

Everything is politicized to the point now that we can't get beyond whose fault it is rather than say: Hey, we are Americans. If I am a Democrat and you are a Republican and vice versa, you are not my enemy. You are my colleague whom I might have differences with, but we can work it out. No one wants to find that sensible middle anymore. It is a bad word—"compromise." You never hear it anymore.

But to blame Secretary Mayorkas for your thinking he didn't do the job or what he said was in violation of the Constitution is ridiculous. It is basically something that I can't wait to vote against and get out as soon as it comes here. Why did they wait until next week? We could have voted on it today or tomorrow. Why? Did they want to let it fester a little bit? It doesn't make any sense to me whatsoever.

With that being said, I would hope that we would come to our senses and get to the real problems we have in America, and let's try to help the people who are living through some very high pricing. As far as food, the basic necessities of life are very difficult for an awful lot of people in my State of West Virginia, and I am going to do all I can to help them. But, with that, this is not the way to get our job done—to waste more time on something that is so senseless and reckless.

S.J. RES. 61

Madam President, let me just say I am rising in support of my resolution with Senator CRAMER and my colleague Senator CAPITO that would overturn the Federal Highway Administration's greenhouse gas reduction rule.

We all have a responsibility to the climate—we all are here to do it better—but to be practical about what we are doing, to be sensible. And if it is not feasible, it is not reasonable to go down this path.

The rule is another example of the administration trying to implement laws or bills they wanted but bills they didn't pass.

We are saying: Stay within the confines of the laws we pass.

It is an unworkable, one-size-fits-all approach. It burdens States with setting and enforcing declining emissions standards for travel on highways. It makes absolutely no effort to consider the unique needs of rural States like West Virginia.

Let me explain to you—I and my colleague Senator CAPITO—where we live. It is the most beautiful State—we consider it to be—in the country, with the most beautiful, hard-working people in the country. We all feel that way or we wouldn't be here representing our States. My friend from North Dakota here, Senator CRAMER, feels the same about North Dakota. And I agree with everybody, but we are defending it.

I have a State where I don't have one city with over a 50,000 population. So I am very rural—1.7 million-plus. The bottom line is we don't have a high density of emissions. We don't have

that. To make this into common sense, what they are trying to do is to say that you must—wherever you are now, you must reduce, reduce, reduce. The only way that we can get to where they want us to get to is to quit driving, to quit basically transporting, to quit delivering our food or all of our necessities of life. Don't go to work. Stay home.

That doesn't make any sense at all. For them to go down this one-size-fits-all makes no sense. It does not only undermine the very purpose for our highway system; it just isn't feasible in rural areas without other transportation options.

Our economy would grind to a halt. I have always said: If it is not feasible, it is not reasonable.

Even if the rule were reasonable, it wouldn't matter because the administration simply does not have the authority to do this. They do not have the authority. Transportation—DOT—does not have the authority to do what they are trying to do with this rule.

We know this because, when we were writing the bipartisan infrastructure law, we debated whether to give them that authority. That was part of the negotiations we were going through—Democrats and Republicans—saying together: Should they have that authority?

Guess what. Unanimously, we decided against it. It wasn't in their jurisdiction.

So nothing in any law that Congress has passed allows this administration or any administration to burden States with these measures in order to advance their radical climate agenda, and I say that because I think the President is being ill-advised, with his climate advisers taking him down the primrose path.

It is making a lot of people uncomfortable, with thinking: The government is trying to tell me how I am going to be transported, how I am going to use what vehicle, what I can buy; and they are trying to bribe me with \$7,500. And, if that doesn't work, we will pass a piece of legislation that makes it law to not even manufacture gasoline engines.

It is crazy, just absolutely crazy. I have always believed in market-driven products. If you give me a good product in a market where I can make a free decision and decide whether I can afford it or not, whether it enhances my life, and it is something that I desire, I will make the decision. Don't force me with limiting my options. That is all. And, when it is changing and when you do something better and it is something that gives me a better quality of opportunities in my life, that will make the difference.

I can tell you the American public, the American consumer—and I say this for all women in my family: They were born with a certain gene. They know how to shop. They know how to compare. They know how to make a good deal. And they have something that

men don't have, and they have more sense than we have when it comes to buying things and living within your means.

So with that, I can tell you: Let the market do its job.

So I introduced a resolution of disapproval with Senator CRAMER and Senator CAPITO because we know that this power grab is unreasonable, economically irresponsible, and, most importantly, unlawful. It will be devastating for the rural communities and transportation industries in West Virginia and North Dakota and across all of America.

I urge my colleagues on both sides of the aisle to join me in supporting this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Madam President, I ask unanimous consent that the following Senators be able to speak prior to the scheduled rollcall vote: Myself for up to 5 minutes, Senator CARPER for up to 10 minutes, and Senator CRAMER for up to 7 minutes.

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

Mrs. CAPITO. Madam President, I come here and join my fellow colleagues from West Virginia and from North Dakota to offer my strong support of the resolution offered by Senator CRAMER of North Dakota.

Senator MANCHIN has covered a lot of this, but I think I want to re-cover it because I think it is very important.

The Federal Highway Administration issued the final rule, which we are challenging today, without having the necessary legal authority from Congress. The rule will force our State departments of transportation and metropolitan planning organizations to develop and set their own declining greenhouse gas emissions targets. State DOTs and MPOs are also going to be required to meet their own targets. If they fail to meet their targets or fail to make significant progress toward them, they are required to develop new plans to ensure that they do meet their targets.

Senator MANCHIN described how difficult it will be for a sparsely populated and, basically, rural area, such as West Virginia, to make a measurable difference in our greenhouse emissions in our transportation sector because, you know, we are in pretty good shape as it is right now.

The expected outcome of this requirement is that it will force State DOTs and MPOs to use their highway funding for ineffective emissions reduction projects rather than on projects that will improve the safety and efficiency of roads and bridges. This restriction on the ability of State DOTs to pick the projects that address their communities' unique transportation needs is unacceptable, and it runs counter to our agreement for the Bipartisan Infrastructure Investment and Jobs Act.

When we were negotiating that legislation in our committee, we specifically considered giving the Federal Highway Administration the authority to impose a greenhouse gas performance measure and associated targets, but we ultimately rejected that idea. We make the law, and we rejected putting this into our established law for very good reasons.

My colleagues and I have also warned FHWA multiple times that it really lacks the authority for this rule.

In October 2022, in response to the publication of the proposed rule, Senator CRAMER and I, along with 25 of our Senate colleagues, sent a letter to FHWA stating that they did not have the authority to issue the proposed greenhouse gas rule.

We further reminded FHWA Administrator Bhatt of that lack of authority at an oversight hearing just last June.

Despite our clear communication with FHWA and the fact that this rule violates the carefully negotiated bipartisan agreement in the IIJA, Congress must once again address the Biden administration's regulatory overreach.

I would also note that it is not just Congress that has challenged the FHWA's authority to issue a greenhouse gas rule. In two separate legal actions—one in Texas and the other in Kentucky—a total of 22 States, with support from adversely impacted industries, successfully challenged this greenhouse gas rule.

While the States have prevailed over FHWA in Federal Court, I also believe that Congress has a duty to make clear when a Federal Agency has clearly—clearly—exceeded its authority.

Therefore, to ensure that there is no ambiguity whatsoever regarding FHWA's authority, I urge my colleagues to support Senator CRAMER's resolution.

I yield the floor to my friend from Delaware, Senator CARPER.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I thank the Senator from West Virginia, my native State, for yielding to me. Out of the three Senators in the U.S. Senate from West Virginia, today we are all speaking on this proposal by Senator CRAMER.

I rise today in opposition to S.J. Res. 61, a Congressional Review Act resolution that would overturn the Federal Highway Administration's greenhouse gas performance rule. This rule is critical to helping the United States meet our climate goals, and I want to start off by laying out the scale of the challenges we face in addressing climate change and the climate crisis.

All of us know by now that we are confronted almost daily by signs that our planet is literally on fire, and as the days and weeks pass, the urgency to act only grows stronger. According to the National Oceanic and Atmospheric Administration, the United States just experienced the warmest winter on record—not “one” of the

warmest winters on record but “the” warmest winter on record. And last year, 2023, was the world's warmest year on record—not “one” of the warmest years on record but “the.” This is not a mere coincidence but an unabated body of evidence that shows our planet continues to grow warmer and warmer.

Extreme weather is affecting communities across our Nation, from hurricanes to drought, to flooding made worse by rising sea levels.

Last year, the Environment and Public Works Committee that I am privileged to lead, along with Senator SHELLEY MOORE CAPITO of West Virginia, held a hearing where we heard firsthand about the negative impacts of extreme heat on our transportation systems and the punishing effects—truly punishing effects—it could have on the health of our transportation workforce.

The science is clear that greenhouse gas emissions are having a substantial effect on our changing climate.

So where do those emissions come from? Where do they come from? Well, the transportation sector in America is the single largest source of greenhouse gas emissions in the United States. Let me say that again. The transportation sector is the largest single source of greenhouse gas emissions in the United States, accounting for nearly 30 percent of our emissions economywide. The transportation sector is the single largest source of greenhouse gas emissions in the United States. After that, another 28 percent comes from our powerplants generating electricity, and yet another 25 percent comes from our manufacturing operations, like cement plants and like steel mills. This means that the cars, the trucks, the buses driven on our highways every day are a major source of the emissions that are warming this planet that we call home.

That is why the Federal Highway Administration's greenhouse gas performance rule is so important and must be upheld by Congress. It is simply not possible to meet our climate goals without addressing emissions from the transportation sector.

For my colleagues who might not be familiar with the Federal Highway Administration's performance measure, I would like to take a couple of minutes to talk about what the rule actually does as well as what it does not do.

First, the rule provides a framework for States and metropolitan planning organizations to measure the amount of greenhouse gas emissions generated by vehicles on our Nation's highways. This rule does so by using longstanding authorities under the National Highway Performance Program, which have existed in statutes since 2012.

Under the National Highway Performance Program, the Federal Highway Administration can enact measures to assess the performance of our Nation's highways, including for environmental sustainability.

The Federal Highway Administration has already enacted performance meas-

ures in other areas, including safety and congestion.

During negotiations on the bipartisan infrastructure law, some of us wanted to require the Federal Highway Administration to set a greenhouse gas performance measure. That is what we wanted to do. We couldn't get bipartisan agreement to require a greenhouse gas performance measure. The Federal Highway Administration used the discretionary authority it has had since 2012—for 12 years—to set performance measures relating to the environmental sustainability of our highways.

In addition to measuring emissions, States must also establish targets for reducing those emissions over time. However, the rule does not take a one-size-fits-all approach. Instead, it gives each State—each State—the flexibility to set its own reduction target. Let me say that again. The rule does not take a one-size-fits-all approach. Instead, it gives each State the flexibility to set its own reduction target.

It is also important that our colleagues understand that the greenhouse gas rule does not impose any penalties on States that, for whatever reason, are unable to meet their targets that they have set—not that someone else has set; that they have set. The rule does not require States to transfer highway funding to other modes of transportation or to pay a financial cost if their emissions do not decline in accordance with that State's targets.

That means that under this rule, none of our colleagues' States will see a reduction in the highway funding or any change in the way that highway funds are administered in their States. That bears repeating. This means that under this rule, none of our colleagues' States will see a reduction in their highway funding or any change in the way that highway funds are administered in their States.

In fact, Congress specifically authorized funding the bipartisan infrastructure law to help States meet their emission targets. We established a new Carbon Reduction Formula Program that provides funding to every State for projects that reduce emissions from transportation.

We also provide \$7.5 billion—billion with a “b”—in the bipartisan infrastructure law to build out a national network of electric vehicle charging stations.

Our States are far from being punished. In fact, they have been provided with historic amounts of funding to address climate change.

In closing, let me just say that I believe we have an important choice to make here: Are we going to continue to ignore the significant impact that greenhouse gas emissions are having on our planet or are we going to take reasonable steps, as the Federal Highway Administration has done with this rulemaking, to address the problem head-on?

I hope that our colleagues will join me and others in opposing this Congressional Review Act resolution.

Let me just close with this for another minute, if I could. We have some young peopling sitting up here. They are pages. We call them pages. They are nominated by Senators from all over the country—Democratic Senators, Republican Senators. They come here to go to school. They haven't graduated from high school yet. They come here to pick up their schoolwork, usually in high school, and maybe stay for 1 year, 1 academic year, and eventually go back home, finish their education, and go on to do amazing things. They are just wonderful young people. I am very proud of them—the ones from Delaware and every other State as well.

They have a bright future. They have a bright future. There are also some incredibly scary threats to that future. One of those is that we live on a planet that is growing hotter, growing hotter, and growing hotter. The question is, Are we going to do anything about it? We are trying very hard to do that.

The good news is, we can do something about it, turn it around, and reverse it in ways that create jobs and economic opportunity. We have adopted those in legislation, in the Inflation Reduction Act, in the bipartisan transportation bill, and the treaty called the Kigali treaty. We have done a lot. The key is not just doing those things but continuing to do those things—continue to do those things.

With that, I hope that our colleagues will join me in opposing this Congressional Review Act resolution.

I say this as one who oftentimes works with folks—both my colleagues from West Virginia—on all kinds of issues. This is just one where we don't see eye to eye. My hope is that our colleagues from both sides of the aisle will vote no.

The PRESIDING OFFICER (Ms. BALDWIN). The junior Senator from North Dakota.

Mr. CRAMER. Madam President, thank you for the recognition.

At the outset, let me say thank you to Senators MANCHIN and CAPITO for their passionate support and their words today in support of this joint resolution, this Congressional Review Act resolution. I also want to thank the chairman of the EPW, the distinguished Senator from Delaware and my friend. As he just said, we have worked closely together on lots of things. It is a great committee. It is fun to work on. And, again, we just don't see eye to eye on this one, but I just want to offer my respect for the good work that we all do together. I thank the Senator.

Madam President, few things are more frustrating in government than unelected bureaucrats asserting authority they don't have and foisting Federal mediocrity on the excellence of States. Shortly, the Senate will take up my bipartisan resolution that overturns the Biden administration's obvi-

ously illegal—regardless of how you might feel about the merits, an obviously illegal rule that requires State departments of transportation to measure CO₂ tailpipe emissions and then set declining targets for vehicles traveling on the highway systems of their respective States.

This rule is wrong on so many levels and has already been overturned by courts in Texas and Kentucky. Now we, the elected policymakers in our system, have the opportunity to correct course and spare the taxpayers the gross expense of litigating this demonstration of bureaucratic arrogance.

When the Environment and Public Works Committee negotiated the highway bill, we considered giving this authority to the Department of Transportation. But after the hearings and the deliberations, the committee chose not to grant such authority to the Agency, and we passed the bill out unanimously. And it became the foundation for the broader bipartisan bill known as the Infrastructure Investment and Jobs Act.

When the “bipartisan gang” put their proposal together, they, too, chose to leave this authority out of the bill. These decisions were not accidental; they were intentional.

When we pointed this out during the Department of Transportation's official comment period, the Federal Highway Administration provided a very novel rationale. Get this, now. They argued that since Congress was aware of their plans to promulgate this rule and did not explicitly bar it, “Congress intended to leave such determinations to”—get this, now—“Agency expertise to be handled via regulatory authority.”

That is not just arrogance; that is arrogance on steroids.

Here is what the late great Winston Churchill had to say about expertise in government:

Nothing would be more fatal than for the government of States to get into the hands of the experts. Expert knowledge is limited knowledge: and the unlimited ignorance of the plain man who knows only what hurts is a safer guide, than any vigorous direction of a specialised character.

Congress does not “leave” determinations to Agencies. Congress either grants such authority or it does not. And if it does not, the Agency does not possess that power.

In fact, let me read a couple of lines from the courts who have already ruled on this issue.

If the people, through Congress, believe that the states should spend the time and money necessary to measure and report [greenhouse gas] emissions and set declining emission targets, they may do so by amending Section 150 or passing a new law. But an agency cannot make this decision for the people. An agency can only do what the people authorize it to do, and the plain language of Section 150(c)(3) and its related statutory provisions demonstrate the [Department of Transportation] was not authorized to enact the 2023 Rule.

That was Judge James Wesley Hendrix of the U.S. District Court for the Northern District of Texas.

Judge Benjamin Beaton of the U.S. District Court for the Western District of Kentucky wrote:

If the Administrator—

referring to the Federal highway administrator.

If the Administrator were allowed to shove national greenhouse-gas policy into the mouths of uncooperative state Departments of Transportation, this would corrupt the separation of sovereigns central to our lasting and vibrant system of federalism. Neither the Constitution nor the Administrative Procedure Act authorizes administrative ventriloquism.

Colleagues, the absence of a prohibition is not a license for bureaucracy to do whatever it pleases. These court rulings underscore Agencies must abide by the law, not invent the authority they desire.

Several States have resoundingly rejected this illegal rule. Several State departments of transportation objected to it in writing. Several States joined this litigation, and 50 Senators have cosponsored this Congressional Review Act.

Let me just quote a couple of States. The Arizona Department of Transportation:

Arizona Department of Transportation disagrees with the justification provided in the NPRM regarding the legal authority for Federal Highway Administration to establish a greenhouse gas emissions performance measure.

The Michigan Department of Transportation writes:

MDOT is apprehensive about supporting new measures not explicitly authorized by Congress . . . Therefore, there is no provision in federal law requiring the Federal Highway Administration to establish a greenhouse gas measure.

Twenty attorneys general from Montana, Virginia, Georgia, Ohio, and a number of other States wrote:

The proposed greenhouse gas measure would be a serious revision of what Congress has written, and Congress has not given the Federal Highway Administration such editorial power.

Madam President, the Biden administration should have never introduced this rule, but now we, the policymaking branch of government, must end it. I urge all of my colleagues to stand up for the Senate and vote for this restoration of article I powers. Vote yes on this Congressional Review Act resolution.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, S.J. Res. 61 is considered read a third time.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

VOTE ON S.J. RES. 61

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.