United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, TUESDAY, MARCH 13, 2012 *No. 41*

Senate

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious and merciful God, we praise You that none of Your purposes can be thwarted. You have been our refuge from one generation to another.

Continue to guide our lawmakers along right paths. May they find fullness of joy in Your presence and pleasure forevermore at Your right hand. Today, equip them with what they need to do Your will, working in them that which is pleasing in Your sight. Help them to live today with a sense of accountability to You, understanding that their thoughts, words, and actions are open to Your review.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 13, 2012.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business for 1 hour, with the majority controlling the first half and the Republicans controlling the final half. Following morning business, the Senate will resume consideration of S. 1813, the surface transportation act. There will be two rollcall votes in relation to the DeMint and Bingaman amendments at noon. The Senate will recess until 2:15 p.m. to allow for the weekly caucus meetings. At 2:15 p.m. there could be as many as 20 rollcall votes this afternoon to complete action on the Transportation bill.

MEASURES PLACED ON THE CALENDAR—H.R. 3606 AND S. 2186

Mr. REID. Mr. President, I am told there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bills by title for a second time.

The legislative clerk read as follows:

A bill (H.R. 3606) to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

A bill (S. 2186) to amend the Americans with Disabilities Act of 1990 to prohibit the Attorney General from administering or enforcing certain accessibility regulations relating to pools at public accommodations or provided by public entities.

Mr. REID. Mr. President, I object to further proceedings regarding these two bills.

The ACTING PRESIDENT pro tempore. The objection is heard. The bills will be placed on the calendar.

SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, today we resume consideration of the most important piece of jobs legislation we have had here in a long time; that is, the highway bill. But it is more than a highway bill, it is a surface transportation bill that deals with all aspects of helping our failing bridges, and there are 70,000 of those. Twenty percent of our highways are in nonsafe conditions. We have problems with our mass transportation system, rails, and other such things, so we have to move forward.

Building this Nation's infrastructure with this legislation alone will save or create 2.8 million jobs. This is an effort to build a world-class transportation system that was started during the Presidency of Dwight Eisenhower. Every President since then has recognized the need to go forward with the vision General Eisenhower had. We must renew that commitment. The Presidents in recent years have gone out of their way to do that. President Reagan gave a number of speeches about how important it was that we begin to renew the commitment we should have to infrastructure in this country. President Clinton did the same.

The legislation is very important, and a commitment to the renewal of a vision of General Eisenhower is the essence of this bipartisan bill. It has the endorsement of one of the most conservative Members of the Senate and one of the most liberal Members of the Senate. I was disappointed that it took as long as it did to get where we are, but we are here. We invoked cloture quite a long time ago, and it has taken

more than a month to come within sight of the completion of this bill. I am pleased that we are on track to dispense with the remaining amendments and vote on final passage during today's business.

I am hopeful the House will act immediately to pass this bipartisan compromise rather than pursue what we have all read about—an extreme, ideological bill they were considering last month. It failed every test, including the test of their own caucus. The Republican caucus said: No, we cannot do this.

The highway bill is important to the Democratic Members and Republican Members of the House, as it is to Democratic and Republican Members of the Senate. I would hope the Speaker understands it is not good for this country to have a situation where he tries to pass everything with a majority of the majority. What that means is the Republicans have a majority in the House—and I served in the House, and that is not how things were done with Bob Michel, who was the Republican leader at the time, Tip O'Neill, who was the Democratic leader at the time, and Jim Wright thereafter. Bob Michel worked with both of them to get legislation done. What they tried to do was get to the magic number of 218—that is the majority in the House—and they got those votes from Democrats and Republicans. So I hope my friend the Speaker won't just try to get this surface transportation bill done with Republicans. Let the Democrats voice their opinion as to what should happen. That is the way we should do it. Passing a bipartisan transportation bill the President can sign would be a victory for both parties and our country.

The Senate's pressing business doesn't end with completion of this bill. We have a small business jobs bill that was passed overwhelmingly by the House and is supported by President Obama. Last night I had a conversation on the floor publicly with the Republican whip, Senator KYL of Arizona, and we talked about the need to get this done. We are going to move forward on this expeditiously. There are always bumps in the road. I hope there will be very few bumps in the road.

I have not had an opportunity to talk to my friend the Republican leader, but I was told this morning that the ranking member of the Banking Committee, my friend from Alabama, Senator SHELBY, has indicated he wants to make some improvements in the bill we received from the House. I suggest he work with Senator JOHNSON. If they can do something on a bipartisan basis and do it quickly, I will be happy to take a look at it, but we need to move forward. I think you kind of get the message when there are about 390 votes for a bill and 20 against it, so I think we have to move forward.

The one thing I am going to do is have a perfecting amendment prepared that will allow us to move forward on reauthorizing the Ex-Im Bank. I hope we can do that. It is something that is broadly supported, and the business community thinks it is extremely important. As I mentioned last night, Mr. McNerney, the head of Boeing, said it is a tremendously important bill for the airline industry, which is so important to the economy of our country. It is not only important to the airline industry, it is important to other segments of our industrial base. It is an important piece of legislation, and I hope we can add that to the small business jobs bill. If we can't, I understand, but it would be a shame to miss the opportunity to do that.

We are interested in this IPO bill that has been supported by the House and the President of the United States. I am convinced it will spur small business growth. It will not create the jobs we have on the highway bill, but it is good for job growth. It will bring more capital into the business world, and we have needed that for several years now. It would streamline the way companies sell stock. I look forward to working with my friend the Republican leader to finalize a path forward on this bipartisan legislation.

In the coming days, the Senate must also consider postal reform legislation, reauthorization of the Violence Against Women Act, cybersecurity, and additional measures to create jobs and improve our economy. The only thing preventing the Senate from moving quickly to tackle these items, including the bipartisan small business jobs bill, is what we have had this whole Congress: obstructionism by my friends the Republicans. They have forced the Senate to wait weeks on unrelated amendments to this bill, this bipartisan surface transportation bill. I hope they are not going to hold up progress on the small business jobs bill. I am confident they will not. I really hope that is the case.

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, yesterday I filed cloture on 17 consensus judicial nominations. I have worked with the Republicans for months to find a way forward for a timely confirmation for many of these nominees, including some who have been waiting for up-or-down votes since October. Yesterday I had a visual aid—and I will show it during the caucus today—to show what happened in the Clinton years, the Bush years, and the Obama years. It is so clear what has happened. And it really doesn't fully represent what happened because in the Clinton years we had dozens and dozens of nominees who were what we called pocket-vetoed—they just wouldn't hold hearings on them. But with the length of time the judges were reported out of committee—Clinton, a few days; Bush, a few days; and, of course, now we are talking about many months with the Obama nominations—that is not fair. They should all be entitled to an up-or-down vote, especially when they came out of the committee so overwhelmingly, with rare exception. There is no reason we should eat up even 1 day of precious time the Senate has to pass these commonsense measures when we can do it so quickly.

President Obama's judicial nominees have waited five or six times longer than President Bush's nominations for confirmation, and that time has increased and is not going down. The Senate once confirmed 18 of President Bush's nominations in a single day. There is no justification for obstruction on matters that ought to be routine. There is too much to do. The Senate simply doesn't have the luxury to waste any more time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HOUSE PASSED JOBS BILL

Mr. MCCONNELL. Mr. President, later today the Senate is likely to finish the highway bill, and once we do—I listened carefully to the majority leader's remarks—once we finish the highway bill, we ought to immediately turn to the bipartisan jobs bill that passed the House last Thursday. The vote was 390 to 23. Let me say that again. The vote in the House was 390 to 23. The President also indicated that he would sign the House bill. So it strikes me that with the jobs emergency we have in this country with 8.3 percent unemployment—many more millions of Americans having given up trying to get in the workforce—the thing to do is to pocket this broad bipartisan bill and try to create jobs immediately.

I heard my friend the majority leader indicate that he wants to have a different version of it, to kind of recraft it. All that will do is slow down the process and make it more difficult to get this important jobs legislation to the President's desk rapidly. So I hope the majority leader will reconsider whether we need to kind of reinvent the wheel here. This is already a broadly supported bipartisan bill that the President has said he will sign as soon as we send it to him. I don't know why in the Senate we would want to make something that ought to be pretty simple extraordinarily complicated.

The Democratic-controlled Senate turns to something contentious instead of doing something that almost all of us agree on—certainly in the House—and the President agrees on that would focus on jobs and actually do some good. The American people think we have spent a lot of time spinning our wheels around here. Rather than trying to sort of manufacture gridlock and create the illusion of conflict where none should exist, why don't we demonstrate that we can actually get something done together? In a moment when millions of Americans are looking for work and millions more are

struggling with the high price of gas, we have the opportunity to really do something together right now. As soon as we finish this highway bill, we can take up this jobs bill and send a small but important signal to job creators and innovators that we want to help make it easier for them to hire.

Later today we will have another chance to move forward on the Keystone Pipeline. Despite the President's continued stubborn opposition to it, we will have another vote offered by Senator PAT ROBERTS.

The House-passed jobs bill isn't just important for what it does but for what it also represents. It is a rare and welcomed signal that lawmakers in Washington still value the risk-takers and the entrepreneurs who have always been so vital to our Nation's greatness. After 3 years of policies that undermine free enterprise through the picking of winners and losers, this legislation sends an entirely different signal. It is a welcome step back in the right direction.

By clearing away redtape, it should encourage the kind of entrepreneurship that not only leads to new pockets of industry and the jobs that come with them but which also helps people fulfill their dreams—and without adding to the deficit. This bill doesn't add anything to the Federal deficit.

This is precisely what we should be doing right here in Washington. It is the message we should send. We don't need fewer Apples or Microsofts or Facebooks; we need more of them. We need them for the value they add to our lives, the edge they give us in the world economy, the jobs they provide to hundreds of thousands of American workers, and for the satisfaction they bring to those who help turn them from an idea into a reality.

So let's send this important signal that we still believe in opportunity, we still believe in innovation, and that when a common good is in sight—when we can see a common good right before us—we can still work together to actually achieve it.

This is so crucial that I want to renew what my colleague JON KYL did last night, which is to offer a unanimous consent request—I have told the majority leader I am going to do this—to turn to this important piece of bipartisan legislation, passed overwhelmingly in the House and supported by the President of the United States, immediately after we finish the highway bill.

Let me say again, there is no purpose served by manufacturing controversy here in the Senate—manufacturing controversy when none should exist. We have an important piece of jobs legislation passed overwhelmingly in the House, supported by the President. The highway bill will clear here later this afternoon or tomorrow. I think most Senators would rather be working on that which the American people believe would actually help create jobs than to see the Senate embroiled in another controversy which I fear my good friend the majority leader is seeking to precipitate as soon as the highway bill is concluded.

UNANIMOUS CONSENT REQUEST—H.R. 3606

I ask unanimous consent, notwithstanding any other rule of the Senate, that immediately following the disposition of the pending transportation bill, the Senate proceed to the consideration of H.R. 3606, a bill received from the House, which would increase American job creation and economic growth by improving access to public capital markets for emerging growth companies; I further ask unanimous consent that the bill remain the pending business to the exclusion of all other business until disposed of.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I know when people talk, they are always afraid people aren't listening. Maybe my friend the Republican leader's intention was diverted from my presentation this morning.

There is nothing to fight about. I just said we are going to move to this bill as quickly as we can. I said I have heard that the ranking member of the Banking Committee wants to take a look at this. I encourage him to do so and to talk to Senator JOHNSON. I said we are going to have an opportunity to vote on a perfecting amendment—something I thought everyone wanted; Republicans want it, Democrats want it, the business community wants it, the workers of this country need it—to reauthorize the Ex-Im Bank which goes out of business at the end of May. That will slow this bill up maybe a half an hour—one-half hour.

I have said many times, if we are going to have a fight, make it over something worthwhile. There is nothing to fight about here. We are going to move to this as quickly as we can. We know that under the rules of the Senate, we have to vote on 17 judges who have been held up, one of those back to October of last year. So I would be happy to get rid of all of those judges, to have them approved, and move to this bill. We are going to move this bill as quickly as possible.

My friend the Republican leader spoke volumes when he said this is a small but important bill. We realize that. Those are his words. This is an IPO bill dealing with initial public offerings. We have heard for months and months that small businesses can't find capital to do the things they need to do. This bill is a step in that direction. I support it. My caucus will support it. So I tell everyone within the sound of my voice: We are going to move to this bill as quickly as we can.

I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MCCONNELL. Mr. President, not to continue the debate interminably, but it is a question of priorities. We can agree that we ought to pass this jobs bill. Certainly if it were called up, it would be open for amendment and the majority leader could offer the Ex-Im Bank amendment if he chose, and other Senators could as well. But it is a question of priorities: Do we want to have a big fight in the Senate over procedure—and we have had some procedural differences which I will address not right now but later—relating to the confirmation of judges, which is the responsibility of the Senate under the Constitution of the United States, or do we want to turn immediately to a jobs bill that we overwhelmingly agree to, as the majority leader has conceded in his remarks?

It is a question of priorities. Do we want to have the Senate in a big fight over procedure after we finish the highway bill or do we want to turn to an overwhelmingly bipartisan jobs bill supported by the President and passed by the House? It is a question of priorities. What do we want to do next for the American people?

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I am stunned by a controversy over nothing. Under the rules of the Senate, we filed cloture, because there has been stalling and obstruction on the lives of 17 people. I didn't file on the appellate judges, only trial judges. Each one of these men and women's lives has been brought to a standstill. They have the opportunity of a lifetime to be able to become a Federal trial court judge. They shouldn't have to wait until October. I say to my friend: We can approve these judges in 1 minute. Let's do that. It is not fair to say the lives of these 17 men and women are unimportant and put it over until some later time.

We have no problem with the IPO bill we got from the House. How could we? It got 390 votes in the House. The President of the United States supports it. We support it. We want to get this done and we will do it as quickly as we can. It may not be 10 minutes from now or 24 hours from now, but we are going to move to it as quickly as we can, and we can move to it very quickly. As soon as we finish this highway bill, we could move to those judges, get that issue disposed of, and then move to this. It might take an hour after the highway bill, but that is about all.

Mr. LEAHY. Will the Senator yield to me on that point?

Mr. REID. I would be happy to yield.

Mr. LEAHY. Mr. President, when we talk about what the American people want, I am sure the majority leader—and I ask him this as a question—is aware that there are 160 million Americans who are in judicial districts where there are vacancies, because even though they have gone through the Senate Judiciary Committee, the majority leader has been blocked from bringing them to the floor, so that 160 million Americans were denied a chance for justice, denied a chance to go to court? I ask the leader, was that

also one of the considerations he had on moving forward with these judges?

Mr. REID. I say to the chairman of the Judiciary Committee—and I mentioned this yesterday at some length and I believe the Presiding Officer was here when I did that—more than half of the people in America today are living in areas where there has been declared a judicial emergency. Nevada is one of them. We have courts where these judges are overwhelmed with work. I said yesterday I don't want these judges to act as if they were night court judges dealing with traffic cases. As I said yesterday, these judges deal with what we used to refer to when I practiced law as: ''What are you trying to do, make a Federal case out of it?'' They said that because there is no finer law dispensing anyplace in the world than in our Federal court system. And we can't do that when these men and women are overwhelmed with work.

The circuit court level is one thing. It is too bad they are overwhelmed with work. But on the trial court level, they are dealing with everyday problems that people have, including accidents, antitrust cases, businesses having gone bankrupt, and all the other things the Federal court has jurisdiction over.

My friend is absolutely right. We should not only be concerned about the 17 people who have been selected by the President of the United States to be a judge after having gotten a signoff from the Republican Senator in their State. I should have talked not only about them individually but what they represent, and that is trying to do something about the emergencies that exist for more than half of Americans.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I think that colloquy underscores my point. My friends on the other side are concerned that the jobs of 17 individuals may be delayed for a few months. I doubt if any of them is unemployed at the moment. It is highly unlikely that any of these individuals will not be confirmed in an orderly process as we have been engaged in this year.

The issue is a question of priorities. What is more important, getting these 17 individuals into a job a little bit quicker than the majority has experienced so far or turning to a measure overwhelmingly supported by Republicans and Democrats in the House and supported by the President of the United States and that might create, in the very near future, hundreds of thousands of jobs? So it is a question of priorities. That is why I say this is a manufactured dispute.

I will have much more to say, in great detail, about the judges issue. But for the moment, the point is this, quite simply: What are our priorities? Do we want to pass an overwhelmingly bipartisan jobs bill the President supports as soon as possible—certainly open for any amendment the majority leader might seek to offer—or do we want to create a controversy over judges who are almost never denied confirmation when we have been confirming judges all along?

I don't know that there is much point to continuing this discussion any longer this morning. I will have a lot more to say about how we ended up in a situation where the majority leader is seeking to manufacture a crisis that shouldn't—a conflict or a crisis that doesn't exist.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Here is my idea. I have a great idea. My friend the Republican leader said these judges are all going to be approved anyway, so I have an idea. Let's go to this IPO bill immediately after we finish the highway bill, with the agreement that we will dispose of these judges immediately after that. That sounds good to me. I am happy to do that. How about that? Before my friend leaves, how about a deal on that? As soon as we finish this highway bill, we will move to the IPO bill, and as soon as we finish that and get it out of the Senate, we will then have up-or-down votes on those 17 judges. This does not include an agreement on the appellate judges. We will deal with those at a subsequent time. How about that?

Mr. MCCONNELL. I am sorry.

Mr. REID. I will say again to my friend, I would hope that what we could do is when we finish the highway bill, go to the IPO bill, and then as soon as we finish that have an up-or-down vote on these judges. I would be happy to work in any reasonable fashion.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. We have been discussing—this is not the best time for the debate on the judges, but the point is this: We have been processing judges. It is highly unlikely any of these district judges are not going to be confirmed. We have done a number of them this year. We have done seven this year. District judges are almost never defeated.

This is a very transparent attempt to try to slam-dunk the minority and make them look as though they are obstructing things they aren't obstructing. We object to that. We don't think that meets the standard of civility that should be expected in the Senate. So any effort to make the minority look bad or to slam-dunk them that is sort of manufactured, as this is, is going to, of course, be greeted with resistance. It could be that that is precisely what my friend the majority leader has in mind, to try to make the Senate look as though it is embroiled in controversy where no controversy exists.

So my suggestion is why don't we do first things first. First things first. And it strikes me that an overwhelming bipartisan jobs bill clearing the House would be something the American people would applaud. It is supported by the President. Why don't we take that up? The majority leader or any of us can offer any amendments we think are appropriate and move it toward passage, because that is the kind of thing people expect of us.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. It is obvious that the jobs bill has nothing to do with the holding up of these judges as has been articulated by my friend. It is a question of stalling things, as has happened all this Congress. As indicated, more than half the American people are in areas where there are judicial emergencies. It is important we get this dispensation of justice done, and do it quickly.

The controversy on the IPO bill does not exist. There is not any. I would suggest to my friend, though, we have very many things left to do. The postal service; we do not want it to go broke. We have the Violence Against Women Act we need to get done. We have all these judges, of course. We have cybersecurity. So if we move—and I am going to move quickly—to this IPO bill, I cannot imagine why we would need any amendments.

I indicated that out of my right as majority leader, I can offer a perfecting amendment, and that would be to find out if the body feels strongly about what they have said publicly: that the Ex-Im Bank should be part of the bill. That would hold the bill up for one vote, about 15 minutes.

But in addition to that, we are not going to have a knockdown, drag-out on the IPO. If everybody loves the House bill so much, that is what we will vote on.

You have heard the expression: fill the tree. We will fill the tree and go to the IPO bill. If everybody loves it so much, we should get it to the President's desk as fast as we can.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I listened with interest to the colloquy between my two friends, the distinguished majority and minority leaders. It is almost—and I think the American people see it as almost—a kabuki dance because the fact is, the majority leader is right to seek votes on these district court nominees. He seeks to secure Senate votes for 17 highly qualified Federal district court nominations favorably reported by the Judiciary Committee. They are being blocked by Senate Republicans.

I wish we could find a way to stop these damaging filibusters. They are totally unprecedented. It is greatly damaging the most respected court system in the world: our Federal court system. That means Americans are not getting the justice without delay they are entitled to. We must work together to ensure that the Federal courts have the judges they need to provide justice for all Americans without needless delay.

Federal district court judges are the trial court judges who hear cases from litigants across the country and preside over Federal criminal trials, applying the law to facts and helping settle legal disputes. They handle the vast majority of the caseload of the Federal courts and are critical to making sure our Federal courts remain available to provide a fair hearing for all Americans. Nominations to fill these critical positions, whether made by a Democratic or Republican President, have always been considered with deference to the home state Senators who know the nominees and their states best, and have always been confirmed quickly with that support.

I have been here 37 years, with Republican Presidents, Democratic Presidents, Republican majorities, Democratic majorities. Never in those 37 years have we seen district court nominees blocked for months as we have seen since President Obama was elected.

These kinds of consensus nominees are normally taken up within a few days or a week after being nominated and voted out of our Judiciary Committee, whether nominated by a Democratic or a Republican President. It was certainly the approach taken by Senate Democrats when President Bush sent us consensus nominees. As a result, we were able to reduce vacancies in the Presidential election years of 2004 and 2008 to the lowest levels in decades. That was also how we confirmed 205 of President Bush's judicial nominees in his first term.

For those who want to understand where the partisanship is, here is a little bit of history. For 31 months of the first 48 months of President Bush's first term, Republicans controlled the Senate, and for 17 months, Democrats controlled the Senate. To show that we wanted to set aside partisanship, in our 17 months that we were in control, Senate Democrats helped confirm 100 of President Bush's nominees. In the 31 months Republicans were in charge, they did 105, which was slightly more nominees. But the fact is, we actually moved a lot faster on President Bush's nominees than the Republicans did.

I was chairman of the committee, and I tried to do that to get us away from what we had seen where Republicans had pocket-filibustered 60 of President Clinton's nominees. I wanted to get back to where we took politics out of the Federal courts.

But we have seen now a complete reversal of this. Senate Republicans have ensured that nominees who in the past would have been confirmed promptly by the Senate are now blocked for months. An unprecedented number of President Obama's highly qualified men and women to district courts has been targeted for opposition and obstruction while extreme outside groups tar their records and reputations with invented controversies. It is unprecedented and it hurts our system of justice in this country.

Two weeks ago, at a meeting of the Senate Judiciary Committee, the Senator from Utah conceded that a ''new standard'' is being applied to President Obama's nominations. He was saying out loud what has been apparent from the start of President Obama's term—that Republican Senators have applied a different and unfair standard to President Obama's judicial nominees.

I was here with President Ford, President Carter, President Reagan, President George H.W. Bush, President Clinton, President George W. Bush, and now President Obama. I can attest that Republicans have set a different standard for President Obama than has been applied to any of the other Presidents I have known since I have been here. I have to ask myself, what is so different about this President that he is treated to a different, tougher standard than any of the Presidents before him? I just ask. President Obama's district court nominees have been forced to wait more than four times as long to be confirmed by the Senate as President Bush's district court nominees at this point in his first term, taking an average of 93 days after being voted on by the Senate Judiciary Committee.

When I hear Republican Senators claim there is no obstruction and there is no reason for the majority leader to push for votes on these nominations, I wonder if they have looked at our recent history.

I spoke of President Bush's first term. Mr. President, 57 of his district court nominations were confirmed within 1 week of being favorably reported by the Judiciary Committee—1 week. In stark contrast to those 57, only 2 of President Obama's district court nominations have been confirmed within 1 week of being reported—less than one twenty fifth the number of President Bush's. More than half of the nominations for which the leader has now filed cloture have been pending since last year—many months, not days. This must be the new standard the Senator from Utah has said Senate Republicans are using for President Obama's nominations—a different standard than all the Presidents before him. I will at least praise the Senator from Utah for his honesty.

Indeed, 10 of the nominations on which the Majority Leader has been required to file cloture in order to end the Republican filibuster and get a vote have been awaiting a vote since last year. Nine of them had the support of every Republican as well as every Democratic Senator serving on the Judiciary Committee. They all should have been considered and confirmed last year.

I understand and share the Majority Leader's frustration. He has been unable to obtain the usual cooperation from the minority to schedule debates and votes on these widely supported, consensus nominees. I regret that the Majority Leader has been forced to take this action but the millions of Americans seeking justice in their courts should not be forced to wait any longer.

To understand how unusual and wrongheaded this is, consider the following: Republicans are opposing judicial nominees they support. They are stalling Senate action for weeks and months on judicial nominees who they do not oppose and who they vote to confirm once their filibuster can be ended and the vote scheduled. That is what happened after a four-month filibuster when the Senate finally voted on the nomination of Judge Barbara Keenan. That is what happened when after a five-month filibuster, the Senate finally voted on the nomination of Judge Denny Chin. Once the Republican filibusters were ended, they were confirmed unanimously. That is what happened after an eleven-month delay before confirmation of Judge Albert Diaz of North Carolina. That is what happened after seven-month delays before confirmations of Judge Kimberly Mueller of California, Judge Catherine Eagles of North Carolina, Judge John Gibney, Jr. of Virginia, and Judge Ray Lohier of New York. That is what happened after six-month delays before the confirmations of Judge James Bredar and Judge Ellen Hollander of Maryland; Judge Susan Nelson of Minnesota, Judge Scott Matheson of Utah and Judge James Wynn, Jr. of North Carolina. That is what happened after five-month delays before confirmations of Judge Nannette Brown of Louisiana, Judge Nancy Torresen of Maine, Judge William Kuntz of New York, and Judge Henry Floyd of South Carolina. This is what happened after four-month delays before the confirmations of Judge Edmond Chang of Illinois, Judge Leslie Kobayashi of Hawaii, Judge Denise Casper of Massachusetts, Judge Carlton Reeves of Mississippi, Judge John Ross of Missouri, Judge Timothy Cain of South Carolina, Judge Marina Marmolejo of Texas, Judge Beverly Martin of Georgia, Judge Joseph Greenaway of New Jersey, Judge Mary Murguia of Arizona, and Judge Chris Droney of Connecticut.

So, too, I expect the district court nominee to fill a judicial emergency vacancy in Utah, supported by Senator HATCH, will not be controversial once the vote takes place. The district court nominees to fill judicial emergency vacancies in Texas, supported by Senator HUTCHISON and Senator CORNYN, should easily be confirmed. The nominees to judicial emergency vacancies in Illinois supported by Senator KIRK, should not be controversial. The district court nominee in Louisiana supported by Senator VITTER, should not be controversial. The district court nominee in Missouri supported by Senator BLUNT, should not be controversial. The district court nominee in Arkansas supported by Senator BOOZMAN, should not be controversial. The district court nominee in Massachusetts supported by Senator BROWN, should not be controversial. The district court nominee

in South Carolina supported by Senator GRAHAM, should not be controversial. The district court nominee in Ohio supported by Senator PORTMAN, should not be controversial.

Senate Democrats never applied this standard to President Bush's district court nominees, whether we were in the majority or the minority. During his eight years in office, President Bush saw only five of his district court nominees have any opposition on the floor and that opposition had to do with doubts about those nominees' suitability to be Federal judges. After only three years, 19 of President Obama's district court nominees have already received opposition. Even though President Obama has worked with Republican and Democratic home state Senators to identify highly-qualified, consensus nominees, his district court nominees have already received more than five times as many ''no'' votes in three years as President Bush's district court nominees did in his eight years over his two terms. This is further proof of the Republicans' new standard.

I find that reprehensible. It means President Obama's nominees are being treated differently than any Presidents, Democratic or Republican, before him. It is no accident that 1 out of every 10 Federal judgeships remains vacant in the fourth year of President Obama's first term. It is not happenstance that judicial vacancies are nearly double what they were at this point in President Bush's first term. The extended crisis in judicial vacancies is the result of deliberate obstruction and delays by Senate Republicans.

A few years after Republican Senators insisted that filibusters of President Bush's judicial nominees were unconstitutional, they reversed course and filibustered President Obama's very first judicial nomination, that of Judge David Hamilton of Indiana, a widely-respected 15-year veteran of the Federal bench who had the support of the most senior and longest-serving Republican in the Senate, Senator LUGAR. The Senate rejected that filibuster and Judge Hamilton was confirmed, but the pattern of partisan obstruction of President Obama's judicial nominees was set from the very start.

That is wrong—that is wrong—and that is turning your back on a majority of Americans who voted for President Obama in the last election, Americans from all across the country, of all backgrounds, of all races, of all religions—to turn your back on them by saying: You may have elected him, but we are going to hold him to a different standard. It is wrong.

At the end of each of the last two years, the Senate Republican leadership continued this obstruction by ignoring long-established precedent and refusing to agree to schedule votes on dozens of consensus judicial nominees before the December recess. Last year it took us until June to confirm nominees who should have been confirmed in 2010. This year we have had to end two more of the nine Republican filibusters of President Obama's judicial nominations to confirm nominees who should have been confirmed the year before and fully a dozen judicial nominees from last year remain to be considered. And here we are in the middle of March, having to fight to hold votes on 10 district court nominees who should have been confirmed last year.

This obstruction is purposeful and it is damaging. The people who bear the brunt of this Republican obstruction are the American people. The result of the Senate Republicans' obstruction is that the ability of our Federal courts to provide justice to Americans around the country is compromised. Millions of Americans, who are in overburdened districts and circuits, experience unnecessary delays in having their cases resolved. Nearly one hundred and sixty million Americans live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans would just agree to vote on the nominations now pending on the Senate calendar. It is wrong to delay votes on qualified, consensus judicial nominees.

Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. It is unacceptable for hard-working Americans who turn to their courts for justice to suffer unnecessary delays. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait three years before a judge hears the case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

When Senate Democrats opposed some of President Bush's most ideological nominees, we did so openly, saying why we opposed them. At the same time, we continued to move consensus nominees quickly so they could begin serving the American people. That is what I did as Chairman for 17 months during the first two years of the Bush administration and how we were able to lower judicial vacancies by confirming 100 of his circuit and district court nominees. That is how we reduced vacancies in the presidential election years of 2004 and 2008 to the lowest levels in decades, half of what they are now. That is how we had already confirmed 172 of President Bush's circuit and district nominees by this point in his first term, as compared to only 131 of President Obama's and being 40 confirmations and nine months behind the pace we set then. We did so because we put the needs of the American people before partisanship and obstruction.

We had another discussion of these matters in the Senate Judiciary Committee two weeks ago. Senator COBURN said that this is ''exactly what makes Americans sick of what we are doing.'' I agree. I have been saying for some time that this needless obstruction is what has driven approval ratings of Congress down to single digits. The Senator from Oklahoma observed that it would behoove us all to get back to the days when these lower court judicial nominations were not areas of partisan conflict. I agree. I have tried to do my part in that regard by treating Republican Senators fairly and protecting their rights. President Obama has done his part by consulting with Republican home state Senators and selecting moderate, well-qualified nominees. It is time for Senate Republicans to do their part and not abuse their rights under our Senate rules and procedures. It is time for them to end the partisan stalling. It is time for Senate Republicans to agree to schedule votes on these long-delayed and much-needed judges.

Once we have overcome these unprecedented filibusters of President Obama's district court nominations, I hope that it will not take more delays and more cloture petitions to end the filibusters against the five outstanding nominees by President Obama to fill vacancies on our Federal circuit courts. Two delayed from last year are outstanding women: Stephanie Dawn Thacker of West Virginia, nominated to the Fourth Circuit, and Judge Jacqueline Nguyen of California, nominated to fill one of the many judicial emergency vacancies on the Ninth Circuit. Ms. Thacker, an experienced litigator and prosecutor, has the strong support of her home state Senators, Senators ROCKEFELLER and MANCHIN. Judge Nguyen, whose family fled to the United States in 1975 after the fall of South Vietnam, was confirmed unanimously to the district court in 2009 and would become the first Asian Pacific American woman to serve on a U.S. Court of Appeals. Last week, The Sacramento Bee ran an editorial about Judge Nguyen's nomination that noted that ''for those of us in the real world particularly those seeking justice in the federal courts—it would be far, far better if these qualified jurists could get to work.'' I will ask unanimous consent that the article be printed in the RECORD. Both Ms. Thacker and Judge Nguyen were reported unanimously by the Judiciary Committee last year and both should be considered and confirmed by the Senate without additional damaging delays.

I hope Republicans and Democrats can join together to put an end to this damaging pattern of obstruction and filibusters. It hurts our Federal courts. It is a disrespect to the President of the United States. It goes way beyond partisanship. But it is wrong, and it demeans this great body we are all privileged to serve in. This is the sort of thing I never thought I would see in the Senate of the United States. I say that based on 37 years of experience with Senators I have admired and have publicly stated I have admired in both

parties. This is wrong. Let's go back and let the Senate be the conscience of the Nation, not a body that reflects some of the worst instincts of our Nation.

I ask unanimous consent that the article to which I refereed be printed in the RECORD.

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

[From the Sacramento Bee, Mar. 6, 2012]

JUSTICE DELAYED AS JUDGE NOMINEES WAIT

Republicans in the U.S. Senate are once again using President Barack Obama's judicial nominations as pawns in their political chess match.

There's even loose talk of putting off votes as long as possible, in hopes that Obama loses in November and the seats can be filled by a Republican president.

That's absurd.

There are too many vacancies on federal courts in California and other states, where there aren't enough judges to handle the caseloads. Too often, justice delayed really is justice denied.

Democratic leader Harry Reid of Nevada is apparently so fed up that he's willing to go to war to get confirmation votes on the Senate floor, Politico reports.

Good for him. The Republicans deserve to be called out on their obstructionism—and their hypocrisy, since they often complain about how slow the federal courts are.

The focus is on 14 qualified nominees who won bipartisan support in the Senate Judiciary Committee, including two from California who were unanimously approved but have been on hold for months.

One is Jacqueline Nguyen of Los Angeles, who was nominated by Obama last September for the 9th U.S. Circuit Court of Appeals and endorsed by the judiciary panel on Dec. 1. The first Vietnamese-American woman to serve as a federal judge, she was 10 when her family fled Vietnam at the end of the war. They started as refugees in Camp Pendleton and made their own version of the American Dream.

The second is Michael Fitzgerald, who was nominated last July for a judgeship in the Central District of California and received committee approval on Nov. 3. A Los Angeles attorney and former federal prosecutor, he would become the first openly gay federal judge in the state and the fourth nationwide.

Both those courts are in an official ''judicial emergency'' because cases are so backed up.

There are two more recent nominations for 9th Circuit seats that have gone through the Judiciary Committee. Paul Watford, a Los Angeles attorney and former prosecutor, was approved on a 10–6 vote on Feb. 2. Andrew Hurwitz, an Arizona Supreme Court justice, was approved on a 13–5 vote Thursday.

The San Francisco-based 9th Circuit is a particular target for Republicans, who like to rail against what they call its liberal, activist bent. Their delaying tactics succeeded in forcing Goodwin Liu, a highly regarded UC Berkeley law professor who grew up in Sacramento, to withdraw his nomination last July. (Gov. Jerry Brown then nominated him to the California Supreme Court, where Liu now serves.)

It must be said that there are also political advantages for Obama if the delays continue. It would give him more ammunition to campaign against a ''do-nothing Congress.'' Given the ways of Washington, that may be the most likely scenario.

But for those of us in the real world—particularly those seeking justice in the federal courts—it would be far, far better if these qualified jurists could get to work.

Mr. LEAHY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator suspend?

Mr. LEAHY. Yes.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

Mr. LEAHY. Mr. President, unless the Senator from California seeks recognition——

Mrs. BOXER. I do.

Mr. LEAHY. Mr. President, I yield for the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California.

SURFACE TRANSPORTATION ACT

Mrs. BOXER. Mr. President, I thought I could give Senators and those who may be following this very elongated debate on the highway bill an update as to where we are. We have a managers' package we are hoping to approve momentarily. It is a bipartisan package. We continue to work across the aisle. Under the consent, we want to move forward with that. We had, I believe, a holdup yesterday. We are working to find out why. But we are very hopeful that will move forward. Then we have a series of votes on amendments, beginning at about noon. So at 11:30 or so, we will be back on the bill.

I want to say to my friends on the other side of the aisle and to my friends on this side of the aisle that we are making great progress. This is a jobs bill. This is a major jobs bill. This is the biggest jobs bill.

They passed an IPO bill over there in the House. ERIC CANTOR is saying it is a jobs bill. I do not know how many jobs it will create. It is an investor bill. It is good; I am for it. But it does not come anywhere close to the bill we are working on today. Because on March 31, if we do not act on this transportation bill, everything will come to a screeching halt, if I might use that analogy. Because there will not be a gas tax anymore going into the Federal highway trust fund, there will not be any funds going from the Federal Government to the various planning organizations in all of our States and communities.

All of us know that since the days of President Eisenhower we have had a national system for roads, bridges, highways, and so on. So we have a lot of work to do here. I want to say, we are very close to the day when everything will stop. So I think we are making great progress.

I know the majority leader and the minority leader talked about finishing this bill today. That means a lot of cooperation because we have to get through about 20 amendments plus a managers' package. I think we can do it. I know we can do it.

Then, frankly, we can actually go home and tell our people we voted on a huge jobs bill. How huge? We are going to protect 1.8 million jobs, and a lot of construction jobs. I have often told people that the unemployment rate among construction workers is way higher than the general population. Our unemployment rate is about 8.3 percent. We have a 15-, 16-, 17-percent unemployment rate among construction workers.

And God bless this President. He has worked so hard on making sure we have set the table for job growth. We have had terrific job growth, but even with those 200,000-plus jobs created last month, construction jobs actually went down.

So we are looking at an industry that is in a great deal of trouble. It is because of the housing market. It is still not stabilized. Until we solve our housing crisis—and, again, the administration and the Congress are trying to do everything to allow people to stay in their homes so we don't keep having defaults, houses on the market, short sales, and all the rest. Once that is behind us, we will see a whole new day for construction. But that day isn't here.

It would be a dereliction of our duty if we fail to pass this bill because we will save 1.8 million jobs. That is how many people are working as a result of our ongoing transportation action. We have to save that. Then because of some very good work done in my home State, particularly in Los Angeles, we have come up with a new way to create an additional 1 million jobs by leveraging a program called the TIFIA Program, transportation infrastructure financing. It means as our State and our local areas pass, say, a sales tax to build transit or roads or highways, we, the Federal Government, can front that money at virtually zero risk and leverage these funds threefold.

In this bill we would be protecting 1.8 million jobs and creating up to 1 million new jobs because of the TIFIA Program. I want to say this bill is a bipartisan effort—hugely bipartisan.

I just talked to Senator INHOFE late last evening. We talked about the fact that we don't want to have it held up anymore. We want to move it through, and we are going to move it through. We are very pleased.

Anyone who follows politics knows Senator INHOFE is one of the most conservative Members of the Senate, and I am one of the most liberal Members of

the Senate. We are both very proud of who we are and comfortable with who we are. We know when it comes to some things we don't see eye to eye. There will be many more opportunities to see how we disagree on issues, such as clean air, clean water, safe drinking water, superfund, climate change, and all that. But we are on the highway bill. We hope this will become a template for us in the Senate and the House to find a sweet spot where we can work together. We are right there. A little bit more work and we know we have done our jobs. It could come today—I hope it will come today—but it will come late today because there are many amendments to get through.

I want to make my last comment about what is happening in the House. The House passed an IPO bill, initial public offering. I support that approach. I think it would be a great way to get more capital into the hands of businesses and enable them to hire people. It is a good bill. We are going to work on it. But the House has done nothing about the Transportation bill. Speaker BOEHNER has tried. He has had many efforts to bring people to the table. But the trouble is he has only brought to the table one political party. We have to work together. Senator INHOFE and I could never have gotten this bill to where it is if we stood in our corners and concentrated on the areas where we had disagreement. There were plenty of those, but we set those aside.

I say to the Members of the House, there is a secret to success, which is taking your hand and reaching it across the aisle and finding common ground with your colleagues. If you lose a bunch of Republicans and Democrats, you still have enough to get a bill through.

Our bill, though not perfect, does what we have to do. We protect 1.8 million jobs, mostly in construction. We create up to 1 million jobs. We took a bill that had 90 different programs and brought it down to 30 programs. We have a managers' package of very bipartisan issues that we have resolved.

I will probably be back on the floor within an hour to debate the two amendments that will be pending, the Bingaman amendment and the DeMint amendment. I will speak out on those amendments.

I thank the occupant of the chair for his support. He has been a real good friend and has helped us move this bill forward. I know this bill is important to his home State of Delaware, as it is important to Tennessee and to California. I have a list of jobs by State that we would lose if we fail to act. That is the bad news. The good news is we are going to act. I will be back in short order.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, is it appropriate for me to speak as in morning business for a few minutes?

The PRESIDING OFFICER. The Senator is recognized.

JUDICIAL NOMINATIONS

Mr. ALEXANDER. Mr. President, I listened with great interest to the Senator from California. I thank her for her hard work on the Transportation bill and her work with Senator INHOFE. I listened especially to her comments that it would be good for us to work well together. It reminds me of our new Speaker of the House of Representatives in Tennessee, Beth Harwell. She does a pretty good job, and she often reminds her colleagues in the Tennessee Legislature that the first lesson they all learned in kindergarten is to work well together. That is a good lesson for us as well.

I will take 4 or 5 minutes to simply talk about a development I think interferes with that. I came to the Senate floor with a group of Republicans and Democrats not long ago. We praised the majority leader, Senator REID, and the Republican leader, Senator MCCONNELL, for their working together to try to bring the appropriations bills to the floor. We said we are going to work together to help them do that because a majority leader cannot lead if we don't follow. We complimented them for the work on the Transportation bill, which hasn't been easy, but we are having a lot of votes today. We will offer our ideas and make votes.

It was disappointing to me yesterday to see the majority leader announce that he had filed 17 cloture motions on district judges. I am here simply as one Senator to say respectfully to the majority leader that I hope he will reconsider and not do that. That is an unprecedented action. It has never happened like that before. In the history of the Senate, before 2011, a majority leader had filed cloture motions on district judges only three times.

What has happened with district judges in the history of the Senate? They come up, get a vote, and there has never been a successful filibuster of a district judge because of a cloture vote. Let me emphasize that. There has never been a successful attempt to deny an up-or-down vote to a district judge by opposing cloture in the history of the Senate.

That was proven again last year with a judge from Rhode Island, Judge McConnell, who many believed should not be a judge. There were enough Republicans did not take the opportunity to deny an up-or-down vote that he was confirmed even though many on this side didn't think he ought to be a judge. So we don't have a problem with filibustering district judges, and we have never had one with filibusters of district judges, at least given the present composition of the Senate.

What is the issue? Senator REID, the majority leader, said quite properly in his remarks yesterday that we have important work to do. We have a jobs bill coming from the House, a Postal Service that is in debt, and we have cybersecurity—we are having long briefings on that because of the threat.

The leaders are working to bring the appropriations bills to the floor. We have only done that twice since 2000—all 12 of them. So this is a little disagreement we have between the majority leader and the Republican leader on the scheduling of votes on district judges. It is not a high constitutional matter. It is not even a high principle. It is not even a big disagreement. It is a little one. What has always happened is in the back and forth of scheduling, and they work it out. They have been working it out.

In the first 2 years of the Obama administration, he nominated 78 district judges, and 76 of those were confirmed—76 of 78 nominated in the first 2 years. He withdrew two. Last year, 61 more district judges were confirmed. What about 2012? The President has made a few nominations, but they haven't been considered yet by the Judiciary Committee. We do have 17 district court judgeships reported by the Judiciary Committee. They could be brought up by the majority leader. He has the right to do that. But of those 17, 6 of them have been reported by the Judiciary Committee for less than 30 days. They just got here. That leaves 11. How long have they been there? They came in October, November, and December of last year. Normally, they would have been included in the year-end clearing.

Everybody knows what happened. The year-end clearing was thrown off track because the President threatened to make controversial recess appointments. Ultimately, the President decided to violate the Reid rule, which used pro-forma sessions every three days to break the Senate's recesses and block recess appointments. That was invented by the majority leader, Senator REID. President Bush didn't like it, but he respected it. President Obama violated it, and it blew up the year-end clearing of a number of nominees, including district judges.

We have some district judges waiting to be confirmed, but we don't have many. We have a history of confirming 76 out of 78 nominated during the first 2 years of this President, and last year, confirming 61. This year, of the 17 the majority leader filed the cloture motions on, 6 of them just got here. So that leaves 11. What do we do about that?

The right thing to do is that the majority leader and the Republican leader should listen to what the Senator from California just said, listen to the Speaker of the House from Tennessee; that is, work well together rather than escalating this into a highly principled, big disagreement, and retire to one of their offices and sit down quietly, take a timeout and work this out. That is the way it has always been done.

We are only talking about 11 judges. They have not been around that long—

less than 5 months. We all know why they were delayed a little bit. The President can take just as much responsibility as anybody. In testimony this week, the Attorney General acknowledged the issue of the recess appointments made on January 4 is a serious constitutional issue that needs to be decided by the courts. While that is being done, we have not tried to stop the action of the Senate, even though we regard it as a great offense to the checks and balances and the separation of powers.

I respectfully suggest it is not a good time for the majority leader to take a small disagreement and escalate it into a big one, jeopardizing our ability to deal with big issues on jobs, cybersecurity, the Postal Service, and others. It would not reflect well on the 23 candidates running for the Democratic Senate seats this year or on the 11 Republicans running for Senate seats this year, and it would not reflect well on the President.

The American people want to see us get results. Why should we give them one more reason to suspect that just because we can't agree on little issues, we are unable to agree on the big issues? I know the job of the majority leader is a tough job, and there is a good deal of back and forth every day. The majority leader has been on both sides of this issue. I suspect if he and the Republican leader were to sit down and look over the actual numbers and realize it is just 11 judges—we confirmed 2 last week—they could schedule the others and we could spend our time, starting tomorrow, not picking a fight with one another on the small disagreements, but on jobs, debt, the Postal Service, cybersecurity, and the big issues the American people would like us to deal with.

I ask unanimous consent that some documentation about the progress of district judge nominations of the 111th and 112th Congress be printed in the RECORD.

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

THE PROGRESS OF DISTRICT COURT NOMINATIONS SUBMITTED TO THE SENATE IN THE 111TH AND 112TH CONGRESSES

111TH CONGRESS

Of the 78 District Court Nominees made by President Obama during 2009 and 2010, 76 were eventually confirmed. That's 97%. 44 were confirmed in 2009 and 2010. 32 were resubmitted to the Senate and confirmed in 2011. One was withdrawn by the President and another was never resubmitted after being returned to the President.

112TH CONGRESS

99 nominations have been sent to the Senate by President Obama to date in the 112th Congress (2011 and 2012). 61 have been confirmed. 17 have been reported by the Judiciary Committee and await floor action: David Nuffer (UT)—October 2011; Gina Groh (WV)—October 2011, Susie Morgan (LA)—November 2011, Kristine Baker (AR)—November 2011, Michael Fitzgerald (CA)—November 2011, Ronnie Abrams (NY)—November 2011, Rudolph Contreras (DC)—November 2011, Miranda Du (NV)—November 2011, Gregg Costa (TX)—December 2011, David Guaderrama (TX)—December 201, Brian Wimes (MO)—December 2011, George Russell (MD)—February 2012, John Lee (IL)—February 2012, John Tharp (IL)—February 2012, Mary Lewis (SC)—March 2012, Jeffrey Helmick (OH)—March 2012, Timothy Hillman (MA)—March 2012. 2 have had Committee hearings and are waiting for mark-ups. 3 have Committee hearings scheduled. 10 have had no Committee action taken on their nominations. 5 were returned to the President (under Rule 31) and not resubmitted. 1 was withdrawn by the President.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as in morning business.

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

NAT GAS ACT

Mr. MENENDEZ. Mr. President, I have come to the floor to talk about an amendment I will offer later today—the NAT GAS Act.

What if I were to tell the Chair there was a transportation fuel that is over $1.50 cheaper than gasoline and roughly $2 cheaper than diesel? What if I were to tell the Chair this fuel is also cleaner and has fewer smog-causing pollutants than diesel and, if wisely used, could reduce the cases of asthma and lung cancer?

What if I were to tell the Chair this fuel is abundant right here in America, so much so that we may soon become one of the world's largest exporters of this fuel? I think I might hear him say: Sign me up. What is the name of this wonderful fuel? The name of this fuel is natural gas.

We can see in this chart that as gasoline prices are already skyrocketing toward $4 per gallon, the price of compressed natural gas is barely above $2 equivalent. Natural gas prices used to follow oil prices, but now they are on their own stable, inexpensive price levels. The same holds true for liquefied natural gas. As we can see, gas prices here, liquefied natural gas down here. Diesel prices now exceed $4, and LNG is still hovering around a $2 equivalent

Why aren't we all driving around in natural gas vehicles, paying a little over $2 per gallon equivalent? The reason this inexpensive fuel is not widely used is because there are not many natural gas vehicles in the United States, and there are also very few places to refuel. Currently, there are nearly 14 million natural gas vehicles in the world but only about 117,000 in the United States. The car and truck manufacturers want to see that the natural gas utilities will invest in refueling infrastructure, and the natural gas utilities want to see more natural gas vehicles on the road. It is a classic chicken-or-the-egg problem.

What both the manufacturers and the utilities need to see is a strong stance by the Federal Government to jumpstart this market.

The NAT GAS Act will do that by jump-starting the industry and, in 10 years, add over 700,000 natural gas vehicles to our roads and help incentivize the installation of refueling stations around the Nation. In addition, it is estimated the bill will displace over 20 billion gallons of petroleum fuel and create over 1 million direct and indirect jobs.

I know what some of my colleagues are thinking: Isn't this just another handout to energy companies? The answer to that question is a resounding no. This legislation is fully paid for with a small fee on natural gas used as a vehicle fuel. As I mentioned earlier, natural gas is over $1.50 cheaper than gasoline or diesel. This amendment would use some of those savings to help overcome the market barriers for natural gas vehicles and supporting infrastructure. The fee starts at 2.5 cents per gallon equivalent in 2014 and grows to be 12.5 cents in 2020 and 2021. In 2022, the fee is eliminated. In this way, we can still keep natural gas less expensive than other fuel options, while investing in infrastructure to help grow the market, make natural gas vehicles cheaper, and put the industry on a path to flourish on its own.

While the legislation itself is designed to provide a temporary boost, it is important to note that the natural gas supplies we are sitting on are enormous. North America's natural gas resource discoveries have more than doubled over the past 4 years, meaning that at the current rate of consumption, this resource could supply current consumption for over 100 years. If we do not use our natural gas here in America, it will be exported abroad, benefiting consumers in other countries, while American families will continue to pay higher prices at the pump. Already, one U.S. facility has received a permit to export natural gas and four more are following suit. We can use that natural gas in the United States to displace oil. We are sending trillions of dollars abroad to countries that are despotic and wish us ill or we can export it so other countries can gain the benefits. I say we use it here.

The NAT GAS Act will also increase our Nation's energy independence and make us less dependent on regimes that do not have America's interests at heart. This is especially important at a time when Iran is attempting to develop a nuclear weapon and is threatening to block oil supplies. Natural gas is not the only solution, but it can be an important part of a solution that will allow us to ignore future OPEC threats because we have alternatives to

oil. But until we get to that point, we need to do all we can to supplant oil.

It is also important to note that natural gas vehicles are an important way to improve air quality. According to the EPA, natural gas as a vehicle fuel has very low emissions of ozone-forming hydrocarbons, toxins, and carbon monoxide. By producing less of these harmful emissions, natural gas vehicles can reduce smog in our cities and lower incidents of asthma and lung cancer. These health benefits are one reason why Los Angeles County has made almost its entire fleet of 2,200 buses run on compressed natural gas.

Let me talk about one issue some are concerned about. While natural gas vehicles can have important environmental and health benefits, we must also keep in mind that natural gas is still a fossil fuel and there are serious risks that need to be weighed when it is extracted. For that reason, I think we need to do better to regulate a practice called fracking. I also believe these risks mean that certain environmentally sensitive areas remain off-limits for fracking, and I will continue to work with my colleagues, such as Senator CASEY, to better formulate Federal rules to protect our drinking water from possible contamination. At the same time, we should not kid ourselves. This amendment will not cause natural gas vehicles to be the main driver of natural gas demand, and fracking is used to extract oil as well. So voting against this amendment will not reduce the amount of fracking.

We cannot let this opportunity to use this cheaper fuel to increase our energy security, improve our air quality, and relieve the pain at the pump slip by. It is time to put in place the temporary, fully paid for incentives of the NAT GAS Act to allow the natural gas vehicle industry to flourish. Remember, if one votes against this amendment, they cannot go home and tell their constituents that they have done everything they can to reduce gas prices.

I hope our colleagues will join us when the time comes to offer the amendment on the floor and to support it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TOLLING FEDERAL HIGHWAYS

Mrs. HUTCHISON. Mr. President, I want to speak for a moment about an important issue that is going to be addressed on the highway bill. I have an amendment that would basically say you cannot toll a Federal highway unless it is for the production of another free lane. This is an effort to curb a State from tolling every lane of a highway that has been built with Federal dollars by Federal taxpayers.

When President Eisenhower established the National Highway System, it was on behalf of national security that he made this monumental policy decision which has taken us years, tens of years to complete. It has had the added advantage of commerce—having a National Highway System where all of our States are connected with good quality Federal highways has been a huge boon for our country. That has been funded through highway user fees. The gasoline tax that everyone pays at the pump in our country has funded our Federal highway system.

However, the Federal highway system has now been completed. For a State to come in and toll every lane of an existing Federal highway is not only disingenuous, but it breaks faith with the Federal taxpayers who, for over 50 years, have paid into the highway trust fund so we would have a Federal highway system for all Americans and for the commerce among our States for them to use. Now, we have three States that have been approved by the Department of Transportation to do exactly what I wish to prohibit—toll lanes of an existing Federal highway. That would prohibit the free use of that whole highway that has been built with Federal dollars. My amendment would keep us from going beyond the three. The amendment is two. I would extend it to three because there are three that the Department of Transportation has approved, but I want to stop this practice from going further. It is wrong for the Federal Government to allow it, it is wrong for the States to ask for it. Instead, we need to allow the opposite, the opt-out ability for a State to say we want to spend our highway dollars on our priorities. That is what we ought to be doing.

I do not disagree with tolls that are going to create a new free lane. That would keep the faith with the people. It would expand the system and the people would be paying to expand the system. That can be done in an effective and, frankly, a responsible way. On the issue of allowing States to opt-out—Senator PORTMAN has put in an amendment that I would support, except that he goes a little bit too far. Senator PORTMAN and Senator COBURN have amendments that would allow an opt-out from the whole Federal highway fund, which includes transit. I think that goes too far.

I have a bill that would allow the opt-out of States that would be able to spend their highway funds the way they believe their priorities are set, but the 20 percent of the highway trust fund that goes for transit I think should be kept for the urban areas that need that kind of bus transportation, as well as intra-city and commuter rail. I think we ought to be able to keep that at the Federal level to determine what are the worthy grants. That is what the highway trust fund now does.

The Portman amendment would take that away and put it into the State highway department. That sounds good on the surface, but highway departments have, in general—certainly I can speak from the experience of my State—not focused on or prioritized mass transit. This is one of the reasons why our cities in Texas are clogged—and in Houston and Dallas and San Antonio and Austin it is getting worse.

I wish to see those cities be assured that transit funding would go forward as it is envisioned or I would be happy to amend my bill to say the 20 percent of transit funding could be opted out but it would have to go for transit funding in the States and the States could then set the priorities. But transit should not be shortchanged by the highway departments that have not prioritized mass transit.

I think we need to work a little more. I could not support the Portman amendment the way it is written, but I want to gather the people who believe that we should have an opt-out of our highway funds and get a stronger mass—which I think Senator COBURN and Senator PORTMAN would do, if they would take the transit out of their amendment.

I think we have some work to do. I wish to support the Portman amendment but not in the form it is at present. I hope down the road other States will want to be able to opt out as well. But for now, I hope we will be able to stop the tolling of our Federal highways as a first step to keep faith with the American taxpayers who, for 50 years, have built the Federal highway system and deserve to be able to drive to any State on a Federal highway without being shut out by States that decide to put a toll on it for their own purposes. These are Federal highways built with Federal tax dollars and they should be open to every taxpayer in America to use those freeways for commerce. I hope my amendment will be considered.

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from California.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Roberts modified amendment No. 1826, of a perfecting nature.

McCain modified amendment No. 1669, to enhance the natural quiet and safety of airspace of the Grand Canyon National Park.

Corker amendment No. 1785, to lower the fiscal year 2013 discretionary budget authority cap as set in the Balanced Budget and Emergency Deficit Control Act of 1985 by $20,000,000,000 in order to offset the general fund transfers to the highway trust fund.

Corker amendment No. 1810, to ensure that the aggregate amount made available for transportation projects for a fiscal year does not exceed the estimated amount available for those projects in the highway trust fund for the fiscal year.

Portman/Coburn amendment No. 1736, to free States to spend gas taxes on their transportation priorities.

Portman amendment No. 1742, to allow States to permit nonhighway uses in rest areas along any highway.

Coats (for Alexander) amendment No. 1779, to make technical corrections to certain provisions relating to overflights of National Parks.

Coats (for DeMint) amendment No. 1589, to amend the Internal Revenue Code of 1986 to terminate certain energy tax subsidies and lower the corporate income tax rate.

Coats (for DeMint) amendment No. 1756, to return to the individual States maximum discretionary authority and fiscal responsibility for all elements of the national surface transportation systems that are not within the direct purview of the Federal Government.

Coats/Lugar amendment No. 1517, to modify the apportionment formula to ensure that the percentage of apportioned funds received by a State is the same as the percentage of total gas taxes paid by the State.

Blunt/Casey amendment No. 1540, to modify the section relating to off-system bridges.

Mrs. BOXER. Mr. President, I know Senator BINGAMAN is here, so I will ask a quick unanimous consent that the time until noon be equally divided between the two leaders or their designees, that there be 2 minutes equally divided prior to each vote, and all votes after the first vote following the recess be 10-minute votes.

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

Mrs. BOXER. I yield the floor.

AMENDMENT 1759

Mr. BINGAMAN. Mr. President, I believe the second amendment that we will be voting on here right after lunch or right after noon is the amendment that Senator DURBIN and I are proposing related to privatized toll roads. When a State privatizes an existing toll road, it shifts to a private company all responsibility for operations and maintenance in exchange for a cash payment, essentially. Under existing law, privatized toll roads are still included in the calculation of how much each State receives in Federal highway funds.

In my view, it does not make good sense for a State to be credited with Federal highway funding needed to maintain that road once it has been shifted out of the public sphere to a private entity and the private entity has taken on the legal responsibility to operate and maintain the road. The amendment would simply remove these privatized toll roads from consideration when we allocate highway funds.

The amendment is very narrow. It applies only when a State sells off an existing toll road. It does not apply at all to any new construction. When I say it sells off an existing toll road, I mean that it enters into a lease—in most cases a lease of 75 years or more—with a private entity to operate a toll road and collect the tolls and maintain the road.

The amendment has the support of the American Automobile Association and the American Trucking Association. I think it is good legislation. It also has the support of the Owner-Operators Independent Drivers Association and American Highway Users Alliance. This is a modest change in the law governing the allocation of Federal funds for highways, but I think it is a commonsense proposal that should be supported by the Members of the Senate.

I hope very much we can adopt this amendment when it comes to a vote. As I say, it is not the first amendment that we are going to consider for this bill; it is the second of the two votes prior to the recess for the weekly caucuses.

Mr. President, I ask unanimous consent to call up the amendment I have just been speaking about, amendment No. 1759, and ask that the clerk report the amendment by number.

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

The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 1759.

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

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

The amendment is as follows:

(Purpose: To remove privatized highways from consideration in apportioning highway funding among States)

On page 51, between lines 16 and 17, insert the following:

''(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—

''(i) DEFINITION OF PRIVATIZED HIGHWAY.—In this subparagraph:

''(I) IN GENERAL.—The term 'privatized highway' means a highway that was formerly a publically operated toll road that is subject to an agreement giving a private entity—

''(aa) control over the operation of the highway; and

''(bb) ownership over the toll revenues collected from the operation of the highway.

''(II) EXCLUSION.—The term 'privatized highway' does not include any highway or toll road that was originally—

''(aa) financed and constructed using private funds; and

''(bb) operated by a private entity.

''(ii) ADJUSTMENT.—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

''(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

''(II) the percentage described in clause (iii).

''(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

''(I) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of lane miles on privatized highway lanes on National Highway System routes in a State; bears to

''(BB) the total number of all lane miles on National Highway System routes in the State; and

''(II) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of vehicle miles traveled on privatized highway lanes on National Highway System routes in the State; bears to

''(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

''(iv) REAPPORTIONMENT.—An amount withheld from apportionment to a State under clause (ii) shall be reapportioned among all other States based on the proportions calculated under subparagraph (A).

Mr. DURBIN. The Senate will vote today on the Bingaman-Durbin amendment to the Transportation bill. This amendment will help protect taxpayers when local governments sell or lease public roads and bridges.

The Federal Government provides States and local governments billions of dollars to build, maintain, and improve transportation projects across the country. Federal funding has helped build and maintain roads when local and State governments couldn't afford construction or upkeep on their own. Federal taxpayers have picked up the tab for millions of transportation projects across the country.

The Senate Transportation bill provides States with an average of $40 billion per year to help them upgrade their roads and bridges. These Federal investments have created thousands of jobs and helped our economy. But the temptation to cash in on these projects is great, particularly as States and cities are looking under every rock to find new sources of revenue. Some local governments and States are interested in selling or leasing their highways.

Private hedge funds, banks and investment groups offer States and local governments large, lump sum payments in exchange for the complete control of critical transportation assets. Local governments receive massive, upfront payments to help them fund other local priorities. The private financiers get complete control of a highway for decades—sometimes for as long as 99 years. Sometimes those private entities are able to provide responsible upkeep of the asset over the

long run. But too often, the services are reduced, prices go up, and maintenance isn't all it should be. The Federal taxpayer is left holding the bag.

Privatization deals like this set up a turn-key operation where the Federal taxpayer pays for critical infrastructure improvements, only to have local governments turn around and sell or lease this infrastructure for a one-time payment they keep themselves. All levels of governments are facing serious budget shortfalls. The Federal Government shouldn't incentivize local and State governments to make rash, short-term decisions that lease transportation projects for generations just to solve temporary budget shortfalls.

The Bingaman-Durbin amendment will ensure taxpayers are not paying States twice for highways that are sold or leased to private operators. Highway funding has historically been distributed through complex formulas that include the number of lane miles of major roads in each State and the amount of traffic on those roads.

The FHWA formulas are meant to help States pay for the maintenance and upkeep of those roads. However, when States sell or lease their highways, they are paid massive lump sums in exchange for transferring responsibility for maintenance to the private operators. But the road miles and traffic counts on the privatized highway still contribute to each State's formula funding.

The current highway formulas do not take into account how many roads are privatized in each State so the Federal Government continues to pay States for maintaining roads they have handed off to private operators. It doesn't make sense for States to be credited with and given Federal highway funding for privatized toll roads, which it no longer operates or maintains. The private operators of leased roads also get a generous tax benefit from depreciating the road as an asset.

The CBO has found this depreciation reduces Federal revenues and has a negative impact on our deficit. These deals set up a double whammy for the taxpayer—the private operator gets generous tax benefits and the State continues to receive Federal funding for roads they no longer maintain. Taxpayers are literally paying for privatized roads twice by subsidizing tax breaks for private operators who buy public roads and continuing to pay the States for upkeep on roads they are no longer responsible for.

The Bingaman-Durbin amendment will end this practice by removing factors associated with privatized roads from the formulas used to calculate a State's annual highway funding amount. Three States, including Illinois, have privatized some of their highways in exchange for a lump sum payment. In 2006, the city of Chicago leased the 7.8 mile Chicago Skyway for 99 years in exchange for a lump sum payment of $1.8 billion.

The private operator has since raised the tolls on the Skyway and has taken over sole responsibility for maintenance of the roadway. However, those 7.8 miles are still included in the formula calculations that add to a State's share of Federal highway funds. Illinois continues to receive roughly $1.2 million each year because the Chicago Skyway is still included in the Federal highway formulas. Motorists are also paying more to use the road. Under public control, the tolls for the skyway decreased by about 25 percent when adjusted for inflation between 1989 and 2004. But Chicago Skyway tolls have risen 60 percent since the road was privatized in 2005.

The Bingaman-Durbin amendment will stop paying States to maintain roads they have been paid to no longer maintain. The amendment will take those funds and distribute them to other States to help pay for the maintenance of public roads and bridges across the country.

In 2006, I requested a GAO study of highway public-private partnerships along with Senator INHOFE and Representative PETER DEFAZIO. The GAO study found ''there is no 'free' money in public-private partnerships, and it is likely that tolls on a privately operated highway will increase to a greater extent than they would on a publicly operated toll road.'' The GAO called for Congress to require more upfront analysis of these privatization deals to ensure they protect the public interest.

I introduced legislation earlier this year that would provide for a rigorous examination of privatization deals of all transportation assets—highways, airports, bridges and mass transit systems. The Protecting Taxpayers in Transportation Asset Transfers Act would ensure the Federal taxpayer has a seat at the table when State and local governments sell publicly owned transportation assets.

This amendment does not go far enough to protect the public interest in transportation privatization deals, but it does take away an unnecessary incentive for States and local governments to sell publicly funded roads and highways. This amendment will not stop States from privatizing roads, but it will stop the Federal taxpayer from paying twice for privatized roads.

The amendment is supported by AAA, the American Trucking Association, the American Highway Users Alliance, the American Federation of State, County and Municipal Employees, UPS, and the U.S. Public Interest Research Group. CBO has indicated the amendment does not score and will not increase the deficit in anyway.

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

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

The bill clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

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

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

AMENDMENT 1756

Mr. DEMINT. Mr. President, thank you for the opportunity to talk about the amendment that we call the Transportation Empowerment Act. This is actually legislation that has been worked on for over 10 years. Our ranking member, Senator INHOFE, helped to develop this legislation, and it is essentially the same as when he introduced it 10 years ago. He pointed out that he had long believed that the best decisions are those made at the local level. Unfortunately, many of the transportation choices made by cities and States are governed by Federal rules and regulations.

This bill returns to the States the responsibility and resources to make their own transportation decisions—those were Senator INHOFE's words. I think we all know, as a Nation, that we are not going to solve our spending and debt problems unless we are willing to begin to move some public services from Washington back to the States where they can be done more effectively and less expensively, and one of those public services is transportation.

I would point out that the Transportation Department at the Federal level was formed almost 60 years ago to build our Interstate Highway System and this system is essentially complete. The States maintain most of the interstate highways now with some Federal support. The problem we have now is that 18 cents out of every gallon of gasoline comes to Washington and a majority of States get back less than they send.

We have what I think could be called an infrastructure crisis in America. Roads and bridges are decaying everywhere and we are behind on our maintenance in the building of new roads, so it is obvious that what we are doing is not working. Instead of solving the problems with real reforms, the underlying bill is adding to what we are spending above the trust fund—above the 18 cents—without any real reforms to make the system work better. So I think I can conclude that the current Federal transportation finance system is broken.

Since 2007, rather than evaluate true infrastructure priorities and attempt to live within our means by eliminating special interest programs, Congress has bailed out the highway trust fund to the tune of $35 billion. With the pending reauthorization, the trust fund will require a bailout of another $13 billion.

At the end of this big-spending 2-year reauthorization, Congress will be back at the drawing board scrambling for additional budgetary gimmicks and offsets to keep this charade from imploding. If this were a traditional 6-

year highway bill, at this rate of runaway spending it would require a bailout of $39 billion from the general fund.

There is a better way. It is time to get the Washington bureaucracy and costly regulations out of the way and empower States to be the primary decisionmakers for their own local and State infrastructure. My amendment allows for States to keep their gas taxes and set their own priorities while avoiding an additional layer of Washington bureaucracy.

We should devolve the Federal highway program from Washington to the States. We can dramatically cut the Federal gas tax to a few pennies, which would be enough to fund the limited number of highway programs that serve a clear national purpose. In turn, States could adjust their own gas taxes to make their own construction and repair decisions without costly rules such as Davis-Bacon regulations and without having to funnel the money through Washington's wasteful bureaucracy and some self-serving politicians.

My amendment would free States from the wasteful and corrupt Davis-Bacon Act, which needlessly focuses or forces the government to pay labor union wages for construction projects. Davis-Bacon harms workers who choose not to join unions, and it raised the costs to taxpayers last year by nearly $11 billion.

Our Nation's fiscal situation is perilous, with a $15 trillion debt set to double to $30 trillion in the next decade. Bipartisan compromises on spending like this bill got us into this mess and we will never get out of it if we don't embrace bold commonsense reforms.

I urge my colleagues to support my amendment and empower the States by giving them the flexibility they need to maintain their infrastructures.

If I could take a second to summarize, I know some Members have stepped into this legislation that has been under development for many years. It is one that has been talked about by the States, with over half of our States what we consider donor States. If we were able to not only remove the Federal bureaucracy but also the regulations that force States to spend money in ways they don't like, the overwhelming majority of States would have a lot more money to spend on roads and bridges than they do now.

We are not talking about cutting spending on transportation. What we are talking about is actually increasing it by moving this service back to the States where it can be guided with a lot more on-the-ground knowledge of what needs to be done, without all of the political maneuvering in Washington to send money to one State versus another. This is a way to maintain our Federal priority with a small part of the gas tax and allow the States to basically keep the rest of the gas tax to serve their own needs.

If we cannot do this, I don't see any way that we are going to be able to deal with our national debt. If we can recognize there is an obvious service here that can be done better and less expensively and quicker at the State and local level and we can move that bureaucracy out of Washington, we can make the highway trust fund solvent.

If we can't do something that makes this much common sense and saves the taxpayers money and actually delivers a better service, it is difficult for me to understand how we are ever going to deal with the huge debt and spending problem we have now in Washington.

I reserve the remainder of my time.

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

The Senator from California.

Mrs. BOXER. Mr. President, I have a parliamentary inquiry: Did Senator DEMINT use his 1 minute he had before the vote?

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. BOXER. I ask to have an additional 15 seconds, since he went over by that much.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 minute of debate in opposition prior to a vote in relation to amendment No. 1756 offered by the Senator from South Carolina.

Mrs. BOXER. I am asking for that. Fine.

I think this is so critical. The DeMint amendment is the end of the Federal highway and transportation system. It is a system that has been in place since Republican President Dwight Eisenhower told us how critical it was. He said in the 1950s: The Transportation bill's impact on the American economy—the jobs it would produce in manufacturing, construction, the rural areas it would open—are beyond calculation.

Ronald Reagan said: It has enabled our commerce to thrive, our country to grow, and our people to roam freely.

Senator DEMINT is taking on two icons in the Republican Party, President Eisenhower and President Reagan.

Today, the National Association of Manufacturers said they oppose this amendment. They oppose it. It would reduce future revenues, they said.

The U.S. Chamber of Commerce said they are against it, and without this Transportation bill there is no guarantee that States would prioritize transportation investments that support national interests.

The American Road and Transportation Builders Association said they are against this amendment, and it would force your State to raise its own taxes or force cuts elsewhere to offset massive cuts in Federal highway and transit investments.

I respect my friend, but this is a disaster if it were to pass. I urge a ''no'' vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 1756.

Mrs. BOXER. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 67, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—30

Ayotte	Graham	Moran
Boozman	Grassley	Paul
Burr	Hutchison	Portman
Chambliss	Inhofe	Risch
Coats	Isakson	Roberts
Coburn	Johnson (WI)	Rubio
Corker	Kyl	Sessions
Cornyn	Lee	Toomey
Crapo	Lugar	Vitter
DeMint	McCain	Wicker

NAYS—67

Akaka	Franken	Murray
Alexander	Gillibrand	Nelson (NE)
Barrasso	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Heller	Reed
Bennet	Hoeven	Reid
Bingaman	Inouye	Rockefeller
Blumenthal	Johanns	Sanders
Blunt	Johnson (SD)	Schumer
Boxer	Kerry	Shaheen
Brown (MA)	Klobuchar	Shelby
Brown (OH)	Kohl	Snowe
Cantwell	Landrieu	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Thune
Casey	Lieberman	Udall (CO)
Cochran	Manchin	Udall (NM)
Collins	McCaskill	Warner
Conrad	McConnell	Webb
Coons	Menendez	Whitehouse
Durbin	Merkley	Wyden
Enzi	Mikulski	
Feinstein	Murkowski	

NOT VOTING—3

Hatch	Kirk	Lautenberg

The amendment (No. 1756) was rejected.

AMENDMENT NO. 1759

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1759 offered by the Senator from New Mexico, Mr. BINGAMAN.

The Senator from New Mexico.

Mr. BINGAMAN. When any of our States privatize an existing toll road, it, of course, shifts the responsibility to operate and maintain that toll road to a private entity and gets a cash payment in return.

Under existing law, these privatized toll roads continue to be included in the calculation for receipt of Federal highway funds. I do not think that makes any sense. This is a commonsense amendment to correct that. This amendment simply ensures that privatized toll roads are removed from consideration when we allocate Federal highway funds.

As I say, I think it makes a lot of sense and should apply equally to all States. I urge support for the Bingaman-Durbin amendment.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

The Senator from Oklahoma.

Mr. COBURN. Mr. President, what this amendment does is it ultimately eliminates a State's right to leverage its assets over an amortization schedule that would allow it to expand its highway system. What we are doing is we are taking money we have taken from the States, sending it up here, and saying: If you have an asset in your State—unless you are building a brandnew road—you cannot use that asset to leverage your capital to build more roads in your State. It is against the 10th amendment. It is morally wrong to take away a State's right to enhance its capital assets.

I urge a ''no'' vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 1759.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''nay.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—50

Akaka	Heller	Murray
Begich	Hoeven	Nelson (NE)
Bennet	Hutchison	Nelson (FL)
Bingaman	Inouye	Pryor
Blumenthal	Johnson (SD)	Reed
Brown (OH)	Klobuchar	Reid
Cantwell	Kohl	Rockefeller
Cardin	Landrieu	Sanders
Casey	Leahy	Schumer
Cochran	Levin	Shaheen
Conrad	Lieberman	Stabenow
Durbin	Manchin	Tester
Franken	McCaskill	Udall (CO)
Gillibrand	Menendez	Udall (NM)
Grassley	Merkley	Whitehouse
Hagan	Mikulski	Wyden
Harkin	Murkowski	

NAYS—47

Alexander	Collins	Kerry
Ayotte	Coons	Kyl
Barrasso	Corker	Lee
Baucus	Cornyn	Lugar
Blunt	Crapo	McCain
Boozman	DeMint	McConnell
Boxer	Enzi	Moran
Brown (MA)	Feinstein	Paul
Burr	Graham	Portman
Carper	Inhofe	Risch
Chambliss	Isakson	Roberts
Coats	Johanns	Rubio
Coburn	Johnson (WI)	Sessions
Shelby	Toomey	Webb
Snowe	Vitter	Wicker
Thune	Warner	

NOT VOTING—3

Hatch	Kirk	Lautenberg

The amendment (No. 1759) was agreed to.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

MOVING AHEAD FOR PROGRESS IN THE 21st CENTURY—Continued

AMENDMENT NO. 1826, AS MODIFIED

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I would like to ask support for my amendment that would approve the Keystone XL Pipeline. It would expand oil and gas exploration on Federal lands and would extend certain tax provisions that are utilized by a number of individuals and businesses throughout the country.

The base of my amendment includes most but not all of the expired energy tax incentives addressed in the amendment that will be offered by my friends on the other side of the aisle. But there is a clear difference in that my amendment addresses the supply side of the equation and avoids extending some of the costly energy provisions that were created under the failed American Recovery and Reinvestment Act of 2009; i.e., the stimulus.

While I support many of the tax provisions included in the Democrats' counterproposal, the majority amendment fails to address the No. 1 issue facing Americans of every walk of life, from farmers to manufacturers, to teachers, which is the rising cost of gasoline. My amendment does just that, and it implements the important first steps toward increasing domestic supplies of conventional energy that our country will rely on for decades to come.

My amendment would cut redtape, open more Federal land for oil and gas exploration and drilling; it would approve the Keystone XL Pipeline, while also extending renewable tax provisions that benefit domestic energy production, businesses, and individuals alike. It also restores expired individual and business tax relief provisions.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERTS. I ask unanimous consent for 1 additional minute.

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

Mr. ROBERTS. It also restores expired individual and business tax relief provisions and, most of all, it promotes economic growth.

Lastly, my amendment does all this without adding to the deficit, which, considering our more than $15 trillion debt, is something our future generations certainly can appreciate.

I thank my colleagues if they would support this very commonsense, progrowth amendment.

Mr. BENNET. Mr. President, I have come to the floor to discuss the Roberts side-by-side amendment. I support several provisions in Senator ROBERTS' amendment, but, crucially, others miss the mark.

One provision that gives me particular concern relates to the development of oil shale resources in the Rocky Mountain West. I believe we need to take a more cautious approach to oil shale development.

This type of energy development could have enormous implications for Colorado's scarce water supplies and our farming and ranching heritage.

That is why, over the years, a great diversity of voices—from the Rocky Mountain Farmers Union to the Grand Junction Daily Sentinel Editorial Board—have raised concerns over plans to accelerate oil shale development on public land. Yet this amendment would do exactly that.

Mr. President, there are other provisions in the Roberts amendment that are certainly worthy of support. I hope to work with the Senator from Kansas as we continue the discussion about where to make wise investments in our Tax Code and elsewhere.

Ms. CANTWELL. Mr. President, I wish to raise my concerns about the Roberts amendment.

This amendment is a disappointing attempt to play politics with what should be a bipartisan issue: extending the State and local sales tax deduction and other key tax policies. We need to move forward on a serious bipartisan proposal to extend the State sales tax deduction. It is a matter of tax fairness for Washington residents.

But we cannot afford to threaten Washington's coastal economy by opening the West Coast and the Arctic National Wildlife Refuge for drilling.

Therefore, I will not support the Roberts Amendment and I look forward to serious legislation to extend the State sales tax deduction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to oppose the Roberts amendment No. 1826.

My friend from Kansas and I work together in the Agriculture Committee, and I appreciate the great bipartisan work we have been able to do. But I stand to strongly oppose this amendment. I believe that when it comes to energy, we should do it all. We need more domestic production of wind, solar, electric vehicles, advanced batteries. We absolutely need to stop our addiction to foreign oil and create jobs here in America at the same time.

Unfortunately, that is not what this amendment does. It includes the

Hoeven language that we defeated earlier last week. We shouldn't be building a pipeline from Canada to China. If we build a pipeline, we should use the oil to lower gas prices for American families. It also includes dangerous requirements for drilling in the Arctic and in offshore locations without any safeguards. Worst of all, it ends tax cuts for wind and clean energy manufacturing at a time when families are paying so much at the pump. It doesn't make sense to raise taxes on the businesses that are trying to reduce our dependence on foreign oil, and it pays for all these changes by adding redtape to working families when they file their taxes, adding more burdens to middle-class families.

I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, the Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, let me concur in everything Senator STABENOW said in opposition to this amendment.

There are many reasons to oppose it, but let me add one additional reason, in that it violates the agreement we reached on the debt ceiling on the budget caps for this year and does it on the backs of our Federal workers. Once again, the Republicans are coming forward with another attack on the Federal workforce. Enough is enough. Every amendment, they are picking on the Federal workforce.

I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1826, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Utah (Mr. HATCH).

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

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—41

Alexander	Cornyn	Johnson (WI)
Ayotte	Crapo	Kyl
Barrasso	Enzi	Lugar
Begich	Graham	Manchin
Blunt	Grassley	McCain
Boozman	Heller	McCaskill
Burr	Hoeven	McConnell
Chambliss	Hutchison	Moran
Coats	Inhofe	Murkowski
Coburn	Isakson	Paul
Cochran	Johanns	Portman
Risch	Shelby	Vitter
Roberts	Thune	Wicker
Sessions	Toomey	

NAYS—57

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Bennet	Hagan	Pryor
Bingaman	Harkin	Reed
Blumenthal	Inouye	Reid
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Kerry	Rubio
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Snowe
Casey	Leahy	Stabenow
Collins	Lee	Tester
Conrad	Levin	Udall (CO)
Coons	Lieberman	Udall (NM)
Corker	Menendez	Warner
DeMint	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feinstein	Murray	Wyden

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

Mr. KYL. Mr. President, I rise to explain the reasons I voted for Roberts amendment No. 1826.

First, the amendment would increase America's energy supply by approving the Keystone XL pipeline, opening lands in the Outer Continental Shelf and the Alaska National Wildlife Refuge for drilling, and implementing a commercial leasing program for oil shale.

The amendment would also extend a number of important temporary tax provisions that expired at the end of 2011. Significantly, it would not extend a number of provisions that are unsound policy or no longer necessary.

However, the amendment did extend some provisions that I believe should be ended because they are unwarranted subsidies that distort markets. These include tax credits for energy-efficient homes, alternative fuel vehicle refueling property, biodiesel, energy-efficient appliances, and alternative fuels.

While I supported the Roberts amendment, I do not want this vote to be interpreted as support for each and every provision that was included. I hope that as the tax extenders package continues to be considered by Congress, a number of unnecessary and harmful provisions will be eliminated. Ideally, Congress will consider comprehensive tax reform that lowers rates, eliminates special subsidies, and makes sound tax policy permanent.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1812, AS MODIFIED

Ms. STABENOW. Mr. President, I ask unanimous consent to call up amendment No. 1812, as modified, and ask that the clerk report the amendment.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW] proposes an amendment numbered 1812, as modified.

The amendment is as follows:

(Purpose: To prevent a tax increase on American businesses and to provide certainty to job creators by extending certain expiring tax credits relating to energy)

At the end of division D, insert the following:

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT EXISTING HOMES.

(a) IN GENERAL.—Paragraph (2) of section 25C(g) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Subsection (f) of section 30 of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles acquired after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) EXTENSION.—Paragraph (2) of section 30C(g) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011.'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. _____. EXTENSION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (H) of section 40(b)(6) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) APPLICATION OF PARAGRAPH.—

''(i) IN GENERAL.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2014.

''(ii) NO CARRYOVER TO CERTAIN YEARS AFTER EXPIRATION.—If this paragraph ceases to apply for any period by reason of clause (i), rules similar to the rules of subsection (e)(2) shall apply.''.

(b) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Paragraph (2) of section 40(e) of the Internal Revenue Code of 1986 is amended by striking ''or subsection (b)(6)(H)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in section 15321(b) of the Heartland, Habitat, and Horticulture Act of 2008.

SEC. _____. ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF THE CELLULOSIC BIOFUEL PRODUCER CREDIT, ETC.

(a) IN GENERAL.—Subclause (I) of section 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) is derived by, or from, qualified feedstocks, and''.

(b) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR ALGAE.—Paragraph (6) of section 40(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (F), (G), and (H), as amended by this Act, as subparagraphs (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) QUALIFIED FEEDSTOCK.—For purposes of this paragraph, the term 'qualified feedstock' means—

''(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

''(ii) any cultivated algae, cyanobacteria, or lemna.

''(G) SPECIAL RULES FOR ALGAE.—In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another

person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

''(i) such sale shall be treated as described in subparagraph (C)(i),

''(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

''(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.''.

(c) ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL PLANT PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''solely to produce cellulosic biofuel'' and inserting ''solely to produce second generation biofuel (as defined in section 40(b)(6)(E))''.

(2) CONFORMING AMENDMENTS.—Subsection (l) of section 168 of such Code is amended—

(A) by striking ''cellulosic biofuel'' each place it appears in the text thereof and inserting ''second generation biofuel'',

(B) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively,

(C) by striking ''CELLULOSIC'' in the heading of such subsection and inserting ''SECOND GENERATION'', and

(D) by striking ''CELLULOSIC'' in the heading of paragraph (2) and inserting ''SECOND GENERATION''.

(d) CONFORMING AMENDMENTS.—

(1) Section 40 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended—

(A) by striking ''cellulosic biofuel'' each place it appears in the text thereof and inserting ''second generation biofuel'',

(B) by striking ''CELLULOSIC'' in the headings of subsections (b)(6), (b)(6)(E), and (d)(3)(D) and inserting ''SECOND GENERATION'', and

(C) by striking ''CELLULOSIC'' in the headings of subsections (b)(6)(C), (b)(6)(D), (b)(6)(H), (d)(6), and (e)(3) and inserting ''SECOND GENERATION''.

(2) Clause (ii) of section 40(b)(6)(E) of such Code is amended by striking ''Such term shall not'' and inserting ''The term 'second generation biofuel' shall not''.

(3) Paragraph (1) of section 4101(a) of such Code is amended by striking ''cellulosic biofuel'' and inserting ''second generation biofuel''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

(2) APPLICATION TO BONUS DEPRECIATION.—The amendments made by subsection (c) shall apply to property placed in service after the date of the enactment of this Act.

SEC. _____. EXTENSION OF INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(2) Subparagraph (B) of section 6427(e)(6) of such Code is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SEC. _____. EXTENSION OF PRODUCTION CREDIT FOR REFINED COAL.

(a) IN GENERAL.—Subparagraph (B) of section 45(d)(8) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2011.

SEC. _____. EXTENSION OF PRODUCTION CREDIT.

(a) IN GENERAL.—Section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2014'' each place it appears in paragraphs (2), (3), (4), (6), (7), (9), and (11) and inserting ''January 1, 2015''.

(b) WIND FACILITIES.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(c) INCREASED CREDIT AMOUNT FOR INDIAN COAL FACILITIES PLACED IN SERVICE BEFORE 2009.—Subparagraph (A) of section 45(e)(10) of the Internal Revenue Code of 1986 is amended by striking ''7-year period'' each place it appears and inserting ''8-year period''.

(d) CONFORMING AMENDMENTS.—Subsection (e) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(1) by striking ''January 1, 2013'' in paragraph (1) and inserting ''January 1, 2014'', and

(2) by striking ''January 1, 2014'' in paragraph (2) and inserting ''January 1, 2015''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to facilities placed in service after December 31, 2012.

(2) INDIAN COAL.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT NEW HOMES.

(a) IN GENERAL.—Subsection (g) of section 45L of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT APPLIANCES.

(a) IN GENERAL.—Section 45M(b) of the Internal Revenue Code of 1986 is amended by striking ''2011'' each place it appears other than in the provisions specified in subsection (b), and inserting ''2011 or 2012''.

(b) PROVISIONS SPECIFIED.—The provisions of section 45M(b) of the Internal Revenue Code of 1986 specified in this subsection are subparagraph (C) of paragraph (1) and subparagraph (E) of paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2011.

SEC. _____. EXTENSION OF ELECTION OF INVESTMENT TAX CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Clause (ii) of section 48(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking ''or 2013'' and inserting ''2013, or 2014''.

(b) WIND FACILITIES.—Clause (i) of section 48(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking ''Any qualified facility'' and all that follows and inserting ''Any facility which is—

''(I) a qualified facility (within the meaning of section 45) described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013, or

''(II) a qualifying offshore wind facility, if such facility is placed in service in 2012, 2013, or 2014.''.

(c) QUALIFYING OFFSHORE WIND FACILITY.—Paragraph (5) of section 48(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(E) QUALIFYING OFFSHORE WIND FACILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualifying offshore wind facility' means an offshore facility using wind to produce electricity.

''(ii) OFFSHORE FACILITY.—The term 'offshore facility' means any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States, the exclusive economic zone of the United States, and the Outer Continental Shelf of the United States. For purposes of the preceding sentence, the term 'United States' has the meaning given in section 638(1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2011.

SEC. _____. EXPANSION OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 48C(d)(1) of the Internal Revenue Code of 1986 is amended by striking ''$2,300,000,000'' and inserting ''$4,600,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. _____. EXTENSION OF SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.

(a) IN GENERAL.—Subparagraph (D) of section 168(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 168(l) of the Internal Revenue Code of 1986, as redesignated by this Act, is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) by substituting 'January 1, 2014' for 'January 1, 2013' in clause (i) thereof, and''.

SEC. _____. EXTENSION OF SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. _____. EXTENSION OF ALTERNATIVE FUELS EXCISE TAX CREDITS.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SEC. _____. EXTENSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009, as amended by section 707 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, is amended—

(1) by striking ''or 2011'' in paragraph (1) and inserting ''2011, or 2012'', and

(2) in paragraph (2)—

(A) by striking ''after 2011'' and inserting ''after 2012'', and

(B) by striking ''or 2011'' and inserting ''2011, or 2012''.

(b) CONFORMING AMENDMENT.—Subsection (j) of section 1603 of division B of such Act, as so amended, is amended by striking ''2012'' and inserting ''2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2011.

SEC. _____. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. _____. EXTENSION OF ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

Ms. STABENOW. Mr. President, I urge my colleagues to support this amendment to stop the tax increase on American businesses that are creating clean-energy jobs. Especially now when gas prices are going up and families are struggling more than ever to fill the tank, we shouldn't be raising taxes on innovators and job creators who are helping to lower America's energy bills. My amendment extends 19 different tax cuts for innovative businesses that account for 2.7 million jobs.

Let me also say that the oil industry has benefited from special tax benefits for almost 100 years. The cost of this is not offset, it is part of the Tax Code. Yet the tax cuts that will create American jobs to get us off foreign oil have been extended only a year at a time, and they have been subject to different budget rules. This makes no sense.

If we want to see ''Made in America'' again, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. RISCH. I yield back our time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''nay.''

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

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—49

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Kerry	Rockefeller
Boxer	Klobuchar	Sanders
Brown (OH)	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

NAYS—49

Alexander	Graham	Murkowski
Ayotte	Grassley	Paul
Barrasso	Heller	Portman
Blunt	Hoeven	Risch
Boozman	Hutchison	Roberts
Brown (MA)	Inhofe	Rubio
Burr	Isakson	Sessions
Chambliss	Johanns	Shelby
Coats	Johnson (WI)	Snowe
Coburn	Kyl	Thune
Cochran	Lee	Toomey
Collins	Lugar	Vitter
Corker	Manchin	Warner
Cornyn	McCain	Webb
Crapo	McCaskill	Wicker
DeMint	McConnell	
Enzi	Moran	

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER (Mr. FRANKEN). Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is not agreed to.

AMENDMENT NO. 1589

There will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1589, offered by the Senator from South Carolina Mr. DEMINT.

Mr. DEMINT. Mr. President, we have all complained about the big corporations that don't pay any taxes, only to find that many times that is because we offer some tax subsidy that allows them to get out of taxes. We have complained about subsidies for Big Oil, Big Natural Gas. We have given subsidies to companies that go out of business because we are trying to pick winners and losers. Temporary tax policy for whatever we are trying to do does not work.

This amendment eliminates the tax subsidies, the loopholes we talk about not just for Big Oil but for all of the energy tax credits. Folks, if we let the market work, we are going to have wind, we are going to have solar, but we are going to have it in a way that does not waste the money of hard-working taxpayers.

So I encourage my colleagues' support. I know a lot of my colleagues have new subsidies they are proposing, but it is no way to run a free market economy, to try to run it from this room. Let's get rid of subsidies, lower the corporate tax rate, and let our country work.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment does two things. First, it increases taxes on business men and women trying to provide some alternative energy for this country. It increases taxes on those men and women.

Second, it eases out revenue by increasing taxes on individuals and uses it to lower the corporate tax rate. That is one of the main things this does.

Third, it repeals credits and deductions on one section of our energy industry—the renewables, the alternatives—but it doesn't for conventional oil and gas.

So, No. 1, this raises taxes on individuals and uses it to lower the corporate rate; and, No. 2, it is unbalanced because it reduces credits and deductions in the alternative area but not on the conventional energy area. It is unbalanced and wrong. I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The yeas and nays resulted—yeas 26, nays 72, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—26

Ayotte	Graham	Portman
Blunt	Inhofe	Risch
Burr	Johanns	Rubio
Chambliss	Johnson (WI)	Sessions
Coats	Kyl	Shelby
Coburn	Lee	Toomey
Corker	McCain	Vitter
Crapo	McConnell	Wicker
DeMint	Paul	

NAYS—72

Akaka	Franken	Mikulski
Alexander	Gillibrand	Moran
Barrasso	Grassley	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Heller	Nelson (FL)
Bingaman	Hoeven	Pryor
Blumenthal	Hutchison	Reed
Boozman	Inouye	Reid
Boxer	Isakson	Roberts
Brown (MA)	Johnson (SD)	Rockefeller
Brown (OH)	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Shaheen
Carper	Landrieu	Snowe
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Udall (CO)
Coons	Lugar	Udall (NM)
Cornyn	Manchin	Warner
Durbin	McCaskill	Webb
Enzi	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes

for the adoption of this amendment, the amendment is rejected.

The Senator from New Jersey.

AMENDMENT NO. 1782

(Purpose: To amend the Internal Revenue Code of 1986 to modify certain tax credits relating to energy, and for other purposes)

Mr. MENENDEZ. Mr. President, I ask to set aside the pending amendment and offer Menendez-Burr amendment No. 1782, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. BURR, and Mr. REID, proposes an amendment numbered 1782.

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

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

(The amendment is printed in the RECORD of Monday, March 5, 2012, under ''Text of Amendments.'')

Mr. MENENDEZ. Mr. President, gas prices are skyrocketing. Meanwhile, natural gas is $1.50 cheaper than gasoline. We have a 100-plus-year supply of natural gas we can draw from. The only thing that is in our way is we have so few natural gas vehicles and refueling stations on the road.

The NAT GAS Act gives manufacturers and utilities the assurance that the Federal Government will help jumpstart this market, adding over 700,000 natural gas vehicles to our roads and displacing over 20 billion gallons of petroleum fuel, mostly from our bus and truck fleets. It does all this while being paid for by a surcharge on the users who will benefit from the amendment.

We know there are some industries that have concern. Instead of exporting natural gas, which we are about to do in this country, let's use it in America so we can give our drivers an option. I urge my colleagues to vote for this bipartisan amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BURR. Mr. President, I would like to be recognized.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, let me say to my colleagues, what this simply does is to take something that is happening naturally—a transition from diesel, in most cases, over to natural gas—and it accelerates it. It gives it a 5-hour energy drink. We should take this opportunity to accelerate it as fast as we can. It is paid for, as Senator MENENDEZ said.

This is essential if we want natural gas prices to stay down—increase demand. If not, we are going to shut in wells, we are going to find ways to sell it offshore.

If we want to keep historically low natural gas prices, then let's increase demand so production increases and we can take advantage of all these finds we have all over the United States of America.

Mr. CORNYN. Mr. President, today I come to the floor to express concerns about the Menendez/Burr amendment, to include the NAT GAS Act in the transportation bill.

This legislation would provide tax credits to promote natural gas vehicles and refueling infrastructure by imposing a user fee on natural gas fuel used as vehicle fuel. Although the tax credits are detailed in the legislation, it is less certain whether the imposition of a new tax applied to Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG) used for transportation will cover the costs of the subsidies.

Instead of providing more directives from Washington to the marketplace, Congress should be concerned with the overall access to energy, and the President should work to alleviate the pain caused by his policies which raise energy prices. Companies and consumers can make their own choices about what fuel to use, and what kind of car to drive. We should be out of the game of favoring one choice over another, and ensure that fuel supplies are not unnecessarily restricted.

Consumer choice should be the driver of technology in the marketplace, not securing favor in Washington. In fact today consumers can evaluate a myriad of vehicles that fit their needs, from hybrids to traditional gasoline-powered vehicles. In addition, the high cost of gasoline and lower cost of natural gas has already led General Motors and Chrysler/Dodge to announce plans to build natural gas fueled pickup trucks.

While the market is already seeing some transition toward natural gas vehicles, President Obama's policies to limit supplies of fossil fuels could cause economic pain for natural gas users in the future. President Obama's support of duplicative, unnecessary regulations at the federal level, raising taxes on producers, and restricting access to federal lands by keeping them off-limits or by slow-walking permits, will result in raising natural gas prices by reducing supply.

Unfortunately, the Obama administration continues to enact policies that harm oil and natural gas production. Consider the rising cost of gasoline and the Obama administration's failure to take concrete actions to alleviate the pain Americans are feeling at the pump. The average U.S. price of a gallon of regular gasoline has more than doubled since the week of his inauguration in January 2009, from $1.84 to $3.82.

I have great pride for my home state of Texas, and the countless producers and operators who have made Texas the leading U.S. producer of oil and natural gas, and we know that America has only just begun to tap its vast resources. Unfortunately, the Obama administration's proposed offshore oil and natural gas leasing plan for 2012 to 2017 eliminates 50 percent of lease sales provided for in the previous plan, and imposes a moratorium on developing energy from 14 billion barrels of oil and 55 trillion cubic feet of natural gas in the Atlantic and Pacific oceans.

Expanding access to federal onshore and offshore lands, and eliminating permit delays for leases, could help reduce prices and strengthen our energy security while creating jobs and boosting tax revenues. The moratorium on exploration in the Gulf of Mexico, and persistent delays for permits in shallow and deep water leases, could result in a 19 percent decrease in production in 2012 compared to 2010, according to the Energy Information Administration.

At the same time the President highlights our Nation's vast natural gas resources, his administration through the Environmental Protection Agency (EPA) is considering burdensome new regulations on which would make securing that fuel much more difficult. The U.S. Chamber of Commerce reports that the EPA alone ''is moving forward with 31 major economic rules and 172 major policy rules'' that affect our energy supply. The Chamber rightly calls this ''an unprecedented level of regulatory action.''

Given the Administration's track record with gasoline prices, it is easy to see a similar direction for natural gas prices in the future—particularly as the EPA continues to propose devastating regulations that lead to the retirement of coal-fired electricity generation and ensure greater demand for natural gas in power generation. American energy producers are also deeply worried about the EPA's proposed greenhouse gas regulations, which will serve as an energy tax on all consumers.

I know there are natural gas producers and transit authorities in my State who favor this legislation, however, instead of directing demand for a product, I believe we should concern ourselves with ensuring ample supplies of the fuels we need. We should promote access to our Nation's natural gas, and discourage duplicative regulations, and stay out of the business of manipulating demand for its use and leave that to the marketplace.

Mr. BENNET. Mr. President, I rise to express my support for the Menendez-Burr amendment, No. 1782, dealing with natural gas vehicles. We have an opportunity today to reduce our dependence on foreign oil by diversifying our vehicle fleet to run on a fuel that is not made from crude oil.

The Menendez-Burr amendment—which I cosponsor— would make smart investments designed to spur greater production of vehicles that run on natural gas. Advances in technology have unlocked new reserves of natural gas in this country. And we ought to be using this resource—which burns cleaner than any other fossil fuel—to power a greater share of our economy.

Natural gas is a domestic resource that we now have in relative abundance. Its development has driven economic growth in Colorado and across the Nation. Passage of the Menendez-Burr amendment would create even

more economic opportunities by building and retrofitting vehicles to run on natural gas.

To be sure, natural gas alone is not going to solve our problems. We need to focus on continued increases in vehicle efficiency. We have recently made great strides in that arena.

We also need to be sure we are developing natural gas in an environmentally responsible way. Colorado has been a leader on this point—with the strongest rules in the Nation—in ensuring that natural gas development protects communities and drinking water. Nationally more needs to be done to protect those living adjacent to development. I think all States should look to our rules in Colorado as a national model.

In short, this amendment will diversify our vehicle fleet, drive continued economic growth in the energy sector, and clean up our air—all while reducing our dependence on foreign oil. I urge my colleagues to support the Menendez-Burr amendment when it comes for a vote later today.

I thank the Presiding Officer.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is there debate in opposition?

If not, the question is on agreeing to amendment No. 1782.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''nay.''

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—51

Akaka	Coons	Menendez
Baucus	Durbin	Merkley
Begich	Feinstein	Mikulski
Bennet	Franken	Murray
Bingaman	Gillibrand	Nelson (FL)
Blumenthal	Hagan	Reed
Boxer	Inouye	Reid
Brown (OH)	Isakson	Rockefeller
Burr	Johnson (SD)	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Snowe
Carper	Kohl	Tester
Casey	Landrieu	Udall (CO)
Chambliss	Lautenberg	Udall (NM)
Coburn	Lieberman	Warner
Collins	Manchin	Whitehouse
Conrad	McCaskill	Wyden

NAYS—47

Alexander	Graham	Lugar
Ayotte	Grassley	McCain
Barrasso	Harkin	McConnell
Blunt	Heller	Moran
Boozman	Hoeven	Murkowski
Brown (MA)	Hutchison	Nelson (NE)
Coats	Inhofe	Paul
Cochran	Johanns	Portman
Corker	Johnson (WI)	Pryor
Cornyn	Kyl	Risch
Crapo	Leahy	Roberts
DeMint	Lee	Rubio
Enzi	Levin	Sanders
Sessions	Thune	Webb
Shelby	Toomey	Wicker
Stabenow	Vitter	

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of the amendment, the amendment is rejected.

AMENDMENT NO. 1517

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided, prior to a vote in relation to amendment No. 1517, offered by the Senator from Indiana Mr. COATS.

Mr. COATS. Mr. President, this amendment is very simple. It is a matter of equity and fairness.

The reality is that a majority of States, such as Indiana, my State, and many others do not receive their fair share of the distribution of highway funds. This bill unfairly rewards a minority of States that have collected earmarks in the past that go to establishing the historical benchmark from which the distributions are made. This amendment creates a new system by which everyone is treated equally and treated fairly.

A system of winners and losers is not the way we should go forward with distributing funds that are paid by our taxpayers for the building of roads and bridges. So let's address the current inequity in this bill and give each State its rightful share. I ask my colleagues for their support.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this is a killer amendment. Our committee voted 18 to 0 on a bipartisan bill that set out the formulas in a very fair way. What did we do? We didn't want to jolt the States in the middle of a tough economic time, so we kept that funding in place. Again, the distribution is very fair.

In contrast, we have a lot of drafting problems with my friend's amendment. The Department of Transportation says it doesn't even specify that the gas taxes will not be factored in as Federal gas taxes. It just has a flaw in it. It is also very biased because traditionally we have always distributed these funds to States based on numerous factors, need-based factors: lane miles in a State, the cost to repair or replace deficient bridges, the vehicle miles traveled.

So I would say to my friend, I appreciate the spirit with which he offers this amendment. I understand the spirit it is one that he can be proud of.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. But this, in fact, at the end of the day, ruins the bill, and I urge a ''no'' vote.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Indiana.

Mr. COATS. I urge my colleagues to take a look at getting fairness in the distribution of funds. A majority of States are not treated fairly.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1517.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—28

Alexander	Hagan	McCain
Brown (OH)	Heller	McConnell
Burr	Hutchison	Moran
Chambliss	Isakson	Paul
Coats	Johanns	Portman
Corker	Johnson (WI)	Roberts
Cornyn	Kyl	Rubio
DeMint	Lee	Stabenow
Graham	Levin	
Grassley	Lugar	

NAYS—70

Akaka	Feinstein	Pryor
Ayotte	Franken	Reed
Barrasso	Gillibrand	Reid
Baucus	Harkin	Risch
Begich	Hoeven	Rockefeller
Bennet	Inhofe	Sanders
Bingaman	Inouye	Schumer
Blumenthal	Johnson (SD)	Sessions
Blunt	Kerry	Shaheen
Boozman	Klobuchar	Shelby
Boxer	Kohl	Snowe
Brown (MA)	Landrieu	Tester
Cantwell	Lautenberg	Thune
Cardin	Leahy	Toomey
Carper	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Coburn	McCaskill	Vitter
Cochran	Menendez	Warner
Collins	Merkley	Webb
Conrad	Mikulski	Whitehouse
Coons	Murkowski	Wicker
Crapo	Murray	Wyden
Durbin	Nelson (NE)	
Enzi	Nelson (FL)	

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1517) was rejected.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Ohio.

AMENDMENT NO. 1819

Mr. BROWN of Ohio. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1819.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN], for himself and Mr. MERKLEY, proposes an amendment numbered 1819.

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

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

The amendment is as follows:

(Purpose: To close a loophole in current law which has allowed public infrastructure projects to be outsourced, to standardize the process by which the Secretary of Transportation responds to requests for waivers to applicable Buy America provisions, and to require the Secretary to report annually to Congress regarding such waivers)

On page 490, between lines 3 and 4, insert the following:

SEC. 1528. BUY AMERICA PROVISIONS.

Section 313 of title 23, United States Code, is amended by adding at the end the following:

''(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.''.

On page 900, between lines 9 and 10, insert the following:

''(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

On page 904, between lines 6 and 7, insert the following:

On page 1314, after the matter following line 18, insert the following:

SEC. 330___. BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(3) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in paragraph (1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(A) addresses the public comments received under paragraph (1); and

(B) is published before the waiver takes effect.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in paragraph (1) to determine whether continuing such waiver is necessary.

(d) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

''(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

''(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

''(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

''(3) summarizes the monetary value of contracts awarded pursuant to each such waiver.''.

On page 1449, between lines 11 and 12, insert the following:

SEC. 36210. AMTRAK.

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

''(5) The requirements under this subsection shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.''.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1819 offered by the Senator from Ohio, Mr. BROWN.

Mr. BROWN of Ohio. Madam President, our amendment requires DOT to report annually on waivers, including analysis of taxpayer dollars that are spent on foreign materials and infrastructure. It closes a loophole that currently exists that allows the project to be split into several pieces, thus evading ''Buy American'' requirements.

The San Francisco-Oakland Bay Bridge is the most outrageous example of that. The $6 billion project was divided into 20 separate construction contracts, resulting in a Chinese-owned company building a 520-foot steel tower and 28 steel bridge decks. That was not what this was meant to do.

It is modeled on language House Republicans passed. It is consistent with our international trade obligations.

I yield the remainder of my time to Senator MERKLEY, a cosponsor.

Mr. MERKLEY. Madam President, transportation projects financed by American taxpayers should, to the maximum extent possible, be built using American materials and American workers. But all too often loopholes have crept in that have resulted in American transportation projects paid for with American taxpayer money being built by Chinese firms with Chinese workers and Chinese steel. It is wrong. Please support this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time in opposition?

Mr. REID. I yield back.

The PRESIDING OFFICER. The time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1819) was agreed to.

AMENDMENT NO. 1540

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on amendment No. 1540, offered by the Senator from Missouri, Mr. BLUNT.

The Senator from Missouri is recognized.

Mr. BLUNT. Madam President, this amendment would continue the current practice in which 15 percent of the bridge money that goes to States goes to local governments. If you have talked to a county commissioner anywhere in the country about the highway bill, my guess is they mentioned continuing the current policy on sharing some of this bridge money with local governments. It doesn't increase the amount of money; what it does is continue current policy. I think every county commissioner in America would be relieved if they were going to continue to maintain their bridges.

I urge a ''yes'' vote on this amendment.

The PRESIDING OFFICER. Who will yields time in opposition?

Mrs. BOXER. We yield back.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1540) was agreed to.

AMENDMENT NO. 1814, AS MODIFIED

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I ask to call up the Merkley-Toomey amendment, as modified, that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for himself, Mr. TOOMEY, and Mr. BLUNT, proposes an amendment numbered 1814, as modified.

The amendment is as follows:

(Purpose: To provide exemptions from requirements for certain farm vehicles)

At the end of subtitle E of title I of division A, add the following:

SEC. ___. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.

(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(3) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(4) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) STATE REQUIREMENTS.—

(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(3) STATE REQUIREMENTS.—Notwithstanding section (a) or any other provision of law, a State may enact and enforce safety requirements related to covered farm vehicles.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term ''covered farm vehicle'' means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term ''covered farm vehicle'' includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement;

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

(d) SAFETY STUDY.—The Secretary shall conduct a study of the exemption required by section (a) as follows—

(1) Data and analysis of covered farm vehicles shall include:

(A) the number of vehicles that are operated subject to each of the regulatory exemptions permitted under section (a);

(B) the number of drivers that operate covered farm vehicles subject to each of the regulatory exemptions permitted under section (a);

(C) the number of crashes involving covered farm vehicles;

(D) the number of occupants and non-occupants injured in crashes involving covered farm vehicles;

(E) the number of fatalities of occupants and non-occupants killed in crashes involving farm vehicles;

(F) crash investigations and accident reconstruction investigations of all fatalities in crashes involving covered farm vehicles;

(G) overall operating mileage of covered farm vehicles;

(H) numbers of covered farm vehicles that operate in neighboring states; and

(I) any other data the Secretary deems necessary to analyze and include.

(2) A listing of state regulations issued and maintained in each state that are identical to the federal regulations that are subject to exemption in section (a).

(3) The Secretary shall report the findings of the study to the appropriate committees of the Congress not later than 18 months after enactment of MAP–21.

Mr. MERKLEY. Madam President, I first defer to my colleague across the aisle to speak to the bill.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to a vote on amendment No. 1814, offered by the Senator from Oregon.

Mr. BLUNT. I thank the Senator for yielding. I am pleased to join him on this amendment. This would allow family farmers to use their vehicles within 150 miles of their farm without having to have a commercial driver's license. It is a requirement that wouldn't make sense for those businesses. I urge its passage.

I yield to Mr. TOOMEY.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. I thank the Senator from Missouri and the Senator from Oregon for working together on this amendment.

Under current regulations, the States are essentially required to adopt rules that would force a family farmer who is driving a tractor across the street to follow the same kinds of rules and regulations that a cross-country long-haul truckdriver has to comply with in terms of hours of service and regulations and logbooks. It is a solution in search of a problem. It is costly. It is unnecessary.

I urge adoption of the amendment, and I yield back to the Senator from Oregon.

Mr. MERKLEY. I ask unanimous consent for an additional 30 seconds.

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

Mr. MERKLEY. Madam President, I ask for an additional 30 seconds.

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

Mr. MERKLEY. Madam President, this is simple common sense, that you can drive across your State, but if the place you drop off your food is across the border, you have to put it into an interstate truck to go 1 mile down the road. That makes no sense for farmers, it makes no sense for safety.

This is a sort of commonsense solution along borders, allowing farmers to get their food from the farm to the depot, be that an airplane depot, or put it on a barge, put it on a ship, be that put it in an interstate truck. It is common sense. Let's do it.

The PRESIDING OFFICER. Is there any time to be used in opposition?

If not, the question is on agreeing to the amendment.

The amendment (No. 1814, as modified) was agreed to.

AMENDMENT NO. 1617

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I ask unanimous consent to call up amendment No. 1617, the Klobuchar-Roberts Agriculture Hours of Service amendment and ask the clerk to report the amendment by number.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Minnesota [Ms. KLOBUCHAR], for herself and Mr. ROBERTS, proposes an amendment numbered 1617.

The amendment is as follows:

(Purpose: To amend the Motor Carrier Safety Improvement Act of 1999 to provide clarification regarding the applicability of exemptions relating to the transportation of agricultural commodities and farm supplies, and for other purposes)

In section 32101, add at the end the following:

(d) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

''(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to—

''(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 100 air-mile radius from the source;

''(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 100 air-mile radius from the distribution point; or

''(C) drivers transporting farm supplies for agricultural purposes in the State from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 100 air-mile radius from the wholesale distribution point.''.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided.

Ms. KLOBUCHAR. Madam President, the Klobuchar-Roberts amendment would clarify the way the Federal Motor Carriers Safety Administration currently implements and enforces an exemption to hours of service rules as they apply to the agriculture industry during spring planting and fall harvesting. Our amendment reinforces existing law and brings the exemption back to the way it was implemented from 1995 to 2009.

This is a commonsense change with broad support. It has the backing of

the American Trucking Association as well as 50 agricultural organizations which includes the American Farm Bureau Federation and the National Farmers Union.

I thank Senator ROBERTS for his leadership on this important issue, as well as Senators NELSON, MCCASKILL, JOHANNS, and LUGAR for their strong support and cosponsorship.

I ask my colleagues to vote for this amendment.

Mr. ROBERTS. Madam President, I would like to associate myself with the comments made by my colleague from Minnesota and urge my colleagues to vote in favor of Amendment No. 1617, the Klobuchar, Roberts, Ben Nelson, McCaskill, Johanns, and Lugar amendment to clarify Hours of Service—HOS—exemption for Ag transportation.

The Motor Carrier Safety Improvement Act expressly states:

> Regulations prescribed by the Secretary regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.

We believe this statute alone, not to mention clear Congressional intent demonstrated in previous sessions, clearly allows the transportation of all farm supplies from any distribution point to a local farm retailer or to the ultimate consumer—in other words, from source to retail, source to farm, and retail to farm.

Unfortunately, in 2009 the Federal Motor Carrier Safety Administration—FMCSA—began to misinterpret both the statute and Congressional intent.

Currently, FMCSA only allows for the transportation of a single farm supply—anhydrous ammonia—from any distribution point to a local farm retailer or to the ultimate consumer. While anhydrous ammonia is perhaps the most widely used farm supply to be transported under the AgHOS regulations, many other critical farm supplies have been excluded because of the agency's interpretation. This severely hinders the flexibility our farmers need during planting and harvesting seasons.

FMCSA, through several waivers granted over the past two years, has recognized the need for an exemption to their motor carrier regulations.

Therefore, our amendment will reinforce what we believe is existing law by clarifying that a driver transporting farm supplies from source to retail, source to farm, and retail to farm is included in the Ag Hours of Service exemption.

This amendment is a commonsense approach to simply clarify what is already existing law and will provide our Nation's farmers with the flexibility they need to feed an ever-growing Nation and world.

I yield the floor and, again, strongly encourage my friends to vote in favor of this commonsense amendment.

The PRESIDING OFFICER. Is there debate in opposition?

If not, the question is on agreeing to the amendment.

The amendment (No. 1617) was agreed to.

AMENDMENT NO. 1736

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote on amendment No. 1736, offered by the Senator from Ohio, Mr. PORTMAN.

Mr. PORTMAN. Madam President, I urge my colleagues to support this amendment. This is similar to an amendment we voted on earlier today. This is simply a State opt-out, giving States the discretion to be able to opt out should they choose to. The highway trust fund has been bailed out three times from the general fund to the tune of about $35 billion. This would enable us to put more money directly into roads and bridges. The highway trust fund spent about $78 billion on projects not related to that over the period 2004 to 2008.

Again, I encourage my colleagues to support this opportunity for us to get back on a fiscally sustainable path, eliminate waste, allow the States the flexibility they need to maintain our roads and bridges back home.

I urge my colleagues to support it.

I yield my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, could we have order?

First, thank you to all colleagues for your amazing cooperation. I hope we vote this down because we already did vote down a similar amendment.

This is another amendment that would devolve the Federal Aid Highway Program back to the States. In closing, let me quote from the American Road and Transportation Builders. This is what they say:

> Allowing States to opt out of the Federal highway program ignores the role of the U.S. highway network in supporting the national economy and the reliance of each State's economy on the ability to ship products efficiently across borders.

This is not good for our economy. I urge a ''no'' vote.

Mr. HARKIN. Will the Senator yield for a minute?

Mrs. BOXER. Sure.

Mr. HARKIN. I am also told this would exempt States from having to meet their obligation under the Americans With Disabilities Act to provide equal access to people with disabilities.

Mrs. BOXER. This would essentially devolve the whole program, go against what Dwight Eisenhower had in mind when he started the National Highway System.

I urge a ''no'' vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Ohio has 14 seconds. Does he wish to use them?

Mr. PORTMAN. This is simply an opt-out, it is not a mandate. It gives the States the discretion to do it. The States would be required to support the highway system. It is a different vote from the previous amendment.

I urge my colleagues to support this commonsense approach to make sure we get more money into our roads and bridges.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—30

Alexander	DeMint	McCain
Ayotte	Graham	McConnell
Boozman	Grassley	Moran
Burr	Heller	Paul
Chambliss	Isakson	Portman
Coats	Johanns	Roberts
Coburn	Johnson (WI)	Rubio
Cochran	Kyl	Toomey
Corker	Lee	Vitter
Cornyn	Lugar	Wicker

NAYS—68

Akaka	Gillibrand	Nelson (NE)
Barrasso	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Hoeven	Reed
Bennet	Hutchison	Reid
Bingaman	Inhofe	Risch
Blumenthal	Inouye	Rockefeller
Blunt	Johnson (SD)	Sanders
Boxer	Kerry	Schumer
Brown (MA)	Klobuchar	Sessions
Brown (OH)	Kohl	Shaheen
Cantwell	Landrieu	Shelby
Cardin	Lautenberg	Snowe
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Thune
Conrad	Manchin	Udall (CO)
Coons	McCaskill	Udall (NM)
Crapo	Menendez	Warner
Durbin	Merkley	Webb
Enzi	Mikulski	Whitehouse
Feinstein	Murkowski	Wyden
Franken	Murray	

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1736) was rejected.

AMENDMENT NO. 1785, AS MODIFIED

The PRESIDING OFFICER. There is now 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1785, as modified, offered by the Senator from Tennessee, Mr. CORKER.

The Senator from Tennessee.

Mr. CORKER. Madam President, the whole Nation watched last August as

our Nation almost shut down over a debt ceiling vote and a very good law was put in place. Senator REID has called it stronger than any budget resolution we have ever had. We agreed during that vote that what we would do is raise the debt ceiling but lower discretionary caps over the next 10 years in order to lower the deficit. We had language regarding a budget resolution. Unfortunately, last week we overrode that, but the fact is this bill violates the Budget Control Act we put in place just last August, 7 months ago. For this bill to be truly budget neutral, as was outlined in the spirit of this bill as it was——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORKER. We have to offset discretionary spending by $11 billion.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, this amendment would lower the nondefense discretionary cap established by the Budget Control Act by $11 billion to offset transfers from the general fund necessary to replenish the highway trust fund. This amendment is in clear violation of the Budget Control Act we just agreed to 6 months ago. In the simplest terms, the amendment would impose a 2-percent cut to nondefense discretionary spending in order to pay for a shortfall in mandatory spending. I would suggest if you want an offset for mandatory spending, find a mandatory offset.

However, the pending amendment deals with matters within the Budget Committee's jurisdiction; therefore, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. This is the amendment, as modified; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The amendment (No. 1785), as modified, is as follows:

At the end of division D, add the following:

SEC. ___. DISCRETIONARY SPENDING CAP ADJUSTMENT FOR FISCAL YEAR 2013.

Paragraph (2)(A)(ii) of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) is amended by striking ''$501,000,000,000'' and inserting ''$490,000,000,000''.

Mr. CORKER. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974 and 4G3 of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The yeas and nays resulted—yeas 40, nays 58, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—40

Alexander	Graham	Murkowski
Ayotte	Grassley	Paul
Barrasso	Hoeven	Portman
Blunt	Hutchison	Risch
Boozman	Inhofe	Roberts
Burr	Isakson	Rubio
Chambliss	Johanns	Sessions
Coats	Johnson (WI)	Shelby
Coburn	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	McCain	Wicker
DeMint	McConnell	
Enzi	Moran	

NAYS—58

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Heller	Reed
Bingaman	Inouye	Reid
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Kerry	Sanders
Brown (MA)	Klobuchar	Schumer
Brown (OH)	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Cochran	Lieberman	Udall (NM)
Collins	Manchin	Warner
Conrad	McCaskill	Webb
Coons	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment fails.

Who yields time?

The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that Shaheen amendment No. 1678 be considered following Paul amendment No. 1556.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1742

There is now 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1742, offered by the Senator from Ohio, Mr. PORTMAN.

The Senator from Ohio.

Mr. PORTMAN. Mr. President, this amendment is about States being able to control what happens at their rest areas. It is a very important amendment. It is supported by a number of different groups: the National Governors Association, the American Association of State Highway and Transportation Officials, Citizens Against Government Waste, a lot of private sector entities, as well as other organizations.

It goes to a mandate that was put in place back in 1956 that is a typical one-size-fits-all Federal mandate—unfunded—that does not allow States the flexibility to decide what they do at their rest areas. This amendment would lift that mandate from 1956. Incidentally, 26 of us represent States that already allow some commercial activity at rest areas because those rest areas were grandfathered in before the 1956 mandate.

It makes a lot of sense, and it will save States hundreds of millions of dollars a year. It takes that money and provides for the needs of the State in the transportation areas, including putting more money into roads and bridges.

This amendment does not direct or mandate States to do anything. They do not have to commercialize a single rest area. They do not have to change the way they are doing anything, but they would have the opportunity to do so. It gives States the much needed flexibility they want.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, I hope we will oppose this amendment. It is very controversial. It is opposed by a very broad and diverse group of business and labor organizations.

It would overturn a 60-year prohibition on allowing commercial services at interstate rest areas. The ban was enacted because Congress recognized the importance of supporting businesses and commercial activity along interstates. That decision has resulted in the development of 97,000 businesses that employ over 2 million Americans who provide services to travelers on our Nation's highways.

This amendment would allow commercial activities at existing interstate rest areas, which would lead to devastating losses to those businesses that are located near interstate interchanges.

So I urge my colleagues to oppose this amendment and support the small businesses that exist across our country near highway exits. So I urge a ''no'' vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''nay.''

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

The result was announced—yeas 12, nays 86, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—12

Ayotte	Crapo	Murkowski
Carper	Kyl	Portman
Coats	Lieberman	Risch
Coons	McCain	Toomey

NAYS—86

Akaka	Gillibrand	Moran
Alexander	Graham	Murray
Barrasso	Grassley	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Paul
Bennet	Heller	Pryor
Bingaman	Hoeven	Reed
Blumenthal	Hutchison	Reid
Blunt	Inhofe	Roberts
Boozman	Inouye	Rockefeller
Boxer	Isakson	Rubio
Brown (MA)	Johanns	Sanders
Brown (OH)	Johnson (SD)	Schumer
Burr	Johnson (WI)	Sessions
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Landrieu	Stabenow
Coburn	Lautenberg	Tester
Cochran	Leahy	Thune
Collins	Lee	Udall (CO)
Conrad	Levin	Udall (NM)
Corker	Lugar	Vitter
Cornyn	Manchin	Warner
DeMint	McCaskill	Webb
Durbin	McConnell	Whitehouse
Enzi	Menendez	Wicker
Feinstein	Merkley	Wyden
Franken	Mikulski	

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1742) was rejected.

AMENDMENT NO. 1830

Mrs. BOXER. Mr. President, I send a managers' package to the desk which has been approved by both managers and both leaders. Under the provisions of the previous order, I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mrs. BOXER. Mr. President, I understand that Senator SHAHEEN no longer intends to offer her amendment, so we can strike that from the list.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the Republican leader and I have had discussions this afternoon, but I think it is fair to say he and I both believe we should finish this bill tomorrow. There is a very important event tonight—it may not mean much to anyone outside the Senate family, but it is to us, being able to recognize SUSAN COLLINS on a very special occasion in her life—and we are going to leave here so people who want to go to that event can do so.

We will come in tomorrow, and we will have about three or four votes to complete. We are having some other conversations, Senator MCCONNELL and I, about other matters, and we will discuss that later. There will be no more votes tonight.

The PRESIDING OFFICER. For the information of the Senate, the managers' package just agreed to is amendment No. 1830, offered by Senator BOXER.

The Senator from California.

Mrs. BOXER. Mr. President, I just wanted to go on record tonight as saying we have made just incredible progress on this bill, and I look forward to tomorrow, where we will complete work on it. I think we are showing bipartisan spirit here and bipartisan cooperation. It is important to note that 2.8 million jobs hang in the balance.

So we will see everyone tomorrow. I feel very good we are going to pass our bill, and with that I suggest the absence of a quorum—I withdraw that.

The PRESIDING OFFICER. The Senator from Louisiana.

VISIT TO THE SENATE BY JEAN-PIERRE BEL, PRESIDENT OF THE FRENCH SENATE

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the president of France's senate be permitted to join us on the floor for a few minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, with that, I would say au revoir, and I will see everybody in the morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 5:36 p.m., recessed subject to the call of the Chair and reassembled at 5:49 p.m., when called to order by the Presiding Officer (Mr. CASEY).

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY—Continued

CHANGE OF VOTE

Ms. AYOTTE. Mr. President, on rollcall vote 28, I voted aye. It was my intention to vote nay; therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I also ask unanimous consent that I can speak in morning business for 20 minutes.

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

JUDICIAL NOMINATIONS

Mr. GRASSLEY. Mr. President, I want to talk about judicial nominations. I come to the floor many days to talk about judicial nominations. Most of my remarks at those times as well as this time are to respond to some of the claims made by my colleagues from the other side of the aisle. If you listened to some of my colleagues over the last couple of days, you would think the sky is falling on the issue of judicial nominees. They act as if the Senate is treating President Obama's judicial nominees differently than nominees have been treated in the past. This is simply not true.

A fair and impartial look at the numbers tells a far different story. The fact of the matter is that President Obama's nominees are being treated just as well, and in many cases much more fairly, than the Democrats treated President Bush's nominees. I want to take a few minutes to set the record straight.

Let me start by taking a brief look at 17 cloture motions that the majority has filed. Seven of those nominees were reported out of the Judiciary Committee within the last month and three of them were reported just last week. That is without precedent. To our knowledge the majority, Republican or Democrat, has never filed cloture on district court nominees within a month of them being reported out of the Judiciary Committee. That accounts for 7 of the 17.

What about the other 10 nominees? What our colleagues fail to mention is that they could have gotten a majority of those nominees confirmed at the end of the last session, just before recessing at Christmastime. Our side cleared quite a few nominees and we offered to confirm them as a package the end of last session. However, the President refused to offer assurances that he would not bypass the Senate and make so-called recess appointments.

I made a mistake when I said when the Senate adjourned just prior to Christmas, or recessed just prior to the session. We did neither. We stayed in session during the period of time from December 18 until January 24. In other words, the President was not in a position to make recess appointments because we were not in recess.

And of course, the President does not have the power, under our Constitution, to determine whether or not the

Senate is in session. Only the Senate can make a determination of when we adjourn. The President of the United States cannot do that. But he presumed that he could and he went ahead and made what he called ''recess appointments.'' So he shredded the Constitution once again.

In regard to what we are talking about here, it was the President who chose not to confirm those nominees at the end of last session because he refused to give us assurances that he would not make recess appointments. The bottom line is this, if the President believes we should have confirmed more nominees last fall, he should look to his own administration for that explanation.

That is the background of the 17 cloture motions before the Senate. Let me comment on something I read in one of our daily newspapers that covers the Congress. A famous reporter said, in the second paragraph of a report I read today, that the Republicans are filibustering nominations. I told the writer of that article that you can't filibuster anything that is not before the Senate and these nominees were not before the Senate until the leader of the majority filed these cloture motions.

Wouldn't you think, if you believed you needed to stop debate, that you would at least let debate start in the first place? But no. The game that is played around here is that, in order to build up the numbers, you claim the minority is filibustering, when in fact they are not filibustering.

I wish to take a step back and address some of the claims I've heard from the other side. I cannot believe some of the comments I am hearing, so I believe it is important to set the record straight. First of all, everyone around here understands that it takes a tremendous amount of time and resources for the Senate to consider Supreme Court nominees. For that reason, when a Supreme Court nomination is pending before the Senate, the Judiciary Committee considers little else. During President Obama's first 3 years in office, the Senate considered not one but two nominations to the Supreme Court. Those nominations occupied the Judiciary Committee for approximately 6 months. The last time the Senate handled two Supreme Court nominations was during President George W. Bush's second term. During President Bush's entire second term we confirmed only 120 lower court nominees. Under President Obama, as you can see from the chart we have here, we have already confirmed 129 lower court nominees. I think that is a pretty explicit picture of how the other side's arguments do not hold water.

For repetitive purposes, but to drive a point home, we have confirmed 129 of President Obama's judicial nominees in just over 3 years. That is more than were confirmed under George W. Bush's entire second term of 4 years. Again, the comparison between President Obama's first 3 years to President George W. Bush's second term of 4 years is the appropriate comparison. These were the only two time periods in recent memory when the Senate handled two Supreme Court nominations during such a short period of time—obviously consuming a great deal of time of the Senate Judiciary Committee.

Even if you compared the number of President Obama's nominees confirmed to President Bush's first term, it is clear that President Obama has fared very well. More specifically, even though the Senate did not consider any Supreme Court nomination during President Bush's first term, we have confirmed approximately the same number of President Obama's lower court nominees as we did President Bush's, relative to the nominations President Obama has made.

In other words, although fewer lower court nominees have been confirmed under President Obama, the President made approximately 20 percent fewer judicial nominations during his first 3 years than President Bush did during his first term of 4 years. I think it is pretty simple, isn't it? You cannot complain that we have not confirmed enough judges, if they have not been sent up here in the first place.

As a practical matter, if the President believes he has not gotten enough confirmations, then he should look no farther than the pace at which he has been making nominations. Maybe he should have spent less time on the 100 or so fundraisers he has been holding all over the country recently and more time making judicial nominations. Or, at least he should have his political party in the Senate give us a little leniency, and quit complaining about nominations not being approved. The fact of the matter is this: If a backlog exists, then it is clear that it originates with the President. The Senate cannot confirm anybody the President has not sent up here in the first place.

If you need even more evidence that the President has been slow to send judicial nominees to the Senate, all you need to do is examine the current vacancies. My colleagues have been on the floor talking about the so-called vacancy crisis. What my colleagues fail to mention is that the White House has not even made nominations for over half of the vacancies. To be specific, of the 83 current vacancies, the White House has not submitted nominations for 44 of those vacancies. Once again, the Senate cannot confirm anybody who is not sent up here. How can my friends on the other side of the aisle complain about a vacancy crisis when the President has not sent up a nominee for over half of the vacancies?

As a result, it is clear if there is a vacancy crisis, once again the problem rests with the White House. If the President believes there are too many vacancies in the Federal courts, he should look no further than his own administration for an answer.

What about the other side's claim that nominees are waiting longer to get confirmed than they have in the past? Once again, this is not true. The average time from nomination to confirmation of judges during the Obama administration is nearly identical to what it was under President Bush. During President Bush's Presidency, it took on average approximately 211 days for judicial nominees to be confirmed. You can see from the chart that, during the first 3 years of President Obama's Presidency, it has taken 218 days for his judicial nominees to be confirmed. I am sure this will be news to many of my colleagues. If you had listened to the other side you would think that we have somehow broken new ground. We have not, obviously. We are treating President Obama's nominees virtually the same as President Bush's nominees.

It is not our primary concern to worry about whether one President is being treated differently than the other. We just proceed with our work. But the numbers you see here are the result of our work. And the fact of the matter is that the numbers are not much different than for other Presidents. To suggest we are treating President Obama's nominees a whole lot differently is intellectually dishonest. The fact of the matter is that the Senate has been working its will and regularly processing the President's judicial nominees in much the same way it has in the past.

Given that the President's nominees have received such fair treatment, why would the majority leader then choose to take the unprecedented step of filing 17 cloture motions on district court nominees? Why would the majority leader choose to manufacture controversy that does not exist—because there is no doubt in my caucus, even if there are a few votes against some of these nominees, there is very little doubt that most if not all of these 17 nominees are going to be approved by the Senate. These votes are a stunt. They are a smokescreen. They are designed to accomplish two goals. First, as even Democrats concede, the President cannot run for reelection on his own record so these votes are designed to help the President's reelection strategy by somehow portraying Republicans as obstructionists. But how can you obstruct when there are 83 vacancies, and the White House has failed to nominate someone for over half of those slots? How can you be considered as obstructionist when these judges will be approved just as we have already approved seven?

Second, the other side simply does not want to talk about the extremely important things and very real problems facing this Nation. Look at any poll, go to any town meeting, and what people in this country and my State of Iowa are concerned about is the economy and jobs. With 8.3 percent unemployment, why wouldn't they be expecting us to work on jobs? There is a small business tax bill that passed the other body. How come we are not

taking that up? It is ready to take up. It would probably pass here without much dissent.

Why aren't we taking up a budget this year? It has been 4 years without taking up a budget. This is budget week for most years in the Senate. We are spending more time on deciding judicial nominees who are not going to be filibustered to stop a filibuster that doesn't even exist when we ought to be taking up and spending about the same amount of time on a budget, but no budget for 1,040-some days.

The American people are sitting at home listening to the debate. They want to know how we are going to get the unemployment rate down. They are not concerned about whether the Senate will confirm one of the President's district court nominees this week rather than next week. They are not concerned about this debate we are going to have over the next couple of days. They want to know what we are doing to help their father, mother, brother, and sister get back into the workforce. Given the millions of Americans who remain out of work, why aren't we considering and debating the jobs bill the House just passed?

Why aren't we tackling the energy crisis? With $4 gas in this country, we ought to be talking about drilling here and drilling now. We ought to be talking about building a pipeline. We ought to be talking about, how can we stop sending $833 million every day overseas to buy oil? We ought to be talking about extending the energy tax extenders that have sunset as of December 23.

Unlike the so-called vacancy crisis, the energy crisis is not manufactured. It is real. The rising cost of gasoline matters to millions and millions of Americans. If they are fortunate enough to have a job in this economy, millions of Americans are trying to figure out how they can afford to get to work with the rising cost of gasoline. Rather than spend time working on the energy crisis, which is all too real for millions of Americans, we are spending time on this manufactured controversy of somehow a vacancy crisis, somehow a filibuster against judges. And not one of these judges has had one speech given on the floor of this Senate against them, and probably won't.

What is even worse, this is the week we are supposed to be debating a budget, but you'd need a high-powered microscope to find any budget the majority has put together. The majority has failed to produce a budget, so they manufactured a so-called crisis on nominations to throw up a smokescreen to hide their failure.

I will have more to say on this subject when we move forward on this debate, but for now I conclude that a fair and impartial examination of how the Senate has treated President Obama's nominees reveals that, contrary to what you hear from the other side, the President's nominees are being treated more fairly. Rather than waste time on the so-called crisis that everyone realizes is entirely manufactured, we should be focusing on those issues that matter deeply to the American people. And according to what I hear at my town meetings, what I hear and read in the papers about what polls show, what candidates for Presidents are talking about—even the President of the United States—is about jobs, about the economy, and tackling our energy crisis.

I urge my colleagues to reject these cloture petitions that have no legitimacy for existing in the first place so we can get back to the business of the American people—the economy and jobs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is not in morning business.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

Mr. BROWN of Ohio. Mr. President, I wish to thank my colleagues today for supporting an amendment by voice vote showing overwhelming support to the Transportation bill that improves ''Buy American'' provisions by making the waiver process more transparent, giving U.S. manufacturers fair and clear notice when a waiver is sought. It tells the Department of Transportation to report annually on waivers, analyzing what taxpayer dollars are spent on foreign materials and infrastructure projects. While some Members of the Senate may oppose it, it passed in a voice vote, so, in some sense, unanimous almost. But while some Members may oppose it, I hardly ever met anybody in the American public who thinks taxpayer dollars should not go for any infrastructure projects. That is the way you want to do it, and this legislation will move us closer to it. The San Francisco-Oakland Bay Bridge was the most outrageous example, where much of that steel was made in China when U.S. steelworkers weren't all back at work the way they should be.

I thank Senator BOXER and Senator DURBIN. I thank Senator GRAHAM from South Carolina and Senator MERKLEY for their help on this legislation.

Today President Obama signed into law a trade enforcement measure that last week passed this Chamber by unanimous consent. It is bipartisan legislation—which I cosponsored with Senators BAUCUS and THUNE, primarily—which gives the Commerce Department authority to impose what are called countervailing duties on imports from countries that are nonmarket economies, and that means countries with sort of command-and-control economies, such as the People's Republic of China.

Last year the Federal appeals court issued a ruling that hamstrings our Nation's ability to fight back against illegal Chinese trade practices. Here is why Congress passing this bill is so important. We know China doesn't play by the rules, from direct export subsidies, to currency manipulation, to providing below-market loans to exporters. China does things our country doesn't and many other countries don't. It gives its exporters an unfair advantage.

American industries fight back by petitioning the Commerce Department to investigate these subsidies. Sixteen Ohio companies have petitioned for this relief, including steel pipe companies in Youngstown, paper companies in Miamisburg, aluminum companies in Sidney, and tire manufacturers in Bryan, which is in northwest Ohio near the Indiana-Michigan border. These are good companies. They are not looking for handouts or an unfair edge; they want a level playing field. This legislation does this. When countries such as China don't play by the rules, they suffer. This helps to fix that.

Also today, President Obama announced that his administration would pursue a case at the World Trade Organization against China's hoarding of rare earth materials. Rare earth hoarding is one of the many illegal trade practices China employs to tilt the playing field in its favor. U.S. Manufacturers rely—as they do around the world—on rare earth materials for the production of a number of products, including wind turbines and electronics.

China currently accounts for 97 percent of the world's materials. They impose quotas and heavy tariffs on their export, putting American manufacturers at a severe disadvantage. This almost forces companies to go to China to do the manufacturing because of subsidies the Chinese give to themselves, their own companies, and because of the tariffs they can extract from these companies for export, these raw-material makers for export, our companies are at a severe disadvantage.

Today the administration said that enough is enough. One Ohio CEO told me when I visited his company in northeast Ohio:

> As an Ohio-based manufacturing company with roughly 80 percent of our sales outside of the United States, GrafTech has a keen interest in protecting our ability to compete aggressively in the global marketplace. Obtaining key raw materials at a reasonable cost is critical to our mission.

They are not asking for handouts; they are not asking for subsidies; they are just asking others to quit cheating.

Senator PORTMAN and I have repeatedly urged the Obama administration to take this case. Senator PORTMAN, who was a former Bush Trade Representative, who almost always is on the other side of major trade issues from where I am—we came together on this, as we have on other trade issues that matter for our country.

In 2001 the United States had an $83 billion trade deficit with China. Ten years later, last year, there was a $295 billion trade deficit with China. President Bush once said that $1 billion in

trade surplus or trade deficit translates to 13,000 jobs. So if our trade deficit grew from $83 billion to $295 billion just with that one country, think of what it does to manufacturing in Springfield and Akron and Cleveland and what it means to a State such as Colorado, what it means to any States that make things in this country. Jobs are at stake, and addressing our trade imbalance with China is essential. To do that, we must make China play fair with the United States.

Not too long ago, the Senate passed the largest bipartisan jobs bill. In 2011 we passed my legislation on currency. The bill would curtail China's ability to illegally manipulate its currency so they could flood our markets with cheap goods, undermining our workers and making it much more difficult for our companies to sell there. After years of China gaining the benefits of WTL membership without adhering to the rules, it is time for the House of Representatives to again pass—as they did when Speaker PELOSI was Speaker—they passed it with an overwhelmingly bipartisan vote. It is time for Speaker BOEHNER to bring up that legislation so we can vote for it. It will mean more companies around my State and around the country will be able to manufacture, will be able to be competitive, will be able to export, will be able to play in the global economy in a fair and balanced way.

Mr. KYL. Mr. President, I rise today in opposition to the Baucus amendment No. 1825. Although I wholeheartedly support full funding for the Payment in Lieu of Taxes, PILT, Program, I have to oppose this amendment because it also includes a reauthorization for what is known as the Secure Rural Schools, SES Program. The SES Program was created in 2000 as a 5-year temporary funding measure to assist rural communities suffering from the loss of timber sale revenue caused by policies that decimated the timber industry in the 1990s. Because it has operated for more than a decade, communities have now come to rely on it, turning it into a ''would-be'' entitlement program. Though, the program expired last year, and, as painful as it is, we must let it sunset for good. The Federal Government can ill afford to continue to forever finance what was supposed to be a short-term safety net.

I support extending full funding of PILT payments. These payments to local governments help offset losses in property taxes due to nontaxable Federal lands within their boundaries. I recognize that the inability of local governments to collect property taxes on federally owned land can create a negative financial impact, particularly in States like mine that are dominated by Federal land. In Arizona, more than 85 percent of the State is under Federal control. PILT payments are one of the ways the Federal Government can fulfill its role of being a good neighbor to local communities. Had this amendment been limited to full funding for PILT, I would have voted in favor of the amendment.

Ms. KLOBUCHAR. Mr. President, I rise today to speak on the Keystone XL Pipeline project.

I support moving forward with the Keystone Pipeline. TransCanada needs to resubmit an application with a route that resolves Nebraska's local concerns before we make the decision to approve this project. The company has said they will submit the application soon. I have voted to expedite the approval process, and once the new application that resolves the Nebraska issues is submitted, the approval should be granted.

UNITED STATES RECOGNITION OF CROATIA

Mr. BEGICH. Mr. President, thank you for giving me the opportunity to commemorate the 20th anniversary of the recognition of Croatia by the United States. On April 7, 1992, the United States recognized the Republic of Croatia, setting the stage for our two nations to build lasting U.S.–Republic of Croatia bilateral relations.

Today, we remember all of the people who are responsible for creating a democratic and free Croatian state and celebrate the enormous achievements since independence.

Twenty years ago, the people of Croatia had the willpower and endurance to fight for a democratic nation. Filled with the hopes and dreams of a prosperous, new sovereign state, the struggle was not an easy one. Independence never comes easily. Each country can attest in their own history to the enormous sacrifices and the period of unstable, unclear direction their nation was headed. However, we must not forget those who persisted with their self-determination dreams. We can now look back with immense pride in the founding of a country that has accomplished so much in so little time.

After years of war and occupation, Croatia has made remarkable political progress since the end of the war more than 15 years ago. Croatia is a welcomed member of NATO and will soon become the 28th member of the European Union, EU. At the end of 2011, Croatia completed the negotiation process of EU accession, another milestone accomplished. Both of these landmarks came with enormous challenge, and I salute your achievement. There will be challenges on the road to this new future as there have been in the past, but I am confidant Croatia will face and overcome them.

Croatia is in a position to play a positive and leading role in assisting countries in the region in their efforts at Euro-Atlantic integration. With the ambitious goal in mind of implementing objectives, which are in line with the highest standards of good governance and partnership, I am optimistic Croatia will lend her expertise to her neighbors. Joining the EU and NATO, with their shared values of democracy, human rights, and rule of law, is perhaps the best way to ensure security and prosperity in the region.

I use this opportunity to state how proud I am of my heritage. As the only Member of the Senate of Croatian decent, I am deeply honored to commemorate and celebrate the remarkable successes of Croatia. I am equally grateful to be witnessing such a pivotal moment in the many advances of our two nations and to highlight the extraordinary cooperation between the United States and Croatia. Our relationship is one to be admired.

Fifteen years ago, Croatia was a security consumer, with United Nations peacekeeping troops deployed throughout the country. It is now a security provider, with 481 troops deployed across the globe, including in Kosovo, the Golan Heights, Afghanistan, Western Sahara, India-Pakistan, Haiti, Lebanon, East Timor, and in counterpiracy operations in the Gulf of Aden. They even had staff officers assigned to NATO operations in Libya, a major accomplishment as we have seen history unfold in Libya just this past year. Croatia contributed to our efforts, and together, we have accomplished much.

Croatia's troop commitment in Afghanistan—350 is one of the highest per capita contributions in the International Security and Assistance Force there. Croatia has taken the lead in establishing a military police training center in Afghanistan, to which other members in the region also contribute trainers. This cooperation alone, in far away Afghanistan, involving countries that not long ago were embroiled in a vicious war, brings a certain stability to the region of the former Yugoslavia and creates a unique opportunity. In our joint efforts to combat global terrorism, the United States and Croatia have important tasks left ahead.

We are continuously working with Croatia today to create a great, lasting partnership. Cooperating with our southeastern ally has proved to be positive, with enormous payoffs for both countries. Together, our nations continue to work on all issues, including security, trade, business, development, and diplomacy.

I want to reiterate my highest commemoration of Croatia's accomplishments in recent years of our history and express my sincerest appreciation for Croatia's determination in achieving the highest standard of diplomacy with our Nation. It is my hope to see even more increase in our exchanges, dialog, and joint bipartisan efforts between our two countries, with many more opportunities for cooperation in the future.

RECOGNIZING THE 100TH ANNIVERSARY OF THE GIRL SCOUTS OF THE USA

Mr. LEVIN. A century ago, Juliette Gordon Low proclaimed, ''I've got something for the girls of Savannah, and all of America, and all the world, and we're going to start it tonight!'' This was the phone call to her cousin that started it all. Ms. Low believed in the power and spirit of young women and was determined to make a difference. And Ms. Low's dream of creating an organization to develop young

woman for pursuits out of the house began with a simple call.

A century later in Congress and across our Nation we celebrate this wonderful organization that has built a significant and undeniable legacy of empowerment. The Girl Scouts of the USA is one of the largest educational organizations for girls in the world and seeks to foster self-reliance and resourcefulness through outdoors activities and volunteerism. The leadership skills and sense of civic awareness nurtured through an array of Girl Scouting activities has touched many lives, helping to mold strong, confident women.

I am a proud cosponsor of S. Res. 310 that designates 2012 as the ''Year of the Girl'' and congratulates the Girl Scouts of the USA on its 100th anniversary. In addition, I supported legislation authorizing the minting of a commemorative silver dollar coin in 2013 recognizing this centennial celebration. These honors are richly deserved and a fitting tribute to the Girl Scouts. In Michigan, where more than 53,000 active Girl Scouts reside, there are a number of celebrations planned.

Since its inception, more than 50 million women have taken part in Girl Scout activities. These young women have made a difference in the lives of others and in communities across the nation. From a group of 18 in 1912 to an organization of 3.7 million today, the Girl Scouts has consistently sought to shape the lives of young women through fun and diverse scouting activities. The Girls Scouts of the USA has stayed true to its mission to ''build girls of courage, confidence, and character, who make the world a better place.'' And we don't have to look very far to see results. Impressively, near 60 percent of women in the U.S. Senate and the U.S. House of Representatives are former Girl Scouts. Indeed, successful women from all walks of life can surely point to their Girl Scout experience as a valuable part of their formative years.

As we celebrate the 100th anniversary of the Girl Scouts of the USA, I am delighted to offer my sincerest gratitude for the difference the Girl Scouts has made in the lives of young women. From their humble beginnings in Savannah, GA, to the impressive service organization we honor today, the Girl Scouts has had a positive impact on our nation. I look forward to the next 100 years of this remarkable organization and its members.

TRIBUTE TO BISHOP TIMOTHY CLARKE

Mr. PORTMAN. Mr. President, today I wish to honor Bishop Timothy Clarke of Columbus, OH for his 30 years of dedicated leadership and service to First Church of God. This past Sunday, March 11, 2012, marked both Bishop Clarke's 30th year as Pastor and First Church of God's 75th Anniversary.

Bishop Clarke began his work in January 1974, serving as Associate Minister at First Church of God in his hometown of Far Rockaway, NY. In November 1977, Bishop Clarke began his pastorate at York Avenue Church of God in Warren, OH, where he served for 4 years.

In February, 1982, he became the Senior Pastorate of First Church of God in Columbus, OH. He was later consecrated to the office of Bishop in September 2001.

Bishop Clarke is a respected community leader in central Ohio and is the recipient of many honors and degrees for his service. He has served on the boards of various community organizations, and he has authored seven books.

Having worshipped with him and his congregation, I can attest to his significant impact on the community, and I am honored to call him a friend.

Mr. President, I would like to recognize Bishop Clarke for his dedicated service as he and his congregation celebrate this joyous occasion of his 30th year as Pastor and the First Church of God's 75th anniversary.

ADDITIONAL STATEMENTS

RECOGNIZING ARKANSAS CHILDREN'S HOSPITAL

• Mr. BOOZMAN. Mr. President, in 1912, the Arkansas Children's Home Society provided a safe haven for orphaned, neglected and abused children and opened the door to what is known today as the Arkansas Children's Hospital.

Children's welfare has always been the focus but over the decades, its approach evolved. What first started as an orphanage transformed into a hospital with the mission to help children most in need.

The facility has grown and thrived. The vision of the early hospital administrators has been realized and the dreams continue to get even bigger.

Today the Arkansas Children's Hospital is a destination for children from all over the country to receive the best medical care available. Just as important, it is a place that Arkansas children can go, in State and close to home, for treatment for their illnesses.

This is a state of the art facility that is using the newest technology and developing cutting edge treatments and cures for diseases affecting children. The scientists and doctors are advancing the world of medicine to help children lead a healthy and happy life.

Arkansas Children's Hospital consistently ranks as one of the leading employers in Arkansas. It is the only pediatric Level I trauma center in the State, and it is the sixth largest in the United States. Thousands of Americans have experienced the renowned care offered by the staff and facilities at ACH—many owe their lives to these world-class doctors and nurses that work here.

This hospital is something the people of Arkansas can be proud of, both its history and its vision for the future. I wish to congratulate Dr. Jonathan Bates, president and CEO, as well as the administration, physicians, residents, and support staff on the 100th anniversary of Arkansas Children's Hospital and I hope for its continued success for another 100 years.•

REMEMBERING CASEY RIBICOFF

• Mr. LIEBERMAN. Mr. President, last year we were all saddened to learn of the passing of Casey Ribicoff, a remarkable woman and the wife of former Connecticut Senator Abe Ribicoff. In honor of Mrs. Ribicoff, I would like to have printed in the RECORD the moving tributes that were given at her funeral by some of those who knew her best.

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

SENATOR CHRIS DODD—CASEY RIBICOFF EULOGY

(Tuesday, Sept. 20, 2011)

Thirteen years ago, I stood in this same spot to say goodbye and pay tribute to my friend and political mentor, Senator Abe Ribicoff.

Peter, I am deeply honored that you asked me to share some brief comments this morning to celebrate the life of one of the smartest, most generous, elegant, funny, and downright fascinating people any of us ever met—Abe's beloved partner, Casey.

I first met Casey Ribicoff in 1974, during my first run for Congress in Connecticut.

Senator Abe Ribicoff was himself up for reelection that year and he invited me to campaign with him in New London. I was excited. The former Judge, Congressman, Governor, Cabinet Member, and Senator, was a larger-than-life figure in Connecticut, and had been an influential force in American politics for the previous 30 years.

My parents, who were deceased by 1974, had been friends and colleagues of Abe Ribicoff's for many, many years, and I had been in his presence on numerous occasions.

Now, there were many appropriate adjectives to describe the Senator—able, thoughtful, perceptive, conscientious, courageous, and eloquent, to name a few. Funny, fun-loving, joyous—how shall I say this—were not exactly the words that jumped out to you when you thought of the Senator. Abe Ribicoff was a very serious guy.

So, on that fall day in 1974 when I first met Casey, right away, I knew this woman was different—a vibrant, vital force in any room. But on that day in 1974, something else was different—Abe Ribicoff was different. Different than I had ever seen him before. On that day, so many years ago, it was wonderful to see the effect this striking vivacious woman had on Abe Ribicoff.

I remember how much he laughed that day. In all the years I had known him, I had never seen Abe Ribicoff have as much fun as he was having with his lively Casey. What a difference she made in his life.

That year, 1974, Abe Ribicoff was running for what he and Casey knew would be his last term in the United States Senate. I would wager that those last six years were among the most enjoyable in their lives together. Casey and Abe traveled widely, while deepening friendships with people Casey brought into Abe's life and people with whom Abe had developed a strong relationship in his public life.

When that last term was up in 1980, Abe was so gracious to give the nominating speech for me to succeed him in the United States Senate.

Standing there with Casey, in the Bushnell Auditorium in Hartford, Connecticut, listening to Abe's speech, I felt her warm hand reach down to hold mine. Without uttering a word, Casey instinctively knew how much I missed my own parents on that very special day.

Now, as touching and sensitive as Casey was, she also had a glorious sense of humor.

Several weeks after that nominating convention, I was with the Senator and Casey. I remember the Senator saying to me, ''Chris, I'll do anything I can to help you win election to the Senate.''

Excitedly, I replied, ''Well, Senator, Monday morning at 6 am, I'm shaking hands at the Greenwich railroad station—would you care to join me greeting commuters?''

To which Casey, in a nanosecond, interjected, ''If Abe was willing to do that, young man, he would have run again himself.'' Abe roared with laughter. More than thirty years later, I still start smiling when I recall that moment.

And, by the way, having just recently retired from electoral politics, I now fully understand her comment.

But that was Casey: warm, funny and feisty.

After Abe retired, as so many of you gathered here this morning will recall, he and Casey lived in Manhattan and their cherished retreat in Cornwall Bridge, where they enjoyed so many wonderful friends and times.

But they weren't strangers to Washington either. Abe and Casey would come down every now and then—not to lobby, but to see old friends.

Abe never once walked onto the Senate floor after he retired in 1980.

Instead, he and Casey would have lunch in the Senate dining room, where a stream of his former colleagues, Democrats and Republicans, would gather to reminisce, and spend time.

Casey Ribicoff was as loyal and supportive a friend as you could ever have. And if you were her friend, as so many of you were, everything about your life was ''the best.'' Every new job you got was ''the best.'' Every accomplishment you achieved was ''the best.'' There is nothing quite like having such an enthusiastic friend.

Now, I don't want to say that Casey was a gossip. So I'll just say that Casey Ribicoff liked to know what was going on—never in a cruel way, but always with a sense of fun and curiosity.

She knew someone in every room, and always found a moment to sidle up and say, in that low, melodious voice of hers, ''Soooooooo?''

For those few here who may not have known Casey, let me translate that word: ''tell me everything that's going on.''

For those of us who have faith in life beyond this one, I can easily imagine her deeply engaged in conversation, not just with the bright lights of her own time, but with the great personalities of centuries past. I keep imagining Casey and Oscar Wilde getting along famously.

I called Casey a week or two before she passed away. I wanted to speak with her in my new capacity as chairman of the Motion Picture Association of America to get some advice.

I had this idea. With this year being the 100th anniversary of Ronald Reagan's birth, there were political tributes to his life and career, but it struck me that more than half of the President's adult life was spent in the movie business, at Warner Brothers—and the Motion Picture business might want to recognize the President's years in the movies.

I wanted to write Mrs. Reagan to see how she'd feel about such an event to be held at the Motion Picture Association offices in Washington. But I was smart enough to call Casey first.

I knew that Casey and Nancy Reagan had developed a great friendship due to the fact that both of their husbands had suffered from Alzheimer's. I knew that if Casey thought that such an event honoring President Reagan was a good idea, she would share that with Mrs. Reagan.

And Casey, in that unforgettable voice, immediately and enthusiastically said, ''I'll talk to Nancy.'' And she did. On November 14th, we are going to have an evening of recognition for President Reagan, and how I wish that Casey Ribicoff were going to be there.

Allow me to conclude these remarks on this note: it is a common refrain these days that we don't have enough leaders like Abe Ribicoff in Washington. I think part of the reason for that is that we don't have enough people like Casey Ribicoff in Washington these days either.

Our politics has lost a lot of its civility, because our political community has lost so much of its humanity. Casey Ribicoff had an abundance of both.

She brought intelligence, laughter, warmth and enthusiasm, not just to Abe's life, but to his and her world. And she did it with a natural grace and timeless elegance.

To her sister June and nephew, son Peter, her daughter-in-law, Angela, and her grandchildren—my former Senate Page Andrew, Jake, and Jessica—I offer my deepest condolences and my deepest appreciation for the many gifts Casey Ribicoff gave to so many others in her life.

REMARKS BY PETER MATHES

Every son likes to think of his mother as special . . . but in my case, as you all know, it's absolutely true. She was one of a kind, and as everyone has said, trying to capture who she was and what she meant to us is simply impossible.

But if you were lucky enough to have known her . . . to be someone that she loved, you know just how special that was and how it can never be replaced.

You all know she had a strong sense of what was right . . . and what was wrong. She seemed to always do just the right thing and she had a perfect sense of style that defined her life. . . . You can only imagine how stress free it was to be her son!

I've heard some of you say that she could be ''tough'' on you if she thought you were doing something she thought was wrong . . . really? Welcome to MY world!

But she was only tough on the ones she loved, and her love for me was unconditional . . . but she was always clear about what she thought . . . from the color of a tie to what I should do in any situation. She had strong opinions . . . and the most annoying thing of all, and something that I would probably never admit to her, was that she was usually right!

But It was this sense of ethics . . . integrity, character and honesty that she instilled in me from an early age that I am most grateful for.

As many of you know, my mother was a great listener . . . she had the ability to understand and simplify everything.

How many times did you tell her a long, complex story only to hear her say: ''listen, the bottom line is . . .''? And in two sentences she was able to cut to the heart of the matter.

As I look out at all of you I see friends from every part of her life. From Chicago to Miami Beach . . . Connecticut, Washington and New York.

The fact that you have been in each other's lives for so long is a testament to the kind of person she was . . . In order to have friends like this, you have to know how to be a friend . . . and no one knew that more than Mom.

She was loyal and devoted, and seemed to have an endless capacity to love . . . and she cherished each friendship. . . .

One of the great gifts that I received from my mother is each one of you sitting here today . . . You became her family you became my family . . . you became our family.

There was a recent piece in the Sunday Times about how the word ''authentic'' is suddenly back in fashion. As I read it, I thought about my mother and how, perhaps, this is the word that actually best describes her.

But perhaps the biggest miracle that happened for my mother, and for me, was when Abe came into our lives.

They had a love for each other that is rarely seen, and my mother kept the memory of Abe and that love alive until the day she died.

She never traveled without a photo of her Abe on the nightstand . . . in fact she continued to celebrate their anniversary even after he died.

And this year was no different. Even though she was so sick she told us all about the day they married and we celebrated together with a bottle of champagne just as they always did.

Abe was the love of her life and a second father to me . . . And of all the things I learned from them, nothing was more important than how they loved each other and how they cherished and protected that love.

She showed me that when you are with the right person it brings out the best in you, which is why she was so happy when I married Angela. She saw in us that rare love that she'd found with Abe and she talked about how this is the greatest gift of all.

I'll never forget when I first told my mother about Angela. Of course one of the first questions she asked was: ''What does she do?'' I told her she was the head of ABC Daytime, so she immediately hung up on me and hit speed dial for Barbara Walters to check her out.

Barbara simply said: ''Yes, I do know her. She's my boss.'' So you know how happy THAT made her. Over the years she and Angela were more like mother and daughter . . . in fact I tell everyone that Angela became the daughter and I became the son-in-law she always wanted! But the truth is seeing how much they loved each other was a gift to me.

Like you, when I think of my mother I think of her spirit and how she lived life to the fullest. . . .

The very first thing she said to the doctor when she was diagnosed was: ''I've had almost 90 great years. . . . NO ONE has had a better life than I''. . . . She was in control of her life from the very beginning until the very end.

I've always been impressed with the way she lived her life, but nothing was more impressive than watching the way she chose to leave it.

Never once did she feel sorry for herself or question ''why me''. She took the news as part of life . . . she couldn't fix it so she simply dealt with it and moved on.

She spoke or emailed with many of you until the end, but in the last months and especially in the last weeks, Angela and I got to see this unbelievable strength of character first hand.

She never complained . . . she wanted her life to be as normal as possible. She continued to read 3 or 4 newspapers a day and still had strong opinions on what was happening in the world and what was happening in the world of fashion!

Angela and I were with her in her final hours. . . . Each tightly holding her hand, telling her how loved and how special she was until she took her last breath. It was an indescribable gift for each of us.

My mother was the first person I saw when I came into this world and I was the last person she saw when she left it.

And have no doubt . . . she was Casey until the very end!

She still looked beautiful and was as intellectually curious as ever. . . .

And of course, she still wanted to hear the gossip from all of you!

We gave her an iPad for Mother's Day and in many ways it became her life line. She was emailing and reading on it until the end. . . . But . . . her confessed addiction on it was playing solitaire!

In fact, when I opened her iPad after she'd gone, the first screen that popped up was the score from her last game of solitaire. She'd had a high score . . . and it read: ''YOU WON! Congratulations you aced the game!''

And that you did Mom . . . you aced the game of life and made us all better because of it. I miss you and I love you.

REMARKS OF ANGELA MATHES

First of all Jessye, I have to say thank you. I remember when Casey spoke with Rabbi Sobel and told him that she thought it would be ''Divine'' if you were to sing ''a little Duke Ellington'' . . . and I have to say that you took divine to a whole new level!

Chris, Barbara . . . I can't tell you what it feels like listening to you talk about Casey.

And now, what it feels like standing here and seeing how many people have come to celebrate my mother-in-law's incredible life . . . Thinking of how many lives she's touched.

But as many of her close friends will understand, the first thing I thought of was calling her to tell her what she missed . . .

Although I'm sure, as usual, she already knows all about it!

And if there's anyone here who doubts that she still has that power, I'd like to remind you that she's been sending small signs that prove you're wrong: like the earthquake in New York the day after she died . . . and the hurricane 3 days after her burial!

As I was preparing for this tribute, I struggled trying to find the words that best describe Casey . . . I had the same problems I do when I try to describe her to people she's never met.

One problem is trying to use ordinary words to describe an extraordinary person.

Although for me, the biggest problem is that the first word anyone hears is: ''mother-in-law''. . . . And it immediately sends a chill down their spine. . . .

It's like hearing the words: ''teenage daughter'' . . .

Honestly, you can't imagine wanting to spend a lot of time with either one of them!

But as many of you know, that wasn't the case with us . . . Casey and I were very close . . . We spoke 3 or 4 times a day for years.

I never felt like a ''daughter-in-law'' . . . Peter and I were just ''the kids'', and as I used to tell her: ''you can't get any better than that.''

We often talked about our mothers. About how much we loved them and how much we missed them . . . and I remember asking her one day to tell me what her mom was like.

She just smiled and said: ''she was DEElish!'' . . .

That when she walked into a room, everything seemed to change . . . she made everyone in the room smile.

And I told Casey that THAT was actually the perfect description of HER! Because it wasn't only about who she was, but it was more about how knowing her enhanced YOUR life!

She was generous with her love to a lot of people, but with me, she was generous in every way. And over the years she's given me many very special gifts. . . .

Most of them came with a story, of how Abe had found it for her, and now she wanted to share it with me.

She told me just how he gave her the gift . . . where she wore it . . . why she loved it. Each thing represented part of her life's story and for me it was a remarkable experience!

But of course, this was Casey. . . . So each thing also came with a set of explicit ''suggestions'': ''I always wear these 2 things together . . . of course, YOU can choose to wear it anyway you wish, it's up to you, but they do look best together.''

Now for those of you who don't speak ''Casey'', let me assure you, that it was NEVER EVER ''up to me''!

She taught me more, about the things in life I thought I already knew all about, like the importance of friendship, loyalty, and discretion. . . .

And she also taught me some very important things that I never knew, like: Never wear a watch to a formal affair; always wear your pins high not low; and never put moisturizer on your nose . . . it clogs the pores.

Over the past 10 years, and especially over the last 5 months, she shared a lot of stories with Peter and me . . .

She said that over her many years, she ''collected'' a lot of things, but what she treasured most was her collection of wonderful friends.

You know how much she loved you . . . you were her family, and I know that she'd be angry with me if I didn't remind you of that.

But you also need to know that the way you supported her, and supported Peter and me over these last difficult months, has meant more to us than we will ever be able to tell you.

I'm sure that everyone here has some GREAT Casey stories . . . and so you can imagine how hard it was to try to narrow it down to just one or two.

She was beautiful on the inside and the outside . . . had that great sense of humor, was so smart, so confident . . . she didn't suffer fools, and you can only imagine that, coming from an Italian Mother, how in awe I was at something I'd never experienced before: someone with no-guilt and no regrets!

Casey taught by example.

She showed us all how to live, and in the end, she showed us how to leave this world with that same grace, dignity, sense of humor and style.

And make no mistake . . . she NEVER stopped living life on her terms.

One minute she was telling Rabbi Sobel exactly what she wanted done at her memorial service . . . dictating her death notice to Peter, and the next, she and I were in Akris buying a few little jackets for her to wear in the summer!

One day about a month or so after she was diagnosed, she called me at home about 9:00 in the morning to tell me she had an idea . . . she was thinking of selling a few things on eBay . . . eBay?!

She was 89 years old with lung cancer . . . ONLY Casey!

But Casey told Peter and me 2 things to remember for this memorial:

First: try to hold it together.

And second: keep it short. Two things, might I mention, she knew would be impossible for me to do!

She'd say: ''it's called: get real!''

So, for her, I'll try my best to ''get real'' and tell her what's on my mind:

My Dear Casey,

Thank you . . . thank you for taking me into your life, and into your heart. . . .

For always listening and giving me the best advice in difficult times, and being there to make the good times even better. . . .

For confiding in me, and sharing with me all the wonderful moments of your life.

And for encouraging me, and showing me how to enjoy every moment of mine.

I love you.

And I will think of you, and miss you every day for the rest of my life.

Peter and I will always be your ''kids'' . . . and we will keep you alive in our hearts forever.

REMARKS OF BARBARA WALTERS

I am Barbara Walters and I am here to represent all of you, her dear friends. She was something else, wasn't she? All the things most people strive to be, she just was. Can't you see her? Elegant. Smart. (She took computer lessons at 80). Fun. Stunning: Black hair, red lips, big smile. Mmm, maybe too thin, but that was part of her look . . . Tom Brokaw described her as ''a great dame.''

She was the most loving mother to son, Peter and Angela, the daughter-in-law whom she considered to be her daughter. And grandmother to Andrew whom she called the perfect grandson and also so proud of Angela's daughter, Jessica. And then there was Abe . . ., the love of her life.

On her tombstone Casey has asked to have engraved, ''She was his wife.'' Of her own life she said, ''I loved every bit of it.'' When Abe was alive, he and Casey were probably the most popular and delightful couple in New York. Casey herself was very active. She was on the board of the Kennedy Center and PBS/WNET. She entertained, enjoyed the theatre-dinner parties and people. She was a great friend to women. How I miss our morning phone calls. She brightened my day and she would love to have heard about this morning. And who came—and who didn't come!

But I want to talk now not of Casey's manner of living but of her manner of death. It was last March when on one of our frequent phone calls I asked routinely, ''What's new''? And Casey answered, ''I'm pregnant.'' At age 88, that was a good trick. I laughed and said, ''name the baby after me, please.'' Then she went on, in the same tone, ''No I have lung cancer.'' For a second, I thought she was still kidding. But then, I realized, she wasn't. Said so matter of factly, ''I have lung cancer.'' I couldn't believe it. There were no tears in her voice. No ''why me? Just that . . . ''I have lung cancer.'' It had not been diagnosed until recently. It was inoperable. She was not going to have any treatment.

''Just please'' she said, ''continue to call. Send the emails. Let me know what's going on with all the pals.'' And pals she had. She was the best friend when you were well and a tireless miracle worker when you were not. Doctor's appointments . . . she was there for you. She went with Bill Blass for his every doctor's appointment. She was counselor, friend and comfort to Jerry Zipkin, Glenn Birnbaum and Nick Dunn. Thanksgiving: she took a table every year for all the single guys who might be alone. The dinners became tradition. She was their Auntie Mame. Now those four words, ''I have lung cancer.''

Peter and Angela began to come in from California almost every week. They wanted to share as many of Casey's good days, as well as the bad that were to come. At first, she could go out a bit . . . maybe to lunch. Then she might allow a friend to pop over. That soon got to be too much for her. But the phone calls were fine . . . she took them all . . . until they also became too much. Exhaustion took over.

Still the emails back and forth continued . . . Less than a week before she died, she was answering emails. ''How are you?'' she would ask. ''How was the party?'' ''What do you think of Michele Bachmann?'' From March to her death on August I never once heard her sob. I never once heard her complain. Or question her fate. When her son, asked in a moment of intimacy, if she was afraid, she said ''no'' and repeated what a wonderful life she'd had. Peter and Angela were with her until the end. Thank heaven, she was never in pain. As she lay in bed, looking frail but beautiful, Peter held one of her hands, Angela the other. She knew they were with her.

I am telling you all this because Casey not only taught us how to live. She taught us how to die.

After her death, they found a secret stash of cigarettes. Those damn cigarettes.

Oh my darling Casey, there isn't one of us in this sacred room whose life you haven't touched, not one who didn't love you. How could we not?●

TRIBUTE TO NORA WALSH HUSSEY

● Mr. THUNE. Mr. President, today I would like to take this opportunity to honor Nora Walsh Hussey of Sturgis, SD.

Nora has spent countless hours serving her community through a variety of organizations and activities. Nora has been an active participant in Promoting Educational Opportunities, PEO, an organization where women celebrate advancement through achievements in educational opportunities. She has also spent a significant amount of time volunteering as a Court Appointed Special Advocate, CASA, which supports abused and neglected children. While Nora spends the majority of her time volunteering for various organizations in the community, she also enjoys participating in bridge clubs, golfing, and cruising.

Nora's achievements are not limited to her work on behalf of South Dakotans. In 1981, Nora was confirmed by the U.S. Senate to become the first non-Coloradan to supervise the Denver Mint. While supervising the mint, Nora was acknowledged by many employees for her exemplary service.

I want to join Nora's family and friends in recognizing her more than 50 years of community service and celebrating her 97th birthday on March 26, 2012. I extend my sincere thanks and appreciation to Nora for all she has done for her fellow South Dakotans and wish her continued success in years to come.●

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2186. A bill to amend the Americans with Disabilities Act of 1990 to prohibit the Attorney General from administering or enforcing certain accessibility regulations relating to pools at public accommodations or provided by public entities.

H.R. 3606. An act to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5318. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department of Defense taking essential steps to award multiyear contracts for nine Virginia Class submarines (VCS) in fiscal years 2014 through 2018, no later than December 31, 2013; to the Committee on Armed Services.

EC–5319. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department of Defense taking essential steps to award a multiyear contract for 155 CH–47F aircraft, in fiscal years 2013 through 2017, not later than January 31, 2013; to the Committee on Armed Services.

EC–5320. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department of Defense taking essential steps to award a Joint Service multiyear contract for 98 V–22 aircraft (91 MV–22 aircraft for the United States Marine Corps and 7 CV–22 aircraft for the United States Air Force) in fiscal years 2013 through 2017, no later than December 31, 2012; to the Committee on Armed Services.

EC–5321. A joint communication from the Secretary of Defense and the Secretary of Energy, transmitting, pursuant to law, a report relative to the status of the annual report on the plan for the nuclear weapons stockpile, complex, delivery systems, and command and control systems; to the Committee on Armed Services.

EC–5322. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Commercial Determination Approval'' ((RIN0750–AH61) (DFARS Case 2011–D041)) received in the Office of the President of the Senate on March 7, 2012; to the Committee on Armed Services.

EC–5323. A communication from the Surgeon General and Commanding General, US Arm Medical Command, Department of the Army, transmitting, pursuant to law, the Regional Medical Command Inspectors General report relative to assessing access of recovering service members to adequate outpatient residential facilities; to the Committee on Armed Services.

EC–5324. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program: Test Procedures for Residential Clothes Washers'' (RIN1904–AC108) received in the Office of the President of the Senate on March 8, 2012; to the Committee on Energy and Natural Resources.

EC–5325. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a report entitled ''Report to Congress on the Recovery of Threatened and Endangered Species Fiscal Years 2009–2010''; to the Committee on Environment and Public Works.

EC–5326. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the export to the People's Republic of China of an item not detrimental to the U.S. space launch industry; to the Committee on Foreign Relations.

EC–5327. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a performance report relative to the Animal Drug User Fee Act for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–5328. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a performance report relative to the Animal Drug User Fee Act for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–5329. A communication from the Chairman of the National Endowment for the Arts and a Member of the Federal Council on the Arts and the Humanities, transmitting, pursuant to law, the annual report on the Arts and Artifacts Indemnity Program for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–5330. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled, ''Evaluation of the Mentoring Children of Prisoners Program''; to the Committee on Health, Education, Labor, and Pensions.

EC–5331. A communication from the Program Manager, Centers for Disease Control, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Approval Tests and Standards for Closed Circuit Escape Respirators'' (RIN0920–AA10) received in the Office of the President of the Senate on March 7, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5332. A communication from the Legal Counsel, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled ''Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act'' (RIN3046–AA76) received in the Office of the President of the Senate on March 8, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5333. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the Commission's Buy American Act Report for fiscal year 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–5334. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the Foundation's annual report for the year ending September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BEGICH (for himself, Mr. MANCHIN, and Mr. BAUCUS):

S. 2188. A bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. GRASSLEY, and Mr. LEAHY):

S. 2189. A bill to amend the Age Discrimination in Employment Act of 1967 and other laws to clarify appropriate standards for Federal antidiscrimination and antiretaliation claims, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MERKLEY (for himself, Mr. BENNET, Mr. BROWN of Massachusetts, and Ms. LANDRIEU):

S. 2190. A bill to amend the securities laws to provide for registration exemptions for certain crowdfunded securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN (for himself, Mr. KIRK, and Mrs. SHAHEEN):

S. Res. 395. A resolution expressing the sense of the Senate in support of the North Atlantic Treaty Organization and the NATO summit to be held in Chicago, Illinois from May 20 through 21, 2012; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 339

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 339, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 1335

At the request of Mr. INHOFE, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1335, a bill to amend title 49, United States Code, to provide rights for pilots, and for other purposes.

S. 1770

At the request of Mrs. GILLIBRAND, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1770, a bill to prohibit discrimination in adoption or foster case placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

S. 1855

At the request of Mr. BURR, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1855, a bill to amend the Public Health Service Act to reauthorize various programs under the Pandemic and All-Hazards Preparedness Act.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1925

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1973

At the request of Mrs. GILLIBRAND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1973, a bill to prevent gun trafficking in the United States.

S. 1990

At the request of Mr. LIEBERMAN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Nevada (Mr. HELLER) were added as cosponsors of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2076

At the request of Mr. FRANKEN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2076, a bill to improve security at State and local courthouses.

S. 2123

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2123, a bill to amend title V of the Social Security Act to extend funding for family-to-family health information centers to help families of children with disabilities or special health care needs make informed choices about health care for their children.

S. 2145

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2145, a bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications.

S. 2155

At the request of Mr. MERKLEY, his name was added as a cosponsor of S. 2155, a bill to amend the Farm Security and Rural Investment Act of 2002 to promote biobased manufacturing.

S. 2179

At the request of Mr. WEBB, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2179, a bill to amend title 38, United States Code, to improve oversight of educational assistance provided under laws administered by the Secretary of Veterans Affairs and the Secretary of Defense, and for other purposes.

S. 2184

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2184, a bill to provide exclusive funding to support fisheries and the communities that rely upon them, to clear unnecessary regulatory burdens and streamline Federal fisheries management, and for other purposes.

S. 2186

At the request of Mr. DEMINT, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 2186, a bill to amend the Americans with Disabilities Act of 1990 to prohibit the Attorney General from administering or enforcing certain accessibility regulations relating to pools at public accommodations or provided by public entities.

S. RES. 380

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

At the request of Mr. GRAHAM, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. Res. 380, supra.

S. RES. 385

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. Res. 385, a resolution condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy.

S. RES. 391

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 391, a resolution condemning violence by the Government of Syria against journalists, and expressing the sense of the Senate on freedom of the press in Syria.

AMENDMENT NO. 1617

At the request of Ms. KLOBUCHAR, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 1617 proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1661

At the request of Ms. KLOBUCHAR, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of amendment No. 1661 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1793

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 1793 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1814

At the request of Mr. MERKLEY, the names of the Senator from Montana

(Mr. TESTER), the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 1814 proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of amendment No. 1814 proposed to S. 1813, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. GRASSLEY, and Mr. LEAHY):

S. 2189. A bill to amend the Age Discrimination in Employment Act of 1967 and other laws to clarify appropriate standards for Federal antidiscrimination and antiretaliation claims, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN: Mr. President, today I join with my senior colleague from Iowa, Senator GRASSLEY, and with the distinguished chair of the Judiciary Committee, Senator LEAHY, in introducing the Protecting Older Workers Against Discrimination Act.

The need for this legislation was vividly demonstrated by the experience of an Iowan—Jack Gross. Mr. Gross gave the prime of his life, a quarter century of loyal service, to one company. Despite Mr. Gross's stellar work record, the company brazenly demoted him and other employees over the age of 50 and gave his job to a younger employee.

Expressly to prevent this kind of discrimination, over 40 years ago Congress passed the Age Discrimination in Employment Act, ADEA. Modeled from and using the same language as Title VII of the Civil Rights Act of 1964—which prohibits employment discrimination on the basis of race, sex, national origin and religion—the ADEA makes it unlawful to discriminate on the basis of age.

When Mr. Gross sought to enforce his rights under this law, a jury of Iowans heard the facts and found that his employer discriminated against him because of his age. That jury awarded him almost $47,000 in lost compensation.

The case was ultimately appealed to the Supreme Court. In June 2009, in Gross v. FBL Financial, Inc., five justices effectively rewrote the law and ruled against Mr. Gross. In doing so, the Court made it harder for those with legitimate age discrimination claims to prevail under the ADEA. In fact, on remand, despite the fact Mr. Gross had established that age discrimination was a factor in his demotion, he lost his retrial.

For decades, the law was clear. In 1989, in Price Waterhouse v. Hopkins, the Court ruled that if a plaintiff seeking relief under Title VII of the Civil Rights Act demonstrated that discrimination was a ''motivating'' or ''substantial'' factor behind the employer's action, the burden shifted to the employer to show it would have taken the same action regardless of the plaintiff's membership in a protected class. As part of the Civil Rights Act of 1991, Congress codified the ''motivating factor'' standard with respect to Title VII discrimination claims.

Since the ADEA uses the same language as Title VII, was modeled from it, and had been interpreted consistent with the Civil Rights Act, courts rightly and consistently held that, like a plaintiff claiming discrimination on the basis of race, sex, religion and national origin, a victim bringing suit under the ADEA need only show that membership in a protected class was a ''motivating factor'' in an employer's action. If an employee showed that age was one factor in an employment decision, the burden was on the employer to show it had acted for a legitimate reason other than age.

In Gross, the Court, addressing a question on which it did not grant certiorari, tore up this decades' old standard. In its place, the Court imposed a standard that makes it prohibitively difficult for a victim to prove age discrimination. According to the Court, a plaintiff bears the full burden of proving that age was not only a ''motivating'' factor but the ''but for'' factor, or decisive factor. And, unfortunately, lower courts have applied Gross to other civil rights claims, including cases arising under the Americans with Disabilities Act, the Rehabilitation Act and retaliation cases under Title VII of the Civil Rights Act of 1964.

The extremely high burden Gross imposes radically undermines workers' ability to hold employers accountable. Bear in mind, unlawful discrimination is often difficult to detect. Obviously, those who discriminate do not often admit they are acting for discriminatory reasons. Employers rarely post signs saying, for example, ''older workers need not apply.'' To the contrary, they go out of their way to conceal their true intent. And, only the employer is in a position to know his own mind and offer an explanation of why a decision that involves discrimination or retaliation was actually motivated by legitimate reasons. By putting the entire burden on the worker to demonstrate the absence or insignificance of other factors, the Court in effect has freed employers to discriminate or retaliate.

Unfortunately, as Mr. Gross and his colleagues know all too well, age discrimination does indeed occur. Countless thousands of American workers who are not yet ready to voluntarily retire find themselves jobless or passed over for promotions because of age discrimination. Older workers often face stereotypes: That they are not as productive as younger workers; that they cannot learn new skills; that they somehow have a lesser need for income to provide for their families.

Indeed, according to an AARP study, 60 percent of older workers have reported that they or someone they know has faced age discrimination in the workplace. According to the Equal Employment Opportunity Commission, in fiscal year 2011, over 23,000 age discrimination claims were filed, a more than 20 percent increase from just four years ago. And, given the stereotypes that older workers face, it is no surprise that on average they remain unemployed for more than twice as long as all unemployed workers.

The Protecting Older Workers Against Discrimination Act reiterates the principle that Congress established when it passed the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act and the Americans with Disabilities Act—when making employment decisions it is illegal for race, sex, national origin, religion, age or disability to be a factor.

The bill repudiates the Supreme Court's Gross v. FBL Financial decision and will restore the law to what it was for decades. It makes clear that when an employee shows discrimination was a ''motivating factor'' behind a decision, the burden is properly on the employer to show the same decision would have been made regardless of discrimination or retaliation. And, like the Civil Rights Act of 1991 with respect to discrimination cases under Title VII, if the employer meets that burden, the employer remains liable, but remedies are limited.

This is a common sense, bipartisan bill. In fact, the Civil Rights Act of 1991, key provisions of which served as a model for this legislation, passed the Senate on a bipartisan basis 93–5. Further, we are introducing this bill only after countless hours of consultation with civil rights stakeholders and representatives of the business community. Moreover, this bill addresses many of the concerns that were raised about an earlier version of the bill at a hearing held before the Health, Education, Labor, and Pensions Committee in March 2010.

In fact, I want to comment on two changes from that earlier version of this bill introduced in the last Congress. Since October 2009, when Senator LEAHY and I first introduced the Protecting Older Workers Against Discrimination Act, we have had the benefit of nearly two and a half years of lower court application of the Gross decision.

The 2009 bill would have expressly amended the ADEA to make clear that the analytical framework set out in McDonnell Douglas v. Green applied to that statute. Even though, before Gross, every Court of Appeals had held that McDonnell Douglas had applied to age claims, this clarification was meant to address a footnote in Gross in which the Court arguably questioned the applicability of McDonnell Douglas to the ADEA. Since the bill was first introduced, however, every lower court

that has examined the issue has continued to apply McDonnell Douglas to the ADEA. As a result, because McDonnell Douglas applies to the ADEA already, we deem it unnecessary to amend the statute.

Second, the initial bill expressly amended only the ADEA. Since Gross, however, lower courts have applied the Court's reasoning in that decision to other statutes. Because the most notable application has been to the ADA, Rehabilitation Act and Title VII retaliation claims, those statutes are expressly amended here too.

Finally, in Gross, the Court defended the Court's departure from well-established law by noting that it ''cannot ignore Congress' decision to amend Title VII's relevant provisions but not make similar changes to the ADEA.'' In other words, the Court found that because Congress, in the Civil Rights Act of 1991, codified the ''motivating factor'' framework for Title VII, but not for the ADEA, Congress somehow must have intended Price Waterhouse not to apply to any statute but Title VII.

Because of the Court's reasoning, I want to emphasize that this bill in no way questions the motivating factor framework for other anti-discrimination and anti-retaliation statutes that are not expressly covered by the legislation. As the bill's findings make clear, not only does this bill repudiate the Gross decision itself, but it expressly repudiates the reasoning underlying the decision, including the argument that Congress's failure to amend any statute other than Title VII means that Congress intended to disallow mixed motive claims under other statutes. It would be an error for a court to apply similar reasoning following passage of this bill to other statutes. The fact that other statutes are not expressly amended does not mean that Congress endorses Gross's application to any other statute.

In conclusion, this bill is very straightforward. It reiterates what Congress said 40 years ago when it passed the ADEA—when making employment decisions it is illegal for age to be a factor. A person should not be judged arbitrarily because he or she was born in a certain year or earlier when he or she still has the ability to contribute as much, or more, as the next person. This bill will help ensure that all our citizens will have an equal opportunity, commensurate with their abilities, for productive employment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Older Workers Against Discrimination Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) In enacting the Age Discrimination in Employment Act of 1967 (referred to in this section as the ''ADEA''), Congress intended to eliminate workplace discrimination against individuals 40 and older based on age.

(2) In enacting the Civil Rights Act of 1991, Congress reaffirmed its understanding that unlawful discrimination is often difficult to detect and prove because discriminators do not usually admit their discrimination and often try to conceal their true motives.

(3) Congress intended that courts would interpret Federal statutes, such as the ADEA, that are similar in their text or purpose to title VII of the Civil Rights Act of 1964, in ways that were consistent with the ways in which courts had interpreted similar provisions in that title VII. The Supreme Court's decision in Gross v. FBL Financial Services, Inc., 129 S. Ct. 2343 (2009), departed from this intent and circumvented well-established precedents.

(4) Congress disagrees with the Supreme Court's interpretation, in Gross, of the ADEA and with the reasoning underlying the decision, specifically language in which the Supreme Court—

(A) interpreted Congress' failure to amend any statute other than title VII of the Civil Rights Act of 1964 in enacting section 107 of the Civil Rights Act of 1991 (adding section 703(m) of the Civil Rights Act of 1964), to mean that Congress intended to disallow mixed motive claims under other statutes;

(B) declined to apply the Supreme Court's ruling in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), a part of which was subsequently approved by Congress, and enacted into law by section 107 of the Civil Rights Act of 1991, as section 703(m) of the Civil Rights Act of 1964, which provides that an unlawful employment practice is established when a protected characteristic was a motivating factor for any employment practice, even though other factors also motivated the practice;

(C) interpreted causation language and standards, including the words ''because of'' that are similar in their text or purpose to title VII of the Civil Rights Act of 1964, in a manner that departed from established precedent;

(D) held that mixed motive claims were unavailable under the ADEA; and

(E) indicated that other established causation standards and methods of proof, including the use of any type or form of admissible circumstantial or direct evidence as recognized in Desert Palace Inc. v. Costa, 539 U.S. 90 (2003), or the availability of the analytical framework set out in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), might not apply to the ADEA.

(5) Lower courts have applied Gross to a wide range of Federal statutes, such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(6) The Gross decision has significantly narrowed the scope of protections intended to be afforded by the ADEA.

(7) Congress must restore and reaffirm established causation standards and methods of proof to ensure victims of unlawful discrimination and retaliation are able to enforce their rights.

(b) PURPOSES.—The purposes of this Act include—

(1) to restore the availability of mixed motive claims and to reject the requirements the Supreme Court enunciated in Gross v. FBL Financial Services, Inc., 129 S. Ct. 2343 (2009), that a complaining party always bears the burden of proving that a protected characteristic or protected activity was the ''but for'' cause of an unlawful employment practice;

(2) to reject the Supreme Court's reasoning in Gross that Congress' failure to amend any statute other than title VII of the Civil Rights Act of 1964, in enacting section 107 of the Civil Rights Act of 1991, suggests that Congress intended to disallow mixed motive claims under other statutes; and

(3) to establish that under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), complaining parties—

(A) may rely on any type or form of admissible evidence to establish their claims;

(B) are not required to demonstrate that the protected characteristic or activity was the sole cause of the employment practice; and

(C) may demonstrate an unlawful practice through any available method of proof, including the analytical framework set out in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

SEC. 3. STANDARDS OF PROOF.

(a) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—

(1) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF AGE IN EMPLOYMENT PRACTICES.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by inserting after subsection (f) the following:

''(g)(1) Except as otherwise provided in this Act, an unlawful practice is established under this Act when the complaining party demonstrates that age or an activity protected by subsection (d) was a motivating factor for any practice, even though other factors also motivated the practice.

''(2) In establishing an unlawful practice under this Act, including under paragraph (1) or by any other method of proof, a complaining party—

''(A) may rely on any type or form of admissible evidence and need only produce evidence sufficient for a reasonable trier of fact to find that an unlawful practice occurred under this Act; and

''(B) shall not be required to demonstrate that age or an activity protected by subsection (d) was the sole cause of a practice.''.

(2) REMEDIES.—Section 7 of such Act (29 U.S.C. 626) is amended—

(A) in subsection (b)—

(i) in the first sentence, by striking ''The'' and inserting ''(1) The'';

(ii) in the third sentence, by striking ''Amounts'' and inserting the following:

''(2) Amounts'';

(iii) in the fifth sentence, by striking ''Before'' and inserting the following:

''(4) Before''; and

(iv) by inserting before paragraph (4), as designated by clause (iii) of this subparagraph, the following:

''(3) On a claim in which an individual demonstrates that age was a motivating factor for any employment practice, under section 4(g)(1), and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

''(A) may grant declaratory relief, injunctive relief (except as provided in subparagraph (B)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 4(g)(1); and

''(B) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.''; and

(B) in subsection (c)(1), by striking ''Any'' and inserting ''Subject to subsection (b)(3), any''.

(3) DEFINITIONS.—Section 11 of such Act (29 U.S.C. 630) is amended by adding at the end the following:

''(m) The term 'demonstrates' means meets the burdens of production and persuasion.''.

(4) FEDERAL EMPLOYEES.—Section 15 of such Act (29 U.S.C. 633a) is amended by adding at the end the following:

''(h) Sections 4(g) and 7(b)(3) shall apply to mixed motive claims (involving practices described in section 4(g)(1)) under this section.''.

(b) TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) is amended by striking subsection (m) and inserting the following:

''(m) Except as otherwise provided in this title, an unlawful employment practice is established under this title when the complaining party demonstrates that race, color, religion, sex, or national origin or an activity protected by section 704(a) was a motivating factor for any employment practice, even though other factors also motivated the practice.''.

(2) FEDERAL EMPLOYEES.—Section 717 of such Act (42 U.S.C. 2000e–16) is amended by adding at the end the following:

''(g) Sections 703(m) and 706(g)(2)(B) shall apply to mixed motive cases (involving practices described in section 703(m)) under this section.''.

(c) AMERICANS WITH DISABILITIES ACT OF 1990.—

(1) DEFINITIONS.—Section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) is amended by adding at the end the following:

''(11) DEMONSTRATES.—The term 'demonstrates' means meets the burdens of production and persuasion.''.

(2) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF DISABILITY IN EMPLOYMENT PRACTICES.—Section 102 of such Act (42 U.S.C. 12112) is amended by adding at the end the following:

''(e) PROOF.—

''(1) ESTABLISHMENT.—Except as otherwise provided in this Act, a discriminatory practice is established under this Act when the complaining party demonstrates that disability or an activity protected by subsection (a) or (b) of section 503 was a motivating factor for any employment practice, even though other factors also motivated the practice.

''(2) DEMONSTRATION.—In establishing a discriminatory practice under paragraph (1) or by any other method of proof, a complaining party—

''(A) may rely on any type or form of admissible evidence and need only produce evidence sufficient for a reasonable trier of fact to find that a discriminatory practice occurred under this Act; and

''(B) shall not be required to demonstrate that disability or an activity protected by subsection (a) or (b) of section 503 was the sole cause of an employment practice.''.

(3) CERTAIN ANTIRETALIATION CLAIMS.—Section 503(c) of such Act (42 U.S.C. 12203(c)) is amended—

(A) by striking ''The remedies'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the remedies''; and

(B) by adding at the end the following:

''(2) CERTAIN ANTIRETALIATION CLAIMS.—Section 107(c) shall apply to claims under section 102(e)(1) with respect to title I.''.

(4) REMEDIES.—Section 107 of such Act (42 U.S.C. 12117) is amended by adding at the end the following:

''(c) DISCRIMINATORY MOTIVATING FACTOR.—On a claim in which an individual demonstrates that disability was a motivating factor for any employment practice, under section 102(e)(1), and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

''(1) may grant declaratory relief, injunctive relief (except as provided in paragraph (2)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 102(e)(1); and

''(2) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.''.

(d) REHABILITATION ACT OF 1973.—

(1) IN GENERAL.—Sections 501(g), 503(d), and 504(d) of the Rehabilitation Act of 1973 (29 U.S.C. 791(g), 793(d), and 794(d)), are each amended by adding after the words ''title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.)'' the following: '', including the standards of causation or methods of proof applied under section 102(e) of that Act (42 U.S.C. 12112(e))),''.

(2) FEDERAL EMPLOYEES.—The amendment made by paragraph (1) to section 501(g) shall be construed to apply to all employees covered by section 501.

SEC. 4. APPLICATION.

This Act, and the amendments made by this Act, shall apply to all claims pending on or after the date of enactment of this Act.

Mr. LEAHY. Mr. President, today, I am pleased to join Senators HARKIN and GRASSLEY in introducing the Protecting Older Workers Against Discrimination Act. This bipartisan bill seeks to restore crucial worker protections that have been cast aside by a narrow, 5–4 Supreme Court decision. The bill also reaffirms the contributions made by older Americans in the workforce and ensures that employees will be evaluated based on their performance and not by arbitrary criteria such as age.

Congress has long worked to enact civil rights laws to eliminate discrimination in the workplace. In 1967, Congress passed the Age Discrimination and Employment Act, ADEA, with the intent to extend protections against workplace discrimination to older workers. We strengthened these protections in the Civil Rights Act of 1991, which passed in the Senate 93 to five. These statutes established a clear legal standard and Congressional intent: an employer's decision to fire or demote an employee may not be motivated in whole or in part by the employee's age.

However, the 2009 Supreme Court decision in Gross v. FBL unilaterally erased that clear legal standard. A slim 5–4 majority threw out a jury verdict in favor Jack Gross, a 32-year employee of a major financial company, who sued under the ADEA. The jury had concluded that age was a motivating factor in the company's decision to demote Gross and reassign his duties to a younger, significantly less qualified worker. But a divisive Supreme Court ignored its own precedent and congressional intent.

Five justices decided that workers like Mr. Gross must now prove that age was the only motivating factor in a demotion or termination. The Court also required workers to essentially introduce a ''smoking gun'' in order to prove discrimination. By imposing such high standards, the Court sided with big business and made it easier for employers to discriminate on the basis of age with impunity so long as they could cloak it with another reason. As Mr. Gross stated during a Judiciary Committee hearing that I held shortly after this controversial decision was handed down, ''I feel like my case has been hijacked by the high court for the sole purpose of rewriting both the letter and the spirit of the ADEA.''

The Supreme Court's divisive holding has created much uncertainty in our civil rights laws and it is incumbent on Congress to clarify our intent and the statutory protections that all hardworking Americans deserve. The Protecting Older Workers Against Discrimination Act restores the original intent of the ADEA and three other Federal anti-discrimination statutes. It makes clear that employers cannot get away with age discrimination by simply coming up with a reason to terminate an employee that sounds less controversial. The bill re-establishes Congress' intent that age discrimination is unlawful even if it is only part of the reason to demote a worker. Under the bill, a worker would also be able to introduce any relevant admissible form of evidence to show discrimination, whether the evidence is direct or circumstantial.

To avoid future misreading of congressional intent, I encourage Federal courts to take particular note of the carefully negotiated ''Findings and Purposes'' section in this bipartisan bill. The bill unequivocally rejects the Supreme Court's reasoning in Gross not only in age discrimination cases but in all cases where courts have applied this case as binding precedent. In other words, Gross is not the proper legal standard for anti-discrimination statutes, whether or not a particular statute is directly amended by this bill.

I commend Senator HARKIN for his efforts over the past three years to negotiate a bipartisan bill to restore the civil rights protections that all Americans deserve in the workplace. I also thank Senator GRASSLEY, the Ranking Member of the Judiciary Committee, for his commitment to this issue. I urge my fellow Senators to join this bipartisan effort and show their commitment to ending age discrimination in the workplace. In these difficult economic times, hardworking Americans deserve our help. We must not allow a thin majority of the Supreme Court to eliminate the protections that Congress has enacted for them.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 395—EXPRESSING THE SENSE OF THE SENATE IN SUPPORT OF THE NORTH ATLANTIC TREATY ORGANIZATION AND THE NATO SUMMIT TO BE HELD IN CHICAGO, ILLINOIS FROM MAY 20 THROUGH 21, 2012

Mr. DURBIN (for himself, Mr. KIRK, and Mrs. SHAHEEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 395

Whereas the North Atlantic Treaty, signed April 4, 1949, in Washington, District of Columbia, which created the North Atlantic Treaty Organization (referred to in this preamble as ''NATO''), proclaims: ''[Members] are determined to safeguard the freedom, common heritage and civilisation of their peoples, founded on the principles of democracy, individual liberty and the rule of law. They seek to promote stability and well-being in the North Atlantic area. They are resolved to unite their efforts for collective defence and for the preservation of peace and security.'';

Whereas NATO has been the cornerstone of transatlantic security cooperation and an enduring instrument for promoting stability in Europe and throughout the world for over 60 years;

Whereas the NATO summit in Chicago, Illinois is an opportunity to enhance and more deeply entrench those principles, which continue to bind the alliance together and guide our efforts today;

Whereas the new Strategic Concept, approved in Lisbon, Spain in November 2010, affirms that all NATO members ''are determined that NATO will continue to play its unique and essential role in ensuring our common defence and security'' and that NATO ''continues to be effective in a changing world, against new threats, with new capabilities and new partners'';

Whereas the Chicago Summit will mark a critical turning point for NATO and a chance to focus on current operations, future capabilities, and the relationship between NATO and partners around the world;

Whereas the Chicago Summit will be the first NATO summit held in the United States since the 50th anniversary summit was held in Washington, District of Columbia in 1999 and the first NATO summit held outside of Washington, District of Columbia;

Whereas NATO Secretary General Anders Fogh Rasmussen said, ''Chicago is a city built upon diversity, and on determination. Those are values that underpin NATO too.'';

Whereas the Chicago Summit presents an opportunity to show to the world the Heartland of the United States—the site of the first elevated railway, the first skyscraper in the world, the busiest futures exchange in the world, and the starting point for historic Route 66;

Whereas the thousands of visitors to the Chicago Summit will have the opportunity to enjoy the hospitality of the city of Chicago, the 77 distinct neighborhoods in Chicago, and the State of Illinois; and

Whereas the contributions of generations of immigrants have made the city of Chicago and the State of Illinois what they are today and the ancestral homelands of the immigrants now contribute to making NATO the organization it is today: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the service of the brave men and women who have served to safeguard the freedom and security of the United States and the whole of the transatlantic alliance;

(2) honors the sacrifices of United States personnel, allies of the North American Treaty Organization (referred to in this resolution as ''NATO''), and partners in Afghanistan;

(3) remembers the 63 years NATO has served to ensure peace, security, and stability in Europe and throughout the world;

(4) reaffirms that NATO, through the new Strategic Concept, is oriented for the changing international security environment and the challenges of the future;

(5) urges all NATO members to take concrete steps to implement the Strategic Concept and to utilize the NATO summit in Chicago, Illinois to address current NATO operations, future capabilities and burden-sharing issues, and the relationship between NATO and partners around the world;

(6) conveys appreciation for the steadfast partnership between NATO and the United States; and

(7) expresses support for the 2012 NATO summit in Chicago.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1830. Mrs. BOXER proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

TEXT OF AMENDMENTS

SA. 1830. Mrs. BOXER proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

On page 1, line 7, strike ''4'' and insert ''6''.

On page 2, between lines 1 and 2, insert the following:

(5) Division E–Research and Education.

(6) Division F–Budgetary Effects.

On page 21, strike lines 5 through 10 and insert the following:

the unobligated balance of amounts—

(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under sections 202 or 204 of title 23, United States Code); and

(B) for which obligation authority was provided in a previous fiscal year;

On page 22, strike lines 6 through 9 and insert the following:

each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States Code, or apportioned by the Secretary under sections 202 or 204 of that title, by multiplying—

On page 22, line 25, insert ''and the amounts apportioned under section 204 of that title'' after ''(b)(12)''.

On page 24, line 8, strike ''title II'' and insert ''division E''.

On page 24, line 23, insert ''(excluding funds authorized for the program under section 202 of title 23, United States Code)'' after ''funds''.

On page 25, line 5, insert ''(or will not be apportioned to the States under section 204 of title 23, United States Code)'' after ''States''.

On page 25, strike lines 17 through 20.

On page 84, strike line 6 and insert the following:

tory shall be considered to be a Governor of a State.

''(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect public safety or to maintain or protect roadways that have been included within the scope of a prior emergency declaration in order to maintain the continuation of roadway services on roads that are threatened by continuous or frequent flooding.''.

On page 94, strike line 6 and all that follows through page 95, line 7, and insert the following:

''(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2012 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (c)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009.

''(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

On page 167, strike lines 1 through 3 and insert the following:

''(V) a school district, local education agency, or school;

''(VI) a tribal government; and

''(VII) any other local or regional

On page 168, strike line 21 and insert the following:

''a Federal-aid highway under this chapter.

''(7) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—Each State that does not opt out of this paragraph shall—

''(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206;

''(B) return 1 percent of those funds to the Secretary for the administration of that program; and

''(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described under subsection (d)(3)(A) of that section.

''(8) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under paragraph (7) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.''.

On page 210, line 19, strike ''ADMINISTRATIVE EXPENSES'' and insert ''TRIBAL TECHNICAL ASSISTANCE CENTERS''.

Beginning on page 217, strike line 15 and all that follows through page 218, line 1, and insert the following:

''(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(II) For fiscal year 2013—

''(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(III) For fiscal year 2014—

''(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(IV) For fiscal year 2015—

''(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(V) For fiscal year 2016 and

On page 221, line 25, strike ''$27,500,000'' and insert ''$82,500,000''.

On page 243, line 20, strike ''the road'' and insert ''the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher''.

On page 267, between lines 4 and 5, insert the following:

SEC. 11___. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 147 of title 23, United States Code, is amended—

(1) by striking subsections (c), (d), and (e);

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (b) the following:

''(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

''(d) FORMULA.—Of the amounts allocated pursuant to subsection (c)—

''(1) 20 percent shall be allocated among eligible entities in the proportion that—

''(A) the number of ferry passengers carried by each ferry system in the most recent fiscal year; bears to

''(B) the number of ferry passengers carried by all ferry systems in the most recent fiscal year;

''(2) 50 percent shall be allocated among eligible entities in the proportion that—

''(A) the number of vehicles carried by each ferry system in the most recent fiscal year; bears to

''(B) the number of vehicles carried by all ferry systems in the most recent fiscal year; and

''(3) 30 percent shall be allocated among eligible entities in the proportion that—

''(A) the total route miles serviced by each ferry system; bears to

''(B) the total route miles serviced by all ferry systems.

''(e) FERRY BOAT COORDINATION TEAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Federal Highway Administration a Ferry Boat Coordination Team to carry out paragraph (2).

''(2) PURPOSES.—The purposes of the ferry boat coordination team shall be—

''(A) to coordinate Federal programs affecting ferry and ferry facility construction, maintenance, operations, and security; and

''(B) to promote transportation by ferry as a component of the United States transportation system.

''(3) FUNCTIONS.—The ferry boat coordination team shall—

''(A) coordinate programs relating to ferry transportation carried out by—

''(i) the Department of Transportation, including programs carried out by the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Research and Innovative Technology Administration;

''(ii) the Department of Homeland Security; and

''(iii) other Federal and State agencies, as appropriate;

''(B) ensure resource accountability for programs carried out by the Secretary relating to ferry transportation;

''(C) provide strategic leadership for research, development, testing, and deployment of technologies relating to ferry transportation; and

''(D) promote ferry transportation as a means to reduce costs associated with traffic congestion.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $67,000,000 for each of fiscal years 2012 and 2013.''.

(b) NATIONAL FERRY DATABASE.—Section 1801(e) of the SAFETEA–LU (23 U.S.C. 129 note; Public Law 109–59) is amended—

(1) in paragraph (2), by inserting '', including any Federal, State, and local government funding sources,'' after ''sources''; and

(2) in paragraph (4)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B), the following:

''(C) ensure that the database is consistent with the national transit database maintained by the Federal Transit Administration; and''; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by striking ''2009'' and inserting ''2013''.

Beginning on page 275, strike line 13 and all that follows through page 276, line 6, and insert the following:

''(B) POPULATION OF FEWER THAN 200,000.—

''(i) IN GENERAL.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

''(I) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

''(II) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule.

''(ii) JUSTIFICATION.—The Secretary shall, in a timely manner, provide a substantive written justification to each metropolitan planning organization that is the subject of a negative determination of the Secretary under clause (i)(II).

On page 276, lines 7 and 8, strike ''the applicable Governor, acting on behalf of''.

On page 276, line 17, strike ''and''.

On page 276, line 23, strike the period and insert ''; and''.

On page 276, between lines 23 and 24, insert the following:

''(iii) make a determination not later than 1 year after the date on which the Secretary issues an extension, regardless of whether the metropolitan planning organization has met the minimum requirements established under subsection (e)(4)(B)(ii).

On page 286, line 23, strike ''ensure that'' and insert ''be limited to ensuring that''.

On page 287, lines 5 and 6, strike ''staff resources'' and insert ''staffing capabilities''.

On page 287, line 12, strike ''modeling'' and insert ''travel demand model and forecasting''.

On page 288, strike line 1 and insert the following:

''(iii) LIMITATION.—The rule issued pursuant to this subparagraph shall only include the minimum requirements established under clause (ii).

''(iv) INCLUSION.—A metropolitan

On page 336, strike lines 9 through 12, and insert the following:

''(iv) a congestion mitigation and air quality performance plan developed under section 149(k) by a tier I metropolitan planning organization (as defined in section 134) representing a nonattainment or maintenance area;

''(v) safety plans developed by providers of public transportation; and

''(vi) the national freight strategic plan.

On page 337, strike lines 7 though 15, and insert the following:

''(A) IN GENERAL.—Each State shall provide to—

''(i) nonmetropolitan local elected officials an opportunity to participate in accordance with subparagraph (B)(i); and

''(ii) affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

''(B) METHODS.—In carrying out this paragraph, the State shall—

''(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

On page 337, line 16, strike ''(i)'' and insert ''(ii)''.

On page 338, line 1, strike ''(ii)'' and insert ''(iii)''.

On page 338, line 8, strike ''(iii)'' and insert ''(iv)''.

On page 338, line 12, strike ''(iv)'' and insert ''(v)''.

On page 359, lines 18 and 19, strike ''applicable Federal law'' and insert ''this section and applicable Federal law (including rules and regulations)''.

On page 359, line 20, insert ''not later than 180 days after the date of enactment of the MAP-21 and'' after ''certify,''.

On page 359, line 21, insert ''thereafter'' after ''years''.

On page 387, strike lines 4 through 6 and insert the following:

''(i) in subparagraph (B)—

''(I) in clause (i), by striking 'but'; and

''(II) by striking clause (ii) and inserting the following:

''(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 13 4321 et seq.); but

''(iv) the Secretary may not assign—

Beginning on page 434, strike line 5 and all that follows through page 436, line 20.

Beginning on page 453, strike line 19 and all that follows through page 455, line 24, and insert the following:

On page 473, line 11, strike ''147,''.

On page 473, line 17, strike ''147,''.

On page 490, between lines 3 and 4, insert the following:

SEC. 15___. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that the timely completion of the Appalachian development highway system is a transportation priority in the national interest.

(b) MODIFIED FEDERAL SHARE FOR PROJECTS ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with funds made available to a State for fiscal year 2012 or a previous fiscal year for the Appalachian development highway system program, or with funds made available for fiscal year 2012 or a previous fiscal year for a specific project, route, or corridor on that system, shall be 95 percent.

(c) FEDERAL SHARE FOR OTHER FUNDS USED ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with Federal funds apportioned to a State for a program other than the Appalachian development highway system program shall be 95 percent.

(d) COMPLETION PLAN.—Not later than 1 year after the date of enactment of the MAP-21, each State represented on the Appalachian Regional Commission shall establish a plan for the completion of the designated corridors of the Appalachian development highway system within the State, including annual performance targets, with a target completion date.

SEC. 15___. DENALI COMMISSION.

The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) in section 305, by striking subsection (c) and inserting the following:

''(c) GIFTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act.

''(2) CONDITIONAL.—With respect to conditional gifts—

''(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act, if approved by the Federal Cochairperson; and

''(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

''(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of Congress.''; and

(2) by adding at the end the following:

''SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.

''(a) IN GENERAL.—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

''(b) TRANSFERS.—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

''(c) TREATMENT.—Any funds transferred to the Commission under this subsection—

''(1) shall remain available until expended; and

''(2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Cochairperson.''.

SEC. 15___. UPDATED CORROSION CONTROL AND PREVENTION REPORT.

Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to Congress an updated report on the costs and benefits of the prevention and control of corrosion on the surface transportation infrastructure of the United States.

SEC. 15___. HARBOR MAINTENANCE TRUST FUND.

(a) FINDINGS.—Congress finds that—

(1) there are 926 coastal, Great Lakes, and inland harbors maintained by the Corps of Engineers;

(2) according to the Bureau of Transportation Statistics—

(A) in 2009, the ports and waterways of the United States handled more than 2,200,000,000 short tons of imports, exports, and domestic shipments; and

(B) in 2010, United States ports were responsible for more than $1,400,000,000,000 in waterborne imports and exports;

(3) according to the Congressional Research Service, full channel dimensions are, on average, available approximately ⅓ of the time at the 59 harbors of the United States with the highest use rates;

(4) insufficient maintenance dredging of the navigation channels of the United States results in inefficient water transportation and causes harmful economic consequences;

(5) in 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the navigation channels of the United States;

(6) in fiscal year 2012, the Harbor Maintenance Trust Fund is expected to grow from $6,280,000,000 to $7,011,000,000, an increase of approximately 13 percent;

(7) despite the growth of the Harbor Maintenance Trust Fund, expenditures from the Fund have not equaled revenues, and the Fund is not being fully used for the intended purpose of the Fund; and

(8) inadequate investment in dredging needs is restricting access to the ports of the United States for domestic shipping, imports, and exports and therefore threatening the economic competitiveness of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the navigation channels of the United States;

(2) the amounts in the Harbor Maintenance Trust Fund should be fully expended to operate and maintain the navigation channels of the United States; and

(3) Congress should ensure that other programs, projects, and activities of the Civil Works Program of the Corps of Engineers, especially those programs, projects, and activities relating to inland navigation and flood control, are not adversely impacted.

SEC. 15___. ENRICHMENT TECHNOLOGY AND INTELLECTUAL PROPERTY.

(a) In addition to any other transfer authority, the Secretary may transfer, not earlier than thirty days after certification to the Committees on Appropriations of the House of Representatives and the Senate that such transfer is needed for national security reasons, and after Congressional notification and approval of the Committees on Appropriations of the House of Representatives and the Senate, up to $150,000,000 made available in prior Appropriations Acts to further the development and demonstration of national security-related enrichment technologies. No amounts may be transferred under this section from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) The Secretary shall provide, directly or indirectly, Federal funds, resources, or other benefit for the research, development, or deployment of domestic enrichment technology under this section—

(1) using merit selection procedures; and

(2) only if the Secretary shall execute an agreement with the recipient (or any affiliate, successor, or assignee) of such funds, resources, or other benefit (hereinafter referred to as the ''recipient''), which shall require, at a minimum—

(A) the achievement of specific technical criteria by the recipient by specific dates no later than June 30, 2014;

(B) that the recipient shall—

(i) immediately upon execution of the agreement, grant to the United States for use by or on behalf of the United States, through the Secretary, a royalty-free, nonexclusive license in all enrichment-related intellectual property and associated technical data owned, licensed or otherwise controlled by the recipient as of the date of enactment of this Act, or thereafter developed or acquired to meet the requirements of the agreement;

(ii) amend any existing agreement between the Secretary and the recipient to permit the Secretary to practice or permit third parties on behalf of the Secretary to practice intellectual property and associated technical data related to the award of funds, resources, or other benefit royalty-free for government purposes, including completing or operating enrichment technologies and using them for national defense purposes, such as providing nuclear material to operate commercial nuclear power reactors for tritium production; and

(iii) as soon as practicable, deliver to the Secretary all technical information and other documentation in its possession or control necessary to permit the Secretary to use and practice all intellectual property related to domestic enrichment technologies; and

(C) any other condition or restriction the Secretary determines is necessary to protect the interests of the United States.

(c) If the Secretary determines that a recipient has not achieved the technical criteria under the agreement pursuant to subsection (b), either by the dates specified in the original agreement or by June 30, 2014, whichever is earlier, the recipient shall, as soon as practicable, surrender custody, possession and control, or return, as appropriate, any real or personal property owned or leased by the recipient, to the Secretary in connection with the deployment of enrichment technology, along with all capital improvements, equipment, fixtures, appurtenances, and other improvements thereto, and any further obligation by the Secretary under any such lease shall terminate.

(d)(1) The limitations in this section shall apply to funds made available in this Act, prior Appropriations Acts, and any future Appropriations Acts.

(2) This section shall not apply with regard to the issuance of any loan guarantee pursuant to section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513).

(e) For purpose of this section, the term ''Secretary'' shall mean the Secretary of the Department of Energy.

Beginning on page 490, strike line 4 and all that follows through page 609, line 17, and insert the following:

TITLE II—AMERICA FAST FORWARD FINANCING INNOVATION

SEC. 2001. SHORT TITLE.

On page 645, strike lines 1 through 3 and insert the following:

TITLE III—HIGHWAY SPENDING CONTROLS

SEC. 3001. HIGHWAY SPENDING CONTROLS.

On page 669, line 17, strike ''as of'' and insert ''on''.

On page 671, strike lines 1 through 6 and insert the following:

''(B) INCLUSIONS.—The term 'nonmetropolitan area' includes—

''(i) a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census; and

''(ii) a nonurbanized area.

On page 672, strike lines 4 through 20 and insert the following:

''(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization that—

''(A) is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of metropolitan areas, with an emphasis on addressing the needs of rural areas of a State;

''(B) is not designated as a tier I MPO, a tier II MPO, or a nonmetropolitan planning organization.

On page 676, strike line 4 and all that follows through page 677, line 14, and insert the following:

''(5) CONTINUING DESIGNATION.—

''(A) POPULATION OF 200,000 OR MORE.—A designation of an existing MPO for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

''(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

''(ii) until the date on which the existing MPO is redesignated under paragraph (6).

''(B) POPULATION OF FEWER THAN 200,000.—

''(i) IN GENERAL.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

''(I) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

''(II)(aa) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

''(bb) the Secretary approves the Governor's determination.

''(ii) WRITTEN JUSTIFICATION.—The Secretary shall in a timely manner provide a substantive written justification to each metropolitan planning organization that is the subject of a negative determination of the Secretary under clause (i)(II).

''(C) EXTENSION.—If a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under subparagraph (B), requests a probationary continuation before the termination of the metropolitan planning organization, the Secretary shall—

''(i) delay the termination of the metropolitan planning organization under subparagraph (B) for a period of 1 year;

''(ii) provide additional technical assistance to all metropolitan planning organizations provided an extension under this paragraph to assist the metropolitan planning organization in meeting the minimum requirements under subsection (e)(4)(B)(i); and

''(iii) make a determination 1 year after the date on which the Secretary issues an extension, whether the MPO has meet the minimum requirements established under subsection (e)(4)(B)(i).

''(D) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

On page 678, line 10, strike ''(7)'' and insert the following:

''(7) ABSENCE OF DESIGNATION.—

''(A) IN GENERAL.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under paragraph (5)(B)(i)(II) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

''(i) to transfer the responsibilities of the metropolitan planning organization to the State; and

''(ii) to dissolve the metropolitan planning organization.

''(B) ACTION ON DISSOLUTION.—On submission of a plan under subparagraph (A), the metropolitan planning area served by the applicable metropolitan planning organization shall—

''(i) continue to receive metropolitan transportation planning funds until the earlier of—

''(I) the date of dissolution of the metropolitan planning organization; and

''(II) the date that is 4 years after the date of enactment of the Federal Public Transportation Act of 2012; and

''(ii) be treated by the State as a nonmetropolitan area for purposes of this chapter.

''(8)

On page 681, line 5, strike ''subsection (c)(7)'' and insert ''paragraph (1)''.

On page 686, line 1, strike ''ensure'' and insert ''be limited to ensuring''.

On page 686, lines 8 and 9, strike ''staff resources'' and insert ''staffing capabilities''.

On page 686, line 15, strike ''modeling'' and insert ''travel demand model and forecasting''.

On page 687, line 4, strike ''(iii)'' and insert the following:

''(iii) LIMITATION.—The rule issued pursuant to this subparagraph shall only include the minimum requirements established in clause (ii).

''(iv)

On page 693, line 5, insert after ''competitiveness,'' the following: ''travel and tourism (where applicable),''.

On page 695, line 15, strike ''or adopt''.

On page 696, strike lines 10 through 19 and insert the following:

(iii) the State strategic highway safety plan;

(iv) a congestion mitigation and air quality performance plan developed under section 149(k) of title 23 by a tier I MPO representing a nonattainment or maintenance area;

(v) safety plans developed by providers of public transportation; and

(vi) the national freight strategic plan.

On page 697, line 18, insert after ''parties'' the following: ''(including State representatives of nonmotorized users)''.

On page 698, line 2, strike ''all interested parties'' and insert ''interested parties and local officials''.

On page 698, lines 3 and 4, strike ''all interested parties'' and insert ''interested parties and local officials''.

On page 698, line 14, insert after ''parties'' the following: ''(including State representatives of nonmotorized users)''.

On page 706, line 2, strike ''targets'' and insert ''measures''.

On page 706, line 5, strike ''targets'' and insert ''measures''.

On page 706, strike lines 7 through 11 and insert the following:

''(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

On page 706, line 16, strike ''targets'' and insert ''measures''.

On page 707, line 6, strike ''of—'' and insert ''of the following:''.

On page 707, line 7, strike ''the projected'' and insert ''Projected''.

On page 707, line 17, strike the semicolon and insert a period.

On page 707, line 18, strike ''the'' and insert ''The''.

On page 707, line 22, strike the semicolon and insert a period.

On page 707, line 23, strike ''estimates'' and insert ''Estimates''.

On page 708, line 4, strike ''; and'' and insert a period.

On page 708, line 5, strike ''each'' and insert ''Each''.

On page 712, line 8, strike ''performance''.

On page 713, line 10, strike ''of—'' and insert ''of the following:''.

On page 713, line 11, strike ''the projected'' and insert ''Projected''.

On page 713, line 21, strike the semicolon and insert a period.

On page 713, line 22, strike ''the'' and insert ''The''.

On page 714, line 2, strike the semicolon and insert a period.

On page 714, line 3, strike ''estimates'' and insert ''Estimates''.

On page 714, lines 9 and 10, strike ''; and'' and insert a period.

On page 714, line 11, strike ''each'' and insert ''Each''.

On page 723, line 17, strike ''(d)'' and insert ''(c)''.

On page 728, line 17, strike ''coordinate'' and insert ''consult''.

On page 730, line 12, strike ''coordinate'' and insert ''consult on''.

On page 734, line 6, insert after ''competitiveness,'' the following: ''travel and tourism (where applicable),''.

On page 738, strike line 6 and all that follows through page 739, line 19, and insert the following:

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each State shall provide to—

''(i) nonmetropolitan local elected officials an opportunity to participate in accordance with subparagraph (B)(i); and

''(ii) affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

''(B) METHODS.—In carrying out this paragraph, the State shall—

''(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

''(ii) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

''(iii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iv) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

''(v) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

On page 741, line 1, strike ''coordination'' and insert ''consultation''.

On page 748, line 19, strike ''of—'' and insert ''of the following:''.

On page 748, line 20, strike ''the projected'' and insert ''Projected''.

On page 749, line 6, strike the semicolon and insert a period.

On page 749, line 7, strike ''the'' and insert ''The''.

On page 749, line 11, strike the semicolon and insert a period.

On page 749, line 12, strike ''estimates'' and insert ''Estimates''.

On page 749, line 19, strike the semicolon and insert a period.

On page 749, line 20, strike ''each'' and insert ''Each''.

On page 749, line 24, strike ''; and'' and insert a period.

On page 750, strike lines 1 through 7 and insert the following:

(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

On page 751, between lines 4 and 5, insert the following:

''(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the Federal Public Transportation Act of 2012, a statewide transportation plan that follows a policy plan approach—

''(A) may, for 4 years after the date of enactment of the Federal Public Transportation Act of 2012, continue to use a policy plan approach to the statewide transportation plan; and

''(B) shall be subject to the requirements of this subsection only to the extent that such requirements were applicable under this section (as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2012).

On page 751, line 8, strike ''cooperation'' and insert ''consultation''.

On page 752, line 3, insert after ''parties'' the following: ''(including State representatives of nonmotorized users)''.

On page 755, line 12, strike ''of—'' and insert ''of the following:''.

On page 755, line 13, strike ''the projected'' and insert ''Projected''.

On page 755, line 23, strike the semicolon and insert a period.

On page 755, line 24, strike ''the'' and insert ''The''.

On page 756, line 3, strike the semicolon and insert a period.

On page 756, line 4, strike ''estimates'' and insert ''Estimates''.

On page 756, line 11, strike ''; and'' and insert a period.

On page 756, line 12, strike ''each'' and insert ''Each''.

On page 758, line 20, strike ''by the State),'' and insert ''on the National Highway System) by the State,''.

On page 759, line 17, strike ''Approval'' and insert ''Notwithstanding any other provision of law, approval''.

On page 759, strike line 23 and all that follows through page 760, line 7, and insert the following:

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with this section and applicable Federal law (including rules and regulations); and

''(B) subject to paragraph (2), certify, not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012 and not less frequently than once every 5 years thereafter, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

On page 774, line 3, strike ''50 percent'' and insert ''75 percent''.

On page 774, line 10, strike ''25 percent'' and insert ''50 percent''.

On page 792, strike line 20 and all that follows through page 793, line 2, and insert the following:

''(2) CLEAN FUEL VEHICLE.—The term 'clean fuel vehicle' means—

''(A) a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

''(B) a zero emission bus used to provide public transportation.

On page 794, between lines 13 and 14, insert the following:

''(7) ZERO EMISSION BUS.—The term 'zero emission bus' means a clean fuel vehicle that produces no carbon or particulate matter.

On page 794, between lines 22 and 23, insert the following:

''(3) COMBINATION OF FUNDING SOURCES.—

''(A) COMBINATION PERMITTED.—A project carried out under this section may receive funding under section 5307, or any other provision of law.

''(B) GOVERNMENT SHARE.—Nothing in this paragraph may be construed to alter the Government share required under this section, section 5307, or any other provision of law.

On page 795, line 10, strike ''(f)'' and insert the following:

''(f) PRIORITY CONSIDERATION.—In making grants under this section, the Secretary shall give priority to projects relating to clean fuel buses that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other clean fuel buses.

''(g)

On page 796, strike lines 7 through 9 and insert the following:

''(A) if—

''(i) a majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods; or

''(ii) a substantial portion of the project operates in a separated right-of-way that is semi-dedicated for public transportation use during peak periods and includes other physical elements that reduce public transportation vehicle travel time and increase service reliability;

On page 853, line 11, strike ''Section'' and insert the following:

(a) IN GENERAL.—Section

On page 872, between lines 2 and 3, insert the following:

(b) PILOT PROGRAM FOR INTERCITY BUS SERVICE.—

(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means an intercity bus project eligible under section 5311(f) of title 49, United States Code, as amended by this section, that includes both feeder service and an unsubsidized segment of the intercity bus network to which it connects.

(B) FEEDER SERVICE.—The term ''feeder service'' means the provision of intercity connections to allow for the coordination of rural connections between small public transportation systems and providers of intercity bus service.

(C) INTERCITY BUS SERVICE.—The term ''intercity bus service'' means regularly scheduled bus service provided by private operators for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) IN-KIND MATCH.—The Secretary shall establish a pilot program under which the Secretary may allow not more than 20 States using funding provided to carry out section 5311(f) of title 49, United States Code, as amended by this section, to support intercity bus service using the capital costs of unsubsidized service provided by a private operator as in-kind match for an eligible project.

(3) STUDY.—The Comptroller General of the United States shall conduct a study not later than 1 year after the date of enactment of this Act to determine the efficacy of the pilot program in improving and expanding intercity bus service and the effect of the pilot program on public transportation providers and the commuting public.

On page 904, line 10, strike ''(1)'' and insert the following:

(1) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for—

''(A) not more than 5 years after the date of the original contract for bus procurements; and

''(B) not more than 7 years after the date of the original contract for rail procurements, provided that such option does not allow for significant changes or alterations to the rolling stock.''.

(2)

On page 904, line 13, strike ''(2)'' and insert ''(3)''.

On page 904, line 17, strike ''(3)'' and insert ''(4)''.

On page 959, line 25, strike ''the term 'fixed guideway motorbus' '' and insert ''the term 'high intensity motorbus' ''.

On page 960, line 17, strike ''fixed guideway'' and insert ''high intensity''.

On page 960, line 20, strike ''fixed guideway'' and insert ''high intensity''.

On page 961, line 1, strike ''fixed guideway'' and insert ''high intensity''.

On page 961, line 4, strike ''fixed guideway'' and insert ''high intensity''.

On page 961, line 7, strike ''FIXED GUIDEWAY'' and insert ''HIGH INTENSITY''.

On page 962, lines 5 and 6, strike ''fixed guideway'' and insert ''high intensity''.

On page 962, lines 6 and 7, strike ''fixed guideway'' and insert ''high intensity''.

On page 962, line 9, strike ''fixed guideway'' and insert ''high intensity''.

On page 962, line 12, strike the quotation marks and the second period and insert the following:

''(f) BUS AND BUS FACILITIES STATE OF GOOD REPAIR GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary may make grants under this subsection to assist State and local governmental authorities in financing bus and bus facility capital projects to maintain public transportation systems in a state of good repair.

''(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for capital projects on a competitive basis.

''(3) DISTRIBUTION.—The Secretary shall ensure that not less than 40 percent of the

funds allocated on a competitive basis are distributed to rural areas.

''(4) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to recipients providing bus-only or high-intensity motorbus service (as defined in subsection (e)(1)) in a State whose recipients' total apportionment from section 5338(a) in fiscal year 2012 minus the recipients' total apportionment from section 5338(a) in fiscal year 2011 does not exceed 90 percent of the average annual amount the recipients in the State received under section 5309(m)(2)(c), as in effect on October 1, 2011, in fiscal years 2006 through 2011.''.

On page 965, line 20, insert after ''2013'' the following: '', of which not less than $75,000,000 shall be available to carry out section 5337(f)''.

On page 973, strike line 15 and all that follows through ''5307.'' on line 21 and insert the following: ''Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.''

On page 975, beginning on line 10, strike ''5325 of title 49'' and all that follows through ''subsection (b)(2)(A),'' on line 12 and insert the following: ''5325(b)(2)(A) of title 49, United States Code, is amended''.

On page 975, line 16, strike ''; and'' and insert a period.

On page 975, strike lines 17 through 19.

On page 983, line 3, strike ''a''.

On page 983, line 5, strike ''SUBTITLE'' and insert ''TITLE''.

Beginning on page 1048, strike line 9 and all that follows through page 1050, line 12.

On page 1054, line 13, insert ''Motor Vehicle and Highway Safety Improvement Act of 2012'' before the em dash.

On page 1056, line 24, insert ''Motor Vehicle and Highway Safety Improvement Act of 2012'' before the em dash.

On page 1065, line 8, insert ''Motor Vehicle and Highway Safety Improvement Act of 2012'' before the comma.

On page 1078, line 11, after ''enactment of the'' insert ''Motor Vehicle and Highway Safety Improvement Act of 2012''.

On page 1085, strike lines 11 and 12, and insert the following:

''§ 30120A. Recall obligations and bankruptcy of a manufacturer

On page 1137, between lines 16 and 17, insert the following:

SEC. 32208. RENTAL TRUCK ACCIDENT STUDY.

(a) DEFINITIONS.—In this section:

(1) RENTAL TRUCK.—The term ''rental truck'' means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(2) RENTAL TRUCK COMPANY.—The term ''rental truck company'' means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2011.

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall—

(A) evaluate available data on the number of crashes, fatalities, and injuries involving rental trucks and the cause of such crashes, utilizing police accident reports and other sources;

(B) estimate the property damage and costs resulting from a subset of crashes involving rental truck operations, which the Secretary believes adequately reflect all crashes involving rental trucks;

(C) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(D) assess the rental truck maintenance programs of a selection of small, medium, and large rental truck companies, as selected by the Secretary, including the frequency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(E) include any other information available regarding the safety of rental trucks; and

(F) review any other information that the Secretary determines to be appropriate.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

On page 1143, strike lines 24 and 25 and insert the following:

(A) by amending subparagraph (E) to read as follows:

''(E) require medical examiners to transmit electronically, on at least a monthly basis, the name of the applicant, a numerical identifier, and additional information contained on the medical examiner's certificate for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, to the chief medical examiner;'';

On page 1146, strike lines 1 and 2 and insert the following: ''Code—

(A) up to $1,000,000 for fiscal year 2012; and

(B) up to $1,000,000 for fiscal year 2013.

On page 1158, line 10, strike ''deleting'' and insert ''striking''.

On page 1158, line 14, strike ''deleting'' and insert ''striking''.

On page 1198, between lines 2 and 3, insert the following:

SEC. 32514. GRADE CROSSING SAFETY REGULATIONS.

Section 112(2) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311) is amended by striking ''315 of such title (relating to motor carrier safety)'' and inserting ''311 of such title (relating to commercial motor vehicle safety)''.

On page 1219, line 15, strike the end quote and period at the end and insert the following:

''(j) PAYMENT TO RECIPIENTS OF FINANCIAL ASSISTANCE FOR COSTS.—Each grantee shall submit vouchers to the Secretary for costs the grantee has incurred under sections 31102, 31109, and 31313. The Secretary shall pay the grantee an amount equal to not more than the Government share of costs incurred as of the date on which the vouchers are submitted.''.

On page 1247, in the undesignated matter between lines 18 and 19, strike ''Sec.''.

On page 1314, after the matter following line 18, insert the following:

SEC. 33007. MAKE IT IN AMERICA INITIATIVE.

(a) MEMORANDUM OF AGREEMENT.—The term ''Memorandum of Agreement'' means the August 2011 Memorandum of Agreement between the Department of Transportation and the Department of Commerce entitled ''Development of a Domestic Supply Base for Intermodal Transportation in the U.S.''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that collaboration between the Department of Transportation and the Department of Commerce can significantly improve the scope and depth of the domestic supply base for transportation infrastructure, particularly for small businesses in the United States.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Transportation and the Secretary of Commerce shall prioritize the implementation of the Memorandum of Agreement.

(2) SAVINGS PROVISION.—The requirement under paragraph (1) may not be construed to require the expenditure of additional funds.

SEC. 33008. CAPACITY-BUILDING FOR NATURAL DISASTERS AND EXTREME WEATHER.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) EXTREME WEATHER.—The term ''extreme weather'' includes severe or unseasonable weather, heavy precipitation, a storm surge, flooding, drought, windstorms (including hurricanes, tornadoes, and associated storm surges), extreme heat, and extreme cold.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation, in consultation with—

(A) the Director of the National Institute of Standards and Technology;

(B) the Administrator of the Federal Emergency Management Agency; and

(C) as appropriate—

(i) the Administrator of the National Oceanic and Atmospheric Administration;

(ii) the Director of the United States Geological Survey;

(iii) the Administrator of the National Aeronautics and Space Administration;

(iv) the Administrator of the Environmental Protection Agency; and

(v) the heads of other Federal agencies.

(b) DATA.—The Secretary shall determine and provide to transportation planners appropriate data on the impact on infrastructure of natural disasters and a higher frequency of extreme weather.

(c) TRANSPORTATION INFRASTRUCTURE.—

(1) IN GENERAL.—The Secretary shall issue guidance and establish design standards for transportation infrastructure to help States, metropolitan planning organizations, and local governments plan for natural disasters and a greater frequency of extreme weather events in the process of planning, siting, designing, and developing transportation infrastructure by assessing vulnerabilities to a changing climate and the costs and benefits of adaptation measures (including economic, social, and environmental costs and benefits).

(2) COORDINATION.—If appropriate, guidance and design standards under paragraph (1) shall, to the maximum extent practicable, be carried out through the coordination mechanism provided under—

(A) the National Windstorm Impact Reduction Program established under section 204 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15703); and

(B) the National Earthquake Hazard Reduction Program established under section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704).

SEC. 33009. TOLL FAIRNESS STUDY.

(a) REVIEW.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of toll rate setting practices by selected interstate tolling authorities—

(1) over any bridge constructed under the Act of March 23, 1906 (33 U.S.C. 491 et seq.) (commonly known as the Bridge Act of 1906), the General Bridge Act of 1946 (33 U.S.C. 525 et seq.), or the International Bridge Act of 1972 (33 U.S.C. 535 et seq.); and

(2) over or through any bridge or tunnel constructed on a Federal-aid highway (as defined in section 101(a) of title 23, United States Code).

(b) EVALUATION.—The review under subsection (a) shall include an evaluation of—

(1) the extent to which the use of tolling revenue by interstate authorities is consistent with their mandates; and

(2) the transparency and accountability of the funding and management decisions by those authorities.

(c) REPORT TO CONGRESS.—The Comptroller General of the United States shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the results of the review conducted under this section; and

(2) any appropriate recommendations.

On page 1378, line 9, strike ''section 35009'' and insert ''section 51001''.

Beginning on page 1379, line 17, redesignate title VI as title V and redesignate sections 36001 through 36601 as sections 35001 through 35601, respectively.

On page 1380, line 25, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the em dash.

On page 1393, line 2, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the semicolon.

On page 1393, line 5, insert ''the National Rail System Preservation, Expansion, and Development Act of 2012'' before the period.

On page 1393, line 9, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the period.

On page 1405, line 18, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the comma.

On page 1411, line 21, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the comma.

On page 1438, line 15, insert ''National Rail System Preservation, Expansion, and Development Act of 2012'' before the comma.

Beginning on page 1445, strike line 16 and all that follows through page 1446, line 3 and insert the following:

''(b) AUTHORITY.—

''(1) IN GENERAL.—The Inspector General of Amtrak shall have the authority available to other Inspectors General, as necessary in carrying out the duties specified in the Inspector General Act 1978 (5 U.S.C. App. 3), to investigate any alleged violation of sections 286, 287, 371, 641, 1001, 1002 and 1516 of title 18.

''(2) AGENCY.—Solely for purposes of sections 286, 287, 371, 641, 1001, 1002, and 1516 of title 18, Amtrak and the Amtrak Office of the Inspector General, shall be considered a corporation in which the United States has a proprietary interest as set forth in section 6 of such title.

''(c) FALSE CLAIMS.—Claims made or presented to Amtrak shall be considered as claims under section 3729(b)(2)(A)(ii) of title 31. Statements made or presented to Amtrak shall be considered as statements under subparagraphs (B) and (G) of section 3729(a)(1) of such title.

''(d) LIMITATION.—Subsections (b) and (c) shall be effective only with respect to a fiscal year for which Amtrak receives a Federal subsidy.

''(e) QUALIFIED IMMUNITY.—

''(1) IN GENERAL.—An employee of the Amtrak Office of Inspector General shall enjoy the same personal qualified immunity from lawsuit or liability as the employees of the Department of Transportation Office of Inspector General with respect to the performance of investigative, audit, inspection, or evaluation functions authorized under the Inspector General Act of 1978 (5 U.S.C. App.) that are carried out for the Amtrak Office of Inspector General.

''(2) FEDERAL GOVERNMENT LIABILITY.—No liability of any kind shall attach to or rest upon the United States for any damages from or by any actions of the Amtrak Office of Inspector General, its employees, agents, or representatives.

''(f) SERVICES.—Amtrak and the Inspector General of Amtrak may obtain services under sections 502(a) and 602 of title 40, including travel programs, from the Administrator of General Services. The Administrator of General Services shall provide services under sections 502(a) and 602 of title 40, to Amtrak and the Inspector General.''.

Beginning on page 1451, strike line 7 and all that follows through page 1452, line 5, and insert the following:

(c) EXTENSION AUTHORITY.—Section 20157 is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

''(h) EXTENSION.—

''(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may extend in 1 year increments, upon application, the implementation deadline, if the Secretary—

''(A) determines that—

''(i) full implementation will likely be infeasible due to circumstances beyond the control of the applicant, including funding availability, spectrum acquisition, resource and technology availability, and interoperability standards;

''(ii) the applicant has demonstrated good faith in its positive train control implementation;

''(iii) the applicant has presented a revised positive train control implementation plan indicating how it will fully implement positive train control as soon as feasible, and not later than December 31, 2018; and

''(iv) such extension will not extend beyond December 31, 2018; and

''(B) takes into consideration—

''(i) whether the affected areas of track have been identified as areas of greater risk to the public and railroad employees in the applicant's positive train control implementation plan under section 236.1011(a)(4) of title 49, Code of Federal Regulations; and

''(ii) the risk of operational failure to the affected service areas and the applicant.

''(2) APPLICATION REVIEW.—The Secretary shall review an application submitted pursuant to paragraph (1) and approve or disapprove the application not later than 10 days after the application is received.''.

On page 1477, lines 1 through 21, redesignate title VII as title VI and redesignate sections 37001 and 37002 as sections 36001 and 36002, respectively.

On page 1477, between lines 21 and 22, insert the following:

TITLE VII—MISCELLANEOUS

SEC. 37001. AIRCRAFT NOISE ABATEMENT.

(a) IN GENERAL.—Section 3(b)(2) of Public Law 100–91 (16 U.S.C. 1a–1 note) is amended by adding at the end the following: ''The plan shall not apply to or otherwise affect the regulation of flights over the Grand Canyon at altitudes above the Special Flight Rules Area for the Grand Canyon in effect as of the date of the enactment of the MAP–21, or as subsequently modified by mutual agreement of the Secretary and the Administrator.''.

(b) SAVINGS PROVISIONS.—

(1) JURISDICTION OF NATIONAL AIRSPACE.—None of the recommendations required under section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), including recommendations to raise the flight-free zone altitude ceilings, shall adversely affect the national airspace system, as determined by the Administrator of the Federal Aviation Administration. If the Administrator determines that implementing the recommendations would adversely affect the national airspace system, the Administrator shall consult with the Secretary of the Interior to eliminate the adverse effects.

(2) EFFECT OF NEPA DETERMINATIONS.—None of the environmental thresholds, analyses, impact determinations, or conditions prepared or used by the Secretary to develop recommendations regarding the substantial restoration of natural quiet and experience for the Grand Canyon National Park required under section 3(b)(1) of Public Law 100–91 shall have broader application or be given deference with respect to the Administrator's compliance with the National Environmental Policy Act for proposed aviation actions and decisions. Nothing in this section may be construed to limit the ability of the National Park Service to use its own methods of analysis and impact determinations for air tour management planning within its purview under the National Parks Air Tour Management Act of 2000 (title VIII of Public Law 106–181).

(c) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

(1) IN GENERAL.—Not later than 15 years after the date of the enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of the enactment of this Act).

(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of the enactment of this Act, the Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of the enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804(c) of the National Park Air Tours Management Act of 2000 (title VIII of Public Law 106–181), provided that the cumulative impact of such operations does not increase noise at Grand Canyon National Park.

In division D, strike section 40201 and insert the following:

SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2009 or 2010'' each place it appears in clauses (i), (ii), and (iii) and inserting ''2009, 2010, or the period beginning after June 30, 2012, and before July 1, 2013'', and

(2) by striking ''2009 AND 2010'' in the heading and inserting ''2009, 2010, 2012, AND 2013''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after June 30, 2012.

In division D, strike section 40312 and insert the following:

SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—

''(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum percentage, or more than the applicable maximum percentage, of the average of the segment rates described in

such clause for years in the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary shall determine such average on an annual basis and may prescribe equivalent rates for years in any such 25-year period for which the rates described in any such clause are not available.

''(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

''If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
2012	90%	110%
2013	85%	115%
2014	80%	120%
2015	75%	125%
After 2015	70%	130%.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting ''(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)'' before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking ''section 430(h)(2)(C)'' and inserting ''section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—

''(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum percentage, or more than the applicable maximum percentage, of the average of the segment rates described in such clause for years in the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary of the Treasury shall determine such average on an annual basis and may prescribe equivalent rates for years in any such 25-year period for which the rates described in any such clause are not available.

''(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

''If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
2012	90%	110%
2013	85%	115%
2014	80%	120%
2015	75%	125%
After 2015	70%	130%.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(2) EXCEPTION.—A plan sponsor may elect not to have the amendments made by this section apply to any plan year beginning on or before the date of the enactment of this Act solely for purposes of determining the adjusted funding target attainment percentage under sections 436 of the Internal Revenue Code of 1986 and 206(g) of the Employee Retirement Income Security Act of 1974 for such plan year. A plan shall not be treated as failing to meet the requirements of sections 411(d)(6) of such Code and 204(g) of such Act solely by reason of an election under this paragraph.

SEC. 40313. ADDITIONAL TRANSFERS TO HIGHWAY TRUST FUND.

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) ADDITIONAL APPROPRIATIONS TO TRUST FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated to the Highway Trust Fund—

''(A) for fiscal year 2012, $2,183,000,000,

''(B) for fiscal year 2013, $2,277,000,000, and

''(C) for fiscal year 2014, $510,000,000.''.

SEC. 40314. TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(1) for fiscal year 2012, $27,000,000, and

(2) for fiscal year 2014, $82,000,000,

to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401). The Secretary of the Treasury shall allocate such amounts between such Trust Funds in the ratio in which amounts are appropriated to such Trust Funds under clause (3) of section 201(a) and clause (1) of section 201(b) of such Act.

On page 1522, after line 14, add the following:

DIVISION E—RESEARCH AND EDUCATION

SEC. 50001. SHORT TITLE.

This division may be cited as the ''Transportation Research and Innovative Technology Act of 2012''.

TITLE I—FUNDING

SEC. 51001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, $24,000,000 for each of fiscal years 2012 and 2013.

(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, $100,000,000 for each of fiscal years 2012 and 2013.

(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code, $70,000,000 for each of fiscal years 2012 and 2013.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 65 of title 49, United States Code, $26,000,000 for each of fiscal years 2012 and 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable.

TITLE II—RESEARCH, TECHNOLOGY, AND EDUCATION

SEC. 52001. RESEARCH, TECHNOLOGY, AND EDUCATION.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

''(2) INCIDENT.—The term 'incident' means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

''(3) INNOVATION LIFECYCLE.—The term 'innovation lifecycle' means the process of innovating through—

''(A) the identification of a need;

''(B) the establishment of the scope of research to address that need;

''(C) setting an agenda;

''(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

''(E) carrying out an evaluation of the impact of the resulting technology or innovation.

''(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

''(5) INTELLIGENT TRANSPORTATION SYSTEM.—The terms 'intelligent transportation

system' and 'ITS' mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

''(6) NATIONAL ARCHITECTURE.—For purposes of this chapter, the term 'national architecture' means the common framework for interoperability that defines—

''(A) the functions associated with intelligent transportation system user services;

''(B) the physical entities or subsystems within which the functions reside;

''(C) the data interfaces and information flows between physical subsystems; and

''(D) the communications requirements associated with the information flows.

''(7) PROJECT.—The term 'project' means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.''; and

(3) by inserting after paragraph (8) (as so redesignated) the following:

''(9) STANDARD.—The term 'standard' means a document that—

''(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

''(B) may support the national architecture and promote—

''(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

''(ii) interoperability among intelligent transportation system technologies implemented throughout the States.''.

SEC. 52002. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting '', development, and technology'' after ''surface transportation research'';

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

''(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.'';

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting ''within the innovation lifecycle'' after ''activities''; and

(ii) by inserting ''marketing and communications, impact analysis,'' after ''training,'';

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking ''supports research in which there is a clear public benefit and'' and inserting ''delivers a clear public benefit and occurs where'';

(ii) in subparagraph (C) by striking ''or'' after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (H); and

(iv) by inserting after subparagraph (C) the following:

''(D) meets and addresses current or emerging needs;

''(E) presents the best means to align resources with multiyear plans and priorities;

''(F) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

''(G) educates current and future transportation professionals; or'';

(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

''(B) partner with State highway agencies and other stakeholders as appropriate, including international entities, to facilitate research and technology transfer activities;

''(C) communicate the results of ongoing and completed research;

''(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

''(E) leverage partnerships with industry, academia, and international entities; and

''(F) conduct, facilitate, and support training and education of current and future transportation professionals.'';

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking ''policy and planning'' and inserting ''all highway objectives seeking to improve the performance of the transportation system'';

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by inserting ''tribal governments,'' after ''local governments,''; and

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking ''To the maximum'' and inserting the following:

''(A) IN GENERAL.—To the maximum'';

(ii) in the second sentence, by striking ''Performance measures'' and inserting the following:

''(B) PERFORMANCE MEASURES.—Performance measures'';

(iii) in the third sentence, by striking ''All evaluations'' and inserting the following:

''(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph''; and

(iv) by inserting after subparagraph (B) the following:

''(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.'';

(3) in subsection (b)—

(A) in paragraph (4) by striking ''surface transportation research and technology development strategic plan developed under section 508'' and inserting ''the transportation research and development strategic plan of the Secretary'';

(B) in paragraph (5) by striking ''section'' each place it appears and inserting ''chapter'';

(C) in paragraph (6) by adding at the end the following:

''(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

''(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.''; and

(D) by adding at the end the following:

''(7) PRIZE COMPETITIONS.—

''(A) IN GENERAL.—The Secretary may carry out prize competitions to award competitive prizes for surface transportation innovations that have the potential for application to the research and technology objectives and activities of the Federal Highway Administration to improve system performance.

''(B) REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary shall use a competitive process for the selection of prize recipients and shall widely advertise and solicit participation in prize competitions under this paragraph.

''(ii) REGISTRATION REQUIRED.—No individual or entity shall participate in a prize competition under this paragraph unless the individual or entity has registered with the Secretary in accordance with the eligibility requirements established by the Secretary under clause (iii).

''(iii) MINIMUM REQUIREMENTS.—The Secretary shall establish eligibility requirements for participation in each prize competition under this paragraph, which, at a minimum, shall—

''(I) limit participation in the prize competition to—

''(aa) individuals who are citizens of the United States;

''(bb) entities organized or existing under the laws of the United States or of a State; and

''(cc) entities organized or existing under the laws of a foreign country, if the controlling interest, as defined by the Secretary, is held by an individual or entity described in item (aa) or (bb);

''(II) require any individual or entity that registers for a prize competition—

''(aa) to assume all risks arising from participation in the competition; and

''(bb) to waive all claims against the Federal Government for any damages arising out of participation in the competition, including all claims, whether through negligence or otherwise, except in the case of willful misconduct, for—

''(AA) injury, death, damage, or loss of property; or

''(BB) loss of revenue or profits, whether direct, indirect, or consequential; and

''(III) require any individual or entity that registers for a prize competition to waive all claims against any non-Federal entity operating or managing the prize competition, such as a private contractor managing competition activities, to the extent that the Secretary believes is necessary to protect the interests of the Federal Government.

''(C) RELATIONSHIP TO OTHER AUTHORITY.—The Secretary may exercise the authority in this section in conjunction with, or in addition to, any other authority of the Secretary to acquire, support, or stimulate innovations with the potential for application to the Federal highway research technology and education program.'';

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking ''subsection'' and inserting ''chapter''; and

(ii) by striking ''50'' and inserting ''80''; and

(B) in paragraph (4) by striking ''subsection'' and inserting ''chapter''; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

''502. Surface transportation research, development, and technology.''.

SEC. 52003. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

''§ 503. Research and technology development and deployment

''(a) IN GENERAL.—The Secretary shall—

''(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

''(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary.

''(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

''(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

''(A) identify research topics;

''(B) coordinate domestic and international research and development activities;

''(C) carry out research, testing, and evaluation activities; and

''(D) provide technology transfer and technical assistance.

''(2) CONTENTS.—Research and development activities carried out under this section may include any of the following activities:

''(A) IMPROVING HIGHWAY SAFETY.—

''(i) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

''(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

''(I) to achieve greater long-term safety gains;

''(II) to reduce the number of fatalities and serious injuries on public roads;

''(III) to fill knowledge gaps that limit the effectiveness of research;

''(IV) to support the development and implementation of State strategic highway safety plans;

''(V) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

''(VI) to expand technology transfer to partners and stakeholders.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) safety assessments and decisionmaking tools;

''(II) data collection and analysis;

''(III) crash reduction projections;

''(IV) low-cost safety countermeasures;

''(V) innovative operational improvements and designs of roadway and roadside features;

''(VI) evaluation of countermeasure costs and benefits;

''(VII) development of tools for projecting impacts of safety countermeasures;

''(VIII) rural road safety measures;

''(IX) safety measures for vulnerable road users, including bicyclists and pedestrians;

''(X) safety policy studies;

''(XI) human factors studies and measures;

''(XII) safety technology deployment;

''(XIII) safety workforce professional capacity building initiatives;

''(XIV) safety program and process improvements; and

''(XV) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

''(B) IMPROVING INFRASTRUCTURE INTEGRITY.—

''(i) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

''(I) to maintain infrastructure integrity;

''(II) to meet user needs; and

''(III) to link Federal transportation investments to improvements in system performance.

''(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities—

''(I) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

''(II) to improve the safety and security of highway infrastructure;

''(III) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

''(IV) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

''(V) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

''(VI) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

''(VII) to reduce the lifecycle environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

''(VIII) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

''(II) short-term and accelerated studies of infrastructure performance;

''(III) research to develop more durable infrastructure materials and systems;

''(IV) advanced infrastructure design methods;

''(V) accelerated highway and bridge construction;

''(VI) performance-based specifications;

''(VII) construction and materials quality assurance;

''(VIII) comprehensive and integrated infrastructure asset management;

''(IX) infrastructure safety assurance;

''(X) highway infrastructure security;

''(XI) sustainable infrastructure design and construction;

''(XII) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

''(XIII) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

''(XIV) improved highway construction technologies and practices;

''(XV) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

''(XVI) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

''(XVII) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

''(XVIII) studies of infrastructure resilience and other adaptation measures;

''(XIX) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; and

''(XX) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions.

''(iv) LIFECYCLE COSTS ANALYSIS STUDY.—

''(I) IN GENERAL.—In this clause, the term 'lifecycle costs analysis' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

''(II) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs for federally funded highway projects. At a minimum, this study shall include a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

''(III) CONSULTATION.—In carrying out this study, the Comptroller shall consult with, at a minimum—

''(aa) the American Association of State Highway and Transportation Officials;

''(bb) appropriate experts in the field of lifecycle cost analysis; and

''(cc) appropriate industry experts and research centers.

''(IV) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study which shall include, but is not limited to—

''(aa) a summary of the latest research on lifecycle cost analysis; and

''(bb) recommendations on the appropriate—

''(AA) period of analysis;

''(BB) design period;

''(CC) discount rates; and

''(DD) use of actual material life and maintenance cost data.

''(C) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

''(i) IN GENERAL.—The Secretary shall carry out research—

''(I) to improve transportation planning and environmental decisionmaking processes; and

''(II) to minimize the impact of surface transportation on the environment and quality of life.

''(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

''(I) to reduce the impact of highway infrastructure and operations on the natural and human environment;

''(II) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

''(III) to improve construction techniques;

''(IV) to accelerate construction to reduce congestion and related emissions;

''(V) to reduce the impact of highway runoff on the environment;

''(VI) to maintain sustainability of biological communities and ecosystems adjacent to highway corridors;

''(VII) to improve understanding and modeling of the factors that contribute to the demand for transportation;

''(VIII) to improve transportation planning decisionmaking and coordination; and

''(IX) to reduce the environmental impacts of freight movement.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) creation of models and tools for evaluating transportation measures and transportation system designs;

''(II) congestion reduction efforts;

''(III) transportation and economic development planning in rural areas and small communities;

''(IV) improvement of State, local, and tribal capabilities relating to surface transportation planning and the environment;

''(V) environmental stewardship and sustainability activities;

''(VI) streamlining of project delivery processes;

''(VII) development of effective strategies and techniques to analyze and minimize impacts to the natural and human environment and provide environmentally beneficial mitigation;

''(VIII) comprehensive multinational planning;

''(IX) multistate transportation corridor planning;

''(X) improvement of transportation choices, including walking, bicycling, and linkages to public transportation;

''(XI) ecosystem sustainability;

''(XII) wildlife and plant population connectivity and interaction across and along highway corridors;

''(XIII) analysis, measurement, and reduction of air pollution from transportation sources;

''(XIV) advancement in the understanding of health impact analyses in transportation planning and project development;

''(XV) transportation planning professional development;

''(XVI) research on improving the cooperation and integration of transportation planning with other regional plans, including land use, energy, water infrastructure, economic development, and housing plans;

''(XVII) reducing the environmental impacts of freight movement; and

''(XVIII) alternative transportation fuels research.

''(D) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

''(i) IN GENERAL.—The Secretary shall carry out research under this subparagraph with the goals of—

''(I) addressing congestion problems;

''(II) reducing the costs of congestion;

''(III) improving freight movement;

''(IV) increasing productivity; and

''(V) improving the economic competitiveness of the United States.

''(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

''(I) to reduce traffic congestion;

''(II) to improve freight movement; and

''(III) to reduce freight-related congestion throughout the transportation network.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) active traffic and demand management;

''(II) acceleration of the implementation of Intelligent Transportation Systems technology;

''(III) advanced transportation concepts and analysis;

''(IV) arterial management and traffic signal operation;

''(V) congestion pricing;

''(VI) corridor management;

''(VII) emergency operations;

''(VIII) research relating to enabling technologies and applications;

''(IX) freeway management;

''(X) evaluation of enabling technologies;

''(XI) freight industry professional development;

''(XII) impacts of vehicle size and weight on congestion;

''(XIII) freight operations and technology;

''(XIV) operations and freight performance measurement and management;

''(XV) organization and planning for operations;

''(XVI) planned special events management;

''(XVII) real-time transportation information;

''(XVIII) road weather management;

''(XIX) traffic and freight data and analysis tools;

''(XX) traffic control devices;

''(XXI) traffic incident management;

''(XXII) work zone management;

''(XXIII) communication of travel, roadway, and emergency information to persons with disabilities; and

''(XXIV) research on enhanced mode choice and intermodal connectivity.

''(E) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

''(i) IN GENERAL.—The Secretary shall carry out research and technology on emerging issues in the domestic and international transportation community from a policy perspective.

''(ii) OBJECTIVES.—Research and technology activities carried out under this subparagraph shall provide information to policy and decisionmakers on current and emerging transportation issues.

''(iii) RESEARCH ACTIVITIES.—Activities carried out under this subparagraph shall include—

''(I) the planning and integration of a coordinated program related to the possible design, interoperability, and institutional roles of future sustainable transportation revenue mechanisms;

''(II) field trials to research potential alternative revenue mechanisms, and the Secretary may partner with individual States, groups of States, or other entities to implement such trials; and

''(III) other activities to study new methods which preserve a user-fee structure to maintain the long-term solvency of the Highway Trust Fund.

''(iv) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) highway needs and investment analysis;

''(II) a motor fuel tax evasion program;

''(III) advancing innovations in revenue generation, financing, and procurement for project delivery;

''(IV) improving the accuracy of project cost analyses;

''(V) highway performance measurement;

''(VI) travel demand performance measurement;

''(VII) highway finance performance measurement;

''(VIII) international technology exchange initiatives;

''(IX) infrastructure investment needs reports;

''(X) promotion of the technologies, products, and best practices of the United States; and

''(XI) establishment of partnerships among the United States, foreign agencies, and transportation experts.

''(v) FUNDING.—Of the funds authorized to carry out this subsection, no less than 50 percent shall be used to carry out clause (iii).

''(F) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

''(i) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

''(ii) COMPARISONS.—Each report under clause (i) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

''(iii) INCLUSIONS.—Each report under clause (i) shall provide recommendations to Congress on changes to the Highway Performance Monitoring System that address—

''(I) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

''(II) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

''(G) EXPLORING NEXT GENERATION SOLUTIONS AND CAPITALIZING ON THE HIGHWAY RESEARCH CENTER.—

''(i) IN GENERAL.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

''(I) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

''(II) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

''(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) long-term, high-risk research to improve the materials used in highway infrastructure;

''(II) exploratory research to assess the effects of transportation decisions on human health;

''(III) advanced development of surrogate measures for highway safety;

''(IV) transformational research to affect complex environmental and highway system relationships;

''(V) development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

''(VI) development of advanced data acquisition techniques for system condition and performance monitoring;

''(VII) inclusive research for hour-to-hour operational decisionmaking and simulation forecasting;

''(VIII) understanding current and emerging phenomena to inform next generation transportation policy decisionmaking; and

''(IX) continued improvement and advancement of the Turner-Fairbank Highway Research Center.

''(H) ALIGNING NATIONAL CHALLENGES AND DISSEMINATING INFORMATION.—

''(i) IN GENERAL.—The Secretary shall conduct research and development activities—

''(I) to establish a nationally coordinated highway research agenda that—

''(aa) focuses on topics of national significance;

''(bb) addresses current gaps in research;

''(cc) encourages collaboration;

''(dd) reduces unnecessary duplication of effort; and

''(ee) accelerates innovation delivery; and

''(II) to provide relevant information to researchers and highway and transportation practitioners to improve the performance of the transportation system.

''(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) coordination, development, and implementation of a national highway research agenda;

''(II) collaboration on national emphasis areas of highway research and coordination among international, Federal, State, and university research programs;

''(III) development and delivery of research reports and innovation delivery messages;

''(IV) identification of market-ready technologies and innovations; and

''(V) provision of access to data developed under this subparagraph to the public, including researchers, stakeholders, and customers, through a publicly accessible Internet site.

''(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

''(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

''(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

''(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

''(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

''(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

''(2) IMPLEMENTATION.—

''(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

''(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

''(i) establish and carry out demonstration programs;

''(ii) provide incentives, technical assistance, and training to researchers and developers; and

''(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

''(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

''(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall implement the findings and recommendations developed under the future strategic highway research program established under section 510.

''(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

''(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph, which funds shall be used in addition to any other funds made available for that purpose.

''(iv) FEES.—

''(I) IN GENERAL.—The Secretary may impose and collect fees to recover costs associated with special data or analysis requests relating to safety naturalistic driving databases developed under the future of strategic highway research program.

''(II) USE OF FEE AMOUNTS.—

''(aa) IN GENERAL.—Any fees collected under this clause shall be made available to the Secretary to carry out this section and shall remain available for expenditure until expended.

''(bb) SUPPLEMENT, NOT SUPPLANT.—Any fee amounts collected under this clause shall supplement, but not supplant, amounts made available to the Secretary to carry out this title.

''(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

''(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

''(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

''(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

''(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

''(iii) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

''(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

''(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques; and

''(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction.

''(C) FUNDING.—The Secretary shall obligate for each of fiscal years 2012 through 2013 from funds made available to carry out this subsection—

''(i) $6,000,000 to accelerate the deployment and implementation of asphalt pavement technology; and

''(ii) $6,000,000 to accelerate the deployment and implementation of concrete pavement technology used in highways on the national highway system.

''(D) ADMINISTRATION.—

''(i) IN GENERAL.—The implementation and deployment activities to be carried out under this paragraph shall be identified and conducted in collaboration with industry, State departments of transportation, the Federal Highway Administration, the National Academy of Sciences, and other appropriate entities, using the respective road maps (the Concrete Pavement Road Map and National Asphalt Roadmap) as a guide.

''(ii) COLLABORATION.—The Federal Highway Administration shall collaborate with organizations that have a proven track record of effective technology deployment on a national scale, stakeholder involvement, and leveraging of public sector investment.

''(iii) ADVISORY COMMITTEE.—A pavement technology implementation advisory committee comprised of key stakeholders, including the Federal Highway Administration, State departments of transportation, and the pavement industry, shall be established to oversee and advise the program efforts.

''(iv) REPORT.—The Secretary shall annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that details the progress and results of the activities carried out under this paragraph.

''(d) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT RESEARCH.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a research program to examine the outcomes of actions funded under the congestion mitigation and air quality improvement program since the enactment of the SAFETEA-LU (Public Law 109–59).

''(2) GOALS.—The goals of the program shall include—

''(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

''(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

''(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;

''(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

''(C) an increase in knowledge of—

''(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

''(ii) other information to more accurately understand the validity of current estimation and modeling routines and ways to improve those routines.

''(3) ADMINISTRATIVE ELEMENTS.—To carry out this subsection, the Secretary shall—

''(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

''(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and

''(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

''(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(A) not later than 1 year after the date of enactment of the MAP–21, and for the following year, a report providing an initial scoping and plan, and status updates, respectively, for the program under this subsection; and

''(B) not later than 2 years after the date of enactment of the MAP–21, a final report that

describes the findings of, and recommendations resulting from, the program under this subsection.

''(5) FUNDING.—Of the amounts made available to carry out this section, the Secretary shall make available to carry out this subsection not more than $1,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 503 and inserting the following:

''503. Research and technology development and deployment.''.

SEC. 52004. TRAINING AND EDUCATION.

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting ''and the employees of any other applicable Federal agency'' before the semicolon at the end;

(B) in paragraph (3)(A)(ii)(V) by striking ''expediting'' and inserting ''reducing the amount of time required for'';

(C) by striking paragraph (4);

(D) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(E) in paragraph (7) (as redesignated by subparagraph (D)) by striking ''paragraph (7)'' and inserting ''paragraph (6)'';

(2) in subsection (b) by striking paragraph (3) and inserting the following:

''(3) FEDERAL SHARE.—

''(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

''(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

''(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

''(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.'';

(3) in subsection (c)(2)—

(A) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary'';

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking ''. The program'' and inserting '', which program''; and

(C) by adding at the end the following:

''(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.'';

(4) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A) by striking ''sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)'' and inserting ''paragraphs (1) through (4) of section 104(b)'';

(B) in subparagraph (D) by striking ''and'' at the end;

(C) in subparagraph (E) by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(F) meetings of transportation professionals that include education and professional development activities;

''(G) activities carried out by the National Highway Institute under subsection (a); and

''(H) local technical assistance programs under subsection (b).'';

(5) in subsection (f) in the heading, by striking ''PILOT'';

(6) in subsection (g)(4)(F) by striking ''excellence'' and inserting ''stewardship''; and

(7) by adding at the end the following:

''(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

''(1) IN GENERAL.—The Secretary may make grants under this section to establish and maintain centers for surface transportation excellence.

''(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.''.

SEC. 52005. STATE PLANNING AND RESEARCH.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking ''section 104 (other than sections 104(f) and 104(h)) and under section 144'' and inserting ''paragraphs (1) through (5) of section 104(b)''; and

(B) in paragraph (3) by striking ''under section 303'' and inserting '', plans, and processes under sections 119, 148, 149, and 167'';

(2) in subsection (b)—

(A) in paragraph (1) by striking ''25'' and inserting ''24''; and

(B) in paragraph (2) by striking ''75 percent of the funds described in paragraph (1)'' and inserting ''70 percent of the funds described in subsection (a)'';

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

''(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

''(1) FUNDS.—Not less than 6 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be made available to the Secretary to carry out section 503(c)(2)(C).

''(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).''; and

(5) in paragraph (e) (as so redesignated) by striking ''section 118(b)(2)'' and inserting ''section 118(b)''.

SEC. 52006. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.

Section 506 of title 23, United States Code, is repealed.

SEC. 52007. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

Section 507 of title 23, United States Code, is repealed.

SEC. 52008. NATIONAL COOPERATIVE FREIGHT RESEARCH.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

''(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs carried out by the National Academy of Sciences to ensure program efficiency, effectiveness, and the dissemination of research findings.''.

SEC. 52009. PRIZE AUTHORITY.

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

''§ 335. Prize authority

''(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

''(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

''(1) consult with a wide variety of Government and nongovernment representatives; and

''(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

''(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

''(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

''(1) the subject of the competition;

''(2) the eligibility rules for participation in the competition;

''(3) the amount of the prize; and

''(4) the basis on which a winner will be selected.

''(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

''(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

''(2) has complied with all the requirements under this section;

''(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

''(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

''(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

''(f) LIABILITY.—

''(1) ASSUMPTION OF RISK.—

''(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

''(B) RELATED ENTITY.—In this paragraph, the term 'related entity' means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

''(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

''(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

''(B) the Federal Government for damage or loss to Government property resulting from such an activity.

''(g) JUDGES.—

''(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize

competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

''(2) LIMITATIONS.—A judge selected under this subsection may not—

''(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

''(B) have a familial or financial relationship with an individual who is a registered participant.

''(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

''(i) FUNDING.—

''(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

''(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

''(A) shall remain available until expended; and

''(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

''(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

''(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

''(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

''(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

''(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

''(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in cash prizes without the approval of the Secretary.

''(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department's name, initials, or insignia only after prior review and written approval by the Secretary.

''(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

''335. Prize authority''.

SEC. 52010. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

''§ 5505. University transportation centers program

''(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

''(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

''(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

''(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

''(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

''(C) to address critical workforce needs and educate the next generation of transportation leaders.

''(b) COMPETITIVE SELECTION PROCESS.—

''(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

''(2) RESTRICTION.—Institutions may not apply for both a national transportation center and a regional transportation center.

''(3) GENERAL SELECTION CRITERIA.—

''(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

''(B) CRITERIA.—The Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

''(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

''(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

''(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

''(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

''(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

''(I) degree-granting programs;

''(II) training seminars for practicing professionals;

''(III) outreach activities to attract new entrants into the transportation field, including women, minorities, and persons from disadvantaged communities; and

''(IV) primary and secondary school transportation workforce outreach;

''(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

''(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

''(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

''(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

''(c) GRANTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

''(2) NATIONAL TRANSPORTATION CENTERS.—

''(A) IN GENERAL.—For each of fiscal years 2012 and 2013, and subject to subparagraph (B), the Secretary shall provide grants to 5 recipients that the Secretary determines best meet the criteria described in subsection (b)(3).

''(B) RESTRICTIONS.—

''(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall not exceed $3,250,000 per recipient.

''(ii) FOCUSED RESEARCH.—The grant recipients under this paragraph shall focus research on national transportation issues, as determined by the Secretary.

''(C) MATCHING REQUIREMENT.—

''(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

''(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

''(I) section 504(b) or 505 of title 23; and

''(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

''(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

''(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled 'Standard Federal Regions' and dated April, 1974 (circular A-105).

''(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 recipients on the basis of—

''(i) the criteria described in subsection (b)(3);

''(ii) the location of the center within the Federal region to be served; and

''(iii) whether the institution (or, in the case of consortium of institutions, the lead institution) demonstrates that the institution has a well-established, nationally recognized program in transportation research and education, as evidenced by—

''(I) recent expenditures by the institution in highway or public transportation research;

''(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

''(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

''(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall not exceed $2,750,000 for each recipient.

''(D) MATCHING REQUIREMENTS.—

''(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

''(ii) SOURCES.—The matching amounts referred to in the clause (i) may include amounts made available to the recipient under—

''(I) section 504(b) or 505 of title 23; and

''(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

''(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

''(A) IN GENERAL.—For each of fiscal years 2012 and 2013, the Secretary shall provide grants of not more than $1,500,000 each to not more than 20 recipients to carry out this section.

''(B) RESTRICTION.—A grant recipient under paragraph (2) or (3) shall not be eligible to receive a grant under this paragraph.

''(C) MATCHING REQUIREMENT.—

''(i) IN GENERAL.—Subject to clause (iii), as a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

''(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

''(I) section 504(b) or 505 of title 23; and

''(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

''(iii) EXEMPTION.—This subparagraph shall not apply on a demonstration of financial hardship by the applicant institution.

''(D) FOCUSED RESEARCH.—

''(i) IN GENERAL.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

''(ii) PUBLIC TRANSPORTATION ISSUES.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

''(d) PROGRAM COORDINATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

''(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

''(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate the programs carried out under this section by grant recipients.

''(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section and section 5506.

''(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

''(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

''Sec. 5505. University transportation centers program.''.

SEC. 52011. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

''§ 6301. Definitions

''In this chapter, the following definitions apply:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Transportation Statistics established by section 6302(a).

''(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

''(3) DIRECTOR.—The term 'Director' means the Director of the Bureau.

''(4) LIBRARY.—The term 'Library' means the National Transportation Library established by section 6304(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''§ 6302. Bureau of Transportation Statistics

''(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

''(b) DIRECTOR.—

''(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

''(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

''(3) DUTIES.—

''(A) IN GENERAL.—The Director shall—

''(i) serve as the senior advisor to the Secretary on data and statistics; and

''(ii) be responsible for carrying out the duties described in subparagraph (B).

''(B) DUTIES.—The Director shall—

''(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

''(I) the Federal Government;

''(II) State and local governments;

''(III) metropolitan planning organizations;

''(IV) transportation-related associations;

''(V) the private sector, including the freight community; and

''(VI) the public;

''(ii) establish on behalf of the Secretary a program—

''(I) to effectively integrate safety data across modes; and

''(II) to address gaps in existing safety data programs of the Department;

''(iii) work with the operating administrations of the Department—

''(I) to establish and implement the data programs of the Bureau; and

''(II) to improve the coordination of information collection efforts with other Federal agencies;

''(iv) continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;

''(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

''(I) the Bureau;

''(II) the operating administrations of the Department;

''(III) State and local governments;

''(IV) metropolitan planning organizations; and

''(V) private sector entities;

''(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

''(I) transportation safety across all modes and intermodally;

''(II) the state of good repair of United States transportation infrastructure;

''(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

''(IV) economic efficiency across the entire transportation sector;

''(V) the effects of the transportation system on global and domestic economic competitiveness;

''(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

''(VII) transportation-related variables that influence the domestic economy and global competitiveness;

''(VIII) economic costs and impacts for passenger travel and freight movement;

''(IX) intermodal and multimodal passenger movement;

''(X) intermodal and multimodal freight movement; and

''(XI) consequences of transportation for the human and natural environment;

''(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

''(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

''(ix) review and report to the Secretary on the sources and reliability of—

''(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62;107 Stat. 285); and

''(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

''(x) ensure that the statistics published under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

''(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency upon written request and subject to any statutory or regulatory restrictions.

''§ 6303. Intermodal transportation database

''(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

''(b) USE.—The database established under this section shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

''(c) CONTENTS.—The database established under this section shall include—

''(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combinations, and relevant classification;

''(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combinations, and relevant classification;

''(3) information on the location and connectivity of transportation facilities and services; and

''(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

''§ 6304. National transportation library

''(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau a National Transportation Library which shall—

''(1) be headed by an individual who is highly qualified in library and information science;

''(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

''(3) provide reference and research assistance;

''(4) serve as a central depository for research results and technical publications of the Department;

''(5) provide a central clearinghouse for transportation data and information of the Federal Government;

''(6) serve as coordinator and policy lead for transportation information access;

''(7) provide transportation information and information products and services to—

''(A) the Department;

''(B) other Federal agencies;

''(C) public and private organizations; and

''(D) individuals, within the United States and internationally;

''(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B)(vi); and

''(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

''(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), to improve the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

''(c) AGREEMENTS.—

''(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, award grants to, and receive amounts from, any—

''(A) State or local government;

''(B) organization;

''(C) business; or

''(D) individual.

''(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to the Department's strategic goals, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or awarding grants for the conduct of such activities.

''(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section, deposited in the Research and Innovative Technology Administration's general fund account, and remain available until expended.

''§ 6305. Advisory council on transportation statistics

''(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

''(b) FUNCTION.—The advisory council established under this section shall advise the Director on—

''(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

''(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director.

''(2) SELECTION.—In selecting members for the advisory council, the Director shall appoint individuals who—

''(A) are not officers or employees of the United States;

''(B) possess expertise in—

''(i) transportation data collection, analysis, or application;

''(ii) economics; or

''(iii) transportation safety; and

''(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

''(d) TERMS OF APPOINTMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

''(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

''(3) CURRENT MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the Transportation Research and Innovative Technology Act of 2012 shall serve until the end of the appointed term of the member.

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

''§ 6306. Transportation statistical collection, analysis, and dissemination

''To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

''(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use and with or without reimbursement for such use;

''(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

''(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

''(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

''(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

''(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

''§ 6307. Furnishing of information, data, or reports by Federal agencies

''(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

''(b) PROHIBITION ON CERTAIN DISCLOSURES.—

''(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

''(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

''(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

''(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

''(2) COPIES OF REPORTS.—

''(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

''(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in

subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

''(i) shall be immune from legal process; and

''(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

''(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

''(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

''(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

''(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

''(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

''§ 6308. Proceeds of data product sales

''Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

''§ 6309. Information collection

''As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities of this chapter.

''§ 6310. National transportation atlas database

''(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

''(1) transportation networks;

''(2) flows of people, goods, vehicles, and craft over the transportation networks; and

''(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

''(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

''§ 6311. Limitations on statutory construction

''Nothing in this chapter—

''(1) authorizes the Bureau to require any other Federal agency to collect data; or

''(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

''§ 6312. Research and development grants

''The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

''(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

''(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

''(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

''(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

''§ 6313. Transportation statistics annual report

''The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

''(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);

''(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and

''(3) any recommendations of the Director for improving transportation statistical information.

''§ 6314. Mandatory response authority for freight data collection

''(a) FREIGHT DATA COLLECTION.—

''(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

''(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

''(B) to make available records or statistics in the official custody of the individual.

''(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

''(A) receives Federal funds relating to the freight program; and

''(B) has consented to be subject to a fine under this subsection on—

''(i) refusal to supply any data requested; or

''(ii) failure to respond to a written request.

''(b) FINES.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than $500.

''(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in subsection (a)(1), the individual shall be fined not more than $10,000.''.

(b) RULES OF CONSTRUCTION.—If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of construction apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis for chapter 1 of that title is deleted.

(2) ANALYSIS FOR SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the items for chapter 61 the following:

''Chapter 63. Bureau of Transportation Statistics.''.

SEC. 52012. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

''(f) PROMOTIONAL AUTHORITY.—Amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration may be used to purchase promotional items of nominal value for use by the Administrator of the Research and Innovative Technology Administration in the recruitment of individuals and promotion of the programs of the Administration.

''(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Administrator is authorized to expend not more than 1 ½ percent of the amounts authorized to be appropriated for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

''(h) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

''(B) Federal laboratories; and

''(C) other Federal agencies.

''(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

''(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

''(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41, United States Code shall not apply to a contract, grant, or other agreement entered into under this section.''.

SEC. 52013. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''SAFETEA-LU'' and inserting ''Transportation Research and Innovative Technology Act of 2012''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

''(i) promoting safety;

''(ii) reducing congestion and improving mobility;

''(iii) protecting and enhancing the environment;

''(iv) preserving the existing transportation system;

''(v) improving the durability and extending the life of transportation infrastructure; and

''(vi) improving goods movement;''.

TITLE III—INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH

SEC. 53001. USE OF FUNDS FOR ITS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

''§ 513. Use of funds for ITS activities

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

''(2) MULTIJURISDICTIONAL GROUP.—The term 'multijurisdictional group' means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

''(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

''(B) is comprised of at least 2 members, each of whom is an eligible entity.

''(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

''(c) ITS DEPLOYMENT INCENTIVES.—

''(1) IN GENERAL.—The Secretary may—

''(A) develop and implement incentives to accelerate the deployment of ITS technologies and services within all funding programs authorized by the Transportation Research and Innovative Technology Act of 2012; and

''(B) for each fiscal year, use amounts made available to the Secretary to carry out intelligent transportation systems outreach, including through the use of websites, public relations, displays, tours, and brochures.

''(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.

''(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies—

''(A) to measure and improve the performance of the surface transportation system;

''(B) to reduce traffic congestion and the economic and environmental impacts of traffic congestion;

''(C) to minimize fatalities and injuries;

''(D) to enhance mobility of people and goods;

''(E) to improve traveler information and services; and

''(F) to optimize existing roadway capacity.

''(2) APPLICATION.—To be considered for a grant under this subsection, an eligible entity shall submit an application to the Secretary that includes—

''(A) a plan to deploy and provide for the long-term operation and maintenance of intelligent transportation systems to improve safety, efficiency, system performance, and return on investment, such as—

''(i) real-time integrated traffic, transit, and multimodal transportation information;

''(ii) advanced traffic, freight, parking, and incident management systems;

''(iii) advanced technologies to improve transit and commercial vehicle operations;

''(iv) synchronized, adaptive, and transit preferential traffic signals;

''(v) advanced infrastructure condition assessment technologies; and

''(vi) other technologies to improve system operations, including ITS applications necessary for multimodal systems integration and for achieving performance goals;

''(B) quantifiable system performance improvements, including—

''(i) reductions in traffic-related crashes, congestion, and costs;

''(ii) optimization of system efficiency; and

''(iii) improvement of access to transportation services;

''(C) quantifiable safety, mobility, and environmental benefit projections, including data driven estimates of the manner in which the project will improve the transportation system efficiency and reduce traffic congestion in the region;

''(D) a plan for partnering with the private sector, including telecommunications industries and public service utilities, public agencies (including multimodal and multijurisdictional entities), research institutions, organizations representing transportation and technology leaders, and other transportation stakeholders;

''(E) a plan to leverage and optimize existing local and regional ITS investments; and

''(F) a plan to ensure interoperability of deployed technologies with other tolling, traffic management, and intelligent transportation systems.

''(3) SELECTION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary may provide grants to eligible entities under this section.

''(B) GEOGRAPHIC DIVERSITY.—In awarding a grant under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients represent diverse geographical areas of the United States, including urban, suburban, and rural areas.

''(C) NON-FEDERAL SHARE.—In awarding a grant under the section, the Secretary shall give priority to grant recipients that demonstrate an ability to contribute a significant non-Federal share to the cost of carrying out the project for which the grant is received.

''(4) ELIGIBLE USES.—Projects for which grants awarded under this section may be used include—

''(A) the establishment and implementation of ITS and ITS-enabled operations strategies that improve performance in the areas of—

''(i) traffic operations;

''(ii) emergency response to surface transportation incidents;

''(iii) incident management;

''(iv) transit and commercial vehicle operations improvements;

''(v) weather event response management by State and local authorities;

''(vi) surface transportation network and facility management;

''(vii) construction and work zone management;

''(viii) traffic flow information;

''(ix) freight management; and

''(x) congestion management;

''(B) carrying out activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information;

''(C) the implementation of intelligent transportation systems and technologies that improve highway safety through information and communications systems linking vehicles, infrastructure, mobile devices, transportation users, and emergency responders;

''(D) the provision of services necessary to ensure the efficient operation and management of ITS infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services;

''(E) the provision of support for the establishment and maintenance of institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, shippers, public service utilities, and telecommunications providers;

''(F) carrying out multimodal and crossjurisdictional planning and deployment of regional transportation systems operations and management approaches; and

''(G) performing project evaluations to determine the costs, benefits, lessons learned, and future deployment strategies associated with the deployment of intelligent transportation systems.

''(5) REPORT TO SECRETARY.—For each fiscal year that an eligible entity receives a grant under this section, not later than 1 year after receiving that grant, each recipient shall submit a report to the Secretary that describes how the project has met the expectations projected in the deployment

plan submitted with the application, including—

''(A) data on how the program has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

''(B) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

''(C) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public that allows the public to make informed travel decisions; and

''(D) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

''(6) REPORT TO CONGRESS.—Not later than 2 years after date on which the first grant is awarded under this section and annually thereafter for each fiscal year for which grants are awarded under this section, the Secretary shall submit to Congress a report that describes the effectiveness of the grant recipients in meeting the projected deployment plan goals, including data on how the grant program has—

''(A) reduced traffic-related fatalities and injuries;

''(B) reduced traffic congestion and improved travel time reliability;

''(C) reduced transportation-related emissions;

''(D) optimized multimodal system performance;

''(E) improved access to transportation alternatives;

''(F) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

''(G) provided cost savings to transportation agencies, businesses, and the traveling public; and

''(H) provided other benefits to transportation users and the general public.

''(7) ADDITIONAL GRANTS.—If the Secretary determines, based on a report submitted under paragraph (5), that a grant recipient is not complying with the established grant criteria, the Secretary may—

''(A) cease payment to the recipient of any remaining grant amounts; and

''(B) redistribute any remaining amounts to other eligible entities under this section.

''(8) NON-FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 50 percent of the cost of the project.

''(9) GRANT LIMITATION.—The Secretary may not award more than 10 percent of the amounts provided under this section to a single grant recipient in any fiscal year.

''(10) MULTIYEAR GRANTS.—Subject to availability of amounts, the Secretary may provide an eligible entity with grant amounts for a period of multiple fiscal years.

''(11) FUNDING.—Of the funds authorized to be appropriated to carry out the intelligent transportation system program under sections 512 through 518, not less than 50 percent of such funds shall be used to carry out this subsection.''.

SEC. 53002. GOALS AND PURPOSES.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

''§ 514. Goals and purposes

''(a) GOALS.—The goals of the intelligent transportation system program include—

''(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

''(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

''(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

''(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); and

''(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters.

''(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

''(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

''(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

''(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

''(4) to promote the innovative use of private resources in support of intelligent transportation system development;

''(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

''(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

''(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

''(8) to provide continuing support for operations and maintenance of intelligent transportation systems; and

''(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

''514. Goals and purposes.''.

SEC. 53003. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 53002) the following:

''§ 515. General authorities and requirements

''(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

''(1) to research, develop, and operationally test intelligent transportation systems; and

''(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

''(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

''(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

''(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

''(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

''(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

''(g) INFORMATION CLEARINGHOUSE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

''(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

''(2) AGREEMENT.—

''(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

''(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

''(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

''(h) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

''(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

''(A) a representative from a State highway department;

''(B) a representative from a local highway department who is not from a metropolitan planning organization;

''(C) a representative from a State, local, or regional transit agency;

''(D) a representative from a metropolitan planning organization;

''(E) a private sector user of intelligent transportation system technologies;

''(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

''(G) an academic researcher who is a civil engineer;

''(H) an academic researcher who is a social scientist with expertise in transportation issues;

''(I) a representative from a nonprofit group representing the intelligent transportation system industry;

''(J) a representative from a public interest group concerned with safety;

''(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

''(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

''(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

''(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

''(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

''(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

''(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

''(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

''(4) REPORT.—Not later than February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary shall submit to Congress a report that includes—

''(A) all recommendations made by the Advisory Committee during the preceding calendar year;

''(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

''(C) for recommendations not implemented, the reasons for rejecting the recommendations.

''(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(i) REPORTING.—

''(1) GUIDELINES AND REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

''(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

''(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

''(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 53002) the following:

''515. General authorities and requirements.''.

SEC. 53004. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 53003) the following:

''§ 516. Research and development

''(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

''(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

''(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

''(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

''(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

''(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

''(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

''(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

''(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

''(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 53004) the following:

''516. Research and development.''.

SEC. 53005. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 53004) the following:

''§ 517. National architecture and standards

''(a) IN GENERAL.—

''(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

''(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

''(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

''(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

''(c) PROVISIONAL STANDARDS.—

''(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

''(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

''(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 53004) the following:

''517. National architecture and standards.''.

SEC. 53006. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

''§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

''(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

''(1) defines a recommended implementation path for dedicated short-range communications technology and applications;

''(2) includes guidance on the relationship of the proposed deployment of dedicated

short-range communications to the National ITS Architecture and ITS Standards; and

''(3) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

''(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

''518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.''.

At the end, add the following:

DIVISION F—BUDGETARY EFFECTS

SEC. 60001. BUDGETARY EFFECTS.

(a) PAYGO SCORECARD.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARD.—The budgetary effects of this Act shall not be recorded on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before Committee on Energy and Natural Resources, previously announced for March 14, has been rescheduled and will now be held on Tuesday, March 20, 2012, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the nominations of Adam Sieminski, to be Administrator of the Energy Information Administration, Marcilynn Burke to be an Assistant Secretary of the Interior, Anthony Clark to be a Member of the Federal Energy Regulatory Commission, and John Norris to be a Member of the Federal Energy Regulatory Commission.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Allison__Seyferth@energy.senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Allison Seyferth at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 13, 2012, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 13, 2012, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 13, 2012, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on March 13, 2012, at 10:30 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The Freedom of Information Act: Safeguarding Critical Infrastructure Information and the Public's Right to Know.''

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

ORDERS FOR WEDNESDAY, MARCH 14, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Wednesday, March 14, at 9:30 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks the Senate proceed to a period of morning business for 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of S. 1813, the highway bill, with the time until 11:30 a.m. equally divided between the two leaders or their designees; that upon disposition of the Transportation bill, the Senate proceed to a period of morning business until 2 p.m. with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; finally, at 2 p.m., the Senate proceed to executive session with 30 minutes of debate equally divided prior to a vote on the motion to invoke cloture on the Groh nomination.

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

PROGRAM

Mr. REID. Mr. President, there will be three rollcall votes tomorrow beginning at 11:30 a.m., including passage of the Transportation bill. At 2:30 p.m. there will be up to 17 cloture votes on the judicial nominations. I am working with various parties to see if we can work something out on those nominations. We hope we can, but if not we will have those votes.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Wednesday, March 14, 2012, at 9:30 a.m.