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

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

The Senator from Oklahoma.

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

I urge a ''no'' vote.

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

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

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

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

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

[Rollcall Vote No. 37 Leg.]

YEAS—50

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

NAYS—47

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

NOT VOTING—3

Hatch	Kirk	Lautenberg

The amendment (No. 1759) was agreed to.

RECESS

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

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

MOVING AHEAD FOR PROGRESS IN THE 21st CENTURY—Continued

AMENDMENT NO. 1826, AS MODIFIED

The PRESIDING OFFICER. The Senator from Kansas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

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

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

I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Maryland.

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

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

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

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

I urge my colleagues to defeat this amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

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

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

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

[Rollcall Vote No. 38 Leg.]

YEAS—41

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

NAYS—57

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

NOT VOTING—2

Hatch	Kirk

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1812, AS MODIFIED

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

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

The clerk will report the amendment.

The legislative clerk read as follows:

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

The amendment is as follows:

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

At the end of division D, insert the following:

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

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

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

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

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

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

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

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

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

SEC. _____. EXTENSION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.

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

''(H) APPLICATION OF PARAGRAPH.—

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

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

(b) CONFORMING AMENDMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

(e) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

SEC. _____. EXTENSION OF PRODUCTION CREDIT.

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

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

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

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

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

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

(e) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) in paragraph (2)—

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Who yields time in opposition?

Mr. RISCH. I yield back our time.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 39 Leg.]

YEAS—49

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

NAYS—49

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

NOT VOTING—2

Hatch	Kirk

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

AMENDMENT NO. 1589

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

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

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

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

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

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

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

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

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

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

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

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 40 Leg.]

YEAS—26

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

NAYS—72

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

NOT VOTING—2

Hatch	Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes

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

The Senator from New Jersey.

AMENDMENT NO. 1782

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

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

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

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

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

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

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from North Carolina.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Presiding Officer.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is there debate in opposition?

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

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 41 Leg.]

YEAS—51

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

NAYS—47

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

NOT VOTING—2

Hatch	Kirk

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

AMENDMENT NO. 1517

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

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

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

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

The PRESIDING OFFICER. The Senator from California.

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

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

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

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

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

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

The Senator from Indiana.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 42 Leg.]

YEAS—28

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

NAYS—70

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

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1517) was rejected.

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

AMENDMENT NO. 1819

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

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

SEC. 1528. BUY AMERICA PROVISIONS.

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

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

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

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

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

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

SEC. 330___. BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

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

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

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

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

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

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

(B) is published before the waiver takes effect.

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

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

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

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

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

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

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

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

SEC. 36210. AMTRAK.

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

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

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

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

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

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

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

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

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

Who yields time in opposition?

Mr. REID. I yield back.

The PRESIDING OFFICER. The time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1819) was agreed to.

AMENDMENT NO. 1540

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

The Senator from Missouri is recognized.

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

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

The PRESIDING OFFICER. Who will yields time in opposition?

Mrs. BOXER. We yield back.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1540) was agreed to.

AMENDMENT NO. 1814, AS MODIFIED

The PRESIDING OFFICER. The Senator from Oregon.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) STATE REQUIREMENTS.—

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

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

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

(c) COVERED FARM VEHICLE DEFINED.—

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

(A) that—

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

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

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

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

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

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

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

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

(i) 26,001 pounds or less; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) overall operating mileage of covered farm vehicles;

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

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

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

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

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

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

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

I yield to Mr. TOOMEY.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 1617

The PRESIDING OFFICER. The Senator from Minnesota.

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

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

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

The amendment is as follows:

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

In section 32101, add at the end the following:

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

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

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

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

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

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

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

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

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

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

I ask my colleagues to vote for this amendment.

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

The Motor Carrier Safety Improvement Act expressly states:

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there debate in opposition?

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

The amendment (No. 1617) was agreed to.

AMENDMENT NO. 1736

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

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

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

I urge my colleagues to support it.

I yield my time.

The PRESIDING OFFICER. The Senator from California.

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

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

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

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

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

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

Mrs. BOXER. Sure.

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

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

I urge a ''no'' vote.

I ask for the yeas and nays.

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

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

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

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

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

[Rollcall Vote No. 43 Leg.]

YEAS—30

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

NAYS—68

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

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1736) was rejected.

AMENDMENT NO. 1785, AS MODIFIED

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

The Senator from Tennessee.

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

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

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

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

The PRESIDING OFFICER. The Senator from Hawaii.

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

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

The PRESIDING OFFICER. The Senator from Tennessee.

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

The PRESIDING OFFICER. The Senator is correct.

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

At the end of division D, add the following:

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant bill clerk called the roll.

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

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

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

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

[Rollcall Vote No. 44 Leg.]

YEAS—40

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

NAYS—58

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

NOT VOTING—2

Hatch	Kirk

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

Who yields time?

The Senator from California.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1742

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

The Senator from Ohio.

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

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

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

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

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from California.

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

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

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

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

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

[Rollcall Vote No. 45 Leg.]

YEAS—12

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

NAYS—86

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

NOT VOTING—2

Hatch	Kirk

The amendment (No. 1742) was rejected.

AMENDMENT NO. 1830

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

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

The Senator from California.

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

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

The PRESIDING OFFICER. The Senator from Louisiana.

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

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

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

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY—Continued

CHANGE OF VOTE

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

JUDICIAL NOMINATIONS

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

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

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

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

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

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