dollars. Last year, the Senate wisely passed a bill that would have pumped \$318 billion into our transportation systems over 6 years. This year, the Senate has reduced that funding down to \$295 billion. That is more than the House-passed bill of \$284 billion but still less than what is needed.

Michigan's rate of return would go from 90.5 percent to 92 percent immediately and remain at 92 percent for the full 5 years of this bill. Under this bill Michigan would get an annual average funding level of \$1.134 billion which represents a 28-percent gain over TEA-21.

We have made progress in this bill compared to current law in the ongoing fight for equity for donor States. I will continue to fight in the future, as I have in the past, looking toward full equity for Michigan. I recognize, however, that we have reduced the inequity a little more in each previous reauthorization bill, and we do so in this bill as well. This bill will bring billions of desperately needed dollars to States across the country. It will improve our Nation's transportation infrastructure and create millions of American jobs, and therefore I will support it, although its steps toward equity and fairness are very tiny indeed.

Mr. FEINGOLD. Mr. President, today the Senate will vote on final passage on the Senate version of H.R. 3, the SAFETEA bill. As we all know, the country has important transportation needs that Congress must address and I commend the managers of the bill for working hard to address highway construction, mass transit, highway safety and other important programs.

This is a very important bill and I am not taking my vote lightly. I have heard from numerous individuals and groups across Wisconsin who are opposed to another temporary extension and eager to have the certainty for planning purposes that comes with a full reauthorization. I understand their concerns and I share their desire that Congress provide necessary transportation funding. That is why I voted in favor of the motion to proceed to the bill and the motion to invoke cloture on the bill—because Congress needs to act on the country's transportation priorities. I wish I could vote for the bill. I would have voted for a bill that was equitable, even if it was not perfect. However, the current bill is far from equitable—in fact, it makes Wisconsin a double loser, both under the funding formula's rate of return and in the level of overall funding relative to the last bill, TEA-21. The bill does not

do nearly enough to help meet the transportation needs of my constituents in Wisconsin and, for that reason, I will vote against the bill.

Let me take a little time to explain my concerns with the bill, starting with the funding formula this bill would establish. Under that formula, certain States would continue to receive significantly more money than they pay into the highway trust fund, while other States continue to be denied their fair share. In fact, the number of donor States—or those who receive less than their fair share—would actually increase under this bill compared to the final year of TEA-21. In 2004 there were 27 donor States, while by the end of the new bill in 2009 there would be 31 States that pay more into the highway trust fund than they receive back. Six States—Iowa, Maine, Minnesota, New Hampshire, Oregon and Wisconsin—would become donors, while only Arkansas and Nebraska would leave that category.

I worked hard with the rest of the Wisconsin delegation during the last successful authorization to make sure that our State finally got a fair rate of return. Let me tell my colleagues, that change was long overdue. According to numbers from the Department of Transportation, from 1956 through 2000, Wisconsin got back just 90 cents on every dollar it paid into the trust fund.

In TEA-21, Wisconsin at last received a fair return. Unfortunately, this bill will take us back to where we were for the previous four decades—in the hole. Under the new formula, Wisconsin will once again be a donor State in 2006 and receive the bare minimum rate of return of 92 percent by the final year of the bill. I have spoken to other members of our State's delegation, and I think I can safely say we agree that Wisconsin deserves better.

It is bad enough that the bill would return Wisconsin to donor status. Adding insult to injury is the level of funding that this bill would provide for my State. This bill provides almost flat funding for Wisconsin, which we all know in real terms is a cut. In 2004 under TEA-21, Wisconsin received \$635 million, while the average spending under the current bill would only be \$642.8 million per year. When these figures are adjusted for inflation, in real terms the bill means a reduction of over \$35 million each year for Wisconsin, reducing our ability to meet our transportation needs—all while we become a donor State and again subsidize other States' transportation projects.

I cannot support a bill that treats Wisconsin so poorly with respect to both overall funding and the formula's rate of return. Fortunately, today's vote is not the final word on this bill. I will continue to work hard with the senior Senator from Wisconsin and the rest of the State's delegation to do ev-

erything that we can to produce a final transportation bill that is fair for our constituents.

Mr. DOMENICI. Mr. President, I rise today in support of the highway bill. I want to first applaud the bill manager, my good friend Senator INHOFE for all of his hard work on this important legislation. I also want to thank the ranking member of the EPW committee, Senator JEFFORDS, for his work on the bill.

Mr. President, the highway bill is one of the most important pieces of legislation that the Senate undertakes. This bill makes it possible to construct and repair vital transportation arteries that crisscross this great Nation. As our country grows we must be conscious of our transportation needs. Accordingly, this bill increases funding for road construction that will substantially reduce traffic delays that plague the country. Additionally, this bill substantially increases transit funding further reducing congestion and pollution caused by over-populated highways.

My home state of New Mexico is one of the most rural states in the country. However, our population is on the rise and it is vitally important to ensure New Mexicans have the transportation infrastructure they need to be competitive with the rest of the country. This bill will provide roughly \$1.7 billion in funding for New Mexico specific projects.

This bill also increases funding for the Indian roads program. I have advocated for increased Indian roads funding for a number of years and while this increase only begins to address the need, it will help immensely in addressing the economic development problems facing Indian Country.

Once again, I would like to thank the chairman and ranking member of the EPW Committee and their staff for doing a great job in getting this bill completed.

Mr. GREGG. Mr. President, the Senate voted last Wednesday morning, May 11, to waive the Budget Act point of order that applied against the Inhofe substitute, Senate Amendment 606. The Budget Committee has since received a cost estimate of that substitute from the Congressional Budget Office. As I pointed out last week, CBO was not able to provide a more timely estimate because the language was not provided to them until it became available on May 10, a day after the Inhofe substitute was put before the Senate. Apparently none of the committees of jurisdiction had asked CBO for an estimate of their combined amendment.

So for the information of my colleagues and the public, I would like to enter a table into the RECORD that summarizes the status of this highway bill with regard to budgetary enforcement—showing why there was a 302(f) point of order that I raised.

I would also like to place into the RECORD a table that addresses not the contract authority, which is the relevant unit of analysis for budgetary enforcement of this bill, but the deficit results of this bill. Last week the bill's proponents repeatedly asserted the bill is "paid for" over the 2005–2009 window of the bill and reduces the deficit by \$14 billion over the 2005–2015 period. It is hard to know how anyone could say this because the Budget Committee and the other committees did not receive until yesterday CBO's estimate of highway trust fund outlays resulting from the Inhofe substitute. Combining those outlay estimates with JCT's estimate of the new revenues that would occur if the provisions of the substitute were actually enacted, we know that the substitute would increase the deficit by \$0.5 billion over the 2005–2009 period, and would reduce the deficit by only \$3.5 billion over the 2005–2015 period, not \$14 billion as the proponents have claimed.

But these budgetary effects come after other general-fund transfer provisions—relating, for example, to the 2.5 cents deficit reduction tax on gasoline and 5.2 tax subsidy for ethanol were enacted in the JOBS bill, P.L. 108–35—last fall. By creating higher paper entries into the highway trust fund, those enacted provisions will have the consequence of increasing the spending possible from the highway trust fund by \$31 billion over the 2005–2015 period without a corresponding increase in new Federal revenues. This will have the effect of increasing the deficit by \$31 billion over that period.

It is true that both the President's budget request for 2006 and the 2006 budget resolution now contemplate spending those shifted resources on transportation programs. But combining those general-fund transfer provisions enacted last fall with possible enactment of the additional general-fund transfers and new revenues from general fund offsets in this Inhofe substitute before the Senate still will have the effect of increasing the deficit by \$28 billion over the 2005–2015 period. Compared to the resources available for spending from the highway trust fund 7 months ago, if this Inhofe substitute is enacted, the increase in spending that will be enabled from the highway trust fund will increase the deficit by \$28 billion.

Mr. President, I ask unanimous consent that 2 tables displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

## COMPARISON OF BUDGET AUTHORITY LEVELS IN INHOFE SUBSTITUTE (SA 605) TO COMMITTEE ALLOCATIONS IN 2006 BUDGET RESOLUTION

[\$ billions]

		2005	2006	2006–10
Committee				
Environment and Public Works				
Amount over (+)/under (-) .....				
Banking				
Amount over (+)/under (-) .....				
Commerce				
Amount over (+)/under (-) .....				

Source: Senate Budget Committee.

## DEFICIT EFFECT OF INHOFE SUBSTITUTE (SA 605) TO H.R. 3—TRANSPORTATION REAUTHORIZATION BILL

[\$ billions]

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2005–2009	2005–2015
Outlays <sup>a</sup>													
Highway Trust Fund Outlays under Inhofe Substitute (SA 605) .....	40.5	38.3	43.6	47.0	49.6	50.6	52.6	54.0	55.2	56.2	57.6	178.5	504.5
Highway Trust Fund Outlays under reported version HR 3 .....	40.5	37.7	42.1	44.9	47.3	48.7	51.0	52.4	53.6	54.6	56.0	172.0	488.3
Increase in Outlays Resulting from Inhofe Substitute (SA 605) .....	0.0	0.6	1.5	2.1	2.3	1.9	1.6	1.6	1.6	1.6	1.6	6.5	16.2
Revenues <sup>b</sup>													
New Highway Trust Fund Revenues Resulting from Inhofe Substitute (SA 605)—Fuel Fraud .....	.....	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.7	1.7
New General Fund Revenues Resulting from Inhofe Substitute (SA 605)													
Economic Substance Doctrine .....	.....	0.6	0.8	1.1	1.3	1.4	1.6	1.9	2.2	2.4	2.6	3.8	16.0
Other Revenue Increases .....	0.1	0.5	0.5	0.5	0.4	0.4	0.3	0.3	0.3	0.3	0.3	2.0	3.9
Assorted Tax Breaks .....	0.0	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.3	-0.3	-0.5	-1.8
Total Net New Federal Revenues Resulting from Inhofe Substitute (SA 605) .....	0.1	1.1	1.4	1.7	1.8	1.9	1.9	2.1	2.4	2.6	2.8	6.0	19.8
Amount that Increase in Outlays Exceeds Increase in Revenues Resulting from Inhofe Substitute (SA 605) .....	0.1	-0.6	0.1	0.5	0.5	0.0	-0.3	-0.5	-0.8	-1.1	-1.2	0.5	-3.5
Deficit Increase(+)/Decrease(-) .....	-0.1	-0.6	0.1	0.5	0.5	0.0	-0.3	-0.5	-0.8	-1.1	-1.2	0.5	-3.5

MEMO: DEFICIT INCREASE RESULTING FROM GENERAL FUND TRANSFERS INTO HIGHWAY TRUST FUND ENACTED IN P.L. 108-357 (does not include enacted fuel fraud provisions)<sup>c</sup>: 31.3.

a. Outlays as estimated by CBO.

b. Revenues as estimated by JCT.

c. CBO estimate based on JCT figures.

Note: Details may not add to totals because of rounding.

Source: Senate Budget Committee, Majority Staff.

Mr. BURNS. Mr. President, I rise today to express my appreciation to the managers of this legislation for including my amendment relating to commercial driver training programs. The amendment authorizes \$5 million to the Department of Transportation for a grant program for driver training schools and for financial assistance for entry-level drivers who need the training.

In my State of Montana, and around the country, the trucking industry is a critical component of the economy. In 2000, the trucking industry in Montana provided 1 out of every 13 jobs, paying nearly \$900 million in wages each year. Currently, the trucking industry is experiencing a severe shortage of drivers, and my amendment seeks to address that concern by providing funds to get folks behind the wheel.

Industry research indicates the number of new truck drivers in the U.S. needs to increase by 320,000 jobs per year over the next 10 years to fill the projected economic growth for that time period. Additionally, another 219,000 new truck drivers will have to be added each year to replace drivers who will be retiring over this period. Those are important jobs, and we need to get folks trained and ready to fill the growing demand for transportation services.

The average entry-level driving course can run as much as \$4,000. Those tuition costs can serve as a barrier to drivers who need the training, and my amendment would allow training programs to use grant money to provide financial assistance to those who need it. When you are out of work and looking for a job, a \$4,000 entry fee can seem a little steep—so this amendment will help folks out, and give them the resources they need to get trained and get trucking.

The highway bill before the Senate right now is a jobs bill, plain and simple. By authorizing critical funding for highway programs, we keep people working on our Nation's infrastructure. Construction projects that are currently stalled or deferred, waiting for final passage of a highway bill, can get underway again. My amendment contributes to the job growth encouraged by the highway bill, and I am pleased that it could be included. I commend the managers of this bill for their hard work but know that much more remains to be done in conference. In a State as large as Montana, infrastructure development is essential to our economic growth. This legislation will allocate needed funds to our roads and transit systems. The highway bill is a priority for our country, and I look forward to supporting its final passage here in the Senate.

Mr. GRASSLEY. Mr. President, after great effort by many people, the Senate is ready to move us one step closer to enacting legislation with the potential to impact all Americans in every state. Crumbling infrastructure and poor transportation choices impede our ability to live and do business, and the Senate clearly recognizes that fact. Our transportation bill utilizes more than \$295 billion to ensure all Americans have access to efficient and reliable transportation as they go about their professional and personal lives.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Ed McClellan,

Dean Zerbe, John O'Neill, Sherry Kuntz, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Ryan Abraham, Mary Baker, and Wendy Carey.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud team of Tom Barthold, Deirdre James, Roger Colvinvaux, and Allen Littman, as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen and Mark McGunagle of Senate Legislative Counsel.

This bill is infused with the spirit of bipartisan cooperation. Hopefully that spirit will survive the ongoing legislative process.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

There will now be 2 minutes evenly divided before the final vote.

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, once again I thank Senator INHOFE and all of the Senators and staff that have helped us reach this point.

This bill will make a difference in the life of every American by making it easier and safer to get from place to place.

In passing this bill, the Senate puts this Nation on the path to better roads, on the path to shorter and safer commutes, and on the path to more jobs. And this bill will not add a dime to the deficit.

The additional \$11 billion in this bill will allow all States and all communities to benefit under this legislation, and it is crucial that we hold on to that funding as we move forward with this bill.

The President's veto threat against this bill is a mistake, it is misguided and it is flat out wrong.

Let's get this bill done, and get it done right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to Senator BOND.

Mr. BOND. Mr. President, after working 2½ years on this bill, we have a bill that brings the environmental considerations into the planning early on so they can be dealt with without wasting money, time, and resources.

No State gets as much as they would like, but thanks to the Finance Committee, the donor States get up to 92 cents. All States go up by at least 15 percent. Given the constraints under which we operated, I urge my colleagues to adopt this bill.

I commend the chairman of the Senate Environment and Public Works Committee, JIM INHOFE, along with Senators BAUCUS and JEFFORDS for a job well done. It has been a pleasure working with them.

I also think it is appropriate to recognize the staff members that have put in many countless hours of their time to assist in drafting this legislation.

I want to especially recognize my staff: Ellen Stein, John Stoody and Heideh Shahmoradi.

Staff with Senator INHOFE: Ruth Van Mark, James Q'Keffe, Andrew Wheeler, Nathan Richmond, Greg Murrill, Alex Herrgott, John Shanahan, Angie Giancarlo, and Rudy Kapichak.

Senator JEFFORD's staff: JC Sandberg, Allison Taylor, Malia Somerville, JoEllen Darcy, and Chris Miller.

And Kathy Ruffalo with Senator BAUCUS.

This bill faced great challenges within these past 2½ years. The committee worked hard through many meetings, hearings, a failed conference, and all to repeat the process again this year in order to get where we are today.

Interestingly enough, while on the floor both last year and this year, the Senate was sidetracked by ricin last year which had the Senate office buildings shut down for a couple of days. And just last week, a general aviation aircraft entered our air space causing us all to run out of the Senate Chamber. I can honestly say, I will be relieved when this bill is finally passed.

Some of the highlights that I am proud of in this bill include the emphasis on safety. Safety, for the first time in our recent transportation legislation, is given a prominent position and elevated to a core program.

This bill mirrors the administration's proposal by continuing our commitment to our motoring public's safety.

Nearly 43,000 lives are taken on our roads and highways each year. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

Another highlight of this bill moves to carefully balance the needs of the donor States while also recognizing the needs of donee States.

My home State of Missouri, like many of the donor States mentioned, has some of the worst roads in the Nation. The condition of many of the roads and bridges in Missouri require immediate repair or reconstruction.

I am pleased to say that we did make progress in achieving a 92 cent rate of return by the end of the authorization. I am hopeful that donor States will see a dollar for dollar rate of return in the future.

Further, I am proud to announce that all States will grow at not less than 15 percent over TEA-21.

The bill also addresses several environmental issues that provide the necessary tools to reduce or eliminate unnecessary delays during the environmental review process.

Transportation projects can be built more quickly by allowing environmental stakeholders to weigh in at the early stages.

Mr. President, we are facing an expiration of May 31. I am confident that if conferees are named shortly, we will only require a short-term extension and can move this bill through conference quickly.

Our States need a multi-year bill. We cannot delay contracts anymore. The economy needs this boost and people need the jobs that this bill will provide.

I look forward to continuing to work with my colleagues as we go to conference.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Missouri is accurate. We have been talking about this for 3 years now. I do not think there is anything new that can be said, but I do renew my congratulations and thanks to all the staff who worked on this bill, certainly Senator JEFFORDS, Senator BAUCUS, and Senator BOND.

I agree it would be nice if we had something with which everyone agreed. It is impossible to do. The only way to do that is in a way that is not desirable. We did a formula, and we took into consideration all the factors—donee, donor States, size of the States, passthrough, fatalities—and I think we have a good bill.

I yield back the remainder of my time. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. INHOFE. I withhold my request for the yeas and nays.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 13 seconds remaining.

Mr. BAUCUS. Thirteen. I will be brief.

Mr. President, I thank all my colleagues. This was a consequence of both sides working together—big States, small States. It is now time to get to conference. It is also a good example of what we can do if we do not have this filibuster issue hanging over our heads. We can work together. We can get things done. I very much hope Senators recognize this because afterwards, it may not always be this way.

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—89

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

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Brownback	Graham	Kyl
Cornyn	Gregg	McCain
DeMint	Hutchison	Sununu
Feingold	Kohl	

The bill (H.R. 3), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. DURBIN. Mr. President, today the Senate has overwhelmingly approved the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA, H.R. 3. I supported this important legislation, as I did last year when the Senate passed a

similar measure, S. 1072. I believe it is a critical step toward funding our Nation's transportation infrastructure and creating much needed jobs.

Now the real work begins. The Senate funding level is \$295 billion. The House has passed its version, TEA-LU, at \$284 billion over 6 years. And the President unfortunately supports the lower House number. In fact, he has threatened to veto any transportation bill that exceeds the \$284 billion funding level.

I was proud to join 83 of my Senate colleagues in standing firm on the Senate level of \$295 billion. The White House should take note that at least 84 Senators—a supermajority—support a higher number.

Reauthorization of TEA-21 is one of the most important job and economic stimuli that the 109th Congress can pass. We must work quickly to deliver the best conference report at the highest possible funding level. We should not let further delay stand in the way of real transportation infrastructure improvement, economic development, and job creation.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

H.R. 3, as amended by the Senate, would make the largest investment to date in our Nation's aging infrastructure, \$295 billion over the life of the bill. In short, SAFETEA would increase the State of Illinois' total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois' roads and bridges, properly fund mass transit in Chicago and downstate, alleviate traffic congestion, and address highway safety and the environment.

The bill would provide \$184.5 billion over the next 5 years for highways and other surface transportation programs. Illinois has the third largest Interstate System in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than \$6.1 billion over the next 5 years from the highway formula contained in the Senate bill. That is a 33-percent increase over the last transportation bill, TEA-21.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans every day. H.R. 3, as amended by the Senate, includes \$46.53 billion over the next 5 years for mass transit. Illinois would receive about \$2.22 billion over the next 5 years under the Senate bill, a \$286 million or nearly 15-percent increase from TEA-21.

This legislation also preserves some important environmental and enhancement programs, including the Congres-

sion Mitigation and Air Quality, CMAQ, program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. The Senate bill would increase funding for CMAQ from \$8 billion to \$10.8 billion—an increase of 35 percent. Illinois received more than \$460 million in CMAQ funds in TEA-21. The State is expected to receive an increase in CMAQ funds under the Senate bill.

With regard to highway safety, Illinois is 1 of 20 States that has enacted a primary seatbelt law. H.R. 3 would enable the State of Illinois and other States who have passed primary seatbelt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not perfect. Illinois' highway formula should be higher. Amtrak reauthorization and rail freight transportation funding are noticeably absent. And important road and transit projects from around my home State have not yet been included. I will work with Senator BARACK OBAMA, a member of the Environment and Public Works Committee, and my Illinois colleagues in the House to ensure that Illinois receives a fair share of transportation funds—highway, transit, and highway safety—in the final conference report.

I know my colleagues on the other side of the Capitol understand the importance of this legislation and I am hopeful that Congress can expeditiously work through the differences between the House and Senate bills in a conference committee. One of every five jobs in Illinois is related to transportation, including construction jobs. Unless Congress moves quickly, we will lose another construction season and the important jobs that are created by public investment in transportation.

Mr. President, with the passage of this legislation, the Senate has upheld its obligation to reauthorize and improve our Nation's important transportation programs. I am pleased to support SAFETEA.

#### MISSED SENATE VOTES

Mr. DAYTON. Mr. President, on May 11, 2005, I was necessarily absent from the Senate to attend the funeral of St. Paul, MN police officer, Sergeant Gerald Vick, who tragically lost his life in the line of duty on Friday, May 6, 2005. I joined over 2,000 Minnesotans in paying our final respects to this heroic peace officer, community leader, and devoted husband and father.

Had I been present to vote on the amendments to the Transportation Equity Act, I would have voted as follows:

On the motion to waive the Congressional Budget Act, in relation to amendment No. 605 and H.R. 3, I would have voted "yea."

On the motion to table Corzine amendment No. 606, I would have voted "nay."

On the Lautenberg amendment No. 625, I would have voted "nay."

On the Harkin amendment No. 618, as modified, I would have voted "yea."

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.

Mrs. BOXER. Mr. President, did my friend wish to make some comments on the floor at this time?

Mr. INHOFE. Mr. President, first of all, no. I am not going to make any additional remarks. I was going to put us into morning business. I understand the Senator had some things she wanted to talk about.

Mrs. BOXER. If you could do that, if you could ask unanimous consent I be recognized first in morning business.

#### MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent there now be a period for morning business, with Senators permitted to speak for up to 10 minutes on any subject, with Senator BOXER going first.

Mrs. BOXER. Reserving the right to object, and I will not object, but my statement will run 30 minutes. I ask that be amended at this point.

Mr. INHOFE. I have no objection.

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

The Senator from California.

#### THANKING SENATOR INHOFE

Mrs. BOXER. Mr. President, before my colleague, Senator INHOFE, leaves the floor, I truly wish to say to him, as my chairman, how much I have enjoyed working with him on the Environment and Public Works Committee. What an important bill we have done, all of us together, across party lines. I am very hopeful we can see this bill move forward so the American people can move forward with their lives. They need the highways. They need the transit. They need the jobs this bill promises.

I wished to thank him before he left the floor.

#### JUDICIAL NOMINATIONS

Mrs. BOXER. Mr. President, I have asked for this time so I could talk about the issue that is really hanging over the head of the Senate, as Senator BAUCUS said when he gave his support to the highway and transit bill: What we can do when we work together. What we can do when we set aside the partisanship. What we can do when we work for our people, rather than make up a phony crisis about the courts and threaten to change more than 200 years of tradition and threaten a nuclear option—which was named by the Republicans, by the way, when they thought about it because it is so vicious, it hurts so hard, it has such fallout that it will change the very nature of the Senate. But more importantly, it will change the way we now can protect the people of the United States of America.

This is a very simple chart. It shows the numbers 208 to 10; 208 represents