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

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

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

TOLLING FEDERAL HIGHWAYS

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

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

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

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

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

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

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

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

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

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from California.

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

CONCLUSION OF MORNING BUSINESS

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

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

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

The bill clerk read as follows:

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

Pending:

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

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

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

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

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

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

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

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

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

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

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

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

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

Mrs. BOXER. I yield the floor.

AMENDMENT 1759

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

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

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

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

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

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

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

The clerk will report.

The bill clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

''(bb) operated by a private entity.

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

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

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

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

''(I) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

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

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

''(II) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The bill clerk proceeded to call the roll.

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

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

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

AMENDMENT 1756

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I reserve the remainder of my time.

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

The Senator from California.

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

The ACTING PRESIDENT pro tempore. That is correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

The clerk will call the roll.

The bill clerk called the roll.

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

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

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

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

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

[Rollcall Vote No. 36 Leg.]

YEAS—30

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

NAYS—67

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

NOT VOTING—3

Hatch	Kirk	Lautenberg

The amendment (No. 1756) was rejected.

AMENDMENT NO. 1759

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

The Senator from New Mexico.

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

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

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

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

The Senator from Oklahoma.

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

I urge a ''no'' vote.

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

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

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

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

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

[Rollcall Vote No. 37 Leg.]

YEAS—50

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

NAYS—47

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

NOT VOTING—3

Hatch	Kirk	Lautenberg

The amendment (No. 1759) was agreed to.

RECESS

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

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

MOVING AHEAD FOR PROGRESS IN THE 21st CENTURY—Continued

AMENDMENT NO. 1826, AS MODIFIED

The PRESIDING OFFICER. The Senator from Kansas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

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