

Yippee.

And the bipartisan cooperation keeps rolling on. This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given the fact that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

But Americans ought to have a better grasp of how the Senate works. The nomination's progress had long been thwarted by Mike Lee, a freshman Republican from Utah, who has decided to hold up every single White House appointment to anything out of pique over . . . well, it doesn't really matter. When you're a senator, you get to do that kind of thing.

This forced the majority leader, Harry Reid, to get 60 votes to move Judge Jordan forward, which is never all that easy. Then there was further delay thanks to Rand Paul, a freshman from Kentucky, who stopped action for as long as possible because he was disturbed about foreign aid to Egypt.

All that is forgotten now. The nomination was approved, 94 to 5, only 125 days after it was unanimously O.K.'d by the Judiciary Committee. Whiners in the White House pointed out that when George W. Bush was president, circuit court nominations got to a floor vote in an average of 28 days.

No matter. Good work, Senate! Only 17 more long-pending judicial nominations to go!

Meanwhile, the House named a post office in Missouri for a fallen Marine.

Mr. LEAHY. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The PRESIDING OFFICER. 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:

Reid amendment No. 1633, of a perfecting nature.

Reid amendment No. 1634 (to amendment No. 1633), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1635, to change the enactment date.

Reid amendment No. 1636 (to (the instructions) amendment No. 1635), of a perfecting nature.

Reid amendment No. 1637 (to amendment No. 1636), of a perfecting nature.

The PRESIDING OFFICER. The assistant Republican leader is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that I be followed by the Senator from Texas, Mr. ALEXANDER.

The PRESIDING OFFICER. From Tennessee.

Mr. KYL. What did I say? From Tennessee. Whatever I said, I apologize. I said Texas. I apologize.

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

THE BUDGET AND OUR NUCLEAR ARSENAL

Mr. KYL. Mr. President, I need to speak for a few minutes this morning about two important news events of this week: the budget that was submitted by the President and the news reports that the President is considering reducing our nuclear arsenal to dramatically lower levels than they are today. Let me speak to both those subjects briefly this morning, and then I will have more to say about them as time goes on.

In the President's budget, there is a specific part for the Department of Energy that funds the nuclear weapons program. Despite promises of the President that he would follow what is called the 1251 study over the course of his Presidency and request in the budget the sums of money for the Department that is called the NNSA—part of the Department of Energy—he reduced that this year by \$372 million less than the target. The net result of that over 5 years is going to be \$4.3 billion.

I know my colleague from Tennessee is very interested in this. Before the START treaty was debated, there was a big debate about whether the funding for the NNSA in the nuclear modernization program was adequate.

On the Veterans Day recess, before we began the debate on START, General Chilton, former head of STRATCOM, and Dr. Miller, the Assistant Secretary of Defense, flew to Phoenix and said to me: You were right. We were wrong. We have underfunded this by over \$4 billion. We are going to add that to our 5-year budget profile.

This was the argument we had been making all along: You have underfunded the nuclear modernization program. You need to add between \$4 billion and \$5 billion to it. They agreed and that is what went into the revised 1251 report.

As a result of the budget request this year, we are right back where we started from before the revision—\$4.3 billion below—and that is where we were when the administration came forward and said: You were right. We were wrong. Our previous figure was not enough.

So we have a problem, and it is going to cause some real disruptions.

One of the things we have to do is extend the life of one of our old weapons called the B-61. This is a 2-year delay now on that, a 2-year delay on another warhead called the W-76, at least a 5-year delay in the construction of the plutonium processing facility at Los Alamos Laboratory called the CMRR facility.

Why is that important? We knew prior to commitments the President made before the START treaty was debated that the CMRR was critical. We do not have a production capacity. Unlike Russia and China, for example, we cannot produce new nuclear weapons. We have to go back and revise the ones we have. One of the facilities that would enable us to do that is this

CMRR facility. In fact, that is where a great deal of the work would be done.

What we were told was that the President was fully committed to constructing this facility on a timetable set out in the 1251 report. Some of us were a little dubious. The President's representative said: We will put it to you in writing. So he did. What he said in his message on the New START treaty to the Senate with regard to this facility—I will quote it; the letter related to his intent to modernize and replace the triad:

[To] accelerate to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF)—

That is the facility for uranium processing at Oak Ridge, TN—

[and to] request full funding, including on a multiyear basis as appropriate, for the CMRR building and the UPF upon completion of the design and engineering phase for such facilities.

We were concerned he would not request the funding in the outyears and that they would not accelerate the construction of these facilities. So he said he would. He would accelerate it to the extent possible and request full funding, including on a multiyear basis.

The budget he submitted this year breaks that commitment to the Senate, and those Senators who voted for the treaty based upon these commitments are obviously going to be re-evaluating their support for the treaty. There are things that can be done by the Congress, including our power of the purse, to deal with the issue, which I will hope to have time to speak to in a moment.

Former Secretary Gates reflected on the Senate's reliance on these commitments when he said:

This modernization program was very carefully worked out between ourselves and the Department of Energy; and, frankly, where we came out on that played a fairly significant role in the willingness of the Senate to ratify the New START agreement.

For those who relied on the administration's commitment, they have been broken. We are right back to where we started from before the treaty was taken up.

If you want to know specifically what the problems are, Dr. Charles McMillan, the Los Alamos Director said:

Without CMRR, there is an identified path to meet the Nation's requirement of 50 to 80 pits per year . . . the budget reduction in FY13 compounds an already difficult set of FY12 budget challenges and raises questions about whether we can meet the pace of the modernization path outlined in the 2010 Nuclear Posture Review.

So we have a problem. Unless the President is willing to work with Members of Congress, and unless Members of Congress are willing to recognize that the Senate acted based upon some commitments the administration made and we have to keep our end of the bargain as well, we are going to find a huge problem with our modernization program, with our nuclear weapons

program, and all that portends with respect to our deterrent capability.

Now, let me turn to the other news of the week. The President's people confirmed that, yes, they are, in fact, studying whether we can reduce our nuclear warheads. Remember, we were at 1,500 for START, and an 80 percent reduction could take us down to 300. That is almost unthinkable, especially in today's environment where we have Russia and China with new production capacities. They are developing new nuclear weapons and producing them.

We are not designing or developing any new nuclear weapons. We have no plans to do so, and we have no production capacity to make them, even if we did. The capacity to refurbish the old ones is now going to be delayed another 5 years. So why would we be thinking about reducing our warheads even further under these circumstances? Well, some people say, with a robust missile defense program, and by upgrading our conventional capabilities, we might think about this. The problem with these two assumptions is, this budget cuts both of them dramatically as well. We are not enhancing conventional capabilities, we are drawing them down, which, by the way, is what has caused the Russians to rely much more heavily on their nuclear program.

What about the people who rely on our nuclear deterrence, the 32 countries that rely on our nuclear umbrella? If they see this, my guess is they are going to look at what they might do to develop their own weapons: So much for nonproliferation. What about the idea that countries that now have close to 300 weapons could become peers of the United States? How is that for strategy, to have Pakistan, which will soon have more weapons than Britain does, to have as many nuclear weapons as the United States?

That is not exactly the most stable place in the world today. Iran is developing its capability. North Korea already has it. The Chinese are already at roughly this level and improving their capability. Of course, Russia is much above it and talking about actually building more nuclear weapons, not fewer.

The Deputy Defense Minister in Russia recently said, on February 6:

I do not rule out that under certain circumstances, we will have to boost, not cut our nuclear arsenal.

Now we are talking about reducing ours. How are we going to convince the Russians to reduce theirs? I presume this is all going to be done in some kind of additional treaty with the Russians, not likely to occur.

To me, what is most bothersome is that one of the arguments that nuclear opponents have always had is that we never want to get to a point where our doctrine, instead of holding hostage the military capability of any would-be adversary, would be to hold civilians hostage, innocent civilians. That is precisely what happens when instead of

having enough nuclear weapons to cover all of the military targets of a potential adversary, we end up having only enough weapons to hold hostage the cities of our potential adversary and thus the civilian population of those countries.

That is not a moral deterrent. As a result, I think we have to think very carefully about this prospect of reducing our nuclear weaponry. We, obviously, have to do a lot more work on this issue in the Congress. As I said, we have some means of expressing our views to the administration. I think it needs to think very carefully about this. To the extent that it thinks it is going to solve or going to help with our financial crisis, reducing the number of warheads, unfortunately, does not reduce a lot of expense. It is a little bit like the BRAC Commission. So that cannot be cited as a reason to do this.

Finally, nor is there any prospect that we can serve as a moral example to other countries in the world by reducing our warheads to that level. The START treaty was supposed to be a new reset showing the world, through our moral example, the benefits of reducing warheads. Not a country in the world has reduced warheads since the signing of the New START treaty except the United States. Russia has not, China has not, Pakistan has not, our allies have not, and Iran and North Korea talk about expanding their programs.

So this is based on a very shaky proposition of benefits which are very unlikely to occur, and it is fraught with dangers that we must debate in this country before the President simply unilaterally decides to make such a drastic change in American policy.

We will have more time to discuss this in the future. Given the fact that these two events were kicked off this week—the President's budget and this latest announcement—I thought we should at least have a preliminary discussion of it on the floor of the Senate today.

I yield to my colleague from Tennessee.

The PRESIDING OFFICER. The senior Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business.

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

MARKETPLACE FAIRNESS

Mr. ALEXANDER. Mr. President, I am here to talk about another subject, marketplace fairness. But before I do, I want to acknowledge the importance of what the Senator from Arizona has had to say and his leadership in the whole area of our nuclear doctrine, but especially in the area of nuclear weapons modernization.

I think he is correct to say that the discussion about section 1251, which he described—which is the goal for the amount of money we need to modernize our nuclear weapons that we have in this country—may not have been the

reason that the New START treaty passed. But I doubt the New START treaty would have been ratified without it. So it is an important part of that debate, and it is an important part of the debate today.

I am one of those Senators who is right in the middle of the discussion. I worked with the Senator from Arizona on the last appropriations bill, and he worked harder than anyone to try to get the amount of appropriations closer to the 1251 number. We made some progress but still fell short. This represents a substantial challenge to us.

I think he has put his finger on a very important problem. When we talk about reducing defense spending—or sequestering defense spending—this is the kind of thing that we end up having to deal with because, even in the last year, both the administration and the Senate Appropriations Committee moved some money from defense over to this account to try to increase the money for nuclear weapons modernization, and still there was not enough to meet the 1251 commitment that many of us agreed to at the time the New START treaty was announced.

I thank him for his comments. I look forward to working with him on that important question.

I would like to talk about marketplace fairness, which ought to be an all-American subject in the Senate. It has turned out to be one that attracts strong bipartisan support. In November, Senator ENZI of Wyoming, the Democratic whip, Senator DURBIN, and I introduced, along with seven other Senators—an equal number from both sides of the aisle—what we call the Marketplace Fairness Act to close a 20-year loophole that distorts the American marketplace by picking winners and losers, by subsidizing some businesses at the expense of other businesses, and subsidizing some taxpayers at the expense of other taxpayers.

My colleagues and I keep talking about it because we strongly believe, as do many people across this country, that now is the time for Congress to act. Many Americans do not realize when they buy something online, which we increasingly do today, or order something through a catalog, which we have done for a long time, from a business outside of our own State that we still owe the State sales tax.

So what we are talking about does not even rise to the dignity of a loophole. What we are talking about is a law that says you owe the State sales tax even if you buy it online and even if you buy it from a catalog from out of State. The law already says, if you buy it you owe it.

This is not a problem only for big retailers such as Amazon and Walmart. It is a problem that is killing small businesses in Tennessee and across our country.

Last month, Gov. Bill Haslam of Tennessee and I spoke with small business owners from Knoxville and Oak Ridge,

Chattanooga, Johnson City, Nashville and Memphis about this problem. Every single one of those business owners shared personal stories about how this loophole has hurt their businesses.

Basically, this is what they said happened. I remember the story of the Nashville Boot Company. I talked to the owner. The customer came into the store, tried on a boot, got advice from employees about the boot, and then went home to buy the product online in order to avoid paying the State sales tax, which the customer owes. The State law already says you owe the tax.

The problem is, when you buy something at the Nashville Boot Company, or any other local store, the Nashville Boot Company collects the tax from you, adds it to your bill, and then sends the money to the State. That is how it has always worked. But if you buy the same boot or the same other item online or through a catalog, that business does not collect the State sales tax, even though you owe it. So the result is that similar businesses selling the same thing are being treated entirely different. That is not right, and it is not fair.

Most Americans who have looked at the issue agree with that. So how did this happen? Well, in 1992, when most of us could not possibly have imagined how the Internet would have changed the way we shop for things, the Supreme Court said States could not require out-of-State catalogs or online sellers to do the same thing States require of stores up and down Main Street. What was the reason? It was too complicated for an online seller such as Amazon or a catalog seller to figure out what the sales tax would be in Tennessee, and then how much to add on Maryville, which is the town in which I live.

Well, 20 years ago, I might have agreed with that. But today technology has made it easy for catalog sellers or online sellers to do the same thing Main Street sellers are required to do. Let me give an example.

This morning I wanted to know what the weather was in my hometown of Maryville, TN. So I opened my computer, went to Google, I typed in my ZIP Code, I typed in "weather." It told me the weather. The software now exists to provide to catalog sellers or online sellers the same sort of easy way to find out sales tax.

If I were to buy a TV set online in Maryville, TN, I could just type in that city, the price, my name, and it would tell me the tax. I think it could even send the tax on to the State. In fact, it is about as easy—with this software that under our law is going to have to be provided by the State to out of state retailers—it is about as easy for them to find out what the tax is as it would be for the Nashville Boot Company when someone walks in and buys the boots in Nashville.

Some people have asked why should Congress get involved because nothing

is preventing States from going ahead and collecting those taxes. That is true. If I were to buy my boots online and not pay the sales tax, the Governor could come knocking on my door and add the sales tax onto the purchase price of the boots. But that is not going to happen in a practical world. I mean, the State cannot do that for millions of purchases that are made every year online; and no one wants the Governor and his agents knocking on their doors about that.

So there is a simpler way to do it. Congress should make it easy for States to be able to do that because we should recognize the loophole is unfair, that it is anticompetitive, and it is distorting the marketplace.

As a Republican Senator, I believe our party should oppose government policies that prefer some businesses over other businesses and some taxpayers over other taxpayers. I believe in States rights. Our bill gives States the right to make decisions for themselves. If Illinois or Tennessee or California wants to prefer some businesses over others, wants to prefer some taxpayers over others, they can do that. That is their State's right. But we ought to make it possible for them to make their own decision.

A number of conservatives have been outspoken supporters for our legislation.

At times, conservatives were reluctant to support it over the years, because it was complicated and because it "sounded like a" tax. Well, it is about a tax, but it is a tax that is already owed.

Here is what Al Cardenas, chairman of the American Conservative Union, says. He supports our legislation and says:

There is no more glaring example of misguided government power than when taxes or regulations affect two similar businesses completely differently.

Former Governor Haley Barbour also supports our bill. He said:

There is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses.

Governor Mitch Daniels of Indiana said a similar thing. Congressman MIKE PENCE of Indiana, a well-known conservative Congressman, said:

I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system that does pick winners and losers.

That is what Congressman MIKE PENCE had to say.

At CPAC this past weekend, in a gathering of conservative activists, there was a panel of leaders and industry experts talking about this issue. The general agreement was that Congress should act to solve the problem. The solution, the panelists said, should be fair, something people can understand, and meet the needs of States, consumers, and retailers.

I believe our legislation accomplishes all these goals. In the first place, it is

a rarity in Federal legislation, because it is only 10 pages long. You can actually read it in a few minutes. It is fair because it gives States the right to decide for themselves how to enforce the States' own laws. It protects businesses and consumers by requiring States to adopt basic simplifications.

It exempts small businesses that sell less than \$500,000 in remote sales each year. That is very important. I used the example of the Nashville Boot Company. The owner sells online and he sells out the front door. He said never in his history has he sold more than \$400,000 worth of revenue from his boot sales online. And when he began, he was at least one of the larger online boot sellers. So the \$500,000 exemption for small businesses from this legislation should go a long way to meeting the concerns of those Senators on both sides who want to make sure we don't impose some sort of new rule on very small entrepreneurs.

Another reason Congress should act now is that States and local governments will lose an estimated \$23 billion in uncollected sales tax revenue in 2012 because of this loophole. Here is what former Governor Jeb Bush had to say about that:

It seems to me there has to be a way to tax sales done online in the same way that sales are taxed in brick and mortar establishments. My guess is that there would be hundreds of millions of dollars that then could be used to reduce taxes to fulfill campaign promises.

Uncollected sales taxes could be used to pay for things our States need to pay for now. They could be used to reduce college tuition. They could be used to pay outstanding teachers. But they could also be used to reduce the sales tax rate or to reduce some other tax, or to avoid a tax altogether.

In Tennessee, where we don't have a State income tax, we want to avoid one. "State income tax" are probably the three worst words in our vocabulary, and collecting tax on sales from everybody who owes it could not only reduce our sales tax but help us avoid a State income tax.

Governor Haslam of Tennessee, who strongly supports our legislation, says:

It's just too big of a piece of our economy now to treat it like we did 20 years ago.

Governor Haslam is right. Online sales set new records last year. And while the growth of e-commerce is very good news for our economy, our local businesses are getting hurt because they are not competing on a level playing field. That is why our legislation has the support of the National Governors Association, the National Conference of State Legislatures, the Conference of Mayors, and the National Association of Counties, to name a few.

About the only ones left who are complaining about our legislation are taxpayers and businesses who are being subsidized by other taxpayers and businesses because the playing field isn't level.

Amazon, a huge online seller, strongly supports our legislation. Over the

years, they have opposed legislation like this. Now they believe we have solved the problem. Why? Because they say our bill makes it easy for consumers and easy for retailers to comply with State sales tax laws, and it helps States without raising taxes or new Federal spending.

Some people will tell you we are talking about taxing the Internet. That is not true. Our legislation doesn't create a new tax. It doesn't tax the Internet. The Senate debated Internet access taxes several years ago. I was in the middle of the debate. It led to a moratorium on Internet access taxes. That moratorium is still in effect today.

We are talking about state taxes that are already owed, and the moratorium on an Internet access tax will stay in place and not be altered.

It is very hard to see how anyone can say with a straight face that giving States the right to collect taxes that are already owed is a tax increase.

I have spent a lot of time talking with my colleagues about making the Senate work more effectively. One way to do that is to make sure Senators have an opportunity to thoroughly consider important legislation.

On January 31, a few weeks ago, over 200 businesses and State and national trade associations sent a letter to the Senator from Montana, chairman of the Finance Committee, asking him to cosponsor our bill and to address the inequity this year. Senator ENZI and the bill's cosponsors have also urged the Senate Finance Committee to hold a hearing on our bill as soon as possible.

The House Judiciary Committee has already held a hearing. Their hearing on November 30, gave House Members of both political parties the opportunity to learn more about the issue and express their support for it. I hope the Senate Finance Committee will seriously consider our request and soon find time so Senators can have the same opportunity that House Members have had.

Ten years ago, the bills we considered to try to close this loophole simply weren't adequate to solve the problem. The legislation we introduced in November does solve the problem. It is simple, it is about States rights, it is about fairness, and it solves the problem. It doesn't cost the Federal Government a dime, it doesn't change Federal tax laws, and it doesn't require States to do anything. It simply gives States the right to decide for themselves how to enforce their own laws.

This is a 20-year-old problem that only the Federal Government can solve. Unless we act, States will continue to be deprived of their right to enforce their own tax laws and businesses will not be allowed to compete on a level playing field.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Chairman BAUCUS and Ranking Member HATCH from the 12 Senate

bipartisan cosponsors of this legislation of January 31 asking for a hearing on the Marketplace Fairness Act, quotes from conservatives on this issue, and another memo with quotes from the Conservative Political Action Conference.

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

U.S. SENATE,

Washington, DC, January 31, 2012.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. ORRIN HATCH,
Ranking Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER HATCH: We urge the Finance Committee to hold a hearing on The Marketplace Fairness Act (S. 1832), bipartisan legislation to allow States to collect sales and use taxes on remote sales that are already owed under State law. For the past 20 years, States have been prohibited from enforcing their own sales and use tax laws on sales by out-of-state, catalog and online sellers due to the 1992 Supreme Court decision *Quill Corporation v. North Dakota*. Congress has been debating solutions for more than a decade, and some States have been forced to take action on their own leading to greater confusion and further distorting the marketplace.

On November 9, 2011, five Democrats and five Republicans introduced The Marketplace Fairness Act, which would give states the right to decide for themselves whether to collect—or not to collect—sales and use taxes on all remote sales. Congressional action is necessary because the ruling stated that the thousands of different state and local sales tax rules were too complicated and onerous to require businesses to collect sales taxes unless they have a physical presence in the state.

Today, if an out-of-state retailer refuses to collect sales and use taxes, the burden is on the consumer to report the tax on an annual income tax return or a separate state tax form. However, most consumers are unaware of this legal requirement and very few comply with the law. Consumers can be audited and charged with penalties for failing to pay sales and use taxes.

Across the country, states and local governments are losing billions in tax revenue already owed. On average, States depend on sales and use taxes for 20% of their annual revenue. According to the National Conference of State Legislatures, this sales tax loophole will cost states and local governments \$23 billion in avoided taxes this year alone. At a time when State budgets are under increasing pressure, Congress should give States the ability to enforce their own laws.

The *Quill* decision also put millions of local retailers at a competitive disadvantage by exempting remote retailers from tax collection responsibility. Local retailers in our communities are required to collect sales taxes, while online and catalog retailers selling in the same state are not required to collect any of these taxes. This creates a tax loophole that subsidizes some taxpayers at the expense of others and some businesses over others.

State and local governments, retailers, and taxation experts from across the country are urging Congress to pass The Marketplace Fairness Act because it gives states the right to decide what works best for their local governments, residents, and businesses. Given our fiscal constraints, we should allow states

to enforce their own tax laws and make sure that state and local governments and businesses are not left behind in tax reform discussions. The House Judiciary Committee's hearing on this single issue on November 30, 2011, demonstrated the growing demand to close this loophole, and your committee would provide the best public forum for an open debate in the Senate on the merits of this important policy issue.

The Finance Committee is in the best position to shape the discussion on state and local taxation this year, particularly on sales and use taxes on remote sales. We urge the Committee to hold a hearing on the implications of The Marketplace Fairness Act at the earliest date possible. Thank you in advance for your consideration of this request.

Sincerely,

Michael B. Enzi; Lamar Alexander; John Boozman; Roy Blunt; Bob Corker; Richard J. Durbin; Tim Johnson; Jack Reed; Sheldon Whitehouse; Mark L. Pryor; Benjamin L. Cardin.

CONSERVATIVE VOICES ON E-FAIRNESS

"The only complete answer to this problem is a federal solution that treats all retailers and all states the same."

—Indiana Governor Mitch Daniels, announcing that Amazon.com will begin collecting sales tax in Indiana beginning in 2014, January 9, 2012.

"I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system today that does pick winners and losers."

—Representative Mike Pence, House Judiciary Committee, hearing on "Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce," November 30, 2011.

". . . e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country. The time to level the playing field is now . . ."

—Mississippi Governor Haley Barbour, letter to Sens. Enzi and Alexander endorsing S. 1832, the Marketplace Fairness Act, November 29, 2011.

"The National Governors Association applauds your efforts to level the playing field between Main Street retailers and online sellers by introducing S. 1832, the 'Marketplace Fairness Act.' This common sense approach will allow states to collect the taxes they are owed, help businesses comply with different state laws, and provide fair competition between retailers that will benefit consumers."

—Tennessee Governor Bill Haslam and Washington Governor Christine Gregoire, National Governors Association letter to Sens. Durbin, Enzi, Tim Johnson and Alexander endorsing S. 1832, the Marketplace Fairness Act, November 28, 2011.

"When it comes to sales tax, it is time to address the area where prejudice is most egregious—our policy towards Internet sales. At issue is the federal government exempting some Internet transactions from sales taxes while requiring the remittance of sales taxes for identical sales made at brick and mortar locations. It is an outdated set of policies in today's super information age, when families every day make decisions to purchase goods and services online or in person. Moreover, it's unfair, punitive to some small businesses and corporations and a boon for others."

—Al Cardenas, chairman of the American Conservative Union, “The Chief Threat to American Competitiveness: Our Tax Code,” National Review Online, November 8, 2011.

“It seems to me there has to be a way to tax sales done online in the same way that sales are taxed in brick and mortar establishments. My guess is that there would be hundreds of millions of dollars that then could be used to reduce taxes to fulfill campaign promises.”

—Former Florida Governor Jeb Bush, letter to Florida Governor Rick Scott, January 2, 2011.

“The truth is, Amazon’s unfair sales tax exemption has seriously penalized its competition, which is mostly smaller, locally owned retail shops. It has hurt job creation and economic growth. It has resulted in government superseding market and consumer preferences. And it has left Main Streets across the country barren.”

—Stephen DeMaura, Americans for Job Security, “Amazon’s Argument Falls Apart,” RedState.com, September 14, 2011.

“The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but does not like it if out-of-state businesses are, in practical terms, subsidized; that’s what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet, come in, so to speak, duty free.”

—William F. Buckley, National Review Editor at Large, “Get that Internet Tax Right,” National Review Online, October 19, 2001.

“Current policy makes the sales tax a distortion. Current policy gives remote sellers a price advantage, allowing them to sell their goods and services without collecting the sales tax owed by the purchaser. This price difference functions like a subsidy. It distorts the allocation between the two forms of selling. The subsidy from not collecting tax due means a larger share of sales will take place remotely than would occur in a free, undistorted market.”

—Hanns Kuttner, Hudson Institute, report on e-fairness entitled “Future Marketplace: Free and Fair,” November 29, 2011.

“Some opponents will argue against placing another burden on businesses and especially on small business. Unfortunately, today the burden is on those retailers who are trying to compete against someone who isn’t collecting the tax. That 6-10% government mandated price advantage is the real burden on small business. However, all of the bills introduced in this Congress protect small businesses by excluding the smallest, by requiring states to simplify their laws and processes, and by requiring states to provide software.”

—Indiana State Senator Luke Kenley, testimony before the House Judiciary Committee, hearing on “Constitutional Limitations on States’ Authority to Collect Sales Taxes in E-Commerce,” November 30, 2011.

“If action is not taken and Quill is allowed to remain the law of the land, then are we not picking winners and losers within the retail sector? How is a retailer, such as Bed, Bath and Beyond, J.C. Penney or Wal-Mart supposed to compete with Amazon.com, Blue Nile.com or Overstocked.com [sic] when the latter enjoy anywhere from an 8-10% discount due to not having to collect sales tax. This current law and policy discourages the

continued development of the very brick and mortar establishments that support our state and local communities in numerous ways. This issue of fairness should be addressed and I believe that H.R. 3179 does that.”

—Texas State Representative John Otto, testimony before the House Judiciary Committee, hearing on “Constitutional Limitations on States’ Authority to Collect Sales Taxes in E-Commerce,” November 30, 2011.

SUPPORT FOR MARKETPLACE FAIRNESS ACT AT CPAC

Conservative Political Action Conference (CPAC) panel demonstrates broad support among conservatives for Congressional action on state sales tax policy choice.

On Saturday, February 11, 2012, a panel of conservative leaders and industry experts at the CPAC conference discussed the issue of creating a Constitutional framework for collecting sales tax online. The discussion demonstrated the strong consensus that Congress should act to establish a fair, national approach that will address the needs of retailers, states and consumers. Conclusions from the panelists:

“The principles that we agree to as conservatives is generally: limited government, that taxes should be low, spending should be restrained, no infringement on personal liberties and that elected officials certainly shouldn’t be picking winners and losers in the marketplace.

“When [conservatives] apply these principles to this issue of e-fairness, we come up with the conclusion that the system is antiquated, flawed and should be replaced.”

—Steve DeMaura, President, Americans for Job Security.

“So, if we are going to change the system, we should make sure that it’s something simple, something understandable and something fair across the board. Whatever burdens the system puts on online businesses should also be put on brick and mortar businesses. States should not be allowed to collect until they accept basic rules about what gets taxed and where.

“The bill before Congress now achieves this better than previous bills.”

—Joe Henchman, Vice-President of Legal and State Projects, Tax Foundation.

“If a consumer changes their behavior because of government policy, this is not a free market result. It’s the result of the government and the government’s policy. That’s why you have to create a level playing field between the seller who has to collect the sales tax. . . and those who don’t.”

—Hanns Kuttner, Visiting Fellow, Hudson Institute.

“We think the Congress should act. The time is right to act, for Congress to get this done and allow the states to make fiscal policy choices on their own—as a matter of fairness. As an added detail, there needs to be fairness not only between offline and online, but among online sellers and we certainly support that approach.”

—Paul Misener—Vice President for Global Public Policy, Amazon.

WHY CONSERVATIVES SUPPORT PASSAGE OF THE MARKETPLACE FAIRNESS ACT

The Marketplace Fairness Act protects states’ rights to make their own policy choices.

The federal government should not prevent states from collecting taxes that are already owed.

Government should not pick winners and loses among various businesses. A new fed-

eral framework will level the playing field and make it easier for small businesses and consumers to comply with the law.

Mr. ALEXANDER. I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

Mrs. BOXER. Mr. President, we have on the floor of the Senate the Transportation bill. You might wonder why a bill that is the No. 1 jobs bill that we can do here is moving so slowly. You might wonder. Any normal person would wonder why a bill that is so popular that it has everyone from the AFL-CIO to the Chamber of Commerce supporting it is moving so slowly. You might wonder why it is moving so slowly, since the transportation authorization for all of our highway and transit projects expires in about 1 month. You might wonder why it is moving so slowly. Why isn’t anyone here? What is going on?

Yesterday, I came here and said I didn’t see a clear path forward for this bill. It is very disturbing, and I will tell you why it is so disturbing. And that is that when you look at the construction area of our economy, it is still down. We have 1.5 million unemployed construction workers. If you think in your mind’s eye what that is, I have a picture here of a stadium during the Super Bowl. You could see this stadium. I want you to picture everyone sitting in this stadium as an unemployed construction worker and think about 15 stadiums full. Yesterday, I said it was 10; that was incorrect. I stand corrected today. It is 15 stadiums full of unemployed construction workers praying that we pass this bill, because they are unemployed and this bill will create or save up to 2.8 million jobs. It will create or save 1.8 million jobs and create up to 1 million jobs.

Yesterday, I said I didn’t see a clear path forward. Today, I see a path forward. I really do. There has been some progress overnight. But it isn’t as clear as it should be. We asked both sides of the aisle, we said, Can you come up with amendments that you feel compelled to offer to this bill? And try to keep them related to transportation. Well, the bad news is there are a lot of extraneous amendments that were filed.

First and foremost, birth control. The Blunt amendment. Not only does it say that any employer could say they have a moral objection, it doesn’t even have to be a religious objection. Any employer. So if I am an employer and I employ 100 people, and let’s say I believe in prayer over medicine, I can then deny health care to all my employees. This makes no sense at all. Senator BLUNT says, well, you could

take it to court. Oh, sure. Some low-paid employee is going to take it to court.

So we have to deal with this birth control amendment and health care amendment on a highway bill. As I said yesterday, first when I saw the birth control amendment, I thought maybe it says you can't take your birth control pills when you are on a Federal highway. What is going on here? There is no relation. It is bizarre to offer these unrelated amendments.

Then we have an amendment on Egypt. Now, frankly, I am ready to vote on the birth control. I am happy to vote on an Egypt amendment, although I believe—this is my own view as a member of the Foreign Relations Committee—that when we have such delicate negotiations going on over the safety of our citizens who are being held there, we have to be very careful not to interfere in that important backdoor diplomacy that is going on. But we have one Senator who is holding up everything because he insists that we have to take a stand on Egypt even though we have Americans in danger over there.

My Republican friends have to understand what is at stake. The business community, the labor community, everyone is in favor of this transportation bill, and we are going to have to face votes that are unrelated.

There is an idea to repeal a very important environmental regulation that will clean up the pollution from boilers, pollution that is dangerous. It is mercury. It causes brain damage. It is arsenic. It is lead. And as I said yesterday—and I don't know whether you have had this experience. I have never in the history of my electoral career, which spans a long time, had anyone come up to me and say, Please, BARBARA, we really need more arsenic in our air, we need arsenic in our water, we need more lead, we need more mercury. People don't want it. Why on Earth would they now come forward in a highway bill and repeal a very important rule that will make our families healthier? That is what my Republican friends are putting out there. They want to drill off our coast, even though it might interfere with the fishing industry, the tourism industry, the recreation industry.

I would say to my colleagues with a hand of friendship, we are happy to look at transportation-related amendments. We can work those through. My staff and Senator INHOFE's staff have a very close working relationship, and we can take these relevant amendments and sit down and work through them. But obviously, if there is going to be a series of amendments on birth control and foreign policy matters and extraneous matters, it makes it very difficult. It diverts our attention from what is at stake. The clock is ticking on us. This transportation authorization we have expires in March.

Here is where we are: We are going to have a cloture vote on the various ti-

ties to the bill, the Finance title, the Banking title, the Commerce Committee title. I want to praise all of the committees. They have done their work. Four committees, including ours, the EPW, the Environment and Public Works Committee, we have all done our work. We have done our jobs. We did what we had to do. We passed out the legislation. Now let's marry all the pieces and get going with legitimate amendments and get this done. Get this done.

I urge colleagues to vote yes on cloture. I know some have problems with one of the titles, and we can amend that. If you don't like something in that title, we can amend it. And if we don't make cloture on the first round, we will come up with a path forward after that. But, please, it won't work if we have all of these bizarre, extraneous amendments. I am not saying the amendments are bizarre. Some are. But they are extraneous and they don't belong on this bill.

I want to take a minute to remind my colleagues how popular the transportation authorization is. We are going to show you the ad that is being run. But President Reagan was very clear on why it was so important to pass a transportation bill. Here is what he said:

The state of our transportation system affects our commerce, our economy, and our future.

He said, clearly, this program is an investment in tomorrow that we must make today. And there is a very good coalition out there, a broad coalition taking out ads on the radio. After they quote Ronald Reagan, they say:

It's time for leadership again, for new investments in transportation, to keep America moving and jobs growing. Call Congress. Tell them to pass the highway and transit bill and, once again, make transportation job number one.

This is out on the radio airwaves. I am very grateful that it is happening. I really, really am. Also, we have ads in the various newspapers. Then there is another one that marries up two Presidents' statements, President Reagan and President Clinton. They quote President Clinton by saying:

By modernizing and building roads, bridges, transit systems, and railroads, we can usher in two decades of unparalleled growth.

Then they also quote Ronald Reagan again. He says:

A network of highways and mass transit has enabled our commerce to thrive.

At the end it says:

Tell Congress to pass the highway and transit bill and make transportation job number one.

So here we sit—and I want to show you. I don't know if people can see this. I hope you can see this. This is an ad that is running all over today: President Reagan stood up for public transportation. Will you? Then they quote him and they say: A recovering economy is exactly the time to rebuild America. President Reagan knew it in

1983 when he signed into law dedicating motor fuel revenues to public transportation for years to come. But now the House—and they talk about the problem with the House bill and they tell the House to fix their proposal, which we hope they are doing as we speak.

This is a very important endeavor. Again, I have been around a long time. I have never seen the likes of the coalition we have seen. We have a coalition—it is the broadest coalition I have ever seen in my life in every single State, whether it is Ohio or California or New York or Alabama or Nevada or Kentucky. I am telling you, this is a strong coalition. And this is what they wrote to us:

In 2011, political leaders—Republican and Democrat, House, Senate, and the administration—stated a multi-year surface transportation bill is important for job creation and economic recovery. We urge you to follow words with action: Make Transportation Job #1 and move legislation immediately in the House and Senate to invest in the roads, bridges, and transit systems that are the backbone of the U.S. economy, its businesses large and small, and communities of all sizes.

That is basically from the letter signed by over 1,000 organizations.

I see my friend from California is here. She may be speaking on this topic or another topic, and I am going to yield to her momentarily.

I think it is important to take a look at the organizations I talked about to give you a sense of it. First of all, every State in the Union is listed on this letter.

I ask unanimous consent to have printed in the RECORD a copy of the letter from over 1,000 organizations.

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

JANUARY 25, 2012.

TO THE MEMBERS OF THE U.S. HOUSE AND SENATE: As Congress embarks on a new legislative session, we, the undersigned companies and organizations, urge you to Make Transportation Job #1 in 2012 and pass federal highway, transit and safety legislation that, at a minimum, maintains investment levels before the current law expires on March 31. The long-delayed reauthorization of federal highway and public transportation programs is a major piece of unfinished business that can provide a meaningful boost to the U.S. economy and its workers and already has broad-based support.

To grow, the United States must invest. There are few federal efforts that rival the potential of critical transportation infrastructure investments for sustaining and creating jobs and economic activity over the short term.

Maintaining—and ideally increasing—federal funding for road, bridge, public transportation and safety investments can sustain and create jobs and economic activity in the short-term, and improve America's export and travel infrastructure, offer new economic growth opportunities, and make the nation more competitive over the long-term. Program reform would make the dollars stretch even further: reducing the time it takes transportation projects to get from start to finish, encouraging public-private partnerships and use of private capital, increasing accountability for using federal

funds to address the highest priority needs, and spurring innovation and technology deployment.

We recognize there are challenges in finding the resources necessary to adequately fund such a measure. However, with the economic opportunities that a well-crafted measure could afford and emerging political consensus for advancing such an effort, we believe it is time for all involved parties to come together and craft a final product.

In 2011, political leaders—Republican and Democrat, House, Senate and the Administration—stated a multi-year surface transportation bill is important for job creation and economic recovery. We urge you to follow words with action: Make Transportation Job #1 and move legislation immediately in the House and Senate to invest in the roads, bridges, transit systems that are the backbone of the U.S. economy, its businesses large and small, and communities of all sizes.

From over 1,000 organizations, led by U.S. Chamber.

Mrs. BOXER. Madam President, I am going to name a few of them: the American Composite Manufacturers Association, American Concrete Pavement Association, American Hotel and Lodging Association, American Nursery and Landscape Association, American Society of Civil Engineers, Associated General Contractors of America, National Society of Professional Engineers, National Resources Defense Council, North American Die Casting Association, Pacific Northwest Waterways Association, Reconnecting America, Retail Industry Leaders Association, Transportation for America, U.S. Chamber of Commerce, U.S. Travel Association, United Brotherhood of Carpenters and Joiners, Laborers International, International Bridge, Tunnel and Turnpike Association—it goes on and on, a thousand groups representing Democrats, Republicans, Independents.

I am so grateful to them. I speak to them, frankly, a couple of times a week to tell them what we are doing here to move this important bill forward. I told them yesterday they needed to contact every single Senator in this Chamber to let them know what is at stake in their State.

In closing, I will say this: Sometimes when we act we not only do something good, which this bill will do—it is a reform bill, it is a great bill, and it adds to the TIFIA Program, an idea that came out of Los Angeles and is going to create up to 1 million new jobs while protecting 1.8 million jobs—we do many good things. But also when we do this, we stop bad things from happening. What will happen if we fail to act by March 31 and there is no action to fill that trust fund, which our bill does? There will be over 600,000 jobs lost.

Later today, at a time when others are not here, I will go State by State. Here it is. “Estimated jobs lost.” There would be a 35-percent cut in transportation funding if we do not pass this bill and the finance title that raises the funds necessary. We will break this down. Let me tell you, it is an ugly picture for us to have to go home and face the music at home and tell construc-

tion workers that even though we have 1.5 million unemployed construction workers, that is going to go up by 600,000 jobs.

We cannot afford to let this bill stop. I will not let this bill go away. I will assert every right I have as a Senator from California, where we have 63,000 of these jobs at stake. I am going to be here on the Senate floor. We are going to get this bill done one way or another. We stand ready to work with our colleagues, to work with our Republican friends, to go through these amendments that are relevant and urge them to backtrack on these very unrelated amendments.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I thank my friend and colleague, the distinguished chair of the committee, for her work in managing this bill. This is a huge bill. It has many titles. It is a complex bill. It is a totally vital bill. Both on this floor and off this floor, she has been advocating and pushing and doing what is necessary. I want to say thank you very much to my friend and colleague, Senator BOXER.

Mrs. BOXER. I thank the Senator, and we are working on that too.

Mrs. FEINSTEIN. Madam President, let me describe what happened in 2008 in Chatsworth, CA. On September 12, 2008, Metrolink commuter train 111, carrying more than 200 people, departed the Chatsworth train station about 4:20 p.m. Heading west, the commuter train ran through a train signal at 44 miles per hour at about 4:22 p.m. and 2 seconds. The train signal showed red, for stop.

At the same time, a Union Pacific freight train, weighing four times the weight of the commuter train, was heading east on the same track. It exited a tunnel with little time to react to the oncoming commuter train. Both trains were on the same track going in opposite directions, each going roughly 40 miles per hour. The trains collided head on.

The carnage was unspeakable; 25 people died. Their bodies, many torn to pieces, had to be extracted from heaps of steel and wreckage.

This is the scene. This is the commuter train. This is the freight train. This is the car that essentially chopped apart 25 people.

As Superior Court Judge Peter Lichtman wrote:

These were teachers, Federal, State, municipal employees, business owners, executives, artists and students that were all lost on that day.

Many families were left without any provider, not to mention the loss of a mom or dad.

Another 101 people were injured, many of them very seriously. Volunteers and rescue crews worked valiantly to pull them from the wreckage.

You can see this overturned train here. You see the rescue crews. It was a terrible, terrible scene.

Judge Peter Lichtman described many of these injuries. Passengers seated at table seats suffered “horrible abdominal injuries that could not be medically resolved.” “All of the bench passengers were launched head [or] face first into a bulkhead.” “Almost all of these passengers suffered traumatic brain injuries to varying degrees.”

Let me explain how and why this happened. Seconds before the crash, the train’s engineer was text-messaging on his cell phone. He was the only personnel aboard that train when he looked down to send a text to a teenage boy. This was one of 21 text messages sent by this engineer this day. He received 20 secretaries messages and made four outgoing telephone calls, all while he was driving a large commuter train.

According to the NTSB’s comprehensive report on the crash, this behavior distracted the engineer and caused the collision. It led to the train running red signals. In fact, NTSB found the passenger train’s engineer never even hit the brakes before impact. NTSB found that a crash avoidance system would have stopped the train and prevented this disaster, but, unfortunately, the tracks in Los Angeles had and have no such system nor do most tracks in the United States.

As a result of this accident, 25 people died and 100 people were injured. The statistics about the Chatsworth disaster do not begin to tell the story. Perhaps I might be able to better put into words what is at stake in this debate in one of the votes we will be taking about positive train control by telling you a little bit about Kari Hsieh and Atul Vyas.

Eighteen-year-old Kari did not want to trouble her father to drive her from the family’s Newhall home to a restaurant in Simi Valley, so she took the train. In October 2008 she became one of many young people killed in this crash. She was just starting her senior year at Hart High School and looking forward to a career in medicine, according to her family. She played tennis for the school and was well liked by her classmates who described her as warm and caring. “Anyone who knew her can remember her by her beaming smile and infectious laugh,” one of her classmates told the Los Angeles Times.

Here she is.

“She had such a positive outlook on life and always had something nice to say about everyone,” wrote a parent of a varsity tennis player. “I feel blessed to have been part of her life.”

Then there is Atul Vyas, a student at Claremont McKenna College, who was studying to become a doctor. At 20 years old, he was in the process of applying to graduate programs at MIT, Duke, and Harvard. He scored in the top 1 percent of his medical school entry exams, but he was having trouble answering one question on applications: Describe a hardship you have overcome.

“He said ‘I have not had any.’ I have had a blessed life,” explained his father. Atul never finished that application nor did he reach his goal of medical school. He took Metrolink train 111 home to visit his family as he did every 2 to 3 weeks, but he never made it home because an engineer was texting.

As the NTSB found, these young lives and the lives of 23 others could have been saved if crash avoidance technology, known as positive train control, had been in place. In 2008, Congress finally required railroads to deploy positive train control, which the National Transportation Safety Board had placed on its top 10 most wanted safety technologies listed since 1990. This body gave the railroad industry 7 years to deploy positive train control crash avoidance systems nationwide. The leaders of Southern California’s Metrolink, Union Pacific, and BNSF railroads each committed to deploy positive train control systems in Los Angeles years earlier than the national mandate. These railroads are still on track to deploy the system next year.

I met yesterday with John Fenton, the new CEO of Metrolink, and Matt Rose, the CEO of BNSF. They both indicated their desire to make their highest priority positive train control, and I thank them. Metrolink is going to go ahead with it as soon as possible regardless. BNSF told us if they delay—if this bill delays it, they may take an additional year.

I salute both of them for their support of this program. However, I am very alarmed that others in the railroad industry and in Congress diminish the value of positive train control.

As a matter of fact, the bill we will most likely be voting on—in one of its titles, the commerce title—delays positive train control until 2018. The House bill delays it until 2020. When the technology is there, despite its complications of installation, when you have high-risk lines, freight lines and commuter lines traveling in opposite directions on the same track, and when you have human frailty—in this case one engineer texting aboard a commuter train of a couple of hundred people—the only answer to assure the safety to the commuter trains of this Nation, in my view, is positive train control. I view it as an emergency need. The NTSB views it as an emergency need.

According to them, scores of deadly accidents across the country since 1970 could have been prevented if positive train control in effect were installed. I agree strongly with the NTSB Chairman, Deborah Hersman, whom I happen to know, who recently wrote to the Congress that:

The NTSB will be disappointed if installation of this vital safety system to prevent fatalities and injuries is delayed.

The need to extend the 2015 positive train control deployment deadline has not been demonstrated. The Senate Commerce Committee has held no hearings on this issue and no published

reports investigating this question have recommended an extension, according to the NTSB experts.

Furthermore, every railroad has submitted an approved plan to meet the 2015 deadline to the Federal Railroad Administration, and the administration is preparing a report to Congress on positive train control deployment progress this year, which should provide us guidance on that effort to date.

I think Congress should consider the FRA’s findings carefully before scaling back or delaying a system that can prevent crashes such as Chatsworth. And there have been three prior crashes that have taken lives on this Metrolink system. These are not isolated. They happen. We now have a technical system that can be 100 percent proof-positive to provide safety. So I am very concerned that without a national strategy, deployment of positive train control in southern California will become more difficult. There will be excuses, and there will be a lessening of effort. And both BNSF and Metrolink have made very strong efforts to comply with 2015. Why change it? The Los Angeles area is a huge commuter area, and when it is not necessary to change it, why do it? The national requirement to deploy the system by 2015 creates a substantial incentive for industry to develop new and cost-effective technology that lowers the deployment costs for everyone, including Metrolink.

The national strategy, which will hopefully be presented in the FRA’s 2012 report to Congress, could play a significant role in addressing positive train control deployment barriers. This system can prevent human error from causing collisions, dangerous releases of hazardous materials, and passengers and train crews from being killed and injured.

So I make these remarks today in the hopes that there will be support in this body for the 2015 deadline. And I really appeal to the committee that right now it is locked in at 2018—we have tried, we have talked to the staff, and we have been rejected—to understand that what they are delaying is a device that saves lives, and there is no excuse for so doing. The case has not been made to do so. The hearings have not taken place, there was no markup to add this, and I strongly believe it should not be delayed in this bill. I hope Members will listen. I hope they will respond. Hundreds of thousands of commuters are at risk until this system is put into place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Madam President, dependency often leads to indolence, lethargy, a sense of entitlement, and ultimately to a state of insolence. Egypt has been receiving welfare from the United States for nearly 40 years. America has lavished \$60 billion on Egypt. They react with insolence and disregard by detaining 19 of our U.S.

citizens. For several months now these citizens have been essentially held hostage, unable to leave Egypt. They are held on the pretense of trumped-up political charges, held in order to display them in show trials to placate the mob.

The United States can respond in one of two ways: We can hang our head low; we can take the tack of Jimmy Carter; we can try to placate Egypt with concessions and offer them bribes in the form of more government aid; or America can respond with strength.

Today the President should call the Egyptian Ambassador in and send him home with a message, a message that America will not tolerate any country holding U.S. citizens as political prisoners. Congress should act today to tell Egypt that we will no longer send our annual welfare check to them; that this year’s \$1.8 billion is not on the way. America could put Egyptian travelers on notice that the welcome sign in America will temporarily expire unless the Egyptian Government lets our people go; or America could hang her head, promise to continue the foreign aid to Egypt, and apologize for supporting democracy. Which will it be?

So far, the signal sent to Egypt from the President and from the Senate has been weak or counterproductive. In late January the President’s Under Secretary of State said to the administration that he wanted to provide more immediate benefits to Egypt; let’s speed up the welfare checks. The President’s budget this week still continues to include \$1.8 billion for Egypt without a single word of rebuke or any demand that our U.S. citizens be released. The President went one step further when he actually increased foreign aid to the Middle East in his budget, and now the Senate refuses to hold a single vote to spend 10 minutes discussing why U.S. citizens are being detained in Egypt.

One might excuse the Egyptians for not believing we will cut their aid. You cannot lead from behind. Senate leadership appears unwilling to address this issue head-on, so the Senate won’t act to help our citizens this week.

I hope that when Senators return home and talk to their constituents in their States, their constituents will ask these questions: Senator, why do you continue to send our taxpayer money to Egypt? Why do you continue to send our money to Egypt when they detain our citizens? Senator, why do you continue to send billions of dollars to Egypt when 12 million Americans are out of work? Senator, why do you continue to send welfare to foreign countries when our bridges are falling down and in desperate need of repair? Senator, how can you continue to flush our taxpayer money down a foreign drain when we are borrowing \$40,000 a second? The money we send to Egypt we must first borrow from China. That is insanity, and it must end. Finally, Mr. Senator, I hope your constituents ask you this when you go home: When working families are suffering under

rising food prices, when working families are suffering because gas prices have doubled, how can you justify sending our hard-earned taxpayer dollars to Egypt, to countries that openly show their disdain for us?

When will we learn? You can't buy friendship, and you can't convince authoritarians to love freedom with welfare checks.

America needs to send a clear and unequivocal message to Egypt that we will not tolerate the detention of U.S. citizens on trumped-up political charges or otherwise and that we will not continue to send welfare checks to Egypt, to a country that commits an injustice to American citizens.

I ask unanimous consent today to set aside the pending amendment and call up my amendment on Egypt that would end all foreign aid to Egypt if our U.S. citizens are not released within 30 days. I think this is an important amendment which deserves discussion, and Egypt deserves to hear a message from the Senate that we will not tolerate this.

I ask unanimous consent to bring up amendment No. 1541.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. BOXER. Madam President, reserving the right to object, I want to be very clear here that Members on both sides of the aisle, Republicans and Democrats, have very strong feelings that this amendment should not be brought up at this time. We need to be smart and strategic when we have people in harm's way in other countries.

Further, I think it is important to note what Senator LEAHY has said several times, which is already in law—we have certain conditions placed upon aid to Egypt, and I think that needs to be understood and explored.

So because there is so much objection to this amendment being brought up at this time, I will object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. GRASSLEY. If it is appropriate, I would like to ask unanimous consent to speak as in morning business for about 15 minutes.

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

THE BUDGET

Mr. GRASSLEY. If a Republican like this Senator says that the President's 2013 budget doesn't pass the smell test, I would probably have half the country questioning my judgment. But I would like to quote the Washington Post's Dana Milbank's comments on the President's budget. This was recently in the Washington Post, these words by a columnist who I think is generally pretty favorable toward President Obama as a person and his administration, but there is great disagreement by this columnist about the President's budget.

The White House budget for fiscal 2013 begins with a broken promise, adds some phony

policy assumptions, throws in a few rosy forecasts, and omits all kinds of painful decisions . . . the proposal would add \$1 trillion more to the national debt than Obama contemplated a few months ago.

Dana Milbank added that the Obama budget "is a nonstarter on Capitol Hill, where even Senate Democrats have no plans to take it up. It is, in other words, exactly what it was supposed to be: a campaign document."

So with that background from somebody who is not a Member of Congress, not a Republican or Democrat—I don't know how he might be registered—I would like to give my views on the President's budget, but just so that people know it isn't just Republicans who disagree with the President's budget.

I think you could sum up the President's budget with three words that might say you are giving it a D grade, and probably most people would give it an F grade, but they would be debt, deficit, distrust, and disaster—too much spending, too much taxing, and too much debt. This comes from the fact that earlier this week the President submitted—as he has to every year—a budget proposal, and this budget proposal was all too predictable. It was predictable because it follows the same path as his previous three budgets. With breathtaking irresponsibility, the President's 2013 budget would expand the scope of government by spending more money, increase taxes on job creators, particularly small business, and continue on the path of enormous deficits and record debt—*déjà vu*.

The President's budget proposal is supposed to be a serious document, a document that lays out the President's priorities along with the President's ideas on how to address our national fiscal and economic challenges. This budget fails those goals miserably.

As a member of the Budget Committee, I have heard from numerous experts who come before that committee about the need for Congress and the President to get serious about the fiscal cliff we are approaching. We have had deficit commissions—you remember Simpson-Bowles, as an example—we have had task forces, and we have had what we call gangs, the Gang of 6, six Senators trying to work things out, and other Members of Congress. All have put forward deficit reduction plans. It is going to take more than a commission, and the President didn't even back the recommendations of his own commission a year ago. It is going to take more than task forces, and it is going to take more than gangs of Senators because the single most important political and moral leader in America is whoever holds the Presidency of the United States. In this particular instance of this executive budget, that person and that document has failed to lead on this critical issue. It does not matter how many commissions, how many task forces, and how many gangs of Senators we have, with-

out Presidential participation a problem as big as this country's national debt is never going to be solved.

What President Obama put forward on Monday of this week is not a serious budget. As I said before, it is a political statement. The fact is Americans are going to pay a heavy price for the President's unwillingness and inability to lead.

While President Obama claims his budget will create an America built to last, his budget builds higher deficits and debt, a bigger, more intrusive government, and economic decline for future generations.

We want to remember that more important than the economic points of a budget is, when we get a more intrusive government, the less economic and social freedom people have.

By nearly every fiscal measure, President Obama's budget makes matters much worse. Not only has the President chosen to ignore the looming fiscal catastrophe, he has chosen to continue the course and even step on the accelerator.

This year, the Federal Government will spend \$3.8 trillion—equal to 24.1 percent of our GDP. During the past 60 years, we have averaged about 21 percent of GDP. So we quantify government growing dramatically from taking 21 percent out of the economy—that government spends, 535 Members of Congress spend; instead of 300 million Americans—and that is raised to 24.3 percent.

Alarmingly, over the 10-year period ahead, in the 2013 budget, in this budget, spending never gets below 22 percent. So forever they are growing government and detracting from individual freedom.

The President intends to lock in historically high levels of spending. Do not take it from me, but it is right here in these budget documents we have all been given this week. He is a big spender of other people's money.

In dollar terms, spending goes up from \$3.8 trillion this year to \$5.8 trillion 2022. Over a 10-year period of time, this budget spends about \$47 trillion, and during that period of time, it increases the national debt by \$11 trillion. So it is clear this document the President gives to Congress under law is built to spend.

President Obama's budget is also harmful to our fragile economy because it would impose a \$1.9 trillion tax increase.

I always go back to what I thought was a very wise decision President Obama made about 2 or 3 weeks before he actually took the oath of office. During the campaign, he reminded everybody he wanted to raise taxes. But when he got to being sworn in, he looked at how bad the economy was, and he clearly said it is not too wise to raise taxes when we are in recession.

Maybe technically we are not in a recession, but for the 8.3 percent of the American people who are unemployed, it is not just a recession, it is also a depression for each one of them.

So since the unemployment rate stands at 8.3 percent, and the President seems to be just fine this year, compared to 3 years ago when he was sworn in, that hiking taxes is not going to be harmful to the economy, it is not going to be harmful to those 8.3 percent of the people who are unemployed and looking for jobs, it is going to be. So why has the President flip-flopped on this issue of whether you ought to increase taxes when people have such high unemployment rates?

This tax increase will harm the economy and result in fewer job opportunities, particularly among the small businesspeople who create or provide for 25 percent of the jobs in America and generally create 70 percent of the new jobs in our economy. That is where it is going to be very harmful.

I recently asked Federal Reserve Chairman Bernanke about the prospects of a tax increase and the impact it would have on our economy. He indicated a significant tax hike could slow the economy, slow the recovery. In my question to him before the Budget Committee, I quoted the Congressional Budget Office that says unemployment would go up and the economy would grow less if we had this big tax increase the President wants.

The President has spent many hours speaking about helping our economy, investing in our future, and increasing economic opportunities for all Americans. While he is saying all those things that he is probably sincere about, at the same time he does not put his actions where his words are because he does not allow a pipeline to be built that will create 20,000 jobs right now and 110,000 indirect jobs connected with it.

If he gets his wish to hike taxes by \$1.9 trillion, it will harm all Americans, further prolong this already 3-year slowdown, while growing an even larger, more intrusive Federal Government impinging upon personal liberties to a greater extent.

Maybe the President's purpose in imposing this huge tax increase is an effort to reduce the Nation's debt and that is probably what he would tell us, and he may truly believe that. Unfortunately, that is not what he has planned. He wants to spend every dollar. His budget leads to an additional, as I said before, \$11 trillion increase in debt—national debt—over the next 10 years. Debt held by the public increases from 74 percent of our economy today to 76 percent of our economy by the year 2022, at the end of this 10-year budget window.

We have to compare that to the historic average since World War II, and that was just 43 percent, compared to where it is right now: 74.2 percent, going up to 76 percent.

If people believe President Obama is putting us on a path to fiscal sustainability by taxing increases, I would suggest they look at the annual deficits over the next 10 years. These deficits never drop below \$575 billion, and

actually go up toward the end of his budget, rising to \$704 billion by 2022. This budget puts America on the course of deficits and debt as far as the eye can see into the future.

Additionally, the President took a pass on proposing any real changes to our entitlement programs, which are the real driver of future deficits and debt. That is only part of it. The main part of it is, do we want to preserve Social Security, Medicare, and Medicaid for future generations? Because if we do not do something about it, it is not going to be preserved. Again, he is absent from the discussion when Social Security, Medicare, and Medicaid comes up.

He has offered no solution in this budget, even though the Simpson-Bowles Commission he appointed—he never endorsed their recommendations 1 year ago; and why he did not endorse and trust the people he put in place to get a solution to these problems I do not know, but even the Simpson-Bowles Commission has solutions for Social Security, Medicare, and Medicaid. That is further evidence that the President has chosen not to lead on these very difficult issues.

President Obama has spoken a lot lately about the issue of fairness. President Obama believes this type of budget, with higher taxes, more borrowing, and enormous deficits and debt will bring about fairness.

If the President is referring to sharing in our Nation's economic decline, he is right. If he is talking about sharing in a Japanese-like prolonged period of stagflation, he is right. If he is talking about sharing in an economic collapse such as the one going on in Greece, he is right. It may not be tomorrow, but all signs point down the road in those directions because based upon the national debts of those particular countries, that is where we are headed.

The budget proposed by President Obama will have all Americans sharing in higher taxes, a larger, more intrusive government, less freedom, and deficits and debt that will lead to economic decline for future generations.

We all know a large budget deficit reduces national savings, leading to higher interest rates, more borrowing from abroad, and less domestic investment, which, in turn, would lower income growth in our country.

This will hurt the lower and middle class the most. The gains President Obama touts in his budget that he is delivering to the middle class will be dwarfed by the loss of economic activity caused by deficits and debt.

This is not a serious document. It is a political document. As evidence of how out of touch this budget is, few of my Democratic colleagues have even acknowledged President Obama submitted a budget, much less defend it.

I hope the Senate will have an opportunity to debate and vote upon President Obama's budget. Last year, we had such a vote. Last year, the Presi-

dent's budget was defeated in the Senate by a vote of 97 to 0. Not a single member of the President's party supported his budget.

So when constituents ask me why we cannot do something in a bipartisan way in Congress—and we do a lot in a bipartisan way that does not get the attention of the press, so people are cynical about Congress being bipartisan—I quote a 97-to-0 vote about whether there is bipartisanship, and that was a vote against the President's budget. Every Republican and every Democrat agreed. Once again this year, if we ever get this to a vote, I predict that very few, if any, will support this budget.

Quite frankly, it would be humorous if the consequences of inaction were not so serious. We have a moral obligation to offer serious solutions for today and for future generations. The President's budget fails in this responsibility. He has chosen a politically expedient path rather than a responsible, forthright path.

Our grandchildren and great-grandchildren will suffer as a result of this failure, and that suffering comes from this fact: that for nine generations of Americans, each succeeding generation has lived better than the previous generation, and a lot of Americans feel that is not going to happen with the next generation. That would be a sad commentary.

I yield the floor.

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. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWN of Ohio. Madam 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.

CHINA TRADE

Mr. BROWN of Ohio. Madam President, I was presiding earlier today before the Senator from North Carolina. I listened to Senator BOXER talk about the importance of this Transportation bill, this highway bill, which I underscore.

This week we have seen movement on extension of the payroll tax and tax cuts and unemployment benefits, two very important things—with the doctors fix too—very important things to keep our economy moving. It made me think back what has happened in the last couple of years.

In 2009, when Senator Obama became President Obama, we were losing 800,000 jobs a month in the United States. We know what was happening, especially to manufacturing and especially in States such as the Presiding Officer's, North Carolina, and my State of Ohio. In fact, we had for 12 years—

every single year for 12 years—from 1997 to 2009, we had lost manufacturing jobs every single year in Ohio and in the United States.

But after President Obama took office, we passed the Recovery Act, we did some other things, the health care bill, all of that. We have begun to see, month after month after month, job growth. Not job growth that we want yet, not the kind of strong job growth we want. But for 21, 22 consecutive months we have seen more manufacturing jobs than the month before, including my State of Ohio—more manufacturing jobs every single month than the preceding month for 20, 21, 22 months in a row.

Why is that? There are a lot of reasons. No. 1 is we have begun to put the economy on track—no longer losing 800,000 jobs a month; instead, gaining manufacturing jobs every month.

The auto rescue has made a huge difference in States such as Ohio, but really across the country as we have seen manufacturing take off.

Coming out of every recession, what leads out of the recession? Typically it is the auto industry. And in the Midwest and throughout the country, people are making cars, they are buying cars, all the economic activities generated from making a car and buying a car and running a car.

One of the untold stories, in Toledo, OH, in northwest Ohio, near the Michigan border, the Jeep plant, the Chrysler-Jeep plant—Chrysler, a company that was saved by the auto rescue. They went into bankruptcy. The restructuring and the financing by U.S. taxpayers got that company back on its feet, back into business making cars. But prior to the auto rescue in 2008, the Jeep plant in Toledo—only 50 percent of the products going into a Jeep, the components assembled in Toledo, only 50 percent were American made. Do you know what happened after the auto rescue? Now 75 percent of those products are American made, those components. That is exactly the point. Because it is not just the companies you hear about—Honda has a big operation in Ohio, Chrysler, GM, Ford, all big operations in Ohio, all expanding, all investing—just in the last 6 months, each of those four companies has announced major investment dollars going into Ohio operations.

It is not just those auto plants, it is the supply chain. So if a Chrysler Jeep is made out of 75-percent American parts rather than 50-percent American parts, think of the jobs that creates: tires, steering wheels, blocks, transmissions, the engine, the fenders, all of the steel, all of the electronics, all of the products that go into those automobiles and trucks. That is in many ways the untold story.

The problem, though, with that is we are still seeing China, the People's Republic of China, Communist China, cheating when it comes to auto parts. The auto parts trade deficit a decade ago was about \$1 billion, meaning that

the U.S. companies bought \$1 billion in Chinese-made auto parts more than we sold to China—auto parts made in this country. We had a \$1 billion deficit in auto parts. Today, that deficit is about 800 percent bigger than that. It is around \$10 billion, that auto parts trade deficit. So the point of that is if we can turn that around, if we can force the Chinese to play fair and stand up and practice trade according to our national interests, not according to some economic textbook that is 20 years out of print, if we can do that, it will mean way more American jobs making auto components in steel, in rubber, and all of those things that go into the creation of an automobile, the assembly of an automobile and a truck.

Yesterday, 100 feet from here, a group of us met with the Vice President of China, who will soon be the leader of that country, people who know China well predict. I asked him a question about that, that China does not play fair, they do not play fair on currency, they do not play fair when it comes to subsidizing energy and water and capital and land. Of course, he deflected the question. He did not answer. I did not expect him to. But I wanted him to know as eight or nine of us were sitting around the table, I was the only one who directly brought up the issue of jobs and this economic relationship, leveling the playing field.

But that is why it is so important that the House of Representatives pass my China currency bill. This is legislation the Senator from North Carolina, Mrs. HAGAN, has cosponsored. It is legislation that LINDSEY GRAHAM from South Carolina, a Republican, has cosponsored. It is legislation that CHUCK SCHUMER of New York, a Democrat, has cosponsored, along with OLYMPIA SNOWE, a Republican from Maine, and DEBBIE STABENOW, a Democrat from Michigan, and Senator SESSIONS, a Republican from Alabama, all of us who have come together.

My currency bill was the largest bipartisan jobs bill that the Senate passed in 2011. Unfortunately, Speaker BOEHNER in the House of Representatives is blocking it. It is important that he move on that. It will have a strong bipartisan vote out of the House of Representatives, as it did—far in excess of 60 votes in the Senate.

It works like this, briefly: With China cheating on currency, it means that a product made in Cleveland, OH, and sold in Wuhan, China has a minimum 25 percent—some former Reagan administration officials say 40 or 50 percent—but at least a 25-percent currency tariff or tax, that every one of our products is taxed that way. That cost is added to it when it is sold in China.

Conversely, if the Chinese make something and sell it into Akron or Lima or Mansfield, OH, that product is 25 percent less expensive, which means that American companies cannot compete. There was a company in Brunswick. I was talking to two brothers

who run this company. They were about to make a million-dollar sale. All of a sudden the Chinese competitor came in, with that 25-percent bonus that they get because China games and cheats on the currency system, and they were underpriced by 20 percent. So that clearly does not work.

That is why I said that to the Vice President of China about the importance of currency. That is why the House of Representatives needs to pass my legislation. It will mean we can keep this recovery going. The 21 months in a row of manufacturing job growth, coupled with the extension of the payroll tax cut, coupled with the extension of unemployment benefits, coupled with the Transportation bill, the highway bill that Senator BOXER and Senator INHOFE bipartisanly are working on, coupled with standing up to the Chinese on trade enforcement and on this currency bill, will mean we are going to get this recovery, we are going to sustain it, we are going to grow it. It is going to mean significant new jobs in my State of Ohio and across the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

FISCAL RESPONSIBILITY

Mr. MANCHIN. Madam President, I rise today to speak about the dire finances of this great Nation and the policies and laws of this government that are only weakening our fiscal standing for future generations.

A year ago, I was in a Senate Armed Services Committee meeting and then-Chairman of the Joint Chiefs of Staff ADM Mike Mullen was asked: What is the greatest threat to our Nation and our national security? I would have thought he would have said terrorism, the terrorists, al-Qaida, North Africa, could have been Iran, it could have been another rising military power, but he didn't hesitate in responding that the national debt is the greatest threat to our country.

That was one of the most sobering moments I have experienced since becoming a Senator. I thought more people would hear what he said and take this situation more seriously, but things have only gotten worse since then. Our debt ceiling is at a record here, \$16.4 trillion. By 2022, according to the President's newly proposed budget, we will be \$25.9 trillion in debt. That means every man, woman, and child will be responsible for more than \$79,000 of debt. Our children and grandchildren will be paying more in interest on that debt than we spend on education, energy, and defense—combined. Our elected leaders should be negotiating solutions but instead everyone is

cooking up short-term Band-Aids that create long-term obligations that will take years for future generations to repay. They are trying to figure out how to point fingers at the other side.

There is not a person in West Virginia who can understand why politics is trumping our future fiscal stability. I don't think there is a person in America who understands why in Washington we cannot come together on a long-term fix to the problems we have. And for the life of me, I cannot imagine why our elected leaders from both sides of the aisle continue to play political football with our spending, our debt, and our children's future. This isn't how we reach a solution.

When I was Governor of the State of West Virginia, I didn't blame previous administrations for our problems. I took the responsibility for fixing them. And I didn't come here to blame anyone for our problems either. I came here to fix them. I didn't come here to put the next generation into more debt; I came here to get them out of it. I came here to serve my State and Washington because my parents and grandparents left me a country that was in very sound fiscal shape and I want to do the same for the next generation. I came here because in West Virginia, even during a recession, we lived within our means and had a surplus every year that I was Governor. The people of my State are proud of what our little State accomplished, and I know Americans can again feel that same pride in this great Nation of ours. I know we can put our fiscal house back in order.

I had those priorities in mind when I looked at the President's proposed budget, the projected deficits, the accumulated debt over the next decade and wondered, what in the world are we doing? This budget claims to be balanced, but only if we don't count the exploding interest we must pay on our ever-increasing debt. Including interest, there is not a single year that this budget is balanced. At the end of the decade, this budget puts an additional \$6.7 trillion more on the debt. And I would ask anybody, how does that make sense?

This is not the first time I have shared my concerns about this country going down the wrong fiscal track, and I can already hear some folks saying: Oh, there goes JOE MANCHIN again blaming President Obama. Well, let me tell you, I am a proud Democrat, but I am a proud West Virginian and American first, and I will stand and speak my mind whether our President is a Democrat or Republican. I am trying to be as understanding and respectful as possible in my critique, but what we are doing doesn't make any sense at all to me, and I certainly cannot in good conscience tell the people of West Virginia any differently. And if we don't do anything to address this fiscal mess, the priorities of both Democrats and Republicans will face the consequences.

Standing here, I tell my Democratic friends that we must face the truth that the very programs we care so dearly about and fight so hard for will be destroyed unless we do something about this exploding debt. Standing here, I also tell my Republican friends that they too must face the truth or not only will the programs they care about be destroyed, they may be forced to one day support a massive tax increase to simply keep this country solvent. Both scenarios are unacceptable and preventable.

There is a commonsense solution to our Nation's dire fiscal woes within our grasp. We already have a template with substantial bipartisan support, split evenly between Democrats and Republicans in both the House and the Senate, that gives us a starting point with which to move forward. As I have said before, the Bowles-Simpson framework might not be perfect, but it has more support from both sides of the aisle than anything else I have seen since I came here. Not only that, it withstood the test of time better than any other proposal I have seen. It is a framework that cuts trillions from our debt, makes our tax system more fair, and raises revenue without raising tax rates. The only problem is that our country's leaders from both parties won't move forward with the recommendations of the Bowles-Simpson Commission. So instead of real solutions where we choose our priorities based on our values, we see political proposals that will only send this country further into a death spiral of debt.

Take for example the fact that this body will soon debate extending the so-called payroll tax cut for the remainder of this year, 10 more months. Let's call that what it really is: It truly is cutting funding to Social Security. This Congress has voted twice since I have been here to tell Americans that they don't have to pay their share as far as their obligation to Social Security. I voted for the idea the first time around because I thought, as it was proposed to me, it might create jobs or save jobs. But I don't think we have seen much evidence that that happened, so I decided to stop throwing good money after bad and stop jeopardizing Social Security. But, as I warned this fall, along with my dear friend Senator MARK KIRK, whom all of our prayers are with, now we are talking about extending this policy indefinitely because once something like this is enacted, even an act of Congress can't reverse it. It might take an act of God to reverse it.

I know going back home and saying we voted for tax cuts is popular. Everyone wants to be popular in this arena. But this is not a tax cut, this is a Social Security cut, plain and simple, and you cannot make it look any different. Knowing that we are adding 10,000 beneficiaries turning 65 years of age every day—and when you look at last year, Social Security was the first time we paid out more than we took in—it

doesn't make any sense. Just what exactly will continuing this policy do to the long-term solvency of Social Security? The answer is very simple: It will be a disaster.

The so-called experts will tell you that everything will be right because we will backfill those contributions with revenue from the general fund. Let me remind you that this is the fourth straight year the general fund has operated with a deficit of more than \$4 trillion. That has never happened in the life of this great country. We have accumulated \$15.36 trillion of debt as of today, and the President just allowed that to grow to \$16.4 trillion with a new debt ceiling. These are the same experts who tell us we can balance a budget if we simply ignore the fundamentals of math. Does that make sense?

When this body votes on whether to extend the so-called payroll tax cut or, as it should be more accurately described, the defunding of Social Security's revenue stream, I cannot in good conscience vote to undermine Social Security. I have taken this position because at the end of the day the people of West Virginia and this Nation must be told the truth, which is why the budget proposal the President offered this week is so disappointing and maddening.

Let's be clear. Both Republicans and Democrats are responsible for our budget problems. Everybody is responsible for where we are today. In fairness, this administration inherited a tremendous debt, falling revenues, and a terrible economy. Everyone was at fault, and the public spoke loudly and clearly. They changed things with the 2008 election, and they said: Fix it. But we haven't done it, and this budget doesn't do it either.

If we are going to address our fiscal nightmare and stop digging a deeper debt hole, we must have meaningful tax reform that not only ensures that everybody pays their fair share but that also strengthens our economy and creates jobs—good jobs. Instead, this budget is not balanced even once. Over the next decade, it would actually add an additional \$6.7 trillion more debt on top of the \$16.4 trillion debt ceiling we have now that the President just authorized. That is more than \$23 trillion of debt by 2022. That is simply unsustainable.

This proposed budget relies too much on phantom accounting from so-called war savings from a war that should have been over when its purpose changed to what I call nation building.

In terms of energy investment—one area that business and labor both believe is critical to not only creating more jobs but keeping the good jobs we have—this administration continues to pick winners and losers. Take the role of coal, for example. As I just pointed out in the Energy and Natural Resources Committee, the administration's own Department of Energy forecasts that coal will play a major role in

the energy portfolio well into the coming decades, up through 2035. But this budget slashes funding for the research that would allow us to use coal more efficiently and cleanly with environmental standards for which we must be responsible. This doesn't make sense, and it puts the livelihoods of an awful lot of West Virginians and Americans in jeopardy. Those priorities defy common sense, especially when millions of people rely on coal for their jobs and the affordable, reliable electricity it produces.

We are spending more where we don't need to and less where we do. We are extending programs that do not work and going into debt to pay for them, and then we wonder why this great Nation faces such a dire fiscal future. So if and when the President's budget proposal comes up for a vote, I simply cannot support it. As always, though, I will continue to work diligently with my colleagues on both sides of the aisle to push for a more commonsense fiscal approach based on the bipartisan Bowles-Simpson template so we can finally and responsibly address the fiscal problems our Nation and our families face. I urge the President and my colleagues to do the same.

Madam President, allow me to close by saying I do travel my State, like most of my colleagues, and I am sure you do in Missouri. I meet with my constituents, as you do also, and I can tell you what I find out from them. There are a lot of issues they are worried about. There are some places where they disagree, but there is one issue that gets universal agreement and brings everybody together when they tell us, to a person, they are concerned that those of us in Washington are not listening to their cries to put the country ahead of our politics. They urge all of us to stand and do what is right for this country.

We must not let selfish ambitions about the next election cloud what must be done for the Nation that I know we all love. The challenge before us is a simple one. Over the course of our history, this Nation has succeeded because our parents and grandparents left our country better off than what they inherited from their parents and grandparents. We cannot be the first generation to fail to leave the United States in better shape for the next generation. I don't want to be a part of that. I do not intend to stand by and let a party or politics destroy the hopes of the next generation for this great country, and I urge all of our congressional leaders and our President to put politics aside and realize one simple fact: Whether we are Democrats or Republicans or Independents, we all belong to the same party, and that party is called America, and we will rise or fall together.

I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. SHAHEEN. Mr. President, we voted 85 to 11 to start work on the highway bill, which is an essential piece of legislation to reauthorize our highway and transit programs.

Eight hundred sixty-eight days have passed since our last Federal Transportation bill expired. If you cannot do the math very fast, just to put a little more emphasis on that, that is 2 years, 4 months, and 18 days since the last Federal Transportation bill expired.

We need new legislation to help streamline Federal programs, spur job creation, and move our transportation system into the 21st century.

This Transportation bill before us is about infrastructure. We call it infrastructure because "infra" means "below." So it is the foundation beneath everything else on which our civilized country is built. As we think about the buildings and operating our municipalities and our States and our Federal Government, our country, it is about making sure we have a sound infrastructure.

Our businesses, our workers, our innovators, all of them rely on a system of quality infrastructure to succeed. More funding for transportation in this bill means we can do critical roads and bridges, and we can do repairs to the existing roads and bridges. It means we have more transit for buses and railroads, and it means we can put people back to work. More jobs for construction and manufacturing workers, more jobs for workers means more consumer spending and a stronger overall economy.

The Federal Highway Administration estimates that for every \$1 we spend on highways, that spending supports more than 27,000 jobs. Economists at Moody's estimate that for every \$1 we invest in infrastructure, our gross domestic product goes up by \$1.59. That is because of the ripple effect those investments have on our economy.

The bill before us would help create about 1 million American jobs, many of them in the construction industry, which has been one of the hardest hit by the recession. In New Hampshire, the number of people who were working in the construction industry in 2010 was the lowest it had been in a decade—25 percent lower than it was in 2006, 5 years ago. We need to pass this bill to help put those people back to work.

One of the most important efforts we have in New Hampshire right now is the long overdue and badly needed widening of Interstate 93, which is in the southern part of New Hampshire. I-93 is our State's most important highway. It connects New Hampshire citizens to their jobs, businesses to global markets, and communities to each other.

Right now this vital artery is badly clogged. Every day 100,000 cars travel on a road designed for 60,000. This congestion wastes time and wastes money. Crowding so many vehicles on Interstate 93 is not only an inconvenience to the thousands who use it every day, but it also compromises the safety of drivers traveling at regular highway speed in heavy traffic.

The Interstate 93 project was budgeted and planned based on the idea that the Federal Government would provide a consistent level of funding. But the uncertainty created by the lack of a long-term highway bill has made the project difficult to finance. Right now New Hampshire transportation officials have \$115 million worth of bonding for this project that is sitting on the sidelines until the Federal Government makes good on its commitment. We need to move these Federal funds off the sidelines and get this project going.

Laura Scott, who is the economic development director for the town of Windham, near the Massachusetts border, summed it up best:

The I-93 project is critical to the future economic vitality of Windham and all of southern New Hampshire. Our businesses want it, our citizens want it, and we need to get it done.

The bill before us today can help complete this vital project and others like it. We need to work on this bill in a bipartisan fashion just as it has come out of the Environment and Public Works Committee. There was strong bipartisan support coming out of that committee. We need to set aside the partisanship now, the election year comments, and come together to do what is right for our economy and our country. I hope in the end all of my colleagues on both sides of the aisle will support that.

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. CORKER. 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. CORKER. Mr. President, I have come to the floor to talk about a topic I spoke a little bit about yesterday.

I know all the focus right now is working on a solution to some of the things going on between the House and the Senate. I know that is what people are focused on today. I understand that probably sometime tomorrow there will be a vote on the highway bill, which is expected to fail, and then it is my understanding there will be some amendments brought forth to bring a finance bill, an EPW bill, a commerce bill, and a banking bill together that will actually be debated and, it is my sense, will ultimately pass, but that after the recess is over we will come back and deal with that.

I wish to speak to that topic now. I know I am beginning to sound a little

bit like a broken record on this, but we have had so many people down here on both sides of the aisle who have actually worked together, for a year and a half after the Bowles-Simpson report came out, on long-term deficit reduction, progrowth tax reform, and entitlement reform, and there seems to be a real seriousness about that issue. I think all those who have signed letters in support of it were very sincere. Yet I think what we are finding with this highway bill, in spite of the changes that are likely to take place with the finance component, is that what we are ending up with is a situation where we have 2 years' worth of spending that is taking place and we are using 10 years' worth of pay-fors.

I can tell you there is no one in this body who likes infrastructure more than me or has spent more time on the back of a paving machine or on a screed. Those are the kind of things I love to see happening. I know they create jobs and tremendous economic growth over the long haul. But I know the Presiding Officer remembers the debate we had for a long time in this body over health care, and I know he remembers the tremendous discussions that took place on the floor over the financing mechanisms. I don't think there is any question that people on my side of the aisle railed strongly—I might say as they should have—over the fact we had a pay-for formula where basically we were spending money over a 6-year period and paying for it over 10.

Ultimately, the bill passed, but there was tremendous divide in this body over mostly just the budget gimmickry that took place. Yet what I see getting ready to happen, in a large bipartisan way, is we are going to vote for a highway bill, possibly—I am not going to do that—that spends money over a 2-year period and recoups it over 10.

I am actually stunned by this. We talk about all the things we need to do in this body regarding Medicare and how we need to focus on reforms that make sure seniors in Vermont and seniors in Tennessee have these programs down the road, and we talk about Medicare in the same light. I think all of us want to make sure Social Security is here for future generations—for these young people in front of us. All of us know we have to figure out a way to solve that problem. The highway bill is simple. It is just math. It is unlike Medicare, it is unlike Medicaid, and it is unlike so many of the things we deal with around here that are so complex to get it just right. We have a highway bill that is not complicated. It is just math. There aren't all kinds of moving parts, as far as people providing health care and the incentives that are in place. But it feels to me like what we are getting ready to do as a body—and I hope this is not the case—is to pass a highway bill where we are going to do exactly what we have done with the sustainable growth rate for physicians in Medicare.

Back in 1997, we passed a bill here—I wasn't here at the time—that basically created a mechanism for paying physicians who dealt with seniors, and the formula was flawed. So what we have done every 18 months or every year is cause the medical community to be panicked and seniors to be panicked over whether this is going to be extended because the sustainable growth rate, as it was put forth, was going to call for huge reductions in payments to physicians.

We are actually dealing with that right now. It is one of the issues we are trying to work out with the House. What we did was to create a cliff. So every time we deal with this issue it gets more and more difficult to deal with it because we will not just sit down and do the long-term reforms on that one component that need to happen. We keep taking from Peter to pay Paul. We keep wrestling with this issue but we will not deal with it.

What we are getting ready to do with the highway bill is basically inject that same poisonous formula into the highway bill. What we are getting ready to do is to pass a highway bill that will fund highways through 2013, but at the end of that period of time we will have the same kind of cliff that we deal with regarding the SGR. We will have a \$10 billion shortfall, instead of just dealing with a funding formula. If we don't think we are spending enough on infrastructure and people want to offer that in some way, now is the time to do it. Otherwise, if people don't want to go into a deficit situation, what we ought to do is spend the amount of money that is coming in.

But it feels to me as if we are getting ready, in a very bipartisan way, when we get back from recess, to show the country it is ridiculous to think this Congress will deal with the kind of reforms to Medicare to make it solvent, to do the kinds of things we need to do with Social Security—both of which are more complex—because this Congress will not even deal with this little program. It is a very important program, very important to my State and I am sure to Vermont. But we will not even deal with the reforms to it, in this time of great concern about our fiscal situation.

Again, I strongly support infrastructure funding. But I think what we will show the country, if we pass a bill like this, in a strong bipartisan way, is that there is very little hope Congress will ever deal with the more complex issues that challenge this country and which cause many seniors in our country to be concerned, which cause taxpayers to be very concerned, and certainly cause future generations to wonder whether this body is ever going to deal with the issues they know will haunt them down the road.

I came down to speak on this. I have done it daily in the lunch meetings we have with our own side. I just hope that sometime over the recess period, prior to coming to the floor, the Fi-

nance Committee will come up with a different package that actually either pays for this bill by offering funding formulas—which, by the way, is just math, it is not very difficult—or where we spend the amount of money that is actually coming in.

I will say that if we spent just the base moneys that are coming in, States such as Vermont and Tennessee and other places have the ability, if they choose, to generate gasoline taxes in their own States and do things with road money. Candidly, the way this program works, I think most people know that citizens send up \$1 and they get back 98 cents. So it actually could be a more efficient way for this to work than sending it up to us and letting us get our hands on part of the money and figuring out what we are going to do with it.

I do believe this is one of the most irresponsible things we can do, especially when there may have been some criticisms over the President's budget. I haven't heard a lot of people speak on it because I don't think it has been taken up as a document that we will debate on this floor in a real way. But it is difficult to criticize the President's budget. I know the vote on last year's budget was 97 to 0 against it. But it is very difficult for people on either side of the aisle to criticize the President's budget if, in fact, there is a large bipartisan desire to pass a highway bill that does exactly the same thing.

I hope the Finance Committee will meet again and come up with a solution to this. It is not urgent. We have a recess period that is coming up. Surely, this Congress, this Senate, can show the ability to deal with an issue such as this, which, again, is so simple, and demonstrate to the American people, in a bipartisan way, that we have the ability to begin looking at these programs that are so important to people across our country in a way that doesn't take us down the fiscal tube.

I thank the Chair for listening. I know it is tough when there is not much happening down here.

I yield the floor, and 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. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ELIZABETH PERATROVICH DAY

Mr. BEGICH. Mr. President, I rise today to recognize a great civil rights leader in Alaska and to join all Alaskans in celebrating Elizabeth Peratrovich Day.

Almost 25 years ago, the Alaska State legislature designated today as Elizabeth Peratrovich Day to commemorate the signing of the Alaska Anti-Discrimination Act of 1945, and to honor Ms. Peratrovich.

Elizabeth Peratrovich is a Tlingit Alaska Native who fought for equal rights for all Alaskans long before her now famous address to the Alaska legislature. She was grand president of the Alaska Native Sisterhood and fought against the very public discrimination taking place against the first people of Alaska.

In many places in southeast Alaska just 60 years ago, public signs read: No Dogs, No Natives or Filipinos. Others simply said: No Natives Allowed.

There were separate drinking fountains and separate doors in public buildings. As Tlingits, the Peratrovichs could only purchase property in Native neighborhoods, could only be seated in segregated portions of the theater, and could only send their children to missionary schools—not the public schools for which they paid a school tax. In the face of this discrimination, Ms. Peratrovich demonstrated courage in her convictions—a courage which changed the course of civil rights treatment for Alaska Natives.

In 1941, Elizabeth and her husband Roy wrote a joint letter to Territorial Governor Ernest Gruening about their concerns. In part, they wrote:

My attention has been called to a business establishment . . . which has a sign on the door which reads, "No Natives Allowed." In view of the present emergency when unity is being stressed, don't you think that it is very un-American?

We have always contended that we are entitled to every benefit that is accorded our so-called White Brothers. We pay the required taxes, taxes in some instances that we feel are unjust, such as the School tax. Our Native people pay the school tax each year to educate the White Children, yet they try to exclude our children from these schools. Although antidiscrimination legislation had been floating around the territorial legislature for years, it had not gained any traction.

Again, I want you to put your mind in this time. This was the 1940s. Many legislators believed Alaskan Natives were second-class citizens. Despite the fact they paid taxes and bore arms in defense of this Nation, they were not endowed with the same rights as others.

In 1945, however, hope emerged. Anti-discrimination legislation had passed the Alaska statehouse but was stalled in the State senate. One senator made a speech stating that Natives had only recently emerged from savagery and were not fit for society. He argued that they had not had the experience of 5,000 years of civilization.

With great courage and composure and poise, Elizabeth Peratrovich confronted the senator who had just belittled her and her people. Not only was she a Native addressing the mostly White Alaskan audience, she was also the first woman ever to address the Alaska State senate. In a quiet, steady, but bold voice, Elizabeth Peratrovich opened her testimony with the following words:

I would not have expected that I, who am barely out of savagery, would have to remind the gentlemen with 5,000 years of recorded

civilization behind them, of our Bill of Rights.

She then recounted her experiences with discrimination—how she and her husband had not been allowed to lease a house in a White neighborhood; how she was prohibited from enrolling her children in the same schools as everyone else, the schools for which she paid a school tax. She talked about the embarrassment her children felt when they were not allowed to sit with their friends in the theater.

Following Elizabeth Peratrovich's speech, the senate exploded in applause. Her plea had been effective. The opposition that had been so absolute shrank to a mere whisper.

On February 8, 1945—again, I underline the date, thinking of our national history—on February 8, 1945, a bill to end discrimination in Alaska passed the senate by a vote of 11 to 5. Elizabeth Peratrovich had been instrumental in making Alaska the first organized government under the U.S. flag to condemn discrimination.

Today in Alaska we celebrate Elizabeth Peratrovich Day and affirm our beliefs in equality. With each passing year we move closer to truly realizing the quote that all men are created equal and all are endowed with certain unalienable rights.

Thank you for allowing me to embrace the memory of one woman who fought for those fundamental principles, Alaskan Elizabeth Peratrovich.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the quorum call be rescinded.

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

TRIBUTE TO BEN LUJÁN

Mr. BINGAMAN. Madam President, I come to the floor, along with my colleague Senator UDALL, to honor Ben Luján, who is the longtime speaker of the New Mexico House of Representatives. After tirelessly representing District 46 in our State legislature for 37 years—the last 12 years of that 37 years as speaker of the house—Ben is retiring. He is doing so to pursue his fight against lung cancer. I am certain he will bring the same strength and tenacity and courage to that battle that he has brought to every other endeavor he has taken on throughout his life.

Throughout his long career, he has fought fiercely to ensure that the needs of his fellow New Mexicans were being addressed. He has worked hard to improve the quality of New Mexico's school system. He has fought for the rights of our workers, and he has worked hard at strengthening our economy.

I know I speak for all of his colleagues in our State legislature when I say that his service and strength

throughout his recent personal difficulties have been an inspiration to all, and his fighting spirit will be missed once he leaves our legislature. His exemplary work ethic is something to which we should all aspire.

He was born into a family of nine children, the son of a sheepherder in the small town of Nambe in northern New Mexico. In 1957 he began working as an ironworker at Los Alamos National Laboratory. It was from these experiences that he learned the importance of always striving to do better, to do more, not only for his family but for his community and for his beloved State. In 1970 he began his extraordinary public service when he was elected to Santa Fe's County Commission. He aspired to have a wider impact, and he ran for the New Mexico House of Representatives in 1975. After nearly a quarter of a century in the house, he was elected by his colleagues as the speaker of the house in 2001.

His devotion is a characteristic that is reflected in all aspects of his life, public and private. He and his wife Carmen have been married for 52 years. His children—Shirley, Jackie, Jerome, and BEN RAY—are a testament to the values with which they were raised. In fact, we are fortunate to have his son BEN RAY as a Member of the U.S. House of Representatives representing the Third District of New Mexico. Tom and I have had the good fortune to serve with BEN RAY in the New Mexico delegation, and he represents our State extremely well.

All of us whose lives have been enriched by Ben Luján's work in bettering our State owe him a debt of gratitude for his service. His illness has not hindered his dedication and hard work for our State, as he continued running the house of representatives in our State throughout the current session of our legislature, which is expected to end today.

I am joined with all New Mexicans and Senator UDALL in extending my gratitude to the speaker for his extraordinary work for the people of New Mexico. We are, indeed, fortunate to have had a man of his character serving our State in such an exemplary way and in such an important position for so many years.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, I also rise today to join New Mexico's senior Senator, who has served New Mexico so well. It is a real honor to join Senator BINGAMAN in paying tribute to one of our great New Mexico citizens, Speaker Ben Luján. Ben, as Senator BINGAMAN said, is retiring this month. He is an esteemed colleague of ours, and he is also our friend—a good friend at that. Indeed, Ben Luján is a friend to all New Mexicans. Ben recently said:

Let us make our time on Earth . . . worthwhile, and do what is right, and make a difference for the children, our working families, and our elderly.

He has lived up to that challenge throughout his career, fighting for education, for workers, for middle-class families, for Native Americans, for health care, and for jobs. In a world that grows ever more cynical, Ben Luján has always been the real deal.

Ben was born in 1935 in the small community of Nambe, NM, one of nine children. His family, like so many, struggled through the Great Depression. He used to relate tales of his father as a shepherd herding sheep from the Valley Grande to the Chama in New Mexico. Ben still lives on the property that has been in his family for three generations.

Ben is that rare combination—humble but tenacious in what he believes. He has never forgotten from where he came, and he has always been a champion for the less fortunate among us. Even in his youth, Ben showed a remarkable talent for teamwork, for playing by the rules, for just plain hard work, and for determination.

He loves basketball. In high school he was the captain of his high school varsity basketball squad, and the gymnasium where the Pojoaque Elks play today is named in his honor. Ben Luján has been leading teams ever since.

He attended the College of Santa Fe but had to disenroll for lack of money. For the next couple of years, he sought work wherever he could find it in California and in New Mexico, wherever he had to go to get a job. He understands hard times. He knows what it is like to try to make ends meet. And in all of his years of public service, a sense of justice and fair play has always been at his core.

Ben worked as an iron man in Los Alamos. He joined the International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers. In 1959 Ben married his high school sweetheart, the love of his life, Carmen, his devoted partner for over half a century. They began a family that would grow to include four children: Shirley, Jackie, Jerome, and Congressman BEN RAY LUJÁN. As Jeff said, we are fortunate to have BEN RAY serving in our delegation, and we have worked with him on many occasions on a daily basis. Ben began his extraordinary career in public service when he was elected to the Santa Fe County Commission in 1970. Four years later he was elected to the New Mexico House of Representatives. After a quarter of a century of service in that body, he was elected speaker of the New Mexico House of Representatives.

He has always called attention to the needs of others and not to himself. Ben is an inspiration not just to those who aspire to a life of public service but also to a life of personal integrity. His word is his bond to his family and to the people of New Mexico. His principles have illuminated his life and brightened the lives of all who know him. I count myself among that number. I am proud to call Ben Luján my friend.

I was present at the opening of the New Mexico State Legislature last month when Ben informed us of his illness—an illness that left him weakened but not defeated. Like everyone in that room, I was deeply saddened at the news of Ben's illness, but that sorrow is tempered by admiration—admiration for Ben, for Carmen, for the entire Luján family and for the incredible strength they have shown. He would not allow a terrible illness to distract from his duties as speaker of the house. He remains steadfast in his services to the people of New Mexico. Even while undergoing chemotherapy, he continued to work as speaker. Even a devastating illness could not deter Ben Luján from the job he had committed to do, and his family supported him every step of the way. That is honor, that is integrity, and that is courage.

None of us will ever forget Ben's brave words the day last month when he said, "While this has taken a toll on me physically, it has not broken my spirit, my will, my faith and my commitment to New Mexico."

So to Ben, I want to say thank you. Thank you for your service, thank you for your sacrifice, and thank you for your friendship.

As we celebrate this great son of New Mexico, I will close with these lines from the poet, Lord Alfred Tennyson:

Though much is taken, much abides, and though we are not now that strength which in the old days moved earth and heaven, that which we are, we are—one equal temper of heroic hearts, made weak by time and fate, but strong in will to strive, to seek, to find, and not to yield.

That, my friends, is Ben Luján—to serve, to strive, and not to yield.

It is a real honor to be on the floor with Senator BINGAMAN to talk about our good friend Ben Luján.

I yield the floor.

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

The assistant bill clerk proceeded to call the roll.

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

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

HONORING OUR ARMED FORCES

SERGEANT ADAM J. RAY

Mr. MCCONNELL. Madam President, I have the sad and solemn task today to speak of one brave and honorable Kentuckian who was lost in the performance of his duties while wearing his country's uniform. SGT Adam J. Ray of Louisville, KY, was killed on February 9, 2010, in Afghanistan when an improvised explosive device set by the enemy detonated near his patrol. He was 23 years old.

For his heroic service, Sergeant Ray received many medals, awards, and decorations, including the Bronze Star Medal, the Purple Heart, the Army Commendation Medal, the Army Achievement Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Afghanistan Cam-

paign Medal with Bronze Service Star, the Global War on Terrorism Service Medal, the Korean Defense Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the NATO Medal, the Combat Infantryman Badge, the Weapons Qualification Badge, and the Overseas Service Bar.

Sergeant Ray knew the risks of Army service and faced them squarely without flinching. In fact, a reporter imbedded with Sergeant Ray's unit has written of how his patrol's assignment on the day he was killed was to find and deactivate explosives hidden by the enemy in culverts under the main road heading west from Kandahar connecting to major cities such as Kabul.

"People ask me if I regret letting Adam join," says his mother, Donna Ray.

Well, I don't. Adam died doing what he loved more than anything else in the world. No, Adam did not go into this wanting to die for his country, but he was more than willing to do it. I am so very honored to be his mother and to tell everyone about him.

Adam Ray was born March 9, 1986, to Jim and Donna Ray. When Adam was in the third grade, he went on a school field trip to a military museum. From that moment on, he wanted to be a soldier.

"He would play army with his little toy soldiers in the bath tub," remembers Donna.

He lined them up around the edge of the tub and prepared for the attack of his dinosaurs. At night, when I tucked him in his bed, I would have to pry the toy soldiers out of his clenched fist.

Adam's father Jim attended West Point, and Adam wanted to follow in his footsteps and also go there. However, after the terrorist attacks of 9/11, Adam felt an urgency to serve his country that could not wait, so he entered military service in April of 2005 and graduated basic combat training at Fort Benning, GA.

Adam then attended advanced individual training at Fort Sam Houston, TX, where he was trained as a patient administrative specialist. His first deployment was to Camp Casey, Korea. After 1 year in Korea, Adam reenlisted and was transferred to an infantry unit. By the time he was deployed to Afghanistan, he was assigned to C Company, 4th Battalion, 23rd Infantry Regiment, 2nd Infantry Division based out of Joint Base Lewis-McChord, WA.

In early 2009, Adam was deployed to Afghanistan. He visited his family while on leave in September of that year and returned to Afghanistan in October. By Christmas, his family was hearing less from him because he was preparing for a dangerous mission.

"The Friday before he was killed, he called about 2 a.m. our time—he always forgot about the time difference," Donna remembers. "He told me that his unit was moving and that I may not hear from him for a while, and not to worry."

A few days later came the fateful Tuesday that was February 9. Adam's

unit was conducting “culvert denial” in an area where an Afghanistan soldier had recently been killed by a bomb hidden in a culvert underneath a road.

At approximately 9:30 a.m., the explosion went off, and as one contemporary news report puts it, “Adam Ray, the third of five children, beloved son of a minister and a devoted mother, a soccer player and a flirt, who tutored dyslexic kids and was known to ask less popular girls to dance at school events, died.”

We are thinking of Sergeant Ray’s loved ones today as I recount his story for my colleagues here in the Senate. We are thinking of his parents Jim and Donna Ray; his grandparents John and Doris Ray and Bobby and Marilyn Sumner; his brothers Zachary and Seth Ray; his sisters Betsy and Amanda Ray; his nephew Christopher Mitchem; and many other beloved family members and friends.

I know my colleagues join me in extending the sincere and profound gratitude of the Senate to the family of SGT Adam J. Ray. We have set aside this moment to recognize his service, service proudly and freely given, for the country he so loved. And we pay tribute to his supreme sacrifice.

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

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

PAYROLL TAX CONFERENCE REPORT

Mr. WARNER. Mr. President, let me rise today to speak about the conference report that it appears we will be voting on tomorrow regarding the issues of the payroll tax, unemployment benefits, and the so-called doc fix. Let me first of all acknowledge that I know that many of my colleagues have worked long hours on the payroll tax deal that was apparently reached late last night.

I have been briefed on pieces of this deal and I’ve also seen many of the press reports that have described this deal as a new sign of bipartisanship. As a new Member of the Senate, I know, like the Presiding Officer, we believe that we do our best work here in Congress when we can have bipartisan solutions, when we can find ways to reach common ground.

All of those factors make it doubly difficult for me to now rise and say I will be voting against the conference report when it comes before this body tomorrow.

Now, let me acknowledge on the front end that I think there are worthy reasons in this recovering economy we

have got right now, it makes some sense to maintain some form of payroll tax holiday for a limited period of time.

I know the Presiding Officer feels that one of the most important issues our country confronts right now—I would say the most important issue and the one that overhangs everything else we debate here—is our inability to come to grips with our debt and deficit.

I know, as we try to nurture this growing recovery, one of the ways we take on that debt and deficit is by having a growing economy.

But I also believe it is terribly important that we show progress on this issue. Our national debt now exceeds \$15 trillion. Every day that we fail to act, we add \$4 billion to that total. None of this becomes self-correcting. It will not correct itself until and unless we act.

I, for one, believe there is no action this body could take that would be more stimulative to our economy, that would be a better jobs program, that would do more to restore the trust of the business community and the public than to show bipartisan collaboration and cooperation on a long-term debt and deficit deal. So let me share with my colleagues the five reasons I will be voting against the conference report tomorrow.

First and foremost, the payroll tax cut that has been proposed isn’t being paid for. It will add \$100 billion to the debt.

Second, I think the compromise that has been put together turns some of our traditional policies on their head. By taking this action of saying tax cuts somehow don’t have to be paid for, we are advancing a policy I believe will come back to haunt us later this year when the Bush tax cuts expire.

As a matter of fact, while I have only been a Member of this body for 3 years, I know it has been a tradition that in moments of economic crisis, the Congress will sometimes extend unemployment benefits, particularly for those States that have been hardest hit. In those moments of crisis, the unemployment benefits sometimes go unpaid for. Well, in the compromise in this conference report, we turn that policy on its head in that there was a requirement to pay for the extension of unemployment benefits but no requirement to pay for the \$100 billion of additional debt taken on by the payroll tax cut.

I know in this body, as we have had debates about debt and deficits and economics, we have discussed the economic theories of a whole host of thinkers and economists—John Maynard Keynes, Frederick Von Hayek, Milton Friedman, Paul Krugman. I somehow feel as though this conference report we will be voting on tomorrow may reflect the thinking of a more obscure individual, but someone I recall as a child growing up, and that was Wimpy, who was a cartoon character—Popeye’s hungry pal. Wimpy used to always say, “I will gladly pay you Tuesday for a hamburger today.”

Well, it seems on this economic policy we are talking about today, of deferring payment for this payroll tax policy, that Wimpy once again has won out.

Let me cite the third reason I will be voting against the conference report tomorrow. As I acknowledged at the beginning of my comments, I believe extension of the payroll tax holiday makes sense in this recovery, but it just needs to be paid for. So I could have very easily supported a number of the proposals put forward by my colleagues on the Democratic side, including a 1-percent increase of the taxes on those of us who make more than \$1 million a year—a defined benefit for the defined pay-for.

If we couldn’t breach the gap on that, I could have looked at means-testing the payroll tax holiday.

If we are trying to make sure these dollars get into the economy as quickly as possible over this coming year, then clearly a payroll tax holiday for folks who make less than \$150,000 a year or \$250,000 a year or \$500,000 a year or \$1 million or less a year—it didn’t make sense to say that regardless of one’s income. This payroll tax holiday—going to folks like me, who are doing pretty well—is not going to have a stimulative effect, I just don’t think economic theory bears that out. So if we had paid for this or put some restraints on it, I would have been happy to support this conference report.

The fourth reason I can’t support the conference report is because I am concerned this payroll tax holiday—which goes into the Social Security trust fund, is supposed to end at the end of this year. But we have no metrics placed on it. It scares me greatly that we will approach the end of the year and there will be some other reason it needs to be extended again.

I believe we should have put in place a requirement that this payroll tax holiday would start to ratchet back if we continued to see growth in the economy—perhaps ratcheted back one-third if we had seen GDP growth for the next 3 months or employment growth for the next 3 months, ratcheted back another one-third, ratcheted back another one-third—so we wouldn’t have the cliff effect that is being proposed at the end of the year, again, a cliff effect that will come at the same time as the end of the Bush tax cuts, the imposition of the so-called \$1.2 trillion sequester cuts, and the proverbial train wreck that is already being talked about.

So while I believe this payroll tax holiday is important, the price, the fact we are not paying for it, the fact we have put no restrictions or parameters around it and the fact that there’s no guarantee it will actually expire because we have no metrics of how much economic progress we need to have before it expires are reasons I will be voting no.

Let me raise one other concern I have about the conference report. This

is one more example of particularly our colleagues in the House saying the first place they go for any pay-for for any project seems to be our Federal workers—the same Federal workers, close to 2 million strong, who keep our streets safe, make sure we get those Social Security checks, try to take out terrorists, drug dealers, you name it. They are the same Federal workers who have had their pay frozen for the last 2 years and who have had to endure the prospects of two or three potential shutdowns over the last year and a half. To say we are going to come back to the well time after time on this group I don't think is fair or right.

As someone who has looked at the Federal pay and benefits, when we get to that issue of a comprehensive tax reform, entitlement reform, big deficit deal, all these items will need to be reviewed. But the notion the first place to come back to for any pay-for is our Federal employees, to me, doesn't seem fair nor does it seem right. So for these five reasons, I will reluctantly be voting against the conference report tomorrow. I believe it was, again, in the context of the debt and deficit particularly, Will Rogers who said: When you find yourself in a hole and you want to get out, stop digging. Well, in some small way, by voting no tomorrow, I hope I will send a signal that I—and I hope others will join me—will stop digging.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum?

Mr. WARNER. I will.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S.J. Res. 36 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BENNET. 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. BENNET. Mr. President, I am here on the floor today to talk a little bit about our economy and something that I think is very important that has been left unaddressed in this payroll tax compromise that I think is a real tragedy for our country and for my State, the State of Colorado, and, most importantly, for people who are suffering through this incredibly difficult economy.

It is not well understood by people—I think maybe even in this Chamber—that our country's gross domestic product—the economic output of our country—is actually higher today than it was before we went into this recession. We saw it rising all the way in the 1990s and 2000s, and then we had the worst recession since the Great Depression. Now we are seeing economic output

that is actually at a level that is higher than it was before we went into the recession.

Our productivity is higher today than it has been at any time in the history of the United States of America. It has become fashionable to talk about what has happened or not happened since the founding of our country. Since the founding of our country, our economy has never been more productive than it is today, and there are several reasons for that. Competition from abroad that has become a daily occurrence—something we have to fight hard every day to stay ahead of—has driven productivity. That is a good result. Technology has driven productivity. That is a good result. And the recession itself drove productivity straight up. As our business men and women of this country did what they had to do to get through this incredibly tough economic time to keep their businesses alive, to keep their doors open, to keep a promise to the next generation of Americans, productivity went ever skyward. That is a good result. That is progress. And we are only going to become more productive over time as we face competitive threats from around the world.

But we can see what else has happened over this period of time. Median family income has fallen over the last decade for the first time in our country's history. The middle class is earning less today in real dollars than in the early 1990s. And, as the President knows, we are producing this economic output with 23 or 24 million people who today are unemployed or underemployed in this economy. There are no jobs for these Americans in this economy even though our output is as high as it was before we went into this recession.

There are a lot of people smarter than I am who could figure out the answers to this, but there are at least two big ones we have to keep in mind. The first one is education because the worst the unemployment rate ever got for people with a college degree during this recession was 4.5 percent. That is the worst it got for people who had a college degree, who could compete in the 21st century, even in the worst recession since the Great Depression.

As I have said on the floor of this Chamber that has 100 seats, 100 desks, if we were poor children living in the United States of America today, only 9 of these 100 seats would represent college graduates because 91 of 100 poor children in the United States in the 21st century cannot get access to a college degree. So that is job No. 1, to keep a promise to the next generation of Americans.

I think job No. 2 needs to be driving innovation and job growth in this economy, which is what has brought me to the floor today because we are failing in this package, among other things, to extend the wind production tax credit which cuts right to the core of whether and how we want to compete in the 21st century in this global economy.

For people here or elsewhere who think these jobs aren't real in the wind industry, I brought some pictures. I brought some pictures of a manufacturing plant made in America—made in America—in this case, in Brighton, CO—a manufacturing plant, the towers from which wind turbines are going to be hung, driving electricity and jobs in the United States. So we are not talking about some fly-by-night, experimental industry. This credit has triggered enormous economic growth in Colorado and across the country.

Congressman STEVE KING, a Republican from Iowa, wrote today in an op-ed that he published that "the production tax credit has driven as much as \$20 billion in private investing." This isn't some Bolshevik trick, some Socialist trick; it is \$20 billion in private investment in real American manufacturing jobs.

Wind power accounts for more than one-third of all new U.S. electric generation in recent years. In Colorado alone, I can tell you it has created 6,000 jobs in my State. It has moved our State toward a more diversified and cleaner energy portfolio, so that Colorado today is a leader among the 50 States in diversifying our portfolio.

Let's be clear. We have oil and we have coal and we have natural gas. We have abundant wind and abundant sun and entrepreneurial horsepower all across the Front Range. What we don't have is Washington's cooperation. What we don't have is the decency of people coming together and doing better than just keeping the flickering lights on in this place.

It is because they can't get any certainty out of Washington that developers and manufacturers are starting layoffs already in anticipation of the credit expiring at the end of this year. This is the result of nothing other than our political dysfunction in Washington.

Vestas, which has a huge manufacturing footprint in Colorado—from Windsor all the way south to Pueblo—is poised to lay off 1,600 workers if we fail to act. Iberdrola Renewables, also doing business in Colorado, has already laid off 50 employees for no reason other than our inability to get our work done. Nationally, 37,000 jobs are at risk, not to mention the ones we could have created after 2012 but won't if we let this credit expire.

I brought a couple of other pictures just to make sure people know this is distributed all over the United States. This is Pennsylvania and Texas.

I know I sound like a broken record when I say this because I have said it over and over on this floor, but we should not be confused that the rest of the world is somehow waiting for us to get our act together, that they are somehow waiting for us to cure our politics and do something that will actually solve those curves that I mentioned earlier and put Americans back to work manufacturing in jobs that are actually driving middle-class family

income up, rather than down, which is what we are doing today.

Our largest single export from the United States of America is aircraft. We export \$30 billion a year. China's export of solar panels last year was \$15 billion—half our largest single export. They didn't export one solar panel 10 years ago, and we invented the technology here in the United States. In fact, some of us believe we invented that technology in the State of Colorado. I am sure the Chinese would love to have this business as well. And my concern is not that this is a temporary interruption in our wind industry but that this will become a permanent shutdown of our ability to drive economic growth across the United States. This is a perfect example of an industry that can move this employment level back up, an industry that we don't have today, one that is in its infancy but 50 years from now or 20 years from now may be driving significant employment growth across the United States of America. This is an industry that, by the way, would drive this curve up as well.

I met a young man in Logan County not long ago. He was working—he was giving me a tour on the top of a wind turbine. I was standing on the very top of the box. It was about 10,000 feet in the air—or it felt that way to me. I was wearing the shoes I am wearing right now on the floor of the Senate, which is not what you should wear when you are on the top of a wind turbine, swaying in the wind. He told me he would be unable to live in his home community and raise his family in his home community if it had not been for that job, a job he could not even have imagined there being 5 years ago. And there it is today.

These are high-quality, high-paying jobs in the United States of America. It would seem to me the Congress ought to figure out a way to support these industries. I actually do not believe any of these kinds of credits should be permanent. I want to be clear about that. I think we would be doing ourselves and the country a service if we designed them in a way that phased them out over time, because at a certain point every business has to sink or swim based on its merits. We are “this close” to being there with wind production and we are “this close” to turning it over to the rest of the world.

This is not a partisan issue. This is not a partisan issue. Last week Republicans and Democrats from the Colorado delegation came together in the House and the Senate to urge a quick extension as part of the payroll deal. I know my colleagues Senators HARKIN and GRASSLEY did the same with the delegation from Iowa.

I ask unanimous consent to have those letters printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, February 7, 2012.

Hon. MAX BAUCUS,
Chairman, Senate Finance Committee, Dirksen Building, Washington, DC.
Hon. DAVE CAMP,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND CHAIRMAN CAMP: The undersigned Members of the Colorado delegation urgently request inclusion of a provision to extend the wind energy production tax credit (PTC) as your conference negotiates the payroll tax reduction package. In passing this extension, we would urge the conference committee to include a pay for as well.

The PTC has been very effective in facilitating new market penetration of wind energy and moving us toward a more diversified and cleaner energy portfolio. A delay in this extension would do enormous damage to that progress. Since its inception, the wind PTC has driven economic growth across the nation, including substantial growth in Colorado. Our state is a wind energy leader, currently generating the third highest percentage of power from wind of any state in the nation. Colorado is home to several major wind energy developers and wind turbine manufacturing facilities, employing upwards of 6,000 workers statewide. We're also home to the National Renewable Energy Laboratory (NREL), a critical government lab and the world's premier renewable energy research facility.

Unless the wind PTC is renewed in the first quarter of this year, new wind energy development projects and the thousands of jobs associated with those projects are predicted to drop off precipitously after 2012. This dire situation will be especially pronounced in Colorado, where we manufacture many of the components for wind turbines. Wind-related manufacturing workers will be the first to lose their jobs as developers stop ordering turbines for installation after the PTC ends. Companies with a footprint in Colorado have already started layoffs and several thousand Colorado jobs could be lost if the PTC isn't extended in the near future.

While the PTC is vital to the near-term future of wind energy production in Colorado and across the nation, the credit should not exist in perpetuity, particularly as the wind industry matures. Following a prompt extension, we believe that Congress should engage in a broader conversation about an incremental phase-down of the credit over the long-term.

In a difficult economy, with thousands of high-quality jobs at stake across our state and the entire country, we urge the Conference Committee to extend the wind PTC as part of your upcoming package.

Sincerely,

MICHAEL F. BENNET.
MARK UDALL.
DIANA DEGETTE.
ED PERLMUTTER.
JARED POLIS.
CORY GARDNER.
SCOTT R. TIPTON.
MIKE COFFMAN.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 8, 2012.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.
Hon. Speaker JOHN BOEHNER,
Majority Leader, House of Representatives, Washington, DC.
Hon. NANCY PELOSI,
Minority Leader, House of Representatives, Washington, DC.
Hon. DAVE CAMP,
Chairman, Conference Committee on H.R. 3630, House of Representatives, Washington, DC.
Hon. MAX BAUCUS,
Co-Chairman, Conference Committee on H.R. 3630, U.S. Senate, Washington, DC.

DEAR LEADER REID, LEADER MCCONNELL, SPEAKER BOEHNER, REPRESENTATIVE PELOSI, REPRESENTATIVE CAMP, SENATOR BAUCUS, AND MEMBERS OF THE CONFERENCE COMMITTEE ON H.R. 3630: The undersigned Members of the Iowa delegation respectfully urge you to include a short term Production Tax Credit (PTC) extension for wind energy as part of any payroll tax cut extension you are currently negotiating.

Our state and the whole nation have benefited tremendously from the economic development, new manufacturing jobs, and increased domestic energy supply that wind energy has provided. And the PTC has been a major factor behind this success. Iowa is now receiving 20% of our electricity from wind at stable and dependable rates. There are over 215 wind related businesses operating in 55 counties across our state, employing over 5000 people. While Iowa has been a leader, we are seeing these results multiplying across the country.

However, with the PTC for wind due to expire at the end of 2012, the expansion, jobs and manufacturing of the industry is put in serious jeopardy—not just in Iowa, but across the country. We must provide some certainty to allow this industry to keep growing. If the PTC is not extended immediately, our communities back home stand to lose thousands of jobs, manufacturing, infrastructure and private investment. The manufacturing workers, in particular, are the first to lose their jobs as developers have already stopped ordering turbines for installation after 2012 because of uncertainty about the continuation of the credit.

Clearly, no energy incentive should be in place forever, but now is not the time to pull the rug out from under the wind energy industry, as it is putting in place the domestic manufacturing, the private investment and the technological advancements that will allow it to prosper without the PTC in the near future. We appreciate your consideration of our request to include language in the upcoming payroll tax cut legislation to immediately extend the wind energy PTC.

Sincerely,

SENATOR TOM HARKIN.
SENATOR CHARLES GRASSLEY.
REPRESENTATIVE BRUCE BRALEY.
REPRESENTATIVE TOM LATHAM.
REPRESENTATIVE DAVE LOEBACK.
REPRESENTATIVE LEONARD BOSWELL.
REPRESENTATIVE STEVE KING.

Mr. BENNET. As I recall, Senator GRASSLEY actually was the one who wrote this to begin with. We have also recently filed an amendment, a bipartisan, fully paid for, 1-year extension of the credit to the surface transportation

bill. I thank Senator MORAN, a Republican from Kansas, for joining me to lead on that amendment.

There is plenty of support out there for us to get this done. More important than that, if we do not act, there are thousands of people who are going to have to go home to their families and say they were laid off from their job for no reason other than the political dysfunction here in Washington, DC.

I think enough is enough. I cannot tell you how much I look forward to a time when we have a thoughtful, bipartisan, fact-based tax reform in this country; when we are thinking about our Tax Code and our regulatory code and asking ourselves: Are we driving job growth here in the United States with these policies? Are we driving up middle-class family income with these policies? Are we addressing the income inequality gap by having an economy that truly does lift all ships and, as the President would make the point, are we dealing with the fiscal challenges this country faces so we do not strap our kids with this mountain of debt?

I know there are people on both sides of the aisle who are anxious to work on this, but we have failed that test in this compromise measure. It is my hope that at some point in the near future we can get a vote on this amendment, Senator MORAN's amendment, and we can put Americans back to work in these industries before we lose them forever.

Mr. TOOMEY. Mr. President, I rise today to speak about an important reimbursement issue that impacts the lives of millions of Medicare beneficiaries and providers. The sustainable growth rate, SGR, originally implemented in 1997 through the Balanced Budget Act, was intended to constrain overall Medicare spending growth in physician services. However, since 2002, actual expenditures for physician services have exceeded allowed targets, yielding negative updates in prospective years. As a result, Congress intervened 13 times to preempt a physician payment cut. In doing so, they failed to address the underlying issue and sustained a flawed reimbursement mechanism. With each year that passes, the cost of 'fixing' the SGR grows, amounting to an albatross of several hundred billion dollars. Consequently, on March 1, 2012, Medicare physicians will face a 27.4 percent cut to their reimbursement. Our budget baseline perpetuates an illusory premise that these cuts will occur. However, it's widely acknowledged that if implemented, these cuts would have a debilitating effect on medical practices and Medicare beneficiaries.

As Congress looks to yet again preempt a physician payment cut, I believe it is imperative that we identify a viable pathway to replacing the SGR. We can begin by utilizing Overseas Contingency Operations, OCO, funding to pay for the \$195 billion in accrued SGR retrospective debt. OCO funds, deemed to be budgetary savings from

the drawdown of military engagement in Iraq and Afghanistan, can be appropriately reallocated against accrued SGR debt that will not be collected. This would not constitute new spending, but rather amount to a down payment on an SGR fix. I urge conferees to give strong consideration to utilizing OCO funding to offset SGR's retrospective debt. It's time that Congress use honest budgeting and provide Pennsylvania's 2.2 million Medicare beneficiaries and 155,776 employees of medical practices, with some certainty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, are we in morning business or do I have to ask consent to speak as in morning business?

The PRESIDING OFFICER. The Senate is on the bill.

Mr. WICKER. I ask unanimous consent to speak as in morning business.

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

RECESS APPOINTMENTS

Mr. WICKER. Mr. President, I came to the floor previously to speak about President Obama's unconstitutional appointments of Richard Cordray as Director of the Consumer Financial Protection Bureau and of three new members to the National Labor Relations Board. I spoke about why this blatant overstep of executive authority violates the President's right to make recess appointments under article II, section 2 of the Constitution. I described its unequivocal reversal of years of precedent which the Obama Justice Department's Office of Legal Council has since defended, essentially stating that pro forma sessions no longer matter.

This issue is far from over. We cannot allow it simply to go away and the illegal appointments must eventually be set aside.

The 23-page Justice Department opinion, written by Assistant Attorney General Virginia A. Seitz, wrongly advises that, despite the convening of pro forma sessions, the President "has discretion to conclude that the Senate is unavailable to perform its advise-and-consent function and to exercise his power to make recess appointments." Under this misguided opinion, the Obama administration is suggesting that the executive branch—not Congress—can determine when the legislative branch is in session. The egregious overreach undermines the checks and balances at the very heart of our Constitution.

I am deeply concerned that this presumptuous action by the President poses profound and dangerous implications. As others have suggested, President Obama's abuse of his recess appointment power could lead to unilateral "recess" appointments anytime, such as during lunch or in the middle of the night. This is not that far fetched.

As I said before, it is my hope that both parties will rise to defend the sep-

arated powers our Founders put in place to prevent tyranny and the misuse of authority.

It is worth repeating that the controversy surrounding the President's non-recess appointments has nothing to do with the personal character of Mr. Cordray or of those named to the National Labor Relations Board. Nor is the debate over appointments when the Senate is in recess. What the President has done transcends party issues and ideological divides.

A day after the appointments were made, former attorney general Edwin Meese III and former Office of Legal Counsel lawyer Todd Gaziano wrote in the Washington Post that President Obama's move is "a constitutional abuse of a high order." It challenges 225 years of executive practice.

The Constitution is very clear in its delegation of powers. It explicitly grants the Senate the exclusive responsibility to give "advice and consent" on treaties and nominations. It endows the President with the right to fill vacancies when the Senate is not in session—a provision conceived by the Framers as a way to keep the government operational when the ability of Senators to communicate with the executive branch and travel back to the Capitol took much longer than today.

Of course, it is disappointing that President Obama has dismissed the will of the Senate, which rejected Mr. Cordray's nomination in December.

But never before has a President assumed the authority to issue recess appointments when the Senate is not in recess. In doing so, the President is violating the Constitution plain and simple, and invalidating the legitimacy of his appointees. It stands to reason that any decisions of the CFPB or NLRB will be subject to the same shroud of unconstitutionality and legal contest.

The Constitution and nearly a century of legal opinion provide a solid basis for determining the parameters of what qualifies as a legislative "recess," which is required for the President to invoke his appointment privileges.

Under Article section 5, clause 4 of the Constitution, the House of Representatives must grant its consent in order for the Senate to adjourn longer than 3 days. The Senate must do the same for the House.

It is an undisputed fact that the House of Representatives did not give this chamber that consent and, in keeping with the Constitution, this Senate did not adjourn for more than 3 days.

The President's claim that a brief adjournment can be called a "recess" goes against 90 years of legal opinion. In 1921, President Harding's Attorney General Harry M. Daugherty had this to say about what defines a recess: "[N]o one, I venture to say, would for a moment contend that the Senate is not in session when an adjournment [of two days] is taken. Nor do I think an adjournment for 5 or even 10 days can be

said to constitute the recess intended by the Constitution.”

Since then, Attorneys General and Presidents of both parties have agreed that at least 10 days should pass before a recess is acknowledged.

And yet, as we are aware, there were not 10 days of adjournment when President Obama made his four appointments. We were holding pro forma sessions—proceeding just as the Senate did in 2007, when Majority Leader REID wanted to block President Bush from making recess appointments—and succeeded in doing so. As Edwin Meese and Todd Gaziano acknowledged in their op-ed, “Reid was right, whether or not his tactics were justified.”

Michael McConnell, a former Federal judge and director of the Constitutional Law Center at Stanford Law School, came to the same conclusion. Last month, he wrote in the *Wall Street Journal*:

Several years ago—under the leadership of Harry Reid and with the vote of then-Sen. Obama—the Senate adopted a practice of holding pro forma sessions every three days during its holidays with the expressed purpose of preventing President George W. Bush from making recess appointments during intrasession adjournments. This administration must think the rules made to hamstring President Bush do not apply to President Obama. But an essential bedrock of any functioning democratic republic is that the same rules apply regardless of who holds office.

It is appalling that the Obama administration would call into question the entire legitimacy of pro forma sessions when, less than two weeks before the appointments, the President signed into law the payroll tax extension that the Senate had passed in such a session.

What makes the business conducted during the pro forma session on Dec. 23 any different from the pro forma sessions that came just days after? Based on this case, it appears the validity of a Senate session is subject to the President's whim. He signs legislation passed in one pro forma session. He concludes that another pro forma session did not exist at all.

In the same op-ed to the *Washington Post*, Edwin Meese and Todd Gaziano concluded:

If Congress does not resist, the injury is not just to its branch but ultimately to the people. [And that is what is important.] James Madison made clear that the separation of powers was not to protect government officials' power for their sake but as a vital check on behalf of individual liberty.

Indeed, the forefathers of this country were candid about the crucial link between the separation of powers and freedom itself.

As Madison wrote in essay No. 48 of *The Federalist*:

It is agreed on all sides, that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident, that none of them ought to possess, directly or indirectly, an overruling influence over the others, in the administration of their respective pow-

ers. It will not be denied, that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

As elected public servants, we are bound by our oath of office to uphold and preserve the principles of the Constitution.

To do that, we must guard the sanctity of the decisions made and privileges held by this chamber. Our government's separation of powers is not an antiquated idea but a timeless safeguard to liberty.

In 1985, Sen. Byrd, the Democratic Majority Leader from West Virginia, wrote in a letter to President Reagan:

Recess appointments should be limited to circumstances when the Senate, by reason of a protracted recess, is incapable of confirming a vitally needed public officer. Any other interpretation of the Recess Appointments clause could be seen as a deliberate effort to circumvent the Constitutional responsibility of the Senate to advise and consent to such appointments.

Where are the Robert Byrds today?

Those who served before us provided precedent and wisdom to address our problems today. They defended the constitutional duties we are now entrusted to protect. Is there not one Democratic Senator who will step forward to defend the constitutional principle of separation of powers?

The President has made no secret of his contempt for Congress in recent months. His campaign rhetoric is heavy with “do-nothing” accusations.

The President is certainly free to engage in election-year hyperbole. But he is not free to overstep the constitutional limits of his office. I can think of a number of other priorities demanding our undivided attention right now—fixing the economy and putting Americans back to work are top among them. Yet in order to address these challenges, we need a working relationship between the legislative and executive branches. The President's power grab undermines the very constitutional foundation of this relationship.

I urge Members from both sides of the aisle to call for President Obama to rescind these appointments. Regardless of our party allegiances, we are united by a pledge to serve the American people. That is what motivated Robert Byrd earlier, and it is what ought to motivate us today. Keeping that promise means standing for the sanctity of our country's founding document and the integrity of this institution.

I thank the Chair.

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

The PRESIDING OFFICER (Mr. BLUMENTHAL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. 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. CARDIN. Mr. President, I wish to take the time now to talk about the

conference report that has been filed in regard to the extension of the payroll tax holiday, the Medicare physician issues so our seniors can continue to have access to their doctors, and the extension of the unemployment insurance.

I was appointed to that conference, and the conference has been meeting now for the better part of the last 6 to 8 weeks. We were able to reach an agreement that was filed. I first wish to compliment Senator BAUCUS, the Senate chair of the conference committee. There was a real effort made that this conference would operate the way a conference should operate; that is, the House and Senate Members meeting, discussing the differences between the two bodies and trying to reconcile their differences in a somewhat open process. We had several open discussions where we talked about some of the issues.

Each Member of the conference had a chance to express themselves on the issues, and we had a good exchange. I think during that exchange we were able to reach some consensus. Almost immediately we reached a consensus that all of us wanted to make sure the payroll tax holiday was extended. The payroll tax holiday provides tax relief for 160 million Americans. This is not the time for paychecks to actually go down for American workers. We are trying to build a confidence in the workplace, in the marketplace. The more money in the paychecks allows people the opportunity to be better consumers, helping to create jobs.

There was general consensus that we needed to extend the unemployment insurance, that we are still in the recovery where unemployment rates are so high that it is important we use this countercyclical program to help people but to also build our economy. It helps create jobs, again having more money available for the consumers to help our small businesses and to help our economy.

Lastly, we all understood we could not allow a 27-percent cut in Medicare rates for physicians, that that would deny many of our seniors access to health care. So very early in the conference process we reached consensus that those three issues should be extended, at least through the end of this calendar year. For the payroll tax holiday, that was our understanding, to extend it through the end of the year.

We know the Medicare issues need to be extended for a longer period of time. We worked together. I thought it was very important that we allow the full Senate, the full House to consider that conference report. We have had too much gridlock. We have had too much of individual Members trying to block the consideration of important legislation, particularly in the Senate. So I think it is very important that we were able to bring this issue to the full Senate, and we are going to have, I hope, a good debate, and sometime tomorrow we are going to have a chance to vote

on whether to accept the conference report.

There is some good news. I do applaud again Senator BAUCUS and my colleagues Senator CASEY and Senator REED on the work that was done by the Democrats on the committee. We took a very strong position against adding these extraneous positions that came over from the House, the so-called Boiler MACT, which was a provision that would have affected the health of people in our community. There is no question that if we would have accepted the House position, it would have weakened our Clean Air Act, it would have led to more premature deaths, more hospital admissions, more lost days from work. The cost-benefit ratio of this rule is well documented, that it will help our economy, help save the health and workdays for American workers.

We also removed a provision from the House bill that dealt with the Keystone issue. This has to go through a regular regulatory process. It should have no place in this conference. We were able to remove that provision.

On the unemployment insurance front, let me mention that we were able to reserve the extension of unemployment insurance benefits. Under the current law, there is a maximum available of 99 weeks. Let me remind my colleagues that because of the way the extended benefit program is calculated, that at least in my State by April, those 20 weeks are likely to be not available for new people who become unemployed, and throughout the rest of our Nation, we are finding that extended benefit program will not be providing those extra weeks.

So the conference committee recommendation is to try to use better triggers as it relates to the different tiers of benefits in the extended benefit program, so the high unemployment States have a greater number of weeks than those States that are doing better and to transition us to a more regular unemployment system as we go through the year.

In regard to the Medicare provisions in this bill, we were able not only to extend the sustainable growth rate, the SGR system, so we do not get the automatic cuts that would occur against physicians, we were able to extend that through the end of the year. But we also extended the therapy caps. If we did not do that, those who are the victims of stroke or who have had a hip replacement would have run into an arbitrary cap which would provide them the therapy they need for their recovery. We were able to get that done.

On the payroll tax, as I said earlier, there was an agreement we would extend that. The payroll tax is all about helping 160 million Americans. It is about creating jobs.

That is where we were able to come to an agreement that I think was in the best interest of the conference. Let me talk about some serious problems I have with the conference report. It

deals with how we decided to fund or offset the cost of unemployment insurance extensions. Let me remind my colleagues that this is a short-term extension, where we are phasing out the extra benefits through the end of this year. It is calculated to cost about \$30 billion. Historically, we have extended unemployment insurance benefits during tough economic times without having offsets.

Why? Because unemployment insurance is countercyclical. It is there to help people during tough times. During good times we pay money into the system. We are trying to put more money into the economy. It does not make sense to take money out of the economy when we are trying to create jobs and get our economy back on track.

Unfortunately, that principle was violated in this conference report. The \$30 billion is offset. Let me compare that to the payroll tax holiday, which is \$100 billion, which many of us think should be offset, which is not offset. As you know, we came in with recommendations where we could fairly offset the extension of the payroll tax holiday without adversely affecting our economy. We had suggested we would have a surtax on income, exempting \$1 million of taxable income from the surtax—a little bit of fairness in our Tax Code—in order to make sure we do not add to the deficit, do not hurt the economy but allow middle-income taxpayers to continue to get their tax relief.

To me, that would have been the responsible thing for us to do. But we do not do that in this conference. Instead, we did not pay for the \$100 billion for extending the payroll tax, but we paid for the unemployment insurance benefits, \$30 billion, which I would suggest is an emergency. That truly is a matter that historically we have not paid for.

All right. Here is the problem. In order to pay for that \$30 billion, we picked on our Federal workforce. I tell you, I find that wrong. We put a provision in this bill that will require new Federal employees, those who start work after January of 2013, to pay more for their defined retirement benefit. That is how we funded about half the cost of extending the unemployment insurance. I think that is wrong.

Let me also say that the extension of the unemployment benefits is temporary—only until the end of this year. The extra costs for the retirement benefits are permanent. It stays in the law. That doesn't seem like a good deal for what we are trying to do.

We also are saying that one group of workers, and only one group, makes a contribution toward this. These are middle-income workers who will be paying for this, a large part of the unemployment insurance cost. I don't think that is right. I don't think we should have done that.

Let me also point out, as we talk about the Federal workforce, that the additional cost the new workers will

pay will be 2.3 percent of their payroll, which will go to a retirement trust fund that is already fully funded. So this is not to address a problem with the funding of the retirement plans for our Federal employees; I think this is strictly a punitive hit at the Federal workforce.

Public servants have already given \$60 billion toward deficit reduction in the form of a 2-year pay freeze and will give at least another \$30 billion if the base pay adjustment for 2013 is .5 percent instead of the 1.2 percent, which is what the adjustment should be under the Federal Employees Pay Comparability Act. Add it all together, and present and future Federal workers are providing over \$100 billion in deficit reduction. That is \$100 billion in deficit reduction coming out of our Federal workforce. Yet the Republicans continue to defend the most affluent Americans who won't pay one extra penny for funding this payroll tax package. I don't think that is right, I don't think that is fair, and I don't think we should have done it in that manner.

Now, I want to say some positive things. You can always look at things and say it could have been a lot worse. And that is true, it could have been a lot worse. When you look at the House bill that included these provisions, it included a pay freeze for our Federal workers. That is not in this. We got that out.

I worked very hard with my colleague, Congressman CHRIS VAN HOLLEN from Maryland. We worked together. In the original package, all Federal workers would have had to pay more, including current Federal workers. This package does not affect current Federal workers. They will not have to pay extra for their pension plans. That is fair. When they signed up as a Federal employee, they knew what the ground rules were and they knew what the pension contributions would have to be and what the benefits were. It is right that we live up to that commitment. So this agreement will not affect current workers. Their pension contributions will remain the same.

The bill that came over to us from the House also reduced pension benefits. We took that out of the bill. That is not in the bill. And the rate they would have had new hires pay is higher than what we agreed to in this package.

Congressman VAN HOLLEN and I worked very hard to try to accommodate the parameters of the conference and what was being required of our Federal workforce in a way that it would not penalize our existing workers and would not be anywhere near as punitive as the provisions that were put in the House bill. So we are at least grateful that the conference includes that, but I can't help but be disappointed that the unemployment insurance is being financed at least in half by a permanent change in the contribution rates to defined benefit plans

by those who join the Federal workforce after January 1, 2013. They are the only ones who are affected by that proposal.

Let me conclude by saying that we all should be pleased that the conference worked, that we took a difficult issue in which there are strong fundamental differences between the House and the Senate and we were able to come to an agreement to at least be presented to the Members of the House and Senate for an up-or-down vote where each of us can make our own judgment as to whether we think this is the right package for the American people. I might have a different view than the Presiding Officer, and we will both be able to express our views by our votes tomorrow.

I hope that process will be used to get more work done for the American people. They want us to work together. They want Democrats and Republicans to say: OK, we know we differ on issues. Now let's get together and get things done.

We have the Transportation bill that is on the floor and that we are talking about today. That Transportation bill should end up on the President's desk. That Transportation bill came out of our committees with bipartisan votes. So now let's not clutter that bill with issues that will divide us. Let's work in the spirit the conference committee did—a committee on which I was privileged to serve—and try to keep it relevant to the issues at hand so that at the end of the day we can not only pass the Transportation bill in the Senate, but we can get it passed in the House of Representatives—or work out our differences—and get it to the President for his signature. That bill will create jobs.

By the way, I think the American people will applaud us for moving forward with the people's business. That is what we need to do. If we could get that bill done, maybe—just maybe—we can get other issues done.

I have talked to my Republican colleagues, and they all agree we can't allow sequestration to take place. That is these automatic cuts, if we can't do another \$1.2 trillion of deficit reduction over the 10 years. We should be able to get that done. We shouldn't have to wait until after the November elections. Let's take a lesson from the conference committee on which I served. Let's sit down and work out our differences and not just say "it has to be my way or it is not going to get done." That is what is in the best interests of the Senate, and that is in the best interests of our Nation.

I hope we will have a robust debate on the conference report. I hope each Member will have an opportunity to review it, and at the end of the day we will have a chance to see how the votes turn out. Again, I am sorry I have certain reservations about it, and I needed to express them, but, quite frankly, I think we need to stand for our Federal workforce out there every day pro-

viding services to our people. Whether it is guarding our borders, whether it is finding the answers to the most dread diseases, whether it is helping us develop the technology that will make America competitive, or providing public safety as a correctional officer or helping us make sure we get our Social Security checks or get our disability checks, these are the people on the front lines. We are asking them to do more with less, and they deserve not just the respect of this body but they deserve our support.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent that I be recognized as in morning business.

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

(The remarks of Mr. INHOFE pertaining to the introduction of S.J. Res. 37 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. 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. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business and would also ask unanimous consent that following my remarks, my colleague in this effort to fund transportation projects, Senator HOEVEN, follow me.

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

Mr. WYDEN. Mr. President, we all understand that our country faces an array of major economic challenges, and I made the judgment quite some time ago that it was simply impossible to have big league economic wealth with little league transportation systems. All across the country—I know the distinguished Presiding Officer has seen this in Minnesota, where he has been doing good work on infrastructure and bridges—we have seen this in every corner.

When the Senator from North Dakota came to the Senate, I had the good fortune to begin to have discussions with him with respect to some new ways to address the question of how to generate funds for the critical transportation work that needs to be done and to generate those funds in a

fashion that would be acceptable to the American people.

I think we all understand that with this kind of an economy and with skyrocketing gasoline prices, it is not very likely that folks will be marching outside our Senate offices anytime soon carrying signs saying: Senator, please raise the gas tax; that is what I hope you will spend your time doing. So we have this challenge given the fact that the traditional system of funding transportation—user fees—of course, in a tough economy, is going to be hard to suggest as a route to generate additional funds.

So for quite some time I have been devoted to the cause of trying to find a way to secure the possibility of getting additional funds through transportation bonds. They, of course, have been used at a variety of levels of government, particularly State and local, over the years.

About 8 years ago, I put forward the first proposal for looking at paying for transportation projects with our former colleague, Senator Jim Talent, a Republican from Missouri, and we called them Build America Bonds. Senator Talent and I thought at that time that this was an opportunity to come up with a fresh and attractive way to pay for transportation projects. We sought to work with the private sector to find some way to use Federal tax credit bonding for these projects, and over the years Senator Talent and I were able to attract a number of Senators on both sides of the aisle for this cause. To give an idea of just how bipartisan this effort has been over the years, Senator THUNE, Senator VITTER, our former colleague Senator Dole, Senator COLLINS, Senator WICKER, and our former colleague Senator Coleman are just a few on the Republican side who were part of the effort. And on the Democratic side, Senator KLOBUCHAR, our former colleague Senator Dayton, Senator CARDIN, and Senator ROCKEFELLER have been just a few of those who have supported the bonding efforts.

In 2009 the Congress decided to test a version of Build America Bonds. In effect, as a member of the Senate Finance Committee, I had brought it up so many times with Chairman BAUCUS and Senator GRASSLEY, who was then the ranking member, I think the two of them said: Well, let's give this a try as part of the Recovery Act. In effect, it would essentially go from the middle of 2009 until the end of 2010.

Late in the evening, as Chairman BAUCUS and Senator GRASSLEY were working to put together the details on the Recovery Act, I was asked what I thought might be the results of the Build America Bonds program, and I said: Well, it is not going to last all that long. It is going to take the Internal Revenue Service a period of time to put together the rules. And I said: I am just making this up, but why don't we just estimate that it might generate \$6 billion to \$10 billion worth of transportation and infrastructure investments.

Everybody said: It is an experimental program, sounds promising, go ahead. Let's give it a try.

Well, between April 2009 and the end of the program at the end of 2010, there was more than \$181 billion worth of Build America Bonds issued. It was just a little bit more than 18 times what was predicted.

You don't often have this kind of challenge, but, in effect, one of the issues we had to deal with was Build America Bonds became so popular that there was an effort to use them for a variety of other kinds of projects, many of them very laudable but they were not projects that focused specifically on transportation, and, of course, that was the original intent of Build America Bonds. Also, there was no cap on them. Nobody realized they would be so popular.

So there was a concern that this was more than colleagues on both sides of the aisle had bargained for.

We do want to note that the Treasury Department issued their final report on Build America Bonds earlier this year, and they said that Build America Bonds issuers saved well over \$20 billion in borrowing costs on a present value basis as compared to tax-exempt bonds.

So clearly there was something to work with in terms of trying to take the next step, and when the Senator from North Dakota arrived here, I said: It would be great to have an opportunity to work with a partner and look specifically at trying to rebuild the concept of focusing specifically on transportation in a way that would generate a substantial amount of new revenue and would be acceptable to colleagues across the political spectrum and those who follow these issues.

As the Senator from North Dakota knows, we have now come up with a new approach called Transportation and Regional Infrastructure Project Bonds. Chairman BAUCUS and Senator HATCH have been good enough to include them in the finance title of this year's Transportation Funding Program, and we wanted to take a few minutes to talk a little bit about how this would work.

Given the fact that we have been able to attract a number of folks on the progressive side of the political spectrum—folks in labor, for example—Doug Holtz-Eakin has issued a very helpful paper that I hope will also bring conservatives to this cause. We have shared that paper with Senators on both sides of the aisle.

The way the TRIP bonds would work is, first, they are tax credit bonds created specifically for transportation projects. We would allow infrastructure banks that already exist in nearly every State to issue these bonds. This time we are looking to really focus on the States. The States are the primary vehicle for ensuring that these projects would have local support and would really meet the long-term needs the States have identified.

We would pay for the bonds with a sinking fund comprised of State matching contributions and Customs user fees. In the proposal that was accepted by the Finance Committee, we would cap the total amount of bonds issued at \$50 billion, giving each State 2 percent of the total. In effect, what the Finance Committee has done is put a placeholder in their bill for us to go forward with this effort.

Each State would get at least \$1 billion in bonds to issue on projects at their discretion. States can also band together to bond for larger projects or ones that would have the benefit of addressing a concern of States in a region. This would give the States the incentive and the ability to invest in their own transportation and does so in a way that leverages private investment and costs little to our government in lost revenue.

We would give private investors who show a willingness to help build our roads, bridges, and rail systems a tax credit for their commitment. What Build America Bonds taught us is that there is a real market out there, and what we would like to do is look at a different approach now, focusing on the States, focusing on an approach that would drive these projects, not in Washington, DC but at the local level.

The Joint Committee on Taxation has told us this is an approach that would produce a particularly good deal for American taxpayers.

We can get a transportation bill done. We can put folks back to work. But we are going to have to find a way to come up with more creative approaches to generate additional revenue. If we do not, I think we are going to continue to see, in every corner of the country, critically needed projects simply go unaddressed. We are going to continue to see traffic jams in areas of the country nobody could have even dreamt a traffic jam would be.

I hope Senators, as we go forward with this debate, particularly after the President's Day break, will join my colleagues. Senator BEGICH has been very supportive of this approach as well. We think this is an approach with a proven track record given what we saw with Build America Bonds. We believe this is a chance to take the lessons we learned from that experience and, by changing the focus so it zeros in more directly, one, on transportation, two, on the States, and looks to some creative features—it is possible, for example, for someone to strip the credit from the underlying bond and to sell the credit—so this provides a lot more flexibility in terms of finding a way to get the private sector into the transportation area.

I hope my colleagues, when we come back, will be supportive of this effort. It has won, as I have indicated, support from across the political spectrum.

I want to thank my partner from the State of North Dakota. I have very much enjoyed working with him both on the Energy Committee and on this

issue. As a former Governor, I think he understands particularly well the role of the States in terms of infrastructure.

We will be talking to colleagues between now and the time the Transportation bill comes up, and I thank my friend from North Dakota for his support.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I thank my esteemed colleague from the great State of Oregon, Senator WYDEN, for his leadership on this important issue, for his work on the highway bill, and specifically for his work on the TRIP bonds, as he said, the Transportation and Regional Infrastructure Project bonds. It is a creative concept, and I think it is very timely.

Senator WYDEN approached me and said: As we are working on this highway bill, can we work together on this concept of something like a TRIP bond concept? I expressed my appreciation for his creativity and the offer to work together and said, one, I absolutely wanted to do it because it is so important to our country right now—we need the jobs, we need the economic activity, we need the infrastructure, that is clear—and, as the good Senator said, we have to be creative in figuring out how to do this.

I said: We are going to have to do it within the framework of making sure it is paid for and making sure it does not add to the deficit or the debt. He said: Agreed. And we went to work on it.

So this truly is bipartisan, and I thank him for taking the initiative and for all the work both and he his staff have put into what I think is a very creative idea and a real opportunity for us, as I say, in infrastructure and in job creation and economic activity for our country.

I also extend my thanks to two Members of the House of Representatives as well, both ED WHITFIELD, Congressman from Kentucky, Republican, and Congressman LEONARD BOSWELL, Democrat from the State of Iowa.

So in both the Senate and the House this has been a bipartisan effort. That is important because at the end of the day, if we are going to get this passed, that is what it is going to take, bipartisan support. So this is about addressing something that is vitally important: our infrastructure needs, job creation. It is something we pay for, so it does not increase the deficit or the debt, and it is absolutely bipartisan.

Again, as my esteemed colleague just mentioned, I bring a perspective as a Governor. We are talking about \$25 billion in addition to the normal highway funding. So this is for projects in infrastructure that State departments of transportation and Governors—people at the State level, at the local level—decide what infrastructure projects need to be done, and they can then use

these funds accordingly. That is of tremendous value to them. Without exception, go across the States, ask any of the Governors or directors of transportation, and they will tell you: That is exactly the kind of funding we want and need to do the very best job for the people we serve in our respective States.

Mr. President, \$25 billion—\$10 billion the first year, \$15 billion in year 2—will make an incredible difference for every single State in the country.

Now, the other thing to keep in mind is—Senator WYDEN went through for just a minute how we have structured the bonds—essentially, it results in a 4-to-1 leveraging of funds for every State. They put their dollars into the sinking fund. They select the projects. Then, on a project-by-project basis, they put forward dollars in the sinking fund, and we provide them a 4-to-1 match.

So, for example, \$½ billion goes to a State. As they select projects, that \$½ billion funds those projects. They put up \$100 million as they select and advance those projects. For their \$100 million, they are doing \$500 million in projects.

Again, this is exactly what the States are looking for. This is exactly what they need to meet their infrastructure needs. Anyone driving around the country—whether it is in the District or anywhere else—is going to tell you: Look, we have to address our infrastructure needs. And this is absolutely something that will make a big difference in doing that.

Again, in addition to being truly a bipartisan effort, and a bicameral effort, at this point we have received tremendous support and encouragement from across the country and from truly a diverse range of groups—from labor, from business, from mayors, from county commissioners. It truly has not only bipartisan support but incredibly strong support across the country.

Just some of the various groups that have come out and already endorsed the project include the American Association of Road and Transportation Builders, the American Association of State Highway and Transportation Officials, the U.S. Chamber of Commerce, the American Highway Users Alliance, the Associated General Contractors of America, the International Union of Operating Engineers, the Labors' International Union of North America, the National Association of Manufacturers, and the American Society of Civil Engineers.

Again, mayors, commissioners—this truly has broad, strong support at the grassroots level. That is reflective of the fact that it is exactly the kind of project we need to advance.

So as we work on this highway bill, I see this as a tremendous opportunity—really an opportunity, and not just in terms of the infrastructure we so badly need but to put people to work in good jobs, in good-paying jobs. Think of the ramifications that has, the secondary

ramifications that has for our economy right now. It is incredibly important. It makes a huge difference, and then we have the lasting infrastructure, we are meeting the lasting infrastructure needs of this country.

Before I yield the floor, just a final comment and that is to ask our colleagues to join us in this effort. If they have good ideas, we are absolutely open to those ideas. But this is a concept whose time has come. We need to make sure, as we work forward on this highway bill, we include the TRIP bonds as part of that package.

With that, I yield the floor back to my esteemed colleague.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to proceed for just 2 additional minutes. I see our friend from Iowa is in the Chamber.

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

Mr. WYDEN. Mr. President, I thank my colleague from North Dakota for his statement. This is bipartisan. It is a bicameral effort. My colleague's point at the end, in terms of our being open to additional ideas and suggestions, is particularly appropriate.

What the challenge is going to be on this transportation issue for years to come is to try to find a way to generate the additional money for the work that needs to be done in a fashion that is acceptable to the American people. If it was so easy, everybody would be just ripping through one idea after another.

The two of us have spent many months trying to take the lessons we have learned from the Build America bonds effort to try to come up with a fresh approach, a fresh bipartisan approach, that would be acceptable to colleagues on both sides of the aisle. We think we have done it. We do not think this is the only way. We are certainly open to ideas and suggestions. But the model of trying to focus on the States, to build on the support we have from folks in business and labor unions, and a whole host of groups at the local level—mayors and county commissioners—strikes us as the way to go.

We are open to additional ideas and suggestions. Our staffs will be working all through this week, the period of the President's Day recess, to refine our proposal, to deal with the various issues related to scoring. But this is a genuinely new approach to generating revenue. It is bipartisan; it is bicameral, with the support of folks in labor and business. We hope colleagues will be supportive, and we are interested in their ideas and suggestions over this period between now and when we start voting on the Transportation bill.

So, again, I thank my friend from North Dakota. It has been great to work with him.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. 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. 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.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the cloture vote with respect to the Reid amendment No. 1633; that if cloture is invoked on the Reid amendment, the second-degree amendment be withdrawn, the Reid amendment be agreed to and the bill, as amended, be considered original text for the purposes of further amendment; that if cloture is not invoked, the motion to recommit and the Reid amendment No. 1633 be withdrawn; that immediately following the cloture vote and the actions listed above, depending on the result of the cloture vote, the Senate then proceed to executive session and the cloture motion on the Furman nomination be vitiated; that there be 2 minutes equally divided between the chair and ranking members of the Judiciary Committee prior to a vote on the confirmation of the Furman nomination; that if the nomination is confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action; that following the vote on confirmation of the Furman nomination, the Senate then resume legislative session and the majority leader be recognized.

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

The Senator from Iowa is recognized.

PAYROLL TAX CONFERENCE REPORT

Mr. HARKIN. Mr. President, I come to the floor to state my vehement opposition to the agreement to extend the payroll tax cut and to slash the Public Health and Prevention Fund to help pay for the continuation of unemployment benefits.

Let me preface my remarks by stressing that the No. 1 priority in Washington today must be creating jobs, growing the economy, and restoring the middle class. In recent months, we have seen modestly good news on the jobs front, including the manufacturing sector, and we must do everything possible to keep our economy moving in the right direction.

To this end, nothing is more effective than continuing unemployment insurance benefits for those hardest hit by the great recession. Details on the unemployment insurance portion of this agreement are not available. But what I am hearing sounds less and less like a good or fair deal for workers.

Federal unemployment benefits will be dramatically scaled back over the year, especially in Iowa, my own State, and some other States in the Midwest. I do not understand that. It seems to me, if you are unemployed, you are unemployed. If you are out of work and your family needs help, I do not care whether you live in Iowa or Minnesota or New York or New Jersey or anywhere else.

The payroll tax provisions are also seriously flawed. This Congress will be making a grave mistake—a grave mistake—and reinforcing a dangerous precedent by extending the payroll tax cuts and adding another negative, without paying for it. I am dismayed that Democrats, including a Democratic President and a Democratic Vice President, have proposed this and are willing to sign off on a deal that could begin the unraveling of Social Security.

Two of the critical strengths of Social Security are that it is universal and it is self-funded. Not one dollar in benefits ever came from any source other than the payroll tax on future Social Security beneficiaries. Moreover, the program has never contributed even one dime to the deficit or the national debt. How often have we, those who support Social Security in its entirety—how many times have we come to this floor and argued against those who would invade Social Security and say, well, we have to reduce the deficit, so we will cut Social Security. What do we say, with all honesty, with all the evidence backing us up? Social Security has never contributed one dime to the deficit.

So cutting Social Security will never reduce the deficit. With this bill, we can no longer say that. We can no longer say Social Security does not contribute to the deficit. This argument, this fact, that Social Security has never contributed a dime to the deficit has given Social Security a unique, even an almost sacrosanct, status in our society.

It was one of the strongest arguments. I repeat, for those of us defending Social Security from misguided attempts to cut it in the name of deficit reduction. Some might say, well, people are out of work; with the fragile economy, we need to put some spending in the pockets of our middle-class Americans.

I could not agree more. The biggest job creator in America is not someone who is rich and has billions of dollars. The biggest job creator in America is a working American with money in his or her pocket to spend. That is the biggest job creator.

So, yes, we have to get money in the pockets of working Americans, and we have done that in the past in a good way. In the 2009 Recovery Act, working Americans received a 6.2-percent credit of their taxes, refundable up to \$400, to increase their spending power and boost the economy. This in no way impacted the Social Security trust fund. I

supported that, wholeheartedly supported that.

However, in late 2010, Congress voted to replace that tax credit with a 2-percent reduction in payroll taxes which are dedicated to the Social Security trust fund. This was done on a temporary basis to provide added income for working families, and it was not offset. It was not paid for. So for the first time—for the first time—general revenues were transferred to the Social Security trust fund to replace lost revenue.

While this ensured that no financial harm was done to the trust fund itself, what it did is it created a dangerous precedent by calling into question Social Security's dedicated funding. I voted against that bill. So in late 2010, we transferred general revenues to replace lost revenue.

In December of 2011, just a couple months ago, we were persuaded to support the 2-month extension of the payroll tax cut. Some may look at the record and say: HARKIN, you voted for that. I did with misgivings. But a critical factor was that it was at least fully paid for and would not negatively impact the Social Security trust fund.

However, we are being offered an agreement that extends the payroll tax cut through the end of this calendar year. Bad enough, doubly negative, it does not pay for it. This is terrible public policy, with grave consequences for Social Security. With this new agreement, we will be taking \$100 billion from the general fund, which is in deficit, by the way. So we are going to add \$100 billion to the deficit, to substitute for the \$100 billion in revenues lost due to the payroll tax cut. As I said and I repeat, we will be adding \$100 billion to the deficit and the debt.

This compounds the mistake Congress made in late 2010 by passing the original payroll tax cut without paying for it. No longer—no longer—can we say Social Security is a program that pays for itself without adding to the deficit. Mixing general revenues into the system will make it easier for those who have long wished to dismantle Social Security to do so in the future.

Worse—worse—since this tax cut is not being paid for, there is a much greater likelihood it will be extended yet again in the future because, you see, there is another precedent here: Tax cuts do not have to be paid for. Only spending has to be paid for, not tax cuts.

Does this not open the door to even further extending payroll tax cuts because we do not have to pay for it? I choose my words carefully. Make no mistake about it, American people, make no mistake about it. This is the beginning of the end of the sanctity of Social Security. The very real risk is that Social Security will become just another program to be paid for with deficit spending and then in the future perhaps raided to help reduce the deficit.

I never thought I would live to see the day when a Democratic President and a Democratic Vice President would agree to put Social Security in this kind of jeopardy. Never did I ever imagine a Democratic President beginning the unraveling of Social Security. I warn my colleagues to consider the long-term ramifications of these actions.

While we need to maintain temporary supports for middle-class families in these tough economic times, this assistance should not come at the expense of American's retirement security. As traditional pensions have fallen by the wayside, as the value of peoples' retirements in 401(k)s has plummeted, Social Security remains the one essential program preventing millions of seniors from plunging into poverty in their retirement years, a program started by a Democratic President and a Democratic Congress, further enhanced by future Democratic Presidents, others, Truman, Kennedy, Lyndon Johnson, of course, the Great Society.

This, I believe, has been the hallmark and the underpinning of the party I have been proud to belong to. Now this party—this party—the Democratic Party, with a Democratic President, is now beginning the unraveling of Social Security. That is what is happening, the unraveling of Social Security. Never again can any one of us come to the floor and say: No. No, we cannot cut Social Security to reduce the deficit because it does not add to the deficit.

With this agreement, Social Security will add to the deficit by \$100 billion. Think about it. I urge my colleagues to look at excellent alternative ways of providing temporary support to our middle class. One proven approach would be to enlarge the Making Work Pay tax credit I talked about that was in the Recovery Act. Again, this tax credit, as I said, put an additional \$800 in both 2009 and 2010. It could be enlarged to provide the similar level of benefits to median-income working families as compared to the payroll tax cut.

So instead of cutting the payroll tax, let's do the tax credit that we had in 2009 and 2010, just bump it up a little bit. How do we pay for it? The same way we are paying for the cut in the Social Security taxes. Put it on the deficit. Put it on the deficit. But at least we are not invading the Social Security trust fund. Cutting the payroll tax is a bad idea, a terrible idea. I am embarrassed it is being proposed by a Democratic President and a Democratic Vice President.

We could fully pay for a tax credit, a refundable tax credit, do it over a 10-year period of time so it does not negatively impact the fragile economic recovery. It would support middle-class families, give them the support they need and deserve, but it would not harm Social Security.

I said there were a couple reasons I am opposed to this. That is one. That

is a big one, what we are doing to the Social Security trust fund. But I must also state my strenuous opposition to the cuts in this agreement to the Public Health and Prevention Fund that is in the Affordable Care Act.

My Republican friends and colleagues have been trying to get at the health care reform bill ever since we passed it: Cut it here, nick it there. We have fought that off. The health care act is now making a big impact in Americans' lives. Need I mention the fact that kids are covered now, even though they may have a preexisting condition. Young people can stay on their parents' policy until they are age 26. But we put into that affordable care act a Prevention and Public Health Fund, with the aim of transforming America's sick care system into a true health care system, emphasizing wellness and prevention and public health, keeping people out of the hospital in the first place.

So this last October things started kicking into effect. Beginning last October, for example, women over age 40 could get a mammogram every year with no copays, no deductibles, no cost. It has to be absorbed in the insurance program. Seniors on Medicare get a free screening of their health and a health assessment every year so they know what to do in the future to keep themselves healthy. No copays, no deductibles. Colonoscopies over age 50, no copays, no deductibles. We also started investing in proven programs to promote health and wellness, decreasing obesity, for example, across the country, through this fund.

Earlier this month, the Trust for America's Health released a remarkable study showing that a 5-percent reduction in the obesity rate could yield more than \$600 billion in savings on health care in the next 20 years. This study is the latest confirmation of what common sense tells us: Prevention is the best medicine both for our bodies and for our budgets.

Now think about it. We currently spend more than \$2 trillion on health care each year. An estimated 75 percent of that is accounted for by preventable chronic diseases and conditions. Chronic disease is a prime culprit in the relentless rise in health insurance premiums, and it contributes to the overall poor health that places our Nation's economic security and competitiveness in jeopardy.

This is shameful and, frankly, exasperating because we know how to prevent many of these diseases and conditions from developing in the first place. We know a lot about the power of prevention through the kinds of evidence-based clinical and community prevention programs and things that are funded by the Prevention and Public Health Fund. For example, for every \$1 we spend on the full course of childhood vaccines, we can save \$16.60 in future health care costs. Not a bad return on a dollar, not to mention the quality of the lives of kids who don't get mea-

sles, mumps, rubella, polio, and a whole bunch of other diseases.

Given the relentless rise in health care costs, it is a classic case of penny wise and pound foolish to take money from the Prevention and Public Health Fund. Americans get it. Americans get it when it comes to disease prevention. They understand that prevention saves lives, saves money, and is the common-sense thing to do. In this bill—again, for the first time—\$5 billion is taken out of the Prevention and Public Health Fund—\$5 billion. This is outrageous and unacceptable.

As I said, Americans get it. Here is a letter from the American College of Preventive Medicine urging us to oppose taking any money, to diverting any money from the Prevention and Public Health Fund. Here is the Coalition for Health Funding, opposed to taking money from the prevention fund. The American Heart Association is opposed taking money from the prevention fund; the Campaign to End Obesity Action Fund, opposed to taking money from that fund; the Center for Science in the Public Interest, opposed to taking money from the prevention fund; the Heartland Alliance, opposed to taking money from the prevention fund; the Association of State and Territorial Health Officials, opposed to taking money from this fund; the Prevention Institute, opposed to taking money from the Prevention and Public Health Fund; the American Heart Association, the National Alliance of State and Territorial AIDS Directors, the American Public City Health Officials, the American Lung Association, the National Viral Hepatitis Roundtable, the Association of Maternal & Child Health Programs, the American Association of Colleges of Pharmacy—722 groups across this country—opposed to taking money from the Prevention and Public Health Fund.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks some letters in opposition to this taking. There are over 700 organizations in opposition to this.

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

(See exhibit 1.)

Mr. HARKIN. So who do we listen to, Mr. President? Do we listen to public health officials—the American Heart Association, the American Lung Association, people all across America saying don't do this?

This is what is going to save us in the future. Yet they are taking \$5 billion out of it. It is totally unacceptable and it is outrageous—outrageous—outrageous. And again, this wasn't in either the House or the Senate bill. If I'm not mistaken, maybe a point of order lies against things in a conference report that were not considered either in the House or the Senate.

This agreement is being presented as a done deal, nothing we can do about it. Well, I urge Senators to think about

the dangerous consequences and precedence of passing this bill in its current form. This bill ends Social Security's historic status as a program that pays for itself. Think about it. The bill validates the absurd idea that tax cuts have a special status—they do not need to be offset, but spending does. Think about it. And this bill foolishly slashes funding for the Prevention and Public Health Fund, cuts that will significantly add to the deficit in future years.

I repeat: We need to continue to bolster the economy and boost the income of ordinary Americans. This bill is not the way to do it. It is a devil's deal. It is a bad deal. There are better ways to accomplish these goals. I urge my colleagues to vote against this terribly misguided bill in its current form.

EXHIBIT 1

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,

February 9, 2012.

On behalf of the American College of Preventive Medicine (ACPM), I urge you to oppose any effort to divert funds from the Prevention and Public Health Fund to finance an extended "doc fix" in the Medicare physician fee schedule as part of the negotiations on H.R. 3630, the Temporary Payroll Tax Cut Continuation Act of 2011. ACPM is the national professional society for over 2,500 physicians who dedicate their careers to prevention and health promotion at the individual and population levels. As such, ACPM has a primary interest in expanding our nation's investment in prevention to improve the health of communities across the country while adding greater value to our health care system.

While ACPM has been a staunch supporter of efforts to fix the broken sustainable growth rate formula used to calculate Medicare physician reimbursement levels, the College will not support any proposal that diverts funds away from disease prevention programs in order to increase payments for disease treatment. The Prevention and Public Health Fund, established through the Affordable Care Act, represents a critical investment in public health and a historic commitment towards efforts that will help shift the focus of our health care system from disease treatment to disease prevention and health promotion.

Already, states are using Prevention Fund dollars to bolster our public health infrastructure and to build a stronger foundation for prevention in communities and neighborhoods that are most in need. To drain the fund of its important resources just when communities are now putting prevention to work represents a shortsighted approach to fund increased reimbursements for Medicare providers.

There has long been strong bipartisan support for efforts that improve health, reduce costs, and enhance the value of our health care system. Now is not the time to abandon these goals. ACPM will continue to strongly oppose any efforts to decrease the federal commitment to prevention and public health and we ask that you join us in these efforts.

Sincerely,

MIRIAM A. ALEXANDER,
MD, MPH,
ACPM President.

COALITION FOR HEALTH FUNDING,
Washington, DC, February 15, 2012.

DEAR MEMBER OF CONGRESS: The Coalition for Health Funding is gravely concerned and

deeply disappointed that Congress—in negotiating a compromise on the “extenders” package—plans to raid the Prevention and Public Health Fund to partially offset the costs of a temporary patch to Medicare physician fee schedule. The Coalition’s 75 national organizations—representing more than 100 million patients and families, health care providers, public health professionals, and scientists—feels strongly that it is penny-wise and pound foolish to cut public health and prevention funding. We urge you to oppose these proposed cuts to the Fund, and instead consider the return on investment the Fund will show in the long-term by keeping people healthy.

Prevention and public health are vital to securing America’s position as a global leader in prosperity, discovery, and military capability. The Prevention and Public Health Fund, established through the Affordable Care Act, represents a critical investment and an unprecedented commitment to improving America’s health.

Already, states and communities are using the Fund to combat chronic diseases, which account for 70 percent of all deaths and 75 percent of all Medicare spending. Specifically, the Fund is bringing communities together to reverse the obesity epidemic. A new analysis by Trust for America’s Health shows that reducing the average body mass index by just five percent could lead to nearly \$30 billion in health care savings in just five years.

Evidence abounds—from the Department of Defense to the U.S. Chamber of Commerce—that healthy Americans are stronger on the battlefield, have higher academic achievement, and are more productive in school and on the job. Healthy Americans drive our economic engine, and cost our nation less in health care spending. It is shortsighted to drain the Fund just as communities are now putting prevention to work. We need to improve health, reign in health care spending, and reduce our nation’s deficit and debt. The Fund will help us achieve these goals.

There has long been strong bipartisan support for efforts that improve health, reduce costs, and enhance the value of our health care system. Now is not the time to abandon these goals by “robbing Peter to pay Paul.” The Coalition strongly opposes any efforts to reduce the federal commitment to prevention and public health. We hope you will join us in our opposition.

Sincerely,

JUDY SHERMAN,
President.

EMILY J. HOLUBOWICH,
Executive Director.

AMERICAN HEART ASSOCIATION,
Washington, DC, February 15, 2012.

Hon. MAX BAUCUS,
*U.S. Senate, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR BAUCUS: The American Heart Association (AHA), on behalf of its more than 22 million volunteers and supporters, urges you to protect the Prevention and Public Health Fund (Fund) and oppose any efforts to reduce, eliminate, or divert its funding as you consider options for paying for an extension of the payroll tax reduction, for unemployment insurance benefits, and for Medicare payments to physicians.

The programs supported by the Fund are essential if we are to reduce the growth of chronic diseases, such as heart disease and obesity, and decrease tobacco use rates, which are primary drivers of rising health care costs. Cardiovascular disease (CVD), including heart disease and stroke, is the leading cause of death and disability in the United States and our nation’s costliest illness. Based on recent projections, prevalence

and costs of CVD will increase dramatically in the next two decades, leaving 40 percent of the population with some form of the disease.

We know that prevention works and is one of the best ways to avert this cardiovascular crisis. In a 2008 study, the AHA used a model to evaluate the impact of 11 widely recognized measures for cardiovascular prevention. We found that if all 11 measures were addressed, heart attacks would be reduced by 36 percent and strokes by 20 percent. These measures could add 200 million life-years over the next three decades and increase life expectancy by 1.3 years.

However, only 18 percent of U.S. adults follow three important measures recommended by the AHA for optimal health: not smoking, maintaining a healthy body weight, and exercising at moderate-vigorous intensity for at least 30 minutes, five days per week. Programs supported by the Fund can help Americans adopt healthier lifestyles and we know that the earlier in life they develop these habits, the better. Studies estimate that when people practice these healthy habits reach middle age, they have only a six to eight percent chance of developing CVD in their lifetimes.

Investing in prevention is a smart move during these fiscally challenging times to maintain both a healthy economy and a healthy society. We urge you to protect the Fund.

Sincerely,

NANCY A. BROWN,
Chief Executive Officer.

PRESIDENT’S BUDGET PRESENTS DANGEROUS,
COSTLY SETBACK TO OBESITY EPIDEMIC,
CAMPAIGN WARNS

WASHINGTON, DC.—In the face of staggering costs—both in lives and in billions of taxpayer dollars spent because of the nation’s obesity epidemic—the President’s budget cuts vital obesity prevention programs by \$4 billion over the next ten years, the Campaign to End Obesity Action Fund warned today.

The President’s budget recommends drastic reductions to programs that the White House championed a little more than 18 months ago designed to promote prevention and wellness through “an unprecedented funding commitment to these areas.” At that time, the President specifically proposed “the creation of a national prevention and health promotion strategy that incorporates the most effective and achievable methods to improve the health status of Americans and reduce the incidence of preventable illness and disability in the United States.”

These programs were largely contained in the Affordable Care Act, which established the Prevention and Public Health Fund in significant part to reverse the obesity epidemic and help the nation secure a healthier future. The Fund—the whose budget the President now proposes to cut by more than 20 percent over the next 10 years—enables work by state and local governmental agencies and community organizations to increase healthy food options in schools, create physical activity programs and promote incentives for workplace wellness.

In a statement, Stephanie Silverman, co-founder of the Campaign to End Obesity Action Fund, said:

“The President must know that there is little good news about obesity—the epidemic continues, and with it the long term costs to our nation increase. The First Lady has done exemplary work highlighting some of the successes of prevention efforts, but obesity remains one of the country’s costliest medical conditions. We respectfully urge the

President to reconsider his recommendation, which would undermine vital obesity prevention and reversal initiatives already in place around the country.”

“The initiatives supported by the Prevention Fund can help our communities to get on track to a healthy weight and achieve more manageable long-term health care costs. Standing pat will not get us there. If we are serious about reigning in health care costs, we must have strategies to change our nation’s current course. No easy fixes exist to balancing our budget, but failing to put all of our muscle behind tackling the obesity epidemic will only lead to greater illness for patients and greater expenses for taxpayers in the long run. Reducing the Prevention and Public Health Fund is economically backwards.”

Ultimately, slashing obesity prevention programs will not help the U.S. to reduce its deficit, particularly in light of a recent study from the Trust for America’s Health, which finds that if obesity rates were reduced by five percent in the U.S. the country could save \$29.8 billion in five years, \$158.1 billion in 10 years and \$611.7 billion in 20 years in health care costs.

Currently, the annual health costs related to obesity in the U.S. are as high as \$168 billion and obesity drives nearly 17 percent of U.S. medical costs, according to research released by the National Bureau of Economic Research. By 2018—just six years from now, researchers at Emory University estimate that obesity could account for 21 percent of all health care spending. Employers alone experience a more than \$73 billion loss each year due to losses in productivity, absenteeism and medical costs attributed to obesity, according to researchers at Duke University.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,

Washington, DC, February 13, 2012.

Hon. Senator MAX BAUCUS,
*Chairman, Finance Committee, U.S. Senate,
Hart Senate Office Building, Washington,
DC.*

DEAR CHAIRMAN BAUCUS: On behalf of the Center for Science in the Public Interest, I urge you to support the Prevention and Public Health Fund and oppose any efforts to reduce, eliminate, or divert its funding. At a time when today’s children are in danger of becoming the first generation in American history to live shorter, less healthy lives than their parents, we need to do more—not less—to reduce the burden of heart disease, cancer, and other preventable diseases.

The Prevention Fund, supported by nearly 720 organizations, is a much-needed investment in national, state, and local efforts to prevent disease, save lives, and reduce long-term health costs. Due to the growing burden of chronic disease, our country faces exploding health-care costs that diminish our economic productivity and limit businesses’ ability to compete in a global economy. Right now, 75 percent of all health care costs are spent on the treatment of chronic diseases, many of which could be prevented.

States are also using Prevention Fund dollars to mount campaigns to reduce obesity and tobacco use, promote healthy eating and physical activity, expand mental health services, provide flu and other immunizations, and fight infectious diseases. If we are serious about reducing health care costs and the deficit, decreasing funding for prevention would be counterproductive. With your support, we can ensure that vital programs aimed at preventing illness and promoting health and wellness continue through the next decade. Please let me know what you

will do to protect this important health funding.

Sincerely,

MARGO G. WOOTAN,
Director of Nutrition Policy.

FEBRUARY 13, 2012.

Hon. RICHARD J. DURBIN,
U.S. Senate, State of Illinois, Hart Senate Office Building, Washington DC.

DEAR SENATOR DURBIN: Your support is needed to maintain funding for critical preventive health work made possible by the Prevention and Public Health Fund. Recent proposals to reduce, eliminate or divert its funding ignore the long-term fiscal and health benefits of investing in prevention.

We urge you to oppose any reduction in funding to the Prevention Fund. The fund is an unprecedented investment in national, state and local efforts to prevent disease, save lives and reduce long-term health costs. More than 700 national, state and local organizations support the Prevention Fund.

Last year, Illinois received almost \$21 million to invest in effective and proven prevention efforts. That money is going to communities making changes to improve long-term health, the state's public health infrastructure and training centers, HIV prevention efforts, tobacco prevention, and primary care and behavioral health services.

Overall, the Prevention Fund will provide communities across the U.S. with more than \$16 billion over the next 10 years. Slashing this funding would be an enormous step backward in our progress on cost containment, public health modernization and wellness promotion.

By and large, our health care system is based on treating illness rather than preventing it: Billions of dollars are spent each year through Medicare, Medicaid, and other federal health care programs to pay for health care services once patients get sick. Before the Prevention Fund, there was no corresponding, reliable investment in efforts to promote wellness, prevent disease, and protect against public health or bioterrorism emergencies.

Prevention is the key to lowering health care costs and creating a long-term path to a healthier and economically sound America. I urge you to continue our investment in the Prevention and Public Health Fund.

Sincerely,

JOSEPH A. ANTOLIN,
*Vice President,
Heartland Alliance;
Executive Director,
Heartland Human Care Services, Inc.*

Mr. HARKIN. Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, today I have submitted an amendment to the pending surface transportation reauthorization bill.

Community colleges are a critical source of education and job training for many individuals. Nationwide, we have 1,655 community colleges, which enroll nearly 6 million students. These community colleges will play a big role in helping Americans develop the skills to be competitive in our 21st century economy.

In light of the President's call for job training assistance, it is imperative that we support programs that help workers meet the new demands of our economy. My amendment does just that.

This amendment ensures that transit agencies that partner with community colleges on job training programs are eligible for Federal grants.

By supporting collaborative job-training programs between community colleges and transit agencies, we support our workforce in gaining valuable technical skills, while also supporting industries that are facing a workforce shortage.

I will urge my colleagues to vote for this amendment to ensure that we are supporting our workers in getting a valuable education and supporting an industry that is facing a critical workforce shortage.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we go to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

RECOGNIZING BILL BOARMAN

Mr. REID. Mr. President, I rise today to recognize the service of the 26th Public Printer of the United States. Bill Boarman led the Government Printing Office, GPO, with distinction over the past year. He has been a tremendous asset to the organization, and we will miss his service.

President Obama nominated Bill to serve as the Public Printer in April 2010, and his nomination was reported favorably by the Senate Rules Committee in July of that year. Because the Senate was unable to confirm Bill in the 111th Congress, President Obama used a recess appointment to install Bill as the Public Printer in December 2010.

Once in office Bill found that the GPO faced serious financial problems. Bill immediately took steps to put GPO on solid financial footing by cutting spending overhead and other non-essential costs. He successfully implemented a buyout to adjust the size of GPO's workforce. Perhaps most important, Bill set up a special task force to collect millions in outstanding payments owed to the GPO by other Federal agencies. These actions saved the GPO and the taxpayers millions of dollars.

Bill did more than just cut costs. To help Congress reduce its use of printed documents, Bill ordered the first-ever survey of all Senate and House offices that allowed them to opt out of receiving printed copies of the CONGRESSIONAL RECORD and other publications. He put the GPO on Facebook, oversaw the release of the GPO's first mobile Web app, and drafted a strategic investment plan to modernize the GPO's technology. He also presided over the observance of the GPO's 150th anniversary and made history himself by appointing as his deputy a seasoned GPO official who is the first woman ever to hold that position.

Unfortunately, the Senate did not confirm Bill before the 112th Congress

adjourned, and Bill's recess appointment expired. He leaves the agency in sound condition and in the good hands of Acting Public Printer Davita Vance-Cooks. During his brief tenure, Bill compiled a remarkable record of accomplishments. I know I speak for the Senate family when we thank Bill for his service as our Nation's Public Printer.

RECOGNIZING MIDWAY COLLEGE

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an educational institution that has been determined to create job opportunities and more easily accessible pathways to attaining professional degrees for Kentuckians, Midway College.

Midway College is a private school in Midway, KY, located in between Lexington and Frankfort. The school, established in 1847, has since created not only a rich tradition but a bright future for itself as well. Grounded in the golden rule, the school's motto is "ama vicinum acte," Latin for "love your neighbor in deed." And Midway College and its faculty are dedicated to living just so. The college has opened 14 different branches across the State offering numerous disciplines students can choose to study and thereby diversifying the type of student who could potentially enroll by constructing schools in an array of unique locations.

In 2009, Midway College president Dr. William B. Drake, Jr., along with attorney G. Chad Perry III, and his wife Judy Perry, had a vision to create a 15th branch of the college in a small Kentucky town. This new branch would be expected to not only strengthen the Commonwealth but the entire Nation as well. Their dream soon became a reality in January of 2010 when Midway College's board of trustees announced plans to open the Midway College School of Pharmacy in Paintsville, KY.

The small community of Paintsville is located in Johnson County, and, according to President Drake, they could not have asked for a more perfect location for the school. The town's citizens, who strongly care about education, got involved early with the project and stepped forward to ensure that Paintsville would be the right home for the school. The new institute of learning will not only offer over 100 jobs to an area that is suffering from high unemployment rates but will generate around \$30 million in revenue each year.

The climate of our Nation is rapidly changing. As baby boomers age and are now in more medical need than ever before, Midway College is breaking new grounds in its attempt to combat the problem. Only four States have greater need of pharmacists than Kentucky, a State which currently has only two pharmaceutical schools. Midway seeks to provide an opportunity to students in the Appalachian regions of eastern Kentucky, in hopes that they will take their professional degree and return to