

(A) the application of such medical standards provides an appropriate and fair evaluation of an individual's qualifications; and

(B) the individual understands the basis for determining medical qualifications.

(C) **ADVICE FROM PRIVATE SECTOR GROUPS.**—The Administrator shall establish a panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, aviation medical examiners, and other qualified medical experts, to advise the Administrator in carrying out the goals of the assessment required under this section.

(D) **FEDERAL AVIATION ADMINISTRATION RESPONSE.**—Not later than 1 year after the issuance of the report by the Comptroller General pursuant to subsection (a)(2), the Administrator shall take appropriate actions to respond to such report.

The bill (S. 1335), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. REID. I thank the Chair.

SMALL BUSINESS JOBS AND TAX RELIEF ACT MOTION TO PROCEED—Continued

RECOGNITION OF THE MINORITY LEADER

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

SURFACE TRANSPORTATION CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I will address two issues. I commend, in particular, the senior Senator from Oklahoma for the extraordinary work he has done to produce a transportation bill that has significant reforms in it. He has been tenacious and effective. He has tugged on our sleeves and pointed out to us repeatedly the importance of getting this job done. I congratulate him for an extraordinary accomplishment.

With regard to the bill, the highway conference report contains significant reforms to the surface transportation program. Projects will now be completed in a more timely manner because, for the first time, there are hard deadlines on agencies to complete environmental reviews.

Also, States are given maximum flexibility to use their transportation dollars the way they choose, rather than how Washington dictates. This bill is fully paid for with a package of offsets mostly included in the Senate-passed highway bill.

The conference report also contains important legislation to reform the National Flood Insurance Program and prevent the interest on college student loans from doubling.

The flood insurance bill is a model of reform: It moves this long-failing program closer to where it should be—the private sector. These reforms actually cut subsidies, save the taxpayers money, and greatly improve the program's financial position. It was negotiated and reported out of committee on a bipartisan basis.

On the student loan issue, Republicans and Democrats worked hard to find common ground. The agreement

we have reached will ensure that college students who are already facing enormous challenges in the Obama economy will not be paying higher interest rates next month.

Students can't wait for the President to get off the campaign trail and actually work with Congress to prevent student loan interest rates from rising this year. So while the President continues to ignore the bipartisan proposals sent more than 3 weeks ago, Senate Democrats dropped their demand for job-killing tax hikes and worked with Republicans to find solutions.

It is nice to finally see the Senate actually work as the Senate used to. It proves that if this body ignores the campaign attacks from the President and if our Democratic friends stop pushing job-killing tax hikes, we can actually get a lot done around here. I, once again, thank my colleagues for all their hard work on these important measures.

HEALTH CARE DECISION

Mr. MCCONNELL. Mr. President, the most important issue brought to the front page in the last 2 days is the state of the new ObamaCare law.

Two and a half years ago, President Obama teamed up with Democrats right here in Congress to pass a health care bill they knew most Americans didn't want. Americans have been very clear about what they thought of this bill. So Democrats settled on a deeply dishonest sales pitch aimed at convincing them otherwise.

Nearly every day since then, the promises that formed the very heart of that sales pitch have been exposed for the false promises they were.

Americans were promised lower health care costs. But, of course, they are going up. Americans were promised lower premiums, and they are going up. Seniors were promised Medicare would be protected; it was raided to pay for a new entitlement instead. We were promised it would create jobs; CBO predicts it will lead to 800,000 fewer jobs because of ObamaCare. People were promised they could keep the plans they liked; millions have now learned they cannot.

For 2 years, the list of broken promises has grown longer and longer and longer.

But yesterday morning, we got powerful confirmation of what may have been the biggest deception of all. For years, the President and his Democratic allies in Congress have sworn up and down—sworn up and down—that failing to comply with the individual mandate did not result in a tax on individuals or families. "It is not a tax," they said.

The reason was obvious. If Americans knew that failure to comply resulted in a tax hike, of course, the bill would never have passed. If our friends on the other side had conceded the obvious—that it was, in fact, a tax hike—we all know it never would have passed. The President would not be able to claim

his health care bill didn't raise taxes on the middle class, as he did again and again and again.

Yesterday, the Court blew the President's cover. In a narrowly upheld case on one basis only—that the penalty associated with the individual mandate is a tax—the Court spoke. It said Congress doesn't have the constitutional authority to mandate insurance coverage under the commerce clause. Congress doesn't have the authority to mandate individual insurance coverage under the commerce clause, but it obviously does have the power to tax. So they upheld the central provision of the bill on the fact that the penalty for failing to comply with it was a tax.

In the eyes of the Court, that is all the penalty tied to the individual mandate ever was: a tax imposed by a Democratic Congress—without a single Republican vote—primarily, interestingly enough, on the middle class. It is a tax on the middle class. Let's be very clear about that. The tax connected to the individual mandate is not primarily a tax on the rich but on the middle-class Americans who will bear the brunt of it.

Listen to this, colleagues. According to the CBO, at least 77 percent of the people paying this tax will meet the President's own definition of the middle class; 77 percent of the people paying this tax will meet the President's own definition of the middle class.

Those who have to pay the tax will pay an average tax of \$1,200. Even if they pay it every year, they still will not have insurance.

Yesterday's decision turns the President's campaign rhetoric on its head. Those who will end up paying the heaviest burden for not buying government-mandated insurance are not going to be the wealthiest Americans—oh, no—but the very middle-class families the President claims to defend.

That is the truth the Court unmasked yesterday.

Most Americans thought the process Democrats used to pass the health care bill was unseemly, secretive, partisan, even antidemocratic. They also thought it was unconstitutional for the government to create commerce in order to regulate it—for the government to create commerce in order to regulate it.

All of that is still true. But what many Americans may not have appreciated when this bill passed was how empty all of the promises were—how completely empty all the promises were. And at the center of them all was the claim that failing to buy health insurance did not result in a tax. That was the central claim: Failing to buy health insurance did not result in a tax.

But the Court has now spoken: It is a tax—largely on the middle class. This is just one more reason this law needs to be repealed in its entirety. With every passing day we learn something new about this terrible law. Not only does it make the problems in our

health care system worse, it leads to a tax on middle-class families who are either unable or unwilling to purchase health insurance. What a terrible idea.

So it is time for Democrats to stop trying to defend the indefensible and join Republicans in wiping this colossal legislative mistake clear off the books. Yesterday's decision gives us the clearest proof yet this bill has to go. It needs to be repealed to clear the way for commonsense, step-by-step reforms that protect Americans' access to the care they need from the doctor they choose at a lower cost. That is precisely what Republicans intend to do.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

The ACTING PRESIDENT pro tempore. Under the previous order, Senators are permitted to speak for up to 10 minutes.

The Senator from Iowa.

HEALTH CARE DECISION

Mr. GRASSLEY. Mr. President, yesterday the Supreme Court overturned the mandatory Medicaid expansion in the Affordable Care Act. As of yesterday, the States now have a choice to expand or not expand coverage to the poorest people in society without being subjected to harsh Federal penalties.

I would like to draw attention to a speech I gave on the Senate floor in December 2011 on the subject of the constitutionality of the Medicaid expansion. I expressed my concerns then about the potential impact of a Supreme Court decision on Medicaid expansion.

I said on the floor that day:

A Supreme Court ruling in favor of the States in this case could not only jeopardize the mandated Medicaid expansion in the Affordable Care Act but could challenge the fundamental structure of Medicaid and have broader implications outside of health care.

The concerns I expressed then have, to a degree, come true.

Reading from a Washington Post editorial this morning about the Court ruling on Medicaid:

This restriction of federal authority may have greater ramifications than the court's limiting of the Commerce Clause. One can imagine challenges to federal conditions across a wide spectrum of programs, including but not limited to the environment, education and transportation.

This decision overturns the mandatory expansion of the Medicaid Program. While I realize most of the focus is on the decision related to the tax mandate, we should spend a moment talking about the consequence of the Medicaid decision.

Mr. President, one of the goals of the health care reform was to provide coverage for people in need. I would argue the people most in need of coverage are people without a job, people without an income, and the poorest of the poor. The Affordable Care Act required States to cover people below poverty through Medicaid. States were man-

dated to expand to cover people below poverty. Yesterday, the Supreme Court ruled that mandatory expansion unconstitutional.

Writing for the majority, Chief Justice Roberts said:

Nothing in our opinion precludes Congress from offering funds under the Affordable Care Act to expand the availability of health care, and requiring the States accepting such funds to comply with the conditions on their use. What Congress is not free to do is to penalize States that choose not to participate in that new program by taking away their existing Medicaid funding.

With this decision, States now have the option to expand Medicaid to cover people below poverty. Mr. President, the States had that option even before the Affordable Care Act was passed. So what does this decision mean in real terms?

It will be up to the States to determine if they will cover the poorest of the poor. The Federal Government cannot guarantee coverage. So now people with jobs will have to purchase insurance under the tax mandate. People without an income, people who are below poverty, are dependent upon the State in which they reside.

I know some people will believe the choice is perfunctory, that Medicaid expansion will move forward because the Federal Government has offered to pay for more than 90 percent of the expansion. But if you were a State, would you really trust a promise from a Federal Government that is \$15 trillion in debt? If you were a State, would you really trust an Obama administration that proposed eliminating that special Federal payment rate through a proposal known as the blended rate?

States will very reasonably be risk averse. States can now expand if they choose to or not at all. No one should assume for a second all States will expand to cover as much as was mandated under the Affordable Care Act.

Of course, one might think people below poverty could still get health care through tax credits, but the people who wrote this bill made people below poverty ineligible for tax credits. That is right—ineligible. It is all or nothing for the poor with Medicaid. With today's ruling, the answer is, nothing.

On December 15, 2011, I said on the Senate floor that the expansion of Medicaid and the coverage of poor people was in jeopardy because "the White House and the Democratic majority put their partisan goals ahead of collaboration with Republicans and States to build legitimate public policy."

Today, that is the outcome. When people with income, people with jobs are mandated to purchase health insurance and face a tax penalty if they do not, while the poorest people in society, those without a job or without income have a guarantee of nothing, I think victory laps are premature.

After this decision, a person in a family with an income of more than \$80,000 a year would be guaranteed access to a subsidy to buy private insurance, while

a person in a family with no income would be guaranteed nothing. When people below poverty, the people who can least afford coverage or the consequence of not having coverage are left with nothing, it sounds like failure to me.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, regarding yesterday's Supreme Court decision, there have been a variety of very interesting editorials, op-ed pieces, and blogs—many of them erudite and very useful for the analysis of the Court's opinion. Of course, it will take a long time for us to know precisely how all of this will work out over time. I thought I might refer to a couple of these opinions and op-eds and put them in the RECORD for people to see what a sampling might look like so they can more thoroughly analyze the opinion and then pose a question at the end.

I start with one of my friends, and I think one of the best columnists, even nationally, that I know. He writes for my local paper, the Arizona Republic. His name is Bob Robb, and he writes in his column on June 29:

Roberts' decision controlled the outcome, even though it was fully joined by no other justice. Here's what he concluded:

The federal government has no power under the Constitution's Commerce Clause to require individuals to purchase health insurance, as Obamacare does. However, the federal government does have the power to impose a financial penalty on people for not complying with the mandate the federal government has no authority to impose. That's because the penalty is actually a tax under Congress' constitutional taxing authority.

However, the penalty is not a tax for purposes of the Anti-Injunction Act, which would preclude the court from considering the legality until someone actually pays it.

Obviously, Mr. President, these dilemmas require some explanation. It may be—and this is my phrasing, not Bob Robb's—this is a good example of where the phrase of "legal legerdemain" comes into play.

Robb continues:

If Congress has no authority to require people to do something, such as purchase health insurance, how can it penalize them for not doing it?

And how can money owed exclusively because of failing to comply with an unconstitutional mandate be regarded as a tax and not a penalty?

He goes on to say:

The purpose of the constitutional taxing power is to raise the money to operate the government. The clause reads: "Congress shall have the power to lay and collect taxes . . . to pay the debts and provide for the common defense and general welfare of the United States."

The purpose of the penalty for not buying health insurance, however, isn't to raise revenue. The government would prefer not to get any money from it at all. The purpose is to compel compliance with the mandate that Roberts says the government has no power to impose.

There is nothing in the Constitution that can remotely be construed as giving Congress the power to tax people, not to raise revenue but to punish them for failing to do what Congress would like them to do.

And Robb concludes:

If Congress cannot do something directly, it shouldn't be able to do it indirectly through taxation.

Mr. President, this raises a very important question. If the taxing power can be used to institute mandates such as ObamaCare, the real question is, What limits are there on such taxing power? I believe this may be one of the most important unanswered questions in Justice Roberts' opinion.

One attempt to square the circle, in effect, was by a writer named Joshua Hawley in the Daily Caller in his column entitled "What's behind Roberts' surprising decision?" I note that Hawley comes to this with some credentials, being described as a former law clerk to Chief Justice Roberts as well as an associate law professor at the University of Missouri. In effect, as I read Hawley's piece, he said Justice Roberts actually constrained Congress's power dramatically by, first of all, drawing a clear line on the reasonable and proper extension of the commerce clause power. But he also said the taxing authority Roberts uses to justify Congress's action in ObamaCare is actually very limited.

In fact, he says that Roberts attempted to make this case *sui generis*—that is the Latin phrase for "one of a kind"—and that only in this particular case would the taxing authority be permissibly used for Congress to require the people to do something.

I hope Hawley's analysis is correct. I am not so sure it is. Roberts' opinion certainly will make it more politically difficult for Congress to pass things that extend its authority because it will have to be clothed in the cloak of a tax, and Congress doesn't generally like to pass new taxes on people. But Congress and the lawyers who advise us are pretty clever about phrasing legislation in such a way that it would meet constitutional challenges.

Now that we have a new example of a power that we might exercise—namely, this expanded taxing power—I suspect we will see efforts in the future to clothe our legislation under the guise of that taxing power. If so, the constraints in Chief Justice Roberts' opinion would be no constraints at all.

There is an old saying that hard cases make bad law. I don't know that this was all that hard of a case, but it clearly resulted in a lot of different points of view from the Justices, from which one could conclude that at least they saw it as a hard case. I just hope the end result is not bad law, as I have suggested it could be here today.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the following pieces: first, the Robert Robb column dated June 29 from the Arizona Republic; second, the Wall Street Journal editorial of June 28, "ObamaCare and the Power to Tax"; a Rich Lowry piece in National Review Online dated June 29, "The Umpire Blinks"; a National View Online piece by The Editors dated

June 28, "Chief Justice Roberts's Folly"; and the Joshua Hawley piece dated June 28 from the Daily Caller.

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

[From the Arizona Republic, June 29, 2012]
FALSE PREMISE LETS 'OBAMACARE' GO ON
(By Robert Robb)

For whatever reason, Chief Justice John Roberts decided to rescue "Obamacare" from the constitutional trash heap.

His reasoning in doing so should be an embarrassment to him. It certainly tossed more dirt on the burial site of the Founders' vision of a federal government with limited, enumerated powers.

Roberts' decision controlled the outcome, even though it was fully joined by no other justice. Here's what he concluded:

The federal government has no power under the Constitution's Commerce Clause to require individuals to purchase health insurance, as ObamaCare does.

However, the federal government does have the power to impose a financial penalty on people for not complying with the mandate the federal government has no authority to impose. That's because the penalty is actually a tax under Congress' constitutional taxing authority.

However, the penalty is not a tax for purposes of the Anti-Injunction Act, which would preclude the court from considering its legality until someone actually pays it.

Where to begin?

If Congress has no authority to require people to do something, such as purchase health insurance, how can it penalize them for not doing it?

And how can money owed exclusively because of failing to comply with an unconstitutional mandate be regarded as a tax and not a penalty?

The purpose of the constitutional taxing power is to raise the money to operate the government. The clause reads: "Congress shall have the power to lay and collect taxes . . . to pay the debts and provide for the common defense and general welfare of the United States."

The purpose of the penalty for not buying health insurance, however, isn't to raise revenue. The government would prefer not to get any money from it at all. The purpose is to compel compliance with the mandate that Roberts says the government has no power to impose.

There is nothing in the Constitution that can remotely be construed as giving Congress the power to tax people, not to raise revenue but to punish them for failing to do what Congress would like them to do.

If Congress cannot do something directly, it shouldn't be able to do it indirectly through taxation.

Congress, unlike Roberts, understood that it was enacting a penalty, not a tax. The law repeatedly calls the money owed for failing to comply with the individual mandate a penalty.

Roberts says that what Congress calls it isn't dispositive regarding whether it is a tax under the Constitution. But it is dispositive for purposes of the Anti-Injunction Act.

The Anti-Injunction Act prevents those who are subject to federal taxes from challenging their legality until after they have been paid.

If the penalty is a tax, then no one could challenge its legality until after someone pays it, which won't happen until 2014. The case wouldn't properly have been before the court.

So, Roberts declared that the money owed for failing to comply with the individual

mandate is a tax for purposes of the Constitution because he says so. But it's a penalty for purposes of the Anti-Injunction Act because Congress says so.

In Robertsworld, an unconstitutional mandate becomes not a mandate if the money owed for not complying is dubbed a tax and not a penalty. But the same money can be both a penalty and a tax depending on who is asking and why.

It's as though Roberts were channeling Lewis Carroll in writing the opinion.

This decision is hardly the end of the ObamaCare saga. ObamaCare will implode as it is implemented.

The country will have to readdress the question of how to most cost-effectively subsidize the care of the seriously and chronically sick.

But for today, let's mourn the death of reasoning and something more important.

In Federalist No. 45, James Madison wrote: "The powers delegated by the proposed Constitution to the federal government are few and defined."

That's not the federal government we have today. Roberts' pettifogging on ObamaCare can be seen as its final interment.

[From the Wall Street Journal, June 28, 2012]
OBAMACARE AND THE POWER TO TAX
(Opinion)

'Judicial tax-writing is particularly troubling. Taxes have never been popular, see, e.g., Stamp Act of 1765.'

Supreme Court Justices Antonin Scalia, Anthony Kennedy, Clarence Thomas and Samuel Alito dissenting from the majority opinion that upheld most provisions of the Affordable Care Act on Thursday:

The provision challenged under the Constitution is either a penalty or else a tax. Of course in many cases what was a regulatory mandate enforced by a penalty could have been imposed as a tax upon permissible action; or what was imposed as a tax upon permissible action could have been a regulatory mandate enforced by a penalty. But we know of no case, and the Government cites none, in which the imposition was, for constitutional purposes, both. The two are mutually exclusive. Thus, what the Government's caption should have read was "ALTERNATIVELY, THE MINIMUM COVERAGE PROVISION IS NOT A MANDATE-WITH-PENALTY BUT A TAX." It is important to bear this in mind in evaluating the tax argument of the Government and of those who support it: The issue is not whether Congress had the power to frame the minimum-coverage provision as a tax, but whether it did so.

In answering that question we must, if "fairly possible," construe the provision to be a tax rather than a mandate-with-penalty, since that would render it constitutional rather than unconstitutional (*ut res magis valeat quam pereat*). But we cannot rewrite the statute to be what it is not. "[A]lthough this Court will often strain to construe legislation so as to save it against constitutional attack, it must not and will not carry this to the point of perverting the purpose of a statute . . . or judicially rewriting it." In this case, there is simply no way, "without doing violence to the fair meaning of the words used," to escape what Congress enacted: a mandate that individuals maintain minimum essential coverage, enforced by a penalty.

Our cases establish a clear line between a tax and a penalty: "[A] tax is an enforced contribution to provide for the support of government; a penalty . . . is an exaction imposed by statute as punishment for an unlawful act." In a few cases, this Court has held that a "tax" imposed upon private conduct was so onerous as to be in effect a penalty. But we have never held—never—that a

penalty imposed for violation of the law was so trivial as to be in effect a tax. We have never held that any exaction imposed for violation of the law is an exercise of Congress' taxing power—even when the statute calls it a tax, much less when (as here) the statute repeatedly calls it a penalty. When an act “adopt[s] the criteria of wrongdoing” and then imposes a monetary penalty as the “principal consequence on those who transgress its standard,” it creates a regulatory penalty, not a tax.

So the question is, quite simply, whether the exaction here is imposed for violation of the law. It unquestionably is. The minimum-coverage provision is found in [the Affordable Care Act's individual-mandate provision], §5000A, entitled “*Requirement to maintain minimum essential coverage.*” (Emphasis added.) It commands that every “applicable individual shall . . . ensure that the individual . . . is covered under minimum essential coverage.” (emphasis added). And the immediately following provision states that, “[i]f . . . an applicable individual . . . fails to meet the requirement of subsection (a) . . . there is hereby imposed . . . a penalty.” (emphasis added). And several of Congress' legislative “findings” with regard to §5000A confirm that it sets forth a legal requirement and constitutes the assertion of regulatory power, not mere taxing power. . . .

We never have classified as a tax an exaction imposed for violation of the law, and so too, we never have classified as a tax an exaction described in the legislation itself as a penalty. To be sure, we have sometimes treated as a tax a statutory exaction (imposed for something other than a violation of law) which bore an agnostic label that does not entail the significant constitutional consequences of a penalty—such as “license” or “surcharge.” But we have never—never—treated as a tax an exaction which faces up to the critical difference between a tax and a penalty, and explicitly denominates the exaction a “penalty.” Eighteen times in §5000A itself and elsewhere throughout the Act, Congress called the exaction in §5000A(b) a “penalty.”

Judicial tax-writing is particularly troubling. Taxes have never been popular, see, e.g., Stamp Act of 1765, and in part for that reason, the Constitution requires tax increases to originate in the House of Representatives. That is to say, they must originate in the legislative body most accountable to the people, where legislators must weigh the need for the tax against the terrible price they might pay at their next election, which is never more than two years off. The Federalist No. 58 “defend[ed] the decision to give the origination power to the House on the ground that the Chamber that is more accountable to the people should have the primary role in raising revenue.” We have no doubt that Congress knew precisely what it was doing when it rejected an earlier version of this legislation that imposed a tax instead of a requirement-with-penalty. Imposing a tax through judicial legislation inverts the constitutional scheme, and places the power to tax in the branch of government least accountable to the citizenry.

Finally, we must observe that rewriting §5000A as a tax in order to sustain its constitutionality would force us to confront a difficult constitutional question: whether this is a direct tax that must be apportioned among the States according to their population. Perhaps it is not (we have no need to address the point); but the meaning of the Direct Tax Clause is famously unclear, and its application here is a question of first impression that deserves more thoughtful consideration than the lick-and-a-promise accorded by the Government and its sup-

porters. The Government's opening brief did not even address the question—perhaps because, until today, no federal court has accepted the implausible argument that §5000A is an exercise of the tax power. And once respondents raised the issue, the Government devoted a mere 21 lines of its reply brief to the issue. At oral argument, the most prolonged statement about the issue was just over 50 words. One would expect this Court to demand more than fly-by-night briefing and argument before deciding a difficult constitutional question of first impression.

[From the National Review Online, June 29, 2012]

THE UMPIRE BLINKS (By Rich Lowry)

Chief Justice John Roberts famously defined himself as an umpire in his confirmation hearings. But an umpire is willing to make the toughest calls.

In his Obamacare decision, Roberts the umpire blinked. By issuing a decision that forestalled the tsunami of criticism that would have come his way had he struck down the law (as an activist, a partisan, and an altogether rotten human being), Roberts effectively rewrote the constitutionally problematic portions of it. He overstepped his bounds. The umpire called a balk, but gave the pitcher a do-over. The ref called a foul, but didn't interrupt the play.

As a result, there's Obamacare as passed by Congress. Then there's Obamacare as passed by the Supreme Court.

Obamacare as passed by Congress had a mandate to buy health insurance and a penalty for failing to comply. Obamacare as passed by the Supreme Court has an optional tax for those without health insurance. Obamacare as passed by Congress required states to participate in a massive expansion of Medicaid, or lose all their federal Medicaid funds. Obamacare as passed by the Supreme Court makes state participation in the Medicaid expansion optional.

In pursuit of a judicial modesty deferential to Congress, Roberts usurped its role. Obamacare as passed by Congress didn't pass constitutional muster. Obamacare as passed by the Supreme Court didn't pass Congress—and might not have passed Congress had it been presented for an up-or-down vote festooned with yet another tax.

Roberts vindicated the core of the constitutional argument against the individual mandate that had been sneered at by the legal establishment and pronounced preposterous by the likes of Nancy Pelosi. The mandate is unprecedented in that it doesn't regulate existing activity; it compels people to undertake an activity—namely, buying insurance—that Congress then regulates under the Interstate Commerce Clause. This stretches the Commerce Clause beyond the breaking point.

The chief even reverted to the widely derided broccoli argument: If the federal government can make you buy insurance, it can make you eat vegetables. The government's logic, Roberts wrote, “authorizes Congress to use its commerce power to compel citizens to act as the Government would have them act. That is not the country the Framers of our Constitution envisioned.”

Then, Roberts went out in search of some way, any way, to find the mandate constitutional. He alighted on the argument that the mandate isn't a mandate at all, but a tax. Never mind that the tax argument was an afterthought in the administration's defense of the law. Never mind that administration officials, from the president on down, vociferously denied that it was a tax during the debate over the bill. Never mind that the law itself never defines it as a tax and includes

the mandate (and its penalty) in a different title of the act from the revenue provisions. “To say that the Individual Mandate merely imposes a tax is not to interpret the statute, but to re-write it,” the four conservative dissenters from the Roberts opinion write. The chief was willing to take out his rewrite pen to avoid striking down the mandate. He did the same to keep from throwing out the Medicaid expansion. He considers it, too, an offense against the constitutional order. Wherever exactly the line for impermissible coercion of the states falls, he noted, “this statute is surely beyond it.”

Roberts gets points for cleverness. He set clear constitutional boundaries without striking down the law. He largely sided with the critics of Obamacare without enraging its supporters. He came up with the only 54 decision that wouldn't subject his court to the calumny of the Obama administration and law-school deans everywhere. All the op-eds that had been drafted trashing the legitimacy of the court have been filed away for now.

As chief justice, Roberts has competing priorities, of course. But it's not his job to redraft laws under the guise of judicial restraint. On Obamacare, the umpire struck out.

[From the National Review Online, June 28, 2012]

CHIEF JUSTICE ROBERTS'S FOLLY (By the Editors)

In today's deeply disappointing decision on Obamacare, a majority of the Supreme Court actually got the Constitution mostly right. The Commerce Clause—the part of the Constitution that grants Congress the authority to regulate commerce among the states—does not authorize the federal government to force Americans to buy health insurance. The Court, by a 5-4 margin, refused to join all the august legal experts who insisted that of course it granted that authorization, that only yahoos and Republican partisans could possibly doubt it. It then pretended that this requirement is constitutional anyway, because it is merely an application of the taxing authority. Rarely has the maxim that the power to tax is the power to destroy been so apt, a portion of liberty being the direct object in this case.

What the Court has done is not so much to declare the mandate constitutional as to declare that it is not a mandate at all, any more than the mortgage-interest deduction in the tax code is a mandate to buy a house. Congress would almost surely have been within its constitutional powers to tax the uninsured more than the insured. Very few people doubt that it could, for example, create a tax credit for the purchase of insurance, which would have precisely that effect. But Obamacare, as written, does more than that. The law repeatedly speaks in terms of a “requirement” to buy insurance, it says that individuals “shall” buy it, and it levies a “penalty” on those who refuse. As the conservative dissent points out, these are the hallmarks of a “regulatory penalty, not a tax.”

The law as written also cuts off all federal Medicaid funds for states that decline to expand the program in the ways the lawmakers sought. A majority of the Court, including two of the liberals, found this cut-off unconstitutionally coercive on the states. The Court's solution was not to invalidate the law or the Medicaid expansion, but to rule that only the extra federal funds devoted to the expansion could be cut off. As the dissenters rightly point out, this solution rewrites the law—and arbitrarily, since Congress could have avoided the constitutional problem in many other ways.

The dissent acknowledges that if an ambiguous law can be read in a way that renders it constitutional, it should be. It distinguishes, though, between construing a law charitably and rewriting it. The latter is what Chief Justice John Roberts has done. If Roberts believes that this tactic avoids damage to the Constitution because it does not stretch the Commerce Clause to justify a mandate, he is mistaken. The Constitution does not give the Court the power to rewrite statutes, and Roberts and his colleagues have therefore done violence to it. If the law has been rendered less constitutionally obnoxious, the Court has rendered itself more so. Chief Justice Roberts cannot justly take pride in this legacy.

The Court has failed to do its duty. Conservatives should not follow its example—which is what they would do if they now gave up the fight against Obamacare. The law, as rewritten by judges, remains incompatible with the country's tradition of limited government, the future strength of our health-care system, and the nation's solvency. We are not among those who are convinced that we will be stuck with it forever if the next election goes wrong: The law is also so poorly structured that we think it may well unravel even if put fully into effect. But we would prefer not to take the risk.

It now falls to the Republicans, and especially to Mitt Romney, to make the case for the repeal of the law and for its replacement by something better than either it or the health-care policies that preceded it. Instead of trusting experts to use the federal government's purchasing power to drive efficiency throughout the health sector—the vain hope of Obamacare's Medicare-cutting board—they should replace Medicare with a new system in which individuals have incentives to get value for their dollar. Instead of having Washington establish a cartel for the insurance industry, they should give individuals tax credits and the ability to purchase insurance across state lines. Instead of further centralizing the health-care system, in short, they should give individuals more control over their insurance.

Opponents should take heart: The law remains unpopular. Let the president and his partisans ring their bells today, and let us work to make sure that they are wringing their hands come November.

[From the Daily Caller, June 28, 2012]
WHAT'S BEHIND ROBERTS' SURPRISING
DECISION?

(By Joshua Hawley)

Say this for the lead opinion in the health care case the Supreme Court handed down Thursday: nobody saw that coming. Chief Justice Roberts joins with the court's more liberal wing to uphold the Affordable Care Act . . . as a tax? The result is, to put it mildly, counterintuitive. Scribes have been busily dissecting the chief justice's doctrinal analysis from the instant the opinion went viral, but here's a different thought: doctrine may not be the key to this judgment. As Leo Strauss once made a point of telling his students, a text can be read in many different ways, and will mean different things depending on the lens with which one reads it. The text the chief justice published on Thursday may or may not make good sense read as constitutional doctrine. But read it as constitutional politics and things get more interesting.

Not politics in the way the Washington punditry means, of course. Roberts' opinion has nothing to do with helping or hurting President Obama's re-election chances this fall. The truth is, Supreme Court justices are rarely interested in that sort of thing. They

see themselves as above partisan allegiances and the grand questions of law they decide as more important than run-of-the-mill partisan disputes.

No, I mean politics in the constitutional sense, concerning the Supreme Court's role in the Constitution's structure. The danger this case held for the court from the beginning was the possibility—indeed, high likelihood—that it would draw the institution into an acute confrontation with the executive branch in the middle of an election year, and at the same time force the justices into the thick of a policy debate where they have no genuine expertise. The chief justice's opinion can be fruitfully read as a sort of maneuver, an effort to avoid these evils while simultaneously blocking the federal government's attempted power grab.

Consider: Roberts begins with the Commerce Clause question, where the Obama administration placed nearly all the weight of its argument. According to the administration, the Commerce Clause permits Congress to regulate any behavior (or non-behavior) that has some incidental effect on commerce. Roberts rejects that contention root and branch. Indeed, for the first time in the Supreme Court's modern Commerce Clause jurisprudence, he announces a clear and decisive limit to what the federal government may do with its commerce authority: it may regulate only actual economic activity, and then only if the activity has a substantial effect on interstate commerce. It may not regulate a person's choice not to enter the stream of commerce in the first place.

Had this been the sum and substance of the opinion, liberals would have bewailed it as the constitutional apocalypse they feared. But of course it is not the end; Roberts goes on to the administration's secondary argument. Yet by placing the Commerce Clause discussion where he does, by holding unequivocally that the individual mandate cannot survive on commerce grounds, Roberts makes the Commerce Clause holding necessary to the final judgment. That means the limits on the commerce authority he announced (and with which the four dissenting justices agree) will control in future cases.

This is a significant, even major, development, but one that is largely concealed by the opinion's ultimate judgment. Yet even that judgment turns out to be rather less a victory for the government than it first seems.

The key move in Roberts' opinion is his conclusion that the individual mandate is actually a sort of tax, and therefore constitutional by virtue of Congress' unquestioned power to tax. That allows the mandate to stand, yes—but effectively makes the mandate *sui generis*, and thereby denies the government a new source of regulatory power.

This is why: Roberts does not say that the government may now regulate anything it likes by calling the regulation a tax. He says this mandate can be read as a tax in these circumstances—that is, in light of the fact that it would be unconstitutional on any other ground and the court is supposed to avoid finding statutes unconstitutional if it can—and on these grounds: because it is administered by the IRS through the tax code and operates in many respects like a normal tax. Only if future regulatory schemes can meet all these criteria would they be valid under the taxing power. Yet Roberts does not give a single example of any such scheme—and we know for a fact, because they have told us repeatedly, that members of Congress would never have voted for this regulation if they had believed it was a tax.

Making the mandate a tax has at least one other effect. It makes repeal easier. Now that the mandate has been deemed taxation,

it can likely be jettisoned through use of the reconciliation process—meaning the Senate will need to muster only a bare majority for repeal, not 60 votes.

By converting the mandate to a tax, then, Roberts limits the ability of the government to do the same sort of thing in the future and underlines the political unpopularity of the law, all while allowing the law to stand. And because it does stand, the court is spared a nasty turn at center stage in the November elections.

Whether the chief justice's stratagem actually works is a different question. Suffice it to say, I have my doubts. The text and structure of the law seem overwhelmingly to indicate that the mandate is a legal requirement—namely, to buy insurance—enforced with a fine. The mandate does not qualify as a tax under the Supreme Court's settled rules for identifying taxes, and both the text of the law and those who wrote it said it was not.

But then, Roberts' aim may be less to apply tax doctrine than to shift the law's fate from the court to the voters. At the beginning of his opinion, the chief justice pointedly notes that the court "do[es] not consider whether the Act embodies sound policies. That judgment is entrusted to the Nation's elected leaders." He repeats this sentiment at the opinion's close, but with a subtle variation. "[T]he Court does not express any opinion on the wisdom of the Affordable Care Act, he writes, for "[u]nder the Constitution, that judgment is reserved to the people." Could it be that the chief justice is asking the people to render a verdict on the leaders who wrote the law in the first place? In all events, they should take him up on it.

Mr. KYL. Mr. President, I also refer people to an excellent piece in the Wall Street Journal, "A Triumph and Tragedy for the Law," by David Rivkin, Jr., and Lee Casey, both fine lawyers who frequently opine on matters of this sort.

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

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

The legislative clerk proceeded to call the roll.

Mr. MANCHIN. 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.

125TH ANNIVERSARY OF THE UNITED WAY OF
WEST VIRGINIA

Mr. MANCHIN. Mr. President, to lighten the mood a little bit today, I rise to recognize West Virginia's United Way as this special organization celebrates its 125th anniversary.

The United Way was founded in 1887 by community leaders in Denver, CO. The renowned organization originated through a group of individuals who came together with the drive to improve community conditions. Since then, the organization has grown to 1,800 community-based United Ways in 41 countries and remains the world's largest privately supported nonprofit, raising nearly \$5 billion annually.

In our little State of West Virginia, United Way has touched the lives of so many. United Way volunteers have clocked thousands of hours of community service through health services,

senior assistance programs, student tutoring, nutrition sites, job skills training, and financial literacy services.

United Way has enthusiastically embraced local institutions throughout our State. This wonderful organization has provided for at-risk teens at residential treatment centers, such as the Daymark around Kanawha Valley. It has supported comprehensive medical and health services at establishments such as the West Virginia Chapter of the Alzheimer's Association, West Virginia Health Right, Cabell Huntington Children's Hospital, Thomas Memorial Hospital, and the Putnam County Dental Health Council. United Way has supported family counseling at the Kanawha Valley Fellowship Home and at Family Counseling Connection. It has also benefited emergency assistance facilities, such as the Boone County Community Organization and Madison Baptist Church, Mountain Mission, and Nitro-St. Alban's Care and Share.

In 2011 alone, 68,337 individuals were served by United Way-supported programs in West Virginia alone. More than 13,162 children and youth benefited from the services of United Way partner agencies, and more than 26,997 people received financial assistance from a United Way partner agency. In addition, nearly 28,000 people received health-related assistance from a United Way partner agency.

I have always been an avid supporter of United Way and their community service efforts. My wife Gayle also served as chairwoman of Marion County's United Way. I applaud the organization's ability to inspire members in their communities to work together and improve all aspects of their neighborhoods.

United Way has so many laudable goals. The organization is working to promote a healthier society by working with families to develop healthy lifestyles. While Americans continue to struggle in tough economic times, United Way has worked with families to help them achieve financial stability. For example, United Way launched the Financial Stability Partnership, which aims to halve the approximately 40 million Americans who are working in low-paying jobs without basic health benefits. United Way has also targeted key areas of education, addressing problems such as the student dropout rate and preparing children for success at an early age.

United Way also has identified community health care needs and focuses efforts on changing health policies and practices for Americans of all ages. About 47 million Americans don't have health care coverage, and more than 80 percent are working families. The organization tackles tough health problems, such as health insurance coverage, along with the obesity epidemic and prescription drug abuse. These are tough issues that oftentimes have no easy solutions.

I applaud United Way and all of its staff members, its volunteers, and com-

munity leaders for their efforts to improve the quality of life in all of our communities. Today the United Way has every reason to celebrate its success as they face this impressive milestone. I once again congratulate their achievements, and I look forward to seeing what this great organization will accomplish in the next 125 years and beyond.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

PILOT'S BILL OF RIGHTS

Mr. INHOFE. Mr. President, before the Senator from West Virginia leaves, I would like to publicly thank him for all his support in something that just happened a few minutes ago; that is, passage of the Pilot's Bill of Rights.

Several—certainly Senator BEGICH—have been working hard, including Senator PRYOR and Senator MANCHIN, as well as many on the Republican side. But it is a reality now.

This is kind of a strange day for me because I have been working on two bills for 1½ years, and both will become a reality on the same day: the highway bill that everyone knows about and then the Pilot's Bill of Rights that only pilots know about.

I have been a pilot for 55 years, and I get the calls and complaints that come in. But pilots are really the only ones in our society who are denied access to justice like every other citizen has, and this corrects it. So I just want to say to my friend that I very much appreciate his support in making this a reality.

Mr. MANCHIN. Mr. President, if I may say I appreciate the leadership of my good friend from Oklahoma and his unwavering support in bringing this to all of our attention. I have been a pilot for not quite 55 years, but 45 years, and I understand completely. Senator INHOFE brought it to the attention of all of us, even the nonpilots here. His steadfast leadership in support of this action and also his ability to work across the aisle with those on our side of the aisle, Democrats, I appreciate so much.

I know Senator BOXER feels very compelled about this and the Senator's leadership in working with her on the Transportation bill and both of them bringing that to the forefront for all of us. We are all going to benefit from that.

I thank the Senator and look forward to continuing to work with him.

Mr. INHOFE. I appreciate the comments of the Senator from West Virginia.

Mr. President, I will make a couple comments and be more detailed later. I know a lot of people will want to talk about the bill that will most likely pass today in both the House and the Senate.

A lot of people are not aware of the fact that a general aviation pilot doesn't have the same access to remedies as everybody else does. What makes this a little bit more compelling

to do something about is that if you are not a pilot, you may not appreciate the fact that a lot of them are single-issue people.

I had an experience where my license was in jeopardy for something that we found out I didn't do. I thought about all these complaints I have had over the years about abusive treatment by some of the enforcement people, and I never appreciated it until it happened to me.

I know more people in the FAA who do a great job. They are very conscientious. These are career people. The problem is that every once in a while you have someone in the field with enforcement powers who just can't handle that kind of power.

I was mayor of Tulsa for several years a number of years back. We had a great police force, but every now and then you had someone on the force who couldn't handle the power. They would abuse that power, and you would have to seek them out. And that is what this is all about—you hear from these people when abuses take place.

So what we have done is we have corrected that. We have a system set up in this legislation that if someone is accused of or cited for doing something that was wrong or that might be a violation of one of the FARs, that person will now have access to the evidence that would be used against that person.

People might say: Well, wasn't that happening anyway? No, it wasn't. When this happened to me, I can remember very well—and I say to the Presiding Officer because we are very close and he knows I have been active in aviation for a long time—one year ago in October, I went to land at one of the southernmost airports in America, in South Texas, one at which I have landed more than 200 times. I know every square foot of it. It is a noncontrolled field.

When I came in—there is a thing called NOTEM, Notice to Airmen. You are supposed to and you should find out what the NOTEMs are on the runway you will be landing on so if there is work on the runway—any towers going up, construction going on—you will know that in advance. That is your obligation.

The problem is there has never been a central location where that can be found. In this case there was no NOTEM that had been published. There I go in, with the controller in the valley down there who has actually cleared me to land. Here I am, a United States Senator. It took me 4 months to get the voice recorder and I never did find out, early on, what the evidence was against me. It turned out fine, but nevertheless 4 months to get a voice recording that you were cleared to land, that is unreasonable.

I see my friend from Indiana is on the floor. I do not want to take any more time on this, but on the NOTEM situation we will have a central location for that.

The other problem we are having right now is medical certification. I

have case after case. In fact, at the AOPA, Aircraft Owners and Pilots Association—we are talking about 400,000 pilots out there—they have as their No. 1 concern the lack of consistency and uniformity in medical certification. A person could be a pilot and have a condition, could be a light heart attack or something, temporarily lose his license, then go back and have it reinstated. However, if he lives in another town, has a different doctor, that may not happen. So we have people out there who have lost their licenses. We are going to have a panel set up that is going to include the general aviation, include the medical community, and try to get uniformity. So those are three of the reforms we have in this legislation.

I yield the floor. I will be talking about that later and also talking about the upcoming highway bill. I want to remind people, my good conservative friends, people who are trying to say this is not a conservative bill—it is. The worst thing we can do is continue to operate our roadbuilding and our construction in this country on extensions. When you do an extension you lose about 30 percent of the money. Obviously, the conservative position is to do this.

We have reforms, incredible reforms, enhancement reforms. We will be talking about that during the course of the day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

ORDER OF PROCEDURE

Mr. COATS. Mr. President, can I ask what the procedure is regarding time?

The ACTING PRESIDENT pro tempore. Senators are permitted to speak for 10 minutes each.

Mr. COATS. Mr. President, I ask unanimous consent I be permitted to speak up to 20 minutes. I do not intend to take that much time, I do not think I will take that much time, but I think I will probably go over the 10-minute limit.

Mrs. BOXER. Reserving the right to object, Mr. President, and I will not object, I ask unanimous consent that I be allowed to have 20 minutes following my friend from Indiana.

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

SURFACE TRANSPORTATION

Mr. COATS. Mr. President, I rise here today to express my deep concern with this transportation conference report; in particular, about a provision that was slipped into the transportation conference report literally in the dark of night earlier this week.

This provision, which I will describe, could have a devastating effect on my State as well as the State of Illinois. The Greater Chicago metropolitan region—whether it is northwest Indiana or northeast Illinois—is a region that works together. It is part of the expanded metropolitan area. A critical part of this is a waterway, which al-

lows goods to be transferred up and down all the way to the delta and the Mississippi and all the way out to the St. Lawrence Seaway. It is the middle-west access to commerce that centers around the Chicago-northwest Indiana area.

This provision, which was slipped in without debate, without consideration—it did not appear in the Senate bill, the transportation bill, and it did not appear in the House transportation bill and therefore is a blatant violation of rule XXVIII, which simply states you cannot do this kind of thing—but it was done anyway. I will at the proper point here raise an objection to that in a procedural way.

Let me first talk, if I could, about the way in which we do business around here. Throughout my campaign in 2010 to return to the Senate, I continually heard from people as to how frustrated they were with the process by which laws are passed. We come home and people say why did you vote against that? You say I voted against that because it included this over here which was not relevant to it, and even though I liked the rest of the bill I did not like this part—or vice versa. I voted for this even though I did not like what it included because they packaged it all together and therefore there is nothing on record as to where I stand. They say to us where do you stand? We don't know whether your yes is a yes or your no is a no because it is so confusing the way you mix the whole thing together.

That is exactly what is happening here today. We have taken a transportation bill, which was adeptly led by the Senator from California and the Senator from Oklahoma, they did a marvelous job putting a transportation package together, and now it is merged with two other major provisions. So we get one vote on this. People say: I have a real problem with the student loan bill or I have a real problem with the flood insurance bill, but I wanted to vote for the transportation bill. Now I am stuck in the position of having to vote yes on the whole thing, except what I have a problem with, another bill over here, or no, even though I want parts of the other bills to pass.

Then we go home and explain this to the people we represent and they say: Why can't you guys and ladies take up one thing, vote yes or vote no, come home, defend your vote, but we at least know where you stand? Instead of this gobbledygook, throw everything in one big pot and vote your yes or vote your no. The way we package bills here, it is no wonder people are skeptical. It is no wonder our approval rating is where it is. This gobbledygook, so-called magic dust that we use around here to obscure what we stand for and stand against, is very frustrating for the American people. I can't tell you how much that has been expressed to me when I can go home and talk to them and try to explain certain votes and procedures. They say be straight up, be

transparent. Pick out something; you are either for it or against it. We will evaluate whether we want to support you or not support you in the next election on the basis of your voting, but when you cloud over the whole thing we do not know what is going on. That is one thing, packaging bills.

Second, we have a problem here, a major problem with our debt. We have known that. We spent the first 6 months of 2011 trying to come up with a long-term solution which would restructure some of our spending and put a lid on some of our spending. Finally, by August of 2011, Congress reached an agreement called the Budget Control Act which basically put caps on how much we would spend, trying to hold down this plunge into debt.

By the way, just before I came over here I checked the debt clock which I have on my Web site. The numbers of course turn faster than you can write them down because that is how fast we are plunging into more debt, but as of probably minutes or so ago, our national debt stood at \$15 trillion, nearly \$16 trillion.

None of us can comprehend what \$1 trillion is. It is impossible. There have been all kinds of examples—if you stack dollars on top of each other you can go to the Moon and back and so forth—but I think it is important that we understand the gravity of our situation in terms of our plunge into debt and what impact it is going to have on the future for this country and what a debt burden it is going to be on future generations now getting ever closer to—\$15,935,594,616,879 was what our debt was. That is 14 digits; 15,935,594,616,879.

We took a little bit of a step in August, a mini step in August, saying we are going to cap this spending so we do not spend more than that going forward. That will at least slow down the rate of plunging into debt. It does not begin to do what we need to do to address this, but it will slow it down.

What have we done since? What we have done is bring a number of bills to this floor, all of which continue to spend beyond our means. I did not vote for the Budget Control Act because I had a lot of skepticism about it. First of all, I felt it was woefully short of what we needed and, second, I believe that, having served here before and seen how this process works, I thought we are going to waive points of order time after time.

We congratulate each other by voting for spending controls. "This is an important step to dealing with our budget crisis. We have committed now not to spend more than the budget we deemed allows."

The postal reform bill violated budget rules; the student loan interest rate extension, it looks as though we have the score now, and we are going to violate agreed to levels; the Senate version that went over on the transportation bill violated budget rules; the payroll tax extension and the Violence Against Women Act—all violated what

we promised we would do. And we wonder why the American people are skeptical? We wonder why our approval rating is in the low double digits? I mean really low, almost into single digits—why people are frustrated and upset with us? Because we tell them we have made this promise to be fiscally responsible and virtually every bill we bring up here is irresponsible and we waive what we had agreed to do. We can hardly blame them for their skepticism here.

Let me talk about this middle-of-the-night stuff. Another problem you have—you go home and what you simply can't explain is the fact that, no, this was not talked about in the Senate; no, this was not talked about in the House; there was no process—yet somebody, as we tried to merge the two bills, in the dark of the night, unnamed, no process, slipped in a provision and there it is. Usually we find out about this later.

In this case we had a process. Senator COATS from Indiana worked with Senator DURBIN, a Democrat from Illinois, and worked with another Democrat, the senior Senator from Ohio, to come to an agreement on a provision that impacted our area, the Great Lakes area, in a significant way. That was part of the Senate Energy and Water Appropriations bill.

In the dark of the night, during the conference deliberations, another provision was added, not the bipartisan provision by Senators looking out for the economic interests of their State. And by the way, the economic interests of this country—because what was dropped in, in the middle of the night, is something that could potentially cost our Government and therefore cost our taxpayers hundreds of billions of dollars.

We were fortunate enough to have discovered that because bringing those bills to the floor was delayed and we had time to dig into it and all of a sudden find out that this was done. What is egregious here is that this is not a partisan issue. We all know the House is controlled by my party. I don't know who put this in. I don't know exactly the motives as to why they put this in. But here it is, a dark-of-the-night slip it into the bill and overturn something that was processed through the appropriations committee, deliberated, discussed, and voted on.

So what are the consequences of all that? What does this have to do with what I am talking about here? It sounds minuscule. We are talking about Asian carp. Why is the Senator from Indiana talking about Asian carp and hundreds and billions of dollars of costs? Let me tell you why. Asian carp is a generic term for four species of nonnative fish: grass, bighead, black, and silverhead carp. These fish were introduced to the United States in the 1970s to assist agricultural interests in the southern States.

At some point—probably through flooding—the carp escaped into the

Mississippi River system, and they have since spread throughout the whole watershed. They are voracious eaters, which make them beneficial, and we can see why they were imported. They were beneficial for controlled agricultural settings, fish farms, and so forth, but they create serious ecological challenges when competing for food with native species.

I agree wholeheartedly that the spread of Asian carp throughout the Mississippi River and potentially into the Great Lakes is a serious and pressing problem, and I am committed to addressing this, as is Senator DURBIN and Senator BROWN from Ohio. We worked out a compromise agreement in terms of how we should go forward with this.

A number of steps have already been taken by the Corps of Engineers. In 2002, the Army Corps of Engineers installed the first of a series of electric barriers along the lower reach of the Chicago area waterway system. In doing so, they believe, to date, they have successfully prevented the migration of carp into the Great Lakes.

In 2009, the Corps began DNA testing to detect Asian carp in locations upstream in the barrier system. The testing showed these barriers have been very effective—to use the Corps' words—in preventing Asian carp from entering the waterway. In fact, when the Illinois Department of Natural Resources wanted to check this out, they purposefully dumped a bunch of toxins into the Chicago waterway to discover the extent of the Asian carp infestation. Those toxins killed tens of thousands of fish, but only one Asian carp was found among them. Since that time, the Army Corps has firmly held that the electric barriers are working as designated.

Furthermore, in 2010, the Indiana Department of Natural Resources constructed barriers in the watershed. No State has gone further or gone to greater lengths to address this question than my State of Indiana, as well as the State of Illinois, in terms of preventing the introduction of Asian carp in the Great Lakes system. It is economically devastating for us if this happens and it is economically devastating for us and for Illinois if what was proposed in this bill in the dark of the night by the House of Representatives goes forward.

Currently, the Army Corps of Engineers is undergoing an extensive study. Despite all the attempts to take these steps, which so far have proven to be successful, this provision that was incorporated in there could result in the closing of the locks of this waterway system, and it would endanger about \$14 billion per year of economic activity and over 100,000 jobs in this area that I described that rely on the Chicago area waterway system.

Closing the locks also may cost up to an additional \$100 billion because it would require completely overhauling Chicago's underground water and sew-

age system. Closing the locks would also render worthless the billions of dollars that have already been invested to complete the Corps of Engineers flood control projects along the entire Mississippi watershed, and they may not even solve the problem.

While the Chicago waterway system is the only direct continuous connection between the Great Lakes system, other potential pathways could allow carp immigration in times of flooding. So while it is clear that closing the Chicago locks is not an economically viable solution for stopping Asian carp—and I do understand the concerns the Great Lakes States have on this issue and I share those concerns—as a result of all that, we worked out a bipartisan compromise solution to addressing this area. We would allow a study to go forward, allow an economic assessment of the various options that had been presented, and then give Congress the information so it can make a decision as to which solution was best needed to go forward.

What this provision does in this bill is simply give the agency responsible the authority to go ahead with the project and what they think the solution is without Congress having anything to say about it whatsoever. It is a preauthorization on a new project which could include closing of the locks, and if it does, it would have hundreds of billions of dollars of financial implications for the taxpayers and for this Congress but also have enormous negative economic impact on northwest Indiana, northeast Illinois and the entire Chicago region and all that commerce that flows up and down the Mississippi and up and down the St. Lawrence Seaway. The other problem with this is the new language also expedites the study, even though the Corps says they need more time to do so.

I guess, in conclusion, there are two things: One is the egregious procedures that continue to give the public such a negative slant on how we do business—this bundling of bills, where we are forced to vote yes or no on the whole bundling, up or down, and we can't let our yes stand for one purposeful interest or another or a no stand due to bundling; second, we need to address these midnight procedures, this issue of "slip it in there," without going through the regular process. This body of Congress, both the House and the Senate, need to return to regular process, where we bring an idea forward, it is worked through the committee, it is transparent to all who are looking at it, we give our yea or nay, and we move it through the system, rather than simply changing things in the dark of the night at the last minute, where we have no opportunity to amend it and no opportunity to address it.

As we go forward with this, I am going to object on the basis of rule XXVIII. I don't know how it will all turn out, but I hope my colleagues will understand this is more than something that just affects Indiana, Illinois,

and the Great Lakes. This is something that affects the way we do business here. If we cannot enforce these rules, we will continue to follow these practices the American people have come to absolutely hate and think they have a dysfunctional Congress. We deserve better than this. I hope my colleagues will agree with that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Before the Senator from Indiana leaves the floor, I wish for him to know I listened very carefully and I know his concern. I have spoken with Senator DURBIN about it, and I hope we can work together. I do want to say this process where sometimes bills are put together is frustrating to everybody, and we do need to take a look at the way we do things. However, I do have some measure of sympathy for the leadership around here because it takes so long to get any one piece done.

So I do agree. I don't like the fact that we cast one vote and there are three subjects. It is very difficult for the people at home to understand it. I also want to say to my friend—before I yield 3 minutes of my time to Senator SANDERS—to feel proud of the way we put together the Transportation bill. I think in that case, which is a huge policy bill, it was transparent and that what my friend complained about was something that was put in by the other body and said it is a must have.

The truth is, up to that point, everything we have done was very much in the open, and I am very sorry my friend feels so negatively toward what we are about to do because in his State it is tens of thousands of jobs and in my State it is hundreds of thousands of jobs. It is thousands of businesses. It is going to mean a boost to this economy and a boost to the private sector. I wish to say to my friend, I understand his frustration, and I will do everything I can to help him on this issue.

Mr. COATS. If the Senator would yield, I appreciate very much her saying that. I did commend, and I will again, the work the Senator from California and Senator INHOFE have done in bringing this bill forward in the right way. I know my friend is as sorry as I am that someone in the other body decided to violate the rule, injecting into all the hard work that has been done. I regret that. I hope in the future we can avoid this.

I thank the Senator for her good words.

Mrs. BOXER. I definitely share the frustration. At this time, I would like to yield 3 minutes of the remainder of my time to Senator SANDERS.

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

The Senator from Vermont.

Mr. SANDERS. Mr. President, I thank the Chair for yielding. As a member of the Transportation Committee, I would like to congratulate

Senator BOXER for her extraordinary efforts in pushing this bill forward. This is an enormously important bill that took a lot of hard work, and I commend her for the work she and her staff have done. Senator INHOFE and I have very little in common politically, but I also wish to applaud him and his staff for coming together on this issue and doing something that is extremely important and doing it in a bipartisan way.

Anyone who drives in the State of Vermont or, for that matter, drives around America, understands, to a significant degree, our infrastructure is collapsing. In Vermont, we have dozens and dozens of bridges that are in need of repair. We have many hundreds of miles of roads that need repair. Our public transit system needs help. What this bill is about is a start toward rebuilding our crumbling infrastructure, our roads, our bridges, our public transit and, in the process, putting a significant number of people back to work.

It is estimated this bill will save more than 1.8 million jobs nationwide in each of the next 3 years, and it will create 1 million new jobs through an expanded infrastructure financing program. What that means in the State of Vermont are thousands and thousands of decent-paying construction and other types of jobs, something we sorely need. So this bill is an excellent start. Does it go as far as it should? No, it does not. Compared to China, compared to Europe, our investments in infrastructure are minimal. When we invest in infrastructure, we make our country more productive, we put people back to work, and we make ourselves more internationally competitive. So I just want to say this is an important step forward, but we have more to do.

Today, we are focused on roads, bridges, public transit—very important—but that is not the entire infrastructure. We have to pick up the issue on rail. We are falling further and further behind China, Japan, and Europe in terms of high-speed rail. We have to invest in rail and there are great jobs in doing that. We have to invest in our water systems and in our wastewater plants. We have to make sure every community in America has high-quality broadband as well as cell phone service. That is what infrastructure is about. We have not invested anywhere near the degree we should, and now is the time to get started.

So this bill, which focuses on roads, on bridges, and public transit is an important step forward, and I wish to congratulate Senator BOXER and her staff, Senator INHOFE and his staff for their important work.

With that, I would yield the floor.

Mrs. BOXER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 14 minutes.

The Senator from California.

Mrs. BOXER. Mr. President, I wish to thank my friend, Senator SANDERS. He

is a very active member of the Environmental and Public Works Committee. He is focused on jobs, jobs, jobs. He has looked at the green job sector. He has looked at the effect of what we do on the construction industry. I am ever so grateful to him. He also has been a very clear voice for the way to move this country forward by having a clean energy policy, which we are definitely going to be looking at in the days and weeks ahead. We are now at the moment where we are waiting to see whether our friends on the other side of the aisle will allow us to proceed to finish our work on three issues: One is flood control, one is helping to make sure student loan interest rates do not double, and the third and biggest one involves the transportation sector.

We all know, whether we are Republicans or Democrats, our focus is on boosting this economy. This bill will do that like no other. In this Transportation bill we are talking about protecting 2 million jobs that are currently in place in this country in the construction sector and the transit sector. So these are the jobs that construction workers do on the highways, the freeways, the bridges, making sure our roads are in good shape and our bridges are not going to collapse because we have 70,000 bridges that are deficient, and we know what happens when there is a horrible failure of a bridge.

I know my ranking Member, Senator INHOFE, feels very strongly about this because he had an incident in his State where one of his constituents was actually killed by a bridge failing. We cannot sit by and allow the highway program and the transit program in this country to disappear. We have taken it up to the line.

I am very grateful to Ranking Member INHOFE. I am very grateful to Chairman MICA and to Ranking Member RAHALL for the work we have done in this conference. This is a bill that everyone can be proud of, whether they are Republican or Democrat.

CBO has scored this, and it actually returns money to the Treasury. We have support from people who don't agree on most matters. I am not only talking about Senator INHOFE and myself, who do not see eye to eye on many issues; we have come together on this. Besides that, we see the AFL-CIO and the Chamber of Commerce walking hand in hand asking us to please pass this bill. So we have a few little hold-ups now, but I am very hopeful we can work through them.

The highlights of this bill: Overall, jobs, jobs, jobs. Jobs in the private sector, businesses in the private sector. We are talking about leveraging a Federal program called TIFIA, which is going to mean, frankly, hundreds of millions of dollars that will go out the door to leverage funds at the local level as well as the private sector.

As we look at our bill, we see a reform bill. We see project deliveries

speeded up from 15 years to 8 years without giving up the health and safety laws people deserve. We have not done away with any environmental law; we have just put deadlines in the law. We have put milestones in the law, and we have stated if people have a problem, let us know the problem and get on with it. If there is anything new—a new factor—we will look at that, but we cannot sit around and wait an average of 13, 12, 14, 15 years to get a project done.

There are no riders in this bill. There are no environmental riders in this bill. I think that sends a good message to the public that we are focused on transportation. These other issues are going to be addressed, but they don't have to be addressed on this bill and become a target of a veto or a standoff between the parties.

What did we do on bike paths? We have had a lot of controversy. People are saying we did away with the money for alternative transportation routes, or bike paths, called safe routes to school, called pedestrian walkways. No, we saved the same level of funding, the same percentage of funding, but we gave more flexibility to the States with their 50-percent share so if they have another pressing need they can use it for something else. Frankly, if the grassroots people at home are not happy with the State, they can let the State know that. For the first time, the other 50 percent goes to the local people. This is very important.

We also have the RESTORE Act. This means those Gulf States that got hit so hard from the BP spill will be able to restore their areas. If they had economic damage, environmental damage, this will help. The money will come from the court settlement, and BP will then make those funds available. So it does not add a dime to the deficit.

So we have a bill that doesn't add to the deficit. We have a bill that boosts this economy. We have a bill that is supported by conservatives and liberals, progressives and moderates. I think it is a great day. I am sorry there are a few issues that got added on that are disappointing to certain colleagues. Believe me, I want to work with them to help resolve those problems. But I have to tell my colleagues, when we write a bill of this scope, of this nature, we are going to have some of these issues. We will work on them.

For my remaining time—how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

Mrs. BOXER. I wish to discuss the Supreme Court ruling. In a very fascinating ruling, the Chief Justice decided that the Affordable Care Act is constitutional. I am not going to spend a lot of time discussing why he said it and why they decided it. What I am going to talk about is what will happen if the Republicans have their way and this law is repealed.

I want the American people to know—and I say this with no animos-

ity at all—I am going to do everything I can to stop them from repealing it for a reason: The reason is the families in my State and all over the country who are getting the benefits of this law.

Governor Romney says it is going to be something he is going to do on the first day—he is going to repeal the health care law, if he gets elected, day one. Let me tell my colleagues very clearly what will happen.

There are 54 million Americans who are now getting access to free preventive services such as mammograms and immunizations, if they have private insurance. That is most of our people. They would no longer get free mammograms, free checkups—over and out. Fifty-four million Americans lose if Governor Romney and the Republicans repeal this bill—6 million of my people in California.

My seniors, over 300,000, would no longer get help with their prescription drug benefits. Now they are getting help. They will then go back to choosing between taking their prescription drugs or eating dinner. I am sorry, I am going to stand in the way, if I can.

Under Medicare, millions of seniors would lose access to free preventive services. Thirty-two million Medicare patients get these services for free, including cancer screenings and flu shots. Why on Earth would somebody or some party want to get up and say: I am repealing that?

There are 105 million Americans who will once again face lifetime limits on their health insurance plans. If someone is diagnosed with cancer and they look at their plan, it says they are covered up to \$250,000. That sounds like a lot of money. I can tell my colleagues now, that is not a lot of money for someone who is battling cancer. Now, suddenly, in a person's worst moments, when they are facing radiation and chemo, they have hit up against their lifetime limit. That will be gone.

More than 6 million young adults, including 300,000 in my State, would lose their health insurance because now they have a guarantee. Because of the health care bill, they can stay on their parents' coverage until they are 26. Why would anyone want to repeal that? Ask them. They do.

Insurance companies would no longer owe rebates to customers if those insurance companies spent too much on premiums and paid the CEOs exorbitant bonuses and paid hardly anything to help people with their health care. We are going to see 12 million Americans get back \$1 billion in rebate checks in August. They will stop that. They want to stop that.

How about millions of children who are now getting coverage because they have a preexisting condition. Before this law, they couldn't. So if a child was born with a heart defect, even if it was something that could be controlled, they couldn't get insurance. We pity those families. I have had reports of people in my State crying tears of joy when the Supreme Court

acted because they could not get insurance because the woman—this particular one—had a preexisting condition, and now she can get insurance.

Because of the work of Senator SANDERS—and I helped him with it—we have community health care centers across the country getting funding. So if a person has no insurance—or even if they have insurance—they can go to a community health center and, based on their ability to pay, get health care. That would be repealed.

School-based health centers would be repealed. Training of our health care workers would be repealed.

I will tell my colleagues, that is just what the benefits are today. In 2014, there will be a slew of new benefits. This bill, while not perfect—and we can fix the problems—is a good bill.

Just remember that everyone in our country gets health care, but the difference is some of them walk into an emergency room having paid nothing for a premium, even if they are wealthy, and they expect us to pay the bill in the emergency room. With the approach that Massachusetts Governor Romney took, he said if a person is responsible and can afford it, that person has to buy a minimal health insurance plan. President Obama got the idea from Governor Romney. I call it a personal responsibility premium. Some people call it a tax. Some people call it a fee. I call it a personal responsibility premium because most of the people I represent buy health care coverage, and a few just say: You know what. I feel terrific. I will wait until something bad happens to me and then I will go to the emergency room. And they can all pay.

That is what we have. We have the people who are responsible paying for the free riders. The idea that President Obama got was from then-Governor Romney.

So this is going to be a long election season, and there are going to be a lot of battles over health care.

I hope we will pass the bill that is in front of us and take care of the construction sector and transportation. I hope we will take care of flood insurance and student loan interest rates. We can do that with one vote on a bill shortly, if we get permission to move forward. If we don't, we will be here all weekend or whatever it takes to get it done. I am not going to go home until this is done.

I will also tell my colleagues—as we look at this health care battle, the lines are pretty clear. There are millions and millions of Americans who are getting benefits today. Why would anyone want to take away those benefits? Yet that is where we are in the debate. So I hope cooler heads will prevail.

Let's get on with bringing this economy back. Let's allow this bill—with a few corrections because we can always fix things that don't work—go forward. Let's stop the heated name calling. Let's make sure we work together, just

as we did on the Transportation bill. I believe this is a good moment for this Senate today. I hope we can get our work done, and then we can actually celebrate something before we start battling over health care.

Let's celebrate and say to the construction sector: We need you to rebuild those broken roads, those broken bridges. We need you to make sure we get those transit systems up and running. Then, I honestly believe, the rest of these problems we will take up one at a time.

Thank you very much, Mr. President. I yield the floor.

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

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

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

HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS BRAD THOMAS, LIEUTENANT RYAN DAVIS RAWL, AND SERGEANT JOHN "J.D." DAVID MEADOR, II

Mr. GRAHAM. Mr. President, I rise to pay tribute to three fallen National Guard members from South Carolina who were killed in Afghanistan on June 20, 2012, in Khost Province. They were members of the 133rd Military Police Company who were serving on this duty. There are now 16 members of the South Carolina National Guard who have died in combat in Iraq and Afghanistan since 2003.

With the July 4 weekend coming up, we are preceding one of our biggest holidays in America, and people rightfully will take some time off. I hope, to enjoy their families and friends and get away from work and have some family time. It marks a special event in our Nation's history: The founding of our Nation through a declaration of independence that was not just words but resulted in men and women fighting to achieve our independence.

Here we are a couple hundred years later and we are still fighting. My belief is, as to the radical Islamists who would kill us all if they could, it is better to fight them over there so we do not have to fight them here.

Afghanistan was the place the Taliban took over after the Russians left and invited al-Qaida into the country, with bin Laden as their honored guest. He had sanctuary there and was able to plan the attacks of 9/11 from sanctuary provided to him in Afghanistan.

Our goal is to never let Afghanistan become a sanctuary for al-Qaida or other terrorist groups. Thus, we are in a long struggle. It has been 10 years. It has been hard, but we are making progress. The Afghan Army is getting better and stronger. The police are getting more proficient at their job. We are going to be winding the war down in 2014. But I think we can do it in a fashion to make sure Afghanistan remains stable and our national security interests are protected.

But to make all those things possible—the weekend we are going to enjoy, and the holiday season, and denying terrorists safe havens—some of us have to leave our families and go off and fight this war.

SFC Brad Thomas of Easley, SC, was killed in an attack on June 20. He was a graduate of Travelers Rest High School and attended Greenville Technical College. He was a member of the 133rd Military Police Company of the South Carolina Army National Guard.

He is survived by his wife Jana and a son Cayden, a brother and two sisters. I know the family is devastated. You are in our prayers, and God bless you and give you the healing and understanding during this tough time.

To SFC Brad Thomas, you died in the service of your country, and you will be missed.

LT Ryan Davis Rawl of Lexington, SC, was killed in the same attack. He was a first lieutenant in the 133rd MP Company. He graduated from Lexington High School. He was a graduate of the Citadel. He is survived by his wife Katherine and their daughter Callie and their son Caleb.

I just want to acknowledge to Katherine, who interned in our office, that you are certainly in our prayers. You did a great job for us, and anything we can do for any of these families in South Carolina, we will. We very much pray for you and your family.

Sgt John "J.D." David Meador, II, graduated from Lexington High School. He was a member of the wrestling team and was a wrestling coach. He was a member of the same MP Company. He is survived by his wife Christy and three daughters: Olivia, Brianna, and Elana. To Christy and her family, you will be in our prayers.

This will be a tough weekend in South Carolina. We are going to have three funerals.

To General Livingston and the National Guard family, you are certainly in our prayers. This is a tough blow for an MP company to have three people killed in one attack. So to all the members of that company, we will do our best to take care of your families while you are gone.

We have had a big argument about health care and about transportation, and that is great—democracy in action. What is the right decision for the Court to have made in the health care case? Is this a good transportation bill? I appreciate in a bipartisan fashion trying to find a solution.

But I just wanted to take a few minutes before going to the holiday weekend and remind us of one thing we do have in common: Our freedom depends on people willing to fight for it, and the one thing about this war—whether you agree with the war in Afghanistan or not—virtually every American, regardless of political persuasion, has shown an appreciation for the troops and their families. I cannot thank Members of Congress enough for never losing sight. No matter how they feel

about this war, we all appreciate those who fight it, and we all suffer and mourn for those who lose their lives in this cause.

I believe this is a just cause. I believe these men who joined the military voluntarily and left their families to go to Afghanistan were doing so in the most noble tradition of the country—that they were trying to make our families safer, my family safer, and they died in the service of their country. And that is a life well lived. They died far too soon. They left behind young children, but they will never be forgotten.

May God grant them eternal rest and peace. May God bless and provide understanding and healing to the families left behind. And may, as Americans, we never forget that our freedom is dependent upon a few of us being willing to go to faraway places, with strange sounding names, and risk never coming back.

Mr. MCCAIN. Mr. President, if the Senator will yield, first of all, I thank the Senator for his eloquent statement on behalf of those who have served and sacrificed.

Since we will all be spread around at different places over the Fourth of July and celebrating our independence, I think those are very appropriate and moving words.

I am reminded of the saying at the battlefield, written:

They shall grow not old, as we that are left grow old:

Age shall not weary them, nor the years condemn.

At the going down of the sun and in the morning

We will remember them.

Mr. President, I ask unanimous consent for a brief colloquy with the Senator from South Carolina.

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

SEQUESTRATION

Mr. MCCAIN. Mr. President, we are also facing another crisis as far as the military is concerned; that is, the looming prospect of sequestration. The Secretary of Defense has stated that sequestration would have a "devastating impact" on our national security. We are talking about layoffs, and some estimates are of as many as 1 million workers in the defense industry. We are looking at unknown effects of the strategic thinking that goes on as we plan to defend our Nation's security—for example, our shift in emphasis from Europe to Asia Pacific, which requires significant air and naval assets amongst other things.

I would ask my colleague—I am not sure the American people are fully aware of the effects of something that is supposed to take effect, as I understand it, at the beginning of the next fiscal year, which would be the beginning of October 2012. Is that a correct statement, I would ask my colleague?

Mr. GRAHAM. Yes, it is.

Mr. MCCAIN. So we are asking the Defense Department to plan on what

our force structure will be, what our mission will be, what our capabilities will be, beginning the first of October, and all I can see so far is total gridlock on this issue.

Now, if somebody wants to say it is our fault because we refused to “raise revenues” or because of the other side’s insistence on that and a resistance to spending cuts, I say to my colleague, I do not think people understand we still live in a very dangerous world. The Senator just talked about those who have already sacrificed. Don’t we owe it to them and their families to stop something that all of us agree would have a catastrophic impact on our ability to defend this Nation?

Isn’t it true—would the Senator agree—that it is time we sat down and started having serious negotiations, because there is no greater responsibility the Congress and the people’s representatives have than to defend the security of this Nation?

I know the Senator from South Carolina—before I ask him to answer—traveled around his State, which I intend to do, to the various military installations and talked about what would happen with this sequestration. We are talking about a very limited period of time. We are about to go out of session. We will be in during the month of July—most of the month of July—and probably the month of September. End of story.

Mr. KYL. Mr. President, might I ask my colleague to yield, if I could add one other question to his very important question for my colleague from South Carolina.

I have a recollection that during one of the hearings the Senator from South Carolina specifically asked the Secretary of Defense what the consequence would be, and I recall he had a very dramatic response. I wonder if the Senator might share that with us as well.

Mr. MCCAIN. Mr. President, I ask unanimous consent that Senator KYL be included in the colloquy.

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

Mr. GRAHAM. Well, one, I hope my colleagues will stay around for a minute or two because this is an important topic to be talking about.

Let me put this in the perspective of what we are trying to do and what we are trying to avoid. We are about \$16 trillion in debt. There is probably no stronger defense supporters in the Congress than JON KYL and JOHN MCCAIN.

The Senator just spoke of war. JOHN MCCAIN has seen his fair share of war. I think he understands as well as anybody in this body—probably better than most—what happens in war. People get hurt and people get killed and anybody who has been in the military is no fan of war. But the goal sometimes is to make sure those who are asked to fight a particular war can fight it quickly, overwhelmingly, win, and come home.

What we are doing is trying to get out of debt. The three of us are pretty

big defense hawks, but we have all agreed the Pentagon has to reduce their spending too. I think all of us—particularly Senator MCCAIN—believe there is a lot of waste in the Pentagon and that we could achieve \$50 billion in savings over the next decade by reforming the way the Pentagon does business and, quite frankly, do more with less. So count us all in—the three of us—for reducing defense spending to help get us out of debt.

But here is what has us all upset. The supercommittee that was formed by the Budget Control Act had a mission of cutting \$1.2 trillion over a decade to help get us out of debt. That is a pretty small number given what we are going to spend over the next 10 years. But the committee—Republicans and Democrats—could not find common ground as to how to cut \$1.2 trillion over the next decade. There was a penalty provision in the law, and it said that in the event the supercommittee failed, we would cut \$1.2 trillion over the next decade as follows: \$600 billion out of the Defense Department, \$600 billion out of the rest of the government.

If that penalty kicks in, then we will have cut \$1 trillion out of the Defense Department over the next decade, blindly, across the board. Every account gets affected.

What did Secretary Panetta say? He said: Sign me up for \$450 billion. I think we can get there. We will lose some capability, but we will be OK as a nation. We could fight Iran and win if we had to.

Then I asked him: What if we did \$1 trillion over the next decade—if we overdoubled what you are trying to cut? He said: We would be shooting ourselves in the head as a nation. We would not have the ability to go in and take out the nuclear program in Iran because the weapons we need we could not maintain and afford.

When it comes to personnel costs, we are reducing the Army by 80,000 people under the \$450 billion plan. If we do sequestration on top of that, I say to Senator MCCAIN, we are taking another 100,000 people out of the Army. Under sequestration, the Navy would be down to a little over 200 ships. We would have the smallest Navy since 1915, the smallest Air Force in the history of the country, and the Army would go back to 1940 levels.

To my colleagues, do you believe the world has gotten that much safer that we do not need a Navy bigger than in 1915, given the threats we are facing from Iran, China, North Korea? Do you think now is a good time for the country to basically disarm, given the threats we face from radical terrorism throughout the whole globe?

So here is what we are going to do, and our congressional leaders need to be on notice. About 1 million people would lose their jobs if we put these cuts in place, and we would destroy the defense industrial base that provides good jobs to the economy and keeps us free and safe by giving our people technology better than the enemy has.

Three National Guardsmen were killed in June in Afghanistan. We have improved the National Guard. But when we first started this war, National Guard units were leaving to go to the fight with inferior equipment. They did not have armor. So if we do sequestration on top of what we are already trying to cut in the Defense Department, we will destroy the finest military in the history of the world at a time we need it the most.

This is a body known for doing some pretty dumb things. This would be the prize. So what Senators MCCAIN, KYL, and myself are trying to do is avoid sequestration before the first of the year so our defense people can plan. If we do not set this aside before the election, that is political malpractice. I thank Senator MCCAIN and Senator KYL for their leadership.

Mr. MCCAIN. I wish to add—I note the presence of the Senator from New Hampshire who has also played a very key leadership role, including working with the mayors of every city in America, who have issued a resolution about their concern about this issue.

I wish also to state to my friends and colleagues that I know the chairman of the Armed Services Committee, whom I have had the opportunity of working with for 25 years, the Senator from Michigan, also shares our concern.

I hope we could at least get some of us together who have been involved with these issues of national security for so many years on both sides of the aisle, that we could reach some kind of an agreement. We know additional sacrifices have to be made when we are facing a \$16 trillion deficit. But to take the overwhelming majority—well over 50 percent of these reductions—out of what is about, I believe, 12 percent of our spending is obviously not appropriate.

One other point. If the President of the United States shares the concern that the Secretary of Defense shares—catastrophic, impossible to plan on, so draconian that it would cripple our ability to defend this Nation; all of those are statements which the Secretary of Defense has made—I would argue that it would be appropriate, and I would sincerely ask that perhaps the President of the United States also be involved and members of his administration or charter members of the administration to sit down with us to see how we could resolve this.

So far the executive branch has not been involved in these efforts, with the exception of the Secretary of Defense, who has told us in the most graphic terms the devastating consequences. Again, I want to point out to my colleagues: You have to plan, especially in national defense, what weapons you are going to procure, the number of people you are going to maintain in the military, what those missions are going to be.

All of those right now, if held in abeyance in the Pentagon as far as planning is concerned, cannot have a

great deal of validity if we are staring at sequestration and these draconian reductions.

Mr. GRAHAM. Would the Senator yield?

Mr. McCAIN. Yes. And I know our most eloquent member has arrived on the floor, not to mention other attributes we are lacking.

Mr. GRAHAM. I would like all three Senators to comment on this proposition. You have just challenged the President, who is the Commander in Chief, by the way, to fix the problem that your Secretary of Defense has said would be most devastating to our ability to defend ourselves. He said it would be catastrophic, it would be draconian, there is no way to plan for it, we would be shooting ourselves in the head. Mr. President, you are the Commander in Chief. When your Secretary of Defense and every general under your command is telling you and the Congress, you need to fix this before it gets out of hand, why are you not asking us, as Republicans and Democrats, to answer the call of the Secretary of Defense? You are the Commander in Chief, my friend. It is your job to make sure our military has what it needs to go fight wars that we send them to fight and protect our Nation.

But that is not enough. It is also our job as Members of Congress to take care of those who serve. So to our Republican and Democratic leader: Why do you not convene a group of Senators? And to our leaders in the House: Why do you not get a group of House Members, and ask us to come up with a plan to do at least one thing, avoid the consequence of sequestration for 1 year in 2013, to take the monkey off their back?

I am willing to meet our Democratic friends in the middle to find a way to offset the \$110 billion in defense and nondefense spending. But to our leaders and to the President, if you think the rest of us are going to sit on the sideline and let this matter be taken up in lameduck when it becomes a nightmare for the country, you can forget it. So we are challenging our leaders and the President to get a group together to fix this.

I ask Senator McCAIN, do you think that is a good idea?

Mr. McCAIN. I know it is the only way we are going to solve this. I ask unanimous consent that the Senator from New Hampshire be included. I know the Senator from Tennessee, our friend Senator CORKER, is waiting. But I think my friend from South Carolina, as usual, has stated the problem and a solution here. The problem is, we face a devastating impact on our national security. The solution is for our leaders and the President—if possible—to convene a group of Senators, whether it includes us or not is immaterial, on both sides of the aisle, on both sides of the Capitol, to sit down and work this out so we can avoid the sequester.

I will take responsibility for sequester if that is what is necessary. But I

also say that without concrete, significant, and meaningful action to cause this sequester to be prevented, we are risking the lives of our young men and women who are serving in the military. I do not know of a greater responsibility that we have.

I ask the Senator from New Hampshire if she agrees.

The PRESIDING OFFICER (Mr. BLUMENTHAL.) The Senator from New Hampshire is recognized.

Ms. AYOTTE. I join with my colleagues over the concern, deep concern that keeps me up at night about sequestration, because we cannot do this to our national security. Both sides of the aisle have to come together. We need leadership from our Commander in Chief on this issue.

To put it in perspective, I asked the Assistant Commandant of the Marine Corps what the impact of sequestration would be on the Marines. Do you know what he told me? That the Marine Corps of the United States of America would be unable to respond to one major contingency. Talk about putting our country at risk and putting ourselves in a situation where unfortunately there are still so many risks around the world that our country needs to be protected from. To think that our Marine Corps would not be able to respond to one major contingency. It is outrageous. It cries for bipartisan leadership on this issue, particularly leadership from our Commander in Chief.

To put it in perspective, it is not just an issue of our national security. You would think that would be enough to bring people to the table. But we are talking about jobs across this country. The National Association of Manufacturers has estimated it would be nearly 1 million jobs; George Mason University, the same.

To my colleagues, looking around here, polling some States in terms of the estimate of job losses: 24,000 for Alabama. When we look at a State like Missouri, 31,000, when we look at a State, for example, like Florida, 39,000 for Florida. This is an issue that will hit every State in this Nation.

But, most importantly, what I am concerned about is it is going to hit our military in a way that we break faith with our troops. In fact, General Odienero of our Army has said he would have to cut an additional 100,000 troops from our Army on top of the reductions we are making right now, approximately 72,000, and 50 percent of it would have to come from the Guard and Reserve.

You think about the important function not only of protecting our country, we could not have fought in Afghanistan or Iraq without our Guard and Reserve. I am the proud wife of someone who served in the Iraq war. I can tell you, it is not only the function that our Guard and Reserve play in terms of protecting us overseas, but they also perform a very important homeland function. Every Governor in

this country will be deeply concerned if we are going to diminish our Guard and Reserve. So this is an issue that cries out for leadership from both sides of the aisle. I look forward to working with my colleagues on this now. It cannot wait until a lameduck session. We cannot put our national security in the balance, and nearly 1 million jobs at issue, to a lameduck session. This is something we should resolve right now.

I appreciate that my colleagues have come to the floor to talk about this issue today. We must get this done on behalf of the American people and our men and women in uniform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I think Senator CORKER from Tennessee was on the floor before me. I do not know if we are going back and forth or how long he expects to speak. I wish to yield to him to see what his plans are.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the Senator from Illinois. I am going to speak for about 2½ to 3 minutes if that is okay.

Mr. DURBIN. I would be happy to yield to the Senator from Tennessee. I ask unanimous consent that I follow him.

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

BUDGET CONTROL ACT

Mr. CORKER. Mr. President, I appreciate the comments of my friends from New Hampshire and Arizona and South Carolina regarding the sequestration. I will say the reason we are in this sequestration mode is that six Republicans and six Democrats could not figure out a way, over a 10-year period, to cut \$1.2 trillion in spending out of \$45 trillion that is going to be spent by the Federal Government during that period of time. So I do hope there is a way to resolve that. But I am here to speak about something related, but in some ways very different.

Today we are getting ready to vote on some legislation dealing with flood insurance, dealing with student lending, dealing with highways. And these are all very popular programs.

What people who are listening, who may be paying attention to what the Senate is doing today, what they may not know is that for the third time, in a bipartisan way, this body is getting ready to spend more money than was deemed by the budget that was ultimately created by the Budget Control Act last year when the country almost shut down trying to save a mere \$900 billion over the next 10 years. So a vote today for this piece of legislation is basically a vote to say the Senate cannot be entrusted to carry out what it laid out last August to keep us from spending money we do not have. I know there are going to be some budget points of order that will be brought forth at some point later today.

I want to say as one Senator from Tennessee, it continues to be unbelievable to me that this body does not have the courage, does not have the will, does not have the discipline to even live within a very modest budget that was laid out last August. Today I am certain we are going to pass legislation that spends billions of dollars more than we agreed to in the Budget Control Act and especially the deemed budget that came after that, the deemed budget that was put in place as a result of what we passed last August.

I would say all those who vote for this today are basically saying we do not have the discipline to live within our means. The problems our Nation faces fiscally are only going to get worse. I think this is a very sad day for our country if that, in fact, is what happens within the next 2 or 3 hours on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

SEQUESTRATION

Mr. DURBIN. Mr. President, I thank the Senator from Tennessee for his comments. I share his concern about our deficit. I was a member of the Simpson-Bowles Commission, voted for the commission report, bipartisan effort to reduce the deficit by \$4½ trillion over 10 years. I think we set in place a description, maybe a guidepost for how we can do this.

I would agree with him that we need to take care in the money that we spend now which will add to the deficit, though I have to say my understanding is this transportation bill is paid for. There are revenue sources that are part of this. I know the student loan continued decrease in interest rates to 3.4 percent for student loans is paid for. I believe the changes within the Flood Insurance Program, which is part of this package as well, the Republican leader spoke to that this morning, reforms in that program will move it closer to sustainability and solvency. It is not where it needs to be, but it is moving closer.

But I want to address, if I can, for a minute what has been a topic on the floor this morning about the planned cuts in the Department of Defense. Let me say at the outset what we all agree upon. No. 1, we never, ever want to shortchange America's security, never shortchange our men and women in uniform.

A nephew of mine who serves as a doorman in the gallery recently returned from 1 year in Afghanistan. We were sending packages and were worried about Michael every day. He got home safely. That is happening over and over across America. I wanted my nephew to have all he needed to come home safely. I think everybody feels the same when it comes to the Department of Defense.

Let's step back and look at this deficit debate. Allow me to put it into perspective for a moment. The last time we balanced the Federal budget was

not in the 19th century, it was about 11 years ago. It was a time when William Jefferson Clinton was President, and for 3 years we had a balanced budget under a Democratic President—3 years.

When we reach a balanced budget, if you said, "What do you have in terms of spending and revenue?"—they are the same—here is what we found: Revenue and spending both equaled 19.5 percent of America's gross domestic product. The gross domestic product is the sum total of the goods and services produced in America every year. It changes and grows. The last year we were in balance, taxes equaled 19.5 percent of our GDP and Federal spending equaled 19.5 percent. We had a balanced budget.

Now we are in deep water. We saw the accumulated debt of the United States more than double under President George W. Bush, and it continues to grow, because of the recession, under this President. Our annual deficits are over \$1 trillion and are unsustainable. We borrow 40 cents for every dollar we spend, whether we are buying military equipment or paying for food stamps. That is unsustainable.

But now that we know there was a time when we were in balance, it is fair to say: What happened to spending since this budget was in balance? If you do it in constant dollars so there is no monkeying around with numbers, here is what happened since we were last in balance in our budget: Domestic discretionary spending equals student loans, medical research, transportation—all of the different things that don't fit into the Department of Defense. The spending in those areas since we were last in balance has been flat, with no increase.

What about spending for entitlement programs—Medicare, Medicaid, programs such as those—and veterans' care? What has happened to that since we were last in balance? Since we were last in balance, the spending on entitlement programs has gone up 30 percent. Why? The baby boomers have arrived; 10,000 people a day reach the age of 65. They paid into Social Security and Medicare their whole life, and they show up now and say: It is our turn. Because of that, entitlement spending has gone up.

Let's look at the third part of the budget, which was addressed by my Republican colleague this morning—defense spending. What has happened to defense spending since the budget was in balance? Domestic discretionary flat; entitlements 30 percent. As of this year's budget, defense spending will have risen 73 percent since the budget was last in balance.

We created a supercommittee, and Senator KERRY of Massachusetts, who is here, was a member. They said: Let's find ways to reduce the deficit by \$1.2 trillion over 10 years. They tried. I am sure Senator KERRY will speak to that effort. At the end of the day, they could not reach a bipartisan agreement on how it would be done. The law we

passed said: If you cannot reach agreement, we are going to do it automatically. We are going to take \$500 billion out of defense and \$500 billion out of nondefense spending. That is what this is about. People are coming to the floor and saying that we cannot take another \$500 billion out of defense spending.

I will tell you that I think that is a lot to be taken out in light of what we have already anticipated we are going to reduce in spending. I think it will cause some serious problems. But I reject the notion that that \$500 billion, if it is taken out of domestic discretionary, won't have equally horrible results.

So I say to my friends on the other side of the aisle, when you had a chance in the supercommittee to deal with spending cuts of a lesser amount or deal with revenue, closing tax loopholes, you walked away from it. Now you are complaining that we may end up cutting defense spending.

Incidentally, if the sequestration number went through—the additional \$500 billion in cuts over the next 10 years—it would bring the amount of money we spend on defense to the same percentage of the GDP as it was when the budget was in balance.

So my friends who are speaking for national defense, I join you, but I also speak for investments in America when it comes to education, innovation, and infrastructure. That will help our economy grow. And sequestration on the domestic side is unacceptable, from this Senator's point of view, as well.

We clearly need to get beyond this and talk about an honest answer to reducing the deficit. An honest answer, going back to Simpson-Bowles, puts everything on the table—everything. To my friends on the other side, I say that it puts revenue on the table, and it must. It puts entitlement programs and spending cuts on the table, and it must. That is the only honest way to address this issue. To pick it off and say that we are going to take the one area that has grown in spending by 73 percent and ignore it and then have them say that we don't touch revenue leaves two possibilities: If we are going to do anything about the deficit—deeper cuts in programs such as student loans, medical research, or cuts in Medicare—that is what it comes down to. They are hard choices, right? I think the Bowles-Simpson approach of putting everything on the table is the right approach.

I urge my colleagues on both sides to take this pain that we are facing December 31 and turn it into an opportunity to work on a bipartisan basis to reduce this deficit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

SURFACE TRANSPORTATION

Mr. LEE. Mr. President, I stand to raise a concern I have regarding the conference committee report to accompany H.R. 4348.

Pursuant to paragraph 9 of rule XXVIII of the Standing Rules of the Senate, we are supposed to have adequate notice of a report like this before we have the opportunity to vote on it. The rule states:

It shall not be in order to vote on the adoption of a report of a committee of conference unless such report has been available to Members and to the general public for at least 48 hours before such vote.

The current version of the committee report was filed, as I understand it, at 8:07 p.m. last night. It is not even close to the 48 hours required notice.

What we have, ultimately, when we look at this, is the fact that we have a highway bill that was sent to conference, but it came back from closed-door negotiations with a student loan bill and also with a flood insurance bill attached to it. We were neither given the chance to debate nor to amend these provisions before they came to the floor. Now we are approaching a vote on that.

We did not provide our fellow Senators or the American people with an adequate opportunity to read the 596-page conference report, which is required by our very own rule. This is somewhat reminiscent of a statement made a few years ago by then-Speaker of the House NANCY PELOSI when, speaking to Members of her body regarding the passage of the Affordable Care Act, she said:

We have to pass the bill so that you can find out what's in it.

This is one of the problems we have in Washington of which the American people are becoming increasingly aware. It is a problem that I think we need to address. Time and again, we have a problem in which the Senate waits until the day before a holiday or the day before a scheduled in-state work period before bringing something to the floor for a vote—without following the Senate's own rules, which are designed to promote and protect the openness and transparency of the legislative process. This is a troubling trend and one we should seek to avoid whenever and wherever possible.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Mr. President, currently Congress has about a 10-percent approval rating. One of the reasons is that we don't even obey our own rules.

For goodness' sakes, this is a 600-page bill. I got it this morning. Not one Member of the Senate will read this bill before we vote on it. We are going to vote on this in the next 30 minutes. I, Senator LEE, and others will object to this. We will have a point of order that our own rule says it has to be posted online for 48 hours. It is 600 pages, and nobody will read it. No wonder our approval rating is 10 percent. Nobody knows what we are voting on. In fact, provisions were stuck in this bill last night that have nothing to do with any of these bills. They have been stuck in and we are just now discovering it. I passed two Senators in the

hall who are trying to get something out of this bill that affects their States, which they found out about just minutes ago. Nobody would have known about it if they had not found out about it.

There are three bills in question here: transportation, student loans—on the student loan bill, originally we had loans at 6 percent, and it was somehow bringing in money to the Treasury. We were using that money to pay for ObamaCare. Now it is at 3 percent, and that money is gone. Where is the money to pay for ObamaCare? We have a shell game up here. We say one thing will pay for it, and now this will pay for it—the money disappears.

Now they are saying they are going to pay for this by taking money out of pensions. Raise your hand if you think it is a good idea to underfund pensions more. Over half of the pensions in this country are technically insolvent because they don't have enough money to pay for them. Is it a good idea to have less money go into workers' pensions to pay for a student loan program?

I have a bill in Congress that says we should read the bill before we pass it. We should wait 1 day for each 20 pages, to be given time to read 600-page bills. At the very least, we ought to adhere to our own rules. They say it should be posted online at least 48 hours. Forty-eight hours is still a challenge to find out everything in here. Do you know how long the Federal Register is—55,000 pages, which is added to annually. When you read this, you have to refer to the Federal Register, which is hundreds of thousands of pages, to find out what they stuck in this bill in the dead of night. This isn't the way we should operate.

The American people want to know why do we say the government is not going to do something for 3 days. What were they doing the previous 3 months?

The other side hasn't produced a budget in 3 years. That is against the rules. The rules of the Senate say you must produce a budget, and they didn't do it for 3 years. When we presented them with a budget that we wrote for them, nobody voted for it, and zero on the other side voted for their own President's budget.

How are we going to compromise if they are not showing up for work? How are we going to get anything done if they don't obey their own rules?

I will raise a point of order in the next hour that says that we have broken the rules of the Senate, and I will ask them to vote on it. I fully expect that the Parliamentary will rule in our favor. We will see. The other side will simply close their eyes to the rules, and they won't care what the Parliamentary says, and they will overturn this by saying: We are the majority, and we deem it so. We are the majority, and we don't care what is in the bill or to take time to read the bill; we just deem it so.

I think this is why the American people are unhappy with what is going on

here. I object strenuously. I will vote against this, and I will raise a point of order that says we should read the bill before we pass it.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator PAUL for raising these issues. We are mismanaging the American people's money. It is good to see Senator LEE, who just spoke, and Senator PAUL, both new Members of the Senate, who have been out talking to the American people and made commitments that they are going to work to try to improve the process here. I celebrate their activity, their vigor, and their determination, and a lot of others feel the same way in our body.

Shortly we will be moving a cobbled-together bill. An attempt will be made to accomplish this. I expect budget points of order and another point of order to be raised.

I want to share some thoughts about how it is we do business and some of the efforts that are not legitimate as we go about our business and are dangerous to the financial health of America.

Let's take what we call the LUST fund. I know it is an odd name. The true name of it is the leaking underground storage tank fund. People who have them have to pay fees, and it goes into a fund. The idea of the fund is to be available when cleanups need to be done. When the company or other companies have gone bankrupt and there is no money, this fund will pay to clean up the waste. Maybe it makes sense. It has been operating for quite a number of years. It has run up a surplus. That surplus is in the LUST trust fund—leaking underground storage tank fund—and where does it go? What do you do with that money?

The Treasury of the United States is spending more money every year than it takes in. This year we will spend approximately \$3.7 trillion. We take in about \$2.4 trillion, and we have a \$1,300 billion deficit. That is how much we are spending. We spend around \$3.7 trillion and are taking in about \$2.4 trillion, and we have about a \$1.3 trillion deficit this year—the fourth consecutive year that we have had almost a \$1,000 billion deficit. We will have a big one again next year because we are systematically overspending.

But let's look at this fund—it has some real money in it, a number of billions of dollars—and what happens to it. Well, when the government spends more money than it takes in, it takes the money from the LUST fund. Well, how does it get it? It borrows it. So there is actually a debt instrument from the United States Treasury to the trustees or the holders or managers of the LUST trust fund, and they have loaned the money. They do not need it today, so they loan it to the government so they can spend it. And it has been borrowed and has been spent.

The assets in the LUST fund are nothing more than debt instruments

from the U.S. Treasury. But on the books, it appears this LUST fund has assets. I guess in a sense it does. It has U.S. Treasury notes. So the people looking around to spend money and to try to meet the demands of our constituents—to build highways in this case—decided they could take that money.

And you know something, it does not score as an expenditure in that fashion. It is an odd way this is done. It is seen as found money that they can go over and spend. But where does the money come from? The money is not in the fund, remember? The fund holds Treasury bills. But the highway trust fund doesn't want Treasury bills, it wants money that can be spent. So what happens is the U.S. Treasury, which has been borrowing money from another government agency and giving a debt instrument in return, has to come up with the money now. It is going to be spent. It is going to be taken out of the trust fund. So where do they get the money? They convert an internal debt to an external debt.

The only thing they will do is borrow more money. So it will be this many billions of dollars more than \$1.2 trillion or \$1.3 trillion that we have. The debt is converted to a public debt, and somebody in China or in Japan or in New York will loan money to the government and they will use that money to pay the highway trust fund with it.

You see how circular that is? It allows the money to be double counted. And that is actually what happened with President Obama's health care bill. That \$400 billion was funded this way. Social Security still has a surplus. Although it has been drawn down, it still has a surplus in its account—or Medicare does. So the Medicare trustees raise Medicare taxes, they cut Medicare benefits, and they save \$400 billion. And that would be money of the Medicare and the trustees. It is their money. But what happened with it? Under the conventions of accounting, the money was available to be spent by the U.S. Treasury, and the U.S. Treasury then would spend it on the new health care bill.

The Congressional Budget Office Director, Mr. Elmendorf, wrote me a letter the night before the bill passed—Christmas Eve—and he said this is double counting the money. You can't simultaneously count it as making Medicare better and providing new money to fund the health care bill. Four hundred billion dollars on the night before the vote he announces this is double counting. If a private business were to do it, they would be in big trouble, I suggest. They might be sued for fraud. They would be sued for fraud.

So the money was done in that fashion, and the way it happened was Mr. Elmendorf said it is double counting the money. You cannot simultaneously benefit Medicare and fund a new health care program, although the conventions of accounting might suggest otherwise. So the real smart financiers,

what did they do? They figured out how to use the conventions of accounting in a way that obscured the fact they didn't have the \$400 billion and that it was, in truth, borrowed money.

Mr. President, I see my colleagues on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I just have a couple of comments to make for clarification purposes.

First of all, I don't think anyone is going to question my conservative credentials over the years I have been here. I have been really offended by a lot of the things that have happened structurally in this institution, over in the House, but so far as this bill is concerned, let me clarify a couple of things.

It sounds good to stand up here and say we have only had a matter of minutes to look at something that is 500 pages. We have had this bill for a long time—for several days. We have had it and gone over everything. On the bill we sent from the Senate to the House, it is essentially the same thing.

I didn't agree when they added the two provisions on student loan and flood insurance. I didn't agree with that. Everyone knows those issues, but I don't think they should have been on here. Nonetheless, we didn't have any control in this body over that. But as far as the provisions of the bill are concerned, these provisions we have seen. And everyone who has spoken against it has been there when we have talked about the great reforms, and I have commented several times that I thought one of the problems was we did too good a job because we had too many reforms. But when it got over to the House, where they are inclined to have more reforms there, they had to start from a base where we had done a good job. Streamlining and enhancements and all those things are in it.

The only thing I can say, from a conservative perspective, is we have seen this bill. We have lived with this bill, not just hours but for days, and actually for weeks, the basic provisions of the bill. But what we have to realize is there is an alternative to what we are doing here today, and that alternative—and the only alternative—is to go back to extensions.

If we go back to extensions, a couple of things happen. No. 1, we don't have any of the reforms we have in the bill; No. 2, we throw away about 30 percent of the money—

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Will my friend yield for a question?

Mr. INHOFE. Yes, of course.

Mr. REID. Through the Chair, I would ask my friend, the ranking member of this committee, is it true this is basically the same bill we are going to vote on today that passed this institution in March?

Mr. INHOFE. It is true, I say through the Chair. It passed this institution with 74 votes, as I recall.

Mr. REID. So again, people have had since March to read this bill and to get up to speed a little bit, don't you think?

Mr. INHOFE. I answer in the affirmative.

Mrs. BOXER. Mr. President, would my friend yield for 1 minute? I want to correct the RECORD.

There are a few changes, there is no question. We have speeded up project delivery, as my friend knows. We gave a little more flexibility to the States in terms of the TE program. So a few things were changed. But my friends are right, primarily, this is a similar bill. It takes the money and we say we are going to spend the same thing, plus inflation. And it is true these bills have been out here for a long time. Actually, they passed our committee, I say to Senator INHOFE, in November of last year.

Mr. INHOFE. I respond, yes, that is correct. That is accurate.

I think that is very important too because we have been talking about this bill for a long period of time. We actually started trying to get a highway reauthorization bill way back in 2009, when the old bill from 2005 expired.

But the problem is—and I want to get back to where I was—there is an alternative to this bill. If we defeat this bill, we go back to extensions. If we go back to extensions, first of all, we are losing about 30 percent of the money off the top. Everybody knows that. Secondly, we don't get these reforms. If people are concerned out there—conservatives—that they want to defeat this and go back to extensions, they are not going to have reform with the enhancements. Right now the law requires 10 percent, depending on how we want to put it, in total funding or 2 percent of surface transportation. That has to be spent on transportation enhancements.

My good friend, the chairman of the committee, Senator BOXER, and I disagree on enhancements. She likes them; I don't. I want money to be spent on concrete, on roads and bridges. This is what I think we should be doing. But that is a disagreement we had and so we had a compromise where she can have—and anyone can have—what they want. It is an oversimplification, but it means, yes, this money is going to be put into something. It can be enhancements. In my State of Oklahoma, it is not going to be in enhancements, it is going to be paying for some of the unfunded mandates. It will be paying for things we have to do in terms of the environment and things that are required. So we have solved that problem. If we don't pass this bill, we go right back and it will have to go to enhancements.

On streamlining, all the streamlining is in this in terms of environmental streamlining. Talk to any of the road contractors out there and they will tell you about the waste of money and the number of miles of roads they can't do

because of some of these requirements—these environmental requirements. We have streamlined those requirements. If we don't pass this bill, we will go back to extensions and the same thing applies—we are going to lose all those opportunities. So not only will it cost more, we will not get the streamlining.

I am very proud of a group that has always supported me, the American Conservative Union. Is there anyone around here who doesn't think the American Conservative Union isn't conservative? I made this a part of a speech yesterday, an editorial by Al Cardenas, the chairman of the American Conservative Union. It is an op-ed piece he wrote. But let me read now two short paragraphs from this op-ed piece from the American Conservative Union:

Article One, Section Eight of the Constitution specifically lists interstate road-building as one of the delineated powers and responsibilities vested in the federal Government. In Federalist Paper #42, James Madison makes an early case for the federal government's role in maintaining a healthy infrastructure, by stating "Nothing which tends to facilitate the intercourse between states, can be deemed unworthy of the public care."

And the article goes on to say—and, remember, this is the American Conservative Union.

Perhaps most importantly, those of us who believe in constitutional conservatism understand that unlike all the things the Federal Government wastes our money on, transportation spending is at the core of what constitutes legitimate spending.

That is from the American Conservative Union. I wanted people to understand that voting for this is the conservative approach. We get more for the money being spent, it has all the streamlining in it, and it is our constitutional responsibility. This is what we are supposed to do. There are only two ways of doing it: one way is to pass this bill and the other is to operate under extensions, and I think it is very important for people to understand that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE H.R. 4348

Mr. REID. I ask unanimous consent that notwithstanding lack of receipt of the papers with respect to the conference report to accompany H.R. 4348, at 12:55 p.m. today, the Senate proceed to a series of stacked votes as outlined in this agreement; that the time until then be equally be divided between the two leaders or their designees; that the only points of order in order to the conference report be budget points of order or points of order relative to rule

XXVIII, which is the scope of conference, or rule XXVIII, paragraph 9, availability; that if a rule XXVIII scope of conference point of order, rule XXVIII availability point of order or budget-related point of order is made against the conference report and an applicable motion to waive is made during any debate time, the Senate proceed to vote on the motions to waive in the order they were raised following the use or yielding back of time; that if the motions to waive are successful, the Senate proceed to vote on the conference report; that adoption of the conference report be subject to a 60-affirmative-vote threshold; that there be 2 minutes equally divided in the usual form prior to each vote, and all after the first vote be 10-minute votes, and I ask that in spite of the fact the votes may not come right after each other, all the rest today will be 10-minute votes; further, that if the conference report is adopted, the title amendment be agreed to; finally, that no motions to recommit be in order to the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. 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. MCCONNELL. 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. MCCONNELL. Mr. President, on behalf of Senator PAUL, I raise a point of order that the conference report on H.R. 4348 has not been publicly available for 48 hours as required by rule XXVIII, paragraph 9.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I move to waive paragraph 9 of rule XXVIII with respect to the conference report to accompany H.R. 4348.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from Hawaii (Mr. INOUE), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

The yeas and nays resulted—yeas 72, nays 22, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—72

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

NAYS—22

Ayotte	Hatch	Risch
Burr	Johnson (WI)	Roberts
Coats	Kyl	Rubio
Corker	Lee	Sessions
Cornyn	McCain	Snowe
Crapo	Moran	Toomey
DeMint	Paul	
Grassley	Portman	

NOT VOTING—6

Alexander	Coburn	Kirk
Bennet	Inouye	Udall (CO)

The PRESIDING OFFICER. On this vote the yeas are 72, the nays are 22. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order falls.

The majority leader is recognized.

Mr. REID. Senator COATS wishes to speak.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I would like to raise the point of order that section 1538 of the conference report to accompany H.R. 4348 violates rule XXVIII as it is a matter not committed by either House.

This is not a partisan issue. The Senator from Illinois, Mr. DURBIN, the Senator from Ohio, Mr. BROWN, the Senator from Illinois, Mr. KIRK, and I reached an agreement on how to deal with this issue. Yet during this conference work that was proceeding in the dark of the night—

The PRESIDING OFFICER. The point of order is not debatable.

Mr. COATS. Mr. President, I am not debating it. I am explaining it.

Mr. REID. Mr. President, I move to waive all scope of conference points of order on rule XXVIII.

The PRESIDING OFFICER. Are there further points of order?

Mr. COATS. Mr. President, I ask for a recorded vote.

The PRESIDING OFFICER. If there are no further points of order on rule XXVIII, the yeas and nays have been asked for on the motion to waive.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There is now 2 minutes of debate on the waiver. The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I jumped the gun a little bit. This gives me a chance to explain it twice. Let me say there was a bipartisan agreement that was reached on this. I will not name names, but after it went over to the House, somebody dropped something in the middle of the night to change this whole process.

The issue is not just so-called Asian carp; the issue is that if this language is allowed to proceed, we will be authorizing over \$100 billion of potential spending to address this without any review by the Congress. All we ask for in our agreement was a simple opportunity to review the study by the Corps of Engineers so we can make a decision based on all the facts, which included over \$100 billion of authorized spending. That is why I urge my colleagues to oppose any effort to waive this rule.

Mr. LEVIN. Mr. President, the provision in question simply accelerates a study of invasive species such as the destructive Asian carp, a study essential to protecting the Great Lakes, a resource that is vital to the health, safety, and livelihoods of millions of Americans.

The study was included in the Water Resources Development Act of 2007 that authorized the Army Corps of Engineers to conduct a feasibility study to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River basins.

Since that time, Congress has provided over \$13 million to the Corps to conduct this study. The Corps maintains that the study cannot be completed until the end of 2015.

The provision included in the conference agreement before us today would accelerate this study and require its completion within 18 months.

We should not minimize the threat of the destructive Asian carp entering the Great Lakes.

If Asian carp got into the Great Lakes, they would not only pose a very serious threat to the environment but would have a devastating effect on thousands of local jobs and a \$7 billion fishing industry.

Accelerating this study would put us on a better track to protect one of our Nation's greatest treasures and the thousands of jobs that depend on it.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I know everyone is anxious to finish. I am too. This is a massive bill. It is so good for our country. This bill includes student loans, flood insurance, and 2.8 million jobs. There are a lot of disappointments. I have a few in this bill that I would be happy to share with someone at the right time. We must waive this. This is one of the great accomplishments of this Congress. Please, everyone, vote to waive this.

The PRESIDING OFFICER. The yeas and nays were previously ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from Hawaii (Mr. INOUE), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

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

The yeas and nays resulted—yeas 66, nays 28, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—66

Akaka	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Heller	Nelson (FL)
Bingaman	Hoeven	Portman
Blumenthal	Inhofe	Pryor
Blunt	Johanns	Reed
Boozman	Johnson (SD)	Reid
Boxer	Kerry	Rockefeller
Brown (MA)	Klobuchar	Sanders
Brown (OH)	Kohl	Schumer
Cantwell	Landrieu	Sessions
Cardin	Lautenberg	Shaheen
Carper	Leahy	Shelby
Casey	Levin	Stabenow
Cochran	Lieberman	Tester
Collins	Lugar	Udall (NM)
Conrad	Manchin	Vitter
Cooms	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wicker
Gillibrand	Murkowski	Wyden

NAYS—28

Ayotte	Graham	Moran
Barrasso	Grassley	Paul
Burr	Hatch	Risch
Chambliss	Hutchison	Roberts
Coats	Isakson	Rubio
Corker	Johnson (WI)	Snowe
Cornyn	Kyl	Thune
Crapo	Lee	Toomey
DeMint	McCain	
Enzi	McConnell	

NOT VOTING—6

Alexander	Coburn	Kirk
Bennet	Inouye	Udall (CO)

The PRESIDING OFFICER. On this vote, the yeas are 66 and the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order falls.

The Senator from Tennessee.

Mr. CORKER. Mr. President, the pending measure, the conference report to accompany H.R. 4348, would exceed the aggregate level of budget authority and outlays for fiscal year 2012, as set out in the most recent budget resolution deemed by the Budget Control Act of 2011.

Mr. CORNYN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Would the Senate please be in order.

Mr. CORKER. Therefore, I raise a point of order under section—

The PRESIDING OFFICER. The majority leader.

Mr. REID. I cannot hear the Senator from Tennessee.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Tennessee.

Mr. CORKER. Therefore, I raise a point of order under section 311(a)(2) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, the waiver provisions of applicable budget resolutions, and section 4(g)(3) 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 the pending conference report, and I ask for the yeas and nays.

However, I ask unanimous consent that the letter from CBO be printed in the RECORD at this point, which indicates that not only is everything paid for in this bill, it reduces the debt.

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

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,

Washington, DC, June 29, 2012.

Hon. DAVID DREIER,
Chairman, Committee on Rules,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the conference report for H.R. 4348, MAP-21, as posted on the Web site of the House Committee on Rules on June 28, 2012.

CBO estimates that enacting H.R. 4348 would reduce budget deficits over the 2012–2022 period by \$16.3 billion. That figure does not include effects that may be counted for budget enforcement purposes in the House of Representatives. Specifically, the House-passed budget resolution calls for counting transfers from the general fund of the Treasury to the Highway Trust Fund as new spending.

Major provisions of the legislation that would affect the budget (see Table 1) would:

Reauthorize, through fiscal year 2014, the surface transportation programs administered by the Federal-Aid Highway Administration, the Federal Transit Administration, the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration, and certain programs administered by the Pipelines and Hazardous Materials Administration;

Establish the Gulf Coast Restoration Trust Fund and require that 80 percent of any administrative and civil penalties paid to the federal government under the Clean Water Act in connection with the April 2010 explosion at the Deepwater Horizon facility in the Gulf of Mexico be deposited into that trust fund and made available to be spent;

Change the interest rate that pension plans use to measure their liabilities, increase pension premium rates for both variable and flat rate premiums paid to the Pension Benefit Guaranty Corporation, and establish a cap on the variable rate premium;

Provide payments to certain states by reauthorizing the Secure Rural Schools and Payments In Lieu of Taxes programs;

Allow eligible federal employees to enter into a phased retirement, during which they continue to work part time while drawing a partial salary and a partial civil service retirement annuity;

Reduce the additional Medicaid payments to Louisiana that it will receive based on prior declarations of federal disasters;

Repeal a requirement that the Department of Transportation reimburse the difference in cost between shipping foreign food aid on a U.S.-flag ship and a foreign-flag ship;

Reduce mandatory payments to states that have completed certain reclamation projects on land formerly used for mining;

Reauthorize the National Flood Insurance Program through 2017 and increase premiums for some subsidized policies;

Retain an interest rate of 3.4 percent on all new subsidized student loans until June 30, 2013, and change the interest the federal government pays on behalf of some borrowers who are attending school; and

Raise additional revenue by increasing the ability of businesses with excess assets in their pension funds to use them for retiree health and life insurance benefits, and by defining businesses that make roll-your-own machines available for consumer use as tobacco manufacturers.

CBO estimates that implementing the legislation also would lead to discretionary spending of \$95.9 billion over the 2013–2017 period (see Table 2); such spending would be subject to future appropriation actions. Of that amount, the spending on transportation programs would total \$94.3 billion, which reflects estimated obligation levels for 2013 and 2014 that are approximately equal to the obligation levels for 2012, adjusted for inflation.

In addition, CBO estimates that implementing provisions of the conference report for the remainder of 2012, 2013, and 2014 would result in an end-of-year balance in 2014 of approximately \$4 billion in the highway account of the Highway Trust Fund and about \$1 billion in the transit account of the Highway Trust Fund. Table 3 provides a projection of future spending, revenues, and remaining balances in the Highway Trust Fund over the next 10 years.

I hope this information is useful to you. If you need additional details, we will be pleased to provide them. The staff contact is Sarah Puro, who can be reached at 226-2860.

Sincerely,
DOUGLAS W. ELMENDORF,
Director.

TABLE 1—ESTIMATE OF THE EFFECTS ON DIRECT SPENDING AND REVENUES OF THE CONFERENCE REPORT FOR H.R. 4348, MAP-21, AS POSTED ON THE WEB SITE OF THE HOUSE COMMITTEE ON RULES ON JUNE 28, 2012

	by fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012–2017	2012–2022
CHANGES IN DIRECT SPENDING													
Transportation Contract Authority:													
Budget Authority ^a	0	243	800	800	800	800	800	800	800	800	800	3,443	7,443
Estimated Outlays ^b	0	0	0	0	0	0	0	0	0	0	0	0	0
Gulf Coast Restoration:													
Estimated Budget Authority	0	0	45	127	184	339	366	399	372	328	302	695	2,462
Estimated Outlays	0	0	2	14	47	105	175	260	322	351	352	168	1,628
Pension Provisions:													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	-220	-350	-1,065	-1,885	-1,685	-1,555	-1,255	-1,115	-1,055	-1,040	-5,205	-11,225
Secure Rural Schools:													
Estimated Budget Authority	288	0	0	0	0	0	0	0	0	0	0	288	288
Estimated Outlays	0	253	35	0	0	0	0	0	0	0	0	288	288
Payment in Lieu of Taxes:													
Estimated Budget Authority	0	398	0	0	0	0	0	0	0	0	0	398	398
Estimated Outlays	0	398	0	0	0	0	0	0	0	0	0	398	398
Phased Retirement:													
Estimated Budget Authority	0	-9	-26	-45	-54	-53	-52	-50	-49	-46	-42	-187	-427
Estimated Outlays	0	-9	-26	-45	-54	-53	-52	-50	-49	-46	-42	-187	-427
Change in Medicaid FMAP Increase:													
Estimated Budget Authority	0	-510	-160	0	0	0	0	0	0	0	0	-670	-670
Estimated Outlays	0	-510	-160	0	0	0	0	0	0	0	0	-670	-670
Repeal Incremental Ocean Freight Differential:													
Estimated Budget Authority	0	-108	-108	-108	-108	-108	-108	-108	-108	-108	-108	-540	-1,080
Estimated Outlays	0	-108	-108	-108	-108	-108	-108	-108	-108	-108	-108	-540	-1,080
Limitation on Abandoned Mine Reclamation Fund Payments:													
Estimated Budget Authority	0	-139	-131	-47	-46	-46	-98	-99	-47	-47	-49	-409	-749
Estimated Outlays	0	-55	-94	-86	-73	-55	-67	-83	-73	-63	-53	-363	-702
National Flood Insurance Program ² :													
Estimated Budget Authority	0	-5	-30	-70	105	0	0	0	0	0	0	0	0
Estimated Outlays	0	-5	-30	-70	105	0	0	0	0	0	0	0	0
One-Year Extension of Subsidized Student Loan Interest Rates:													
Estimated Budget Authority	4,285	2,595	*	*	*	*	*	*	*	*	*	6,880	6,880
Estimated Outlays	2,480	3,505	*	*	*	*	*	*	*	*	*	5,985	5,985
Eliminate Interest Subsidy for Certain Borrowers:													
Estimated Budget Authority	0	-15	-85	-110	-130	-145	-170	-195	-200	-210	-210	-485	-1,470
Estimated Outlays	0	-10	-55	-90	-105	-120	-140	-160	-175	-180	-185	-380	-1,220
Changes in Direct Spending Excluding Intragovernmental General Fund Transfers ^d :													
Estimated Budget Authority	4,573	2,450	305	547	751	787	738	747	768	717	693	9,413	13,075
Estimated Outlays	2,480	3,239	-786	-1,450	-2,073	-1,916	-1,747	-1,396	-1,198	-1,101	-1,076	-506	-7,025
Intragovernmental Transfers from General Fund to Highway Trust Fund ^d :													
Estimated Budget Authority	0	6,200	12,600	0	0	0	0	0	0	0	0	18,800	18,800
Estimated Outlays	0	6,200	12,600	0	0	0	0	0	0	0	0	18,800	18,800
Changes in Direct Spending, Including Intragovernmental General Fund Transfers ^d :													
Estimated Budget Authority	4,573	8,650	12,905	547	751	787	738	747	768	717	693	28,213	31,875
Estimated Outlays	2,480	9,439	11,814	-1,450	-2,073	-1,916	-1,747	-1,396	-1,198	-1,101	-1,076	18,294	11,775
CHANGES IN REVENUES													
Pension Provisions	595	2,391	4,501	5,044	3,540	1,446	74	-882	-2,303	-3,046	-2,616	17,517	8,744
Transfer of Excess Pension Assets and Allow Section 420 to Apply to Life Insurance Benefits	0	0	20	41	42	43	44	45	47	48	24	145	354
Phased Retirement	0	1	2	3	4	4	4	3	3	1	-1	14	24
Expand Definition of Tobacco Manufacturer to Include Roll-Your-Own-Cigarette Machines	2	12	13	11	10	9	8	7	7	7	7	57	94
Increased Civil Penalties for Lenders	0	1	1	1	1	1	1	1	1	1	1	5	10
Total Changes	597	2,405	4,537	5,100	3,597	1,503	131	-826	-2,245	-2,989	-2,585	17,738	9,226
On-budget Revenues	597	2,291	4,324	4,888	3,425	1,422	141	-726	-1,998	-2,712	-2,355	16,946	9,299
Off-budget Revenues	0	114	213	212	172	81	-10	-100	-247	-277	-230	792	-73
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES—EXCLUDING INTRAGOVERNMENTAL TRANSFERS FROM THE GENERAL FUND TO THE HIGHWAY TRUST FUND													
Impact on Deficit ^d	1,883	834	-5,323	-6,550	-5,670	-3,419	-1,878	-570	1,047	1,888	1,509	-18,244	-16,251
On-budget Deficit Change	1,883	948	-5,110	-6,338	-5,498	-3,338	-1,888	-670	800	1,611	1,279	-17,452	-16,324
Off-budget Deficit Change	0	-114	-213	-212	-172	-81	10	100	247	277	230	-792	73
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES—INCLUDING INTRAGOVERNMENTAL TRANSFERS FROM THE GENERAL FUND TO THE HIGHWAY TRUST FUND FOR BUDGET ENFORCEMENT PURPOSES IN THE U.S. HOUSE OF REPRESENTATIVES													
Impact on Deficit ^d	1,883	7,034	7,277	-6,550	-5,670	-3,419	-1,878	-570	1,047	1,888	1,509	556	2,549
On-budget Deficit Change	1,883	7,148	7,490	-6,338	-5,498	-3,338	-1,888	-670	800	1,611	1,279	1,348	2,476
Off-budget Deficit Change	0	-114	-213	-212	-172	-81	10	100	247	277	230	-792	73
Memorandum:													
Increased Net Income to the National Flood Insurance Program ^c	0	-5	-30	-70	-145	-250	-320	-380	-430	-490	-555	-500	-2,675

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation. Notes: FMAP = Federal Medical Assistance Percentages; * = between -\$500,000 and \$0. Amounts may not sum to totals because of rounding.
^aH.R. 4348 would provide \$12.4 billion in contract authority (a mandatory form of budget authority) for the last quarter of fiscal year 2012, \$50.1 billion for fiscal year 2013, and \$50.9 billion for fiscal year 2014. CBO estimates. Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing its baseline for future contract authority for transportation programs, CBO assumes that the contract authority for years after 2014 would be equal to the amount provided for 2014, the last year of the authorization.
^bCBO expects that most of the outlays from contract authority (a mandatory form of budget authority) for surface transportation programs will continue to be controlled by obligation limitations enacted in future appropriation acts. Those expenditures are displayed in Table 2.
^cThe proposed amendment would raise premiums for certain subsidized flood insurance policies, increasing net income to the National Flood Insurance Program by \$2.7 billion. However, because many policies would continue to be subsidized and the program would continue to face significant interest costs from its prior and future borrowing, CBO expects that additional receipts collected under this legislation would be spent to cover future program shortfalls, resulting in no net effect on the budget over the 11-year period.

^dPursuant to section 508 of H. Con. Res. 112, the Concurrent Resolution on the Budget—Fiscal Year 2013, general fund transfers to the Highway Trust Fund are considered to be new budget authority and outlays for budget enforcement purposes in the House of Representatives. CBO estimates that such transfers would increase the balances attributed to the Highway Trust Fund; however, those transfers would not increase direct spending or affect budget deficits.

TABLE 2—CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER THE CONFERENCE REPORT FOR H.R. 4348, MAP–21, AS POSTED ON THE RULES COMMITTEE WEB SITE ON JUNE 28, 2012

	By Fiscal Year, in Millions of Dollars					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Spending from the Highway Trust Fund:						
Estimated Obligation Limitation ^a	49,409	50,103	0	0	0	99,512
Estimated Outlays	12,318	31,794	27,318	12,134	6,780	90,344
Other Authorized Transportation Programs:						
Estimated Authorization Level	2,697	2,198	0	0	0	4,895
Estimated Outlays	379	1,011	1,168	817	618	3,993
Non-Transportation Programs: ^b						
Estimated Authorization Level	438	437	437	437	437	2,186
Estimated Outlays	80	245	337	431	435	1,528
Total Changes:						
Estimated Budgetary Resources	52,544	52,738	437	437	437	106,593
Estimated Outlays	12,777	33,050	28,823	13,382	7,833	95,865
Memorandum:						
Reduction in Offsetting Receipts from Lower Employer Contributions ^c	0	2	3	3	3	11

Note: Components may not sum to totals because of rounding.
^a Estimated discretionary outlays reflect use of funds from the contract authority provided by the legislation under the obligation limitations specified or estimated by CBO. (Outlays stemming from any additional contract authority that would be provided for years after 2014 would be attributable to future legislation.) Under current law, CBO estimates that spending from the Highway Trust Fund would be about \$48 billion in 2012. (See Table 3 for estimates of total outlays from the trust fund in 2013 and subsequent years.)
^b H.R. 4348 would authorize the appropriation of \$440 million a year over the 2013–2017 period for a national flood mapping program and flood mitigation assistance. The legislation also would lower future federal employer retirement contributions. Those contributions are contingent on future appropriation actions.
^c Employer contributions are intragovernmental transactions that do not affect the deficit; positive numbers indicate a decrease in receipts.

TABLE 3—SUMMARY OF CASH FLOWS FOR ACCOUNTS IN THE HIGHWAY TRUST FUND UNDER H.R. 4348, MAP–21, AS POSTED ON THE WEB SITE OF THE HOUSE COMMITTEE ON RULES ON JUNE 28, 2012

	By fiscal year, in billions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
Highway Account:												
Start-of-Year Balance	14	8	4	4	c	c	c	c	c	c	c	c
Revenues and Interest	33	33	33	34	35	36	36	36	36	37	37	37
Intragovernmental Transfers	2	6	10	0	0	0	0	0	0	0	0	0
Outlays ^{a,b}	42	43	44	44	44	45	45	46	46	47	47	47
End-of-Year Balance	8	4	4	c	c	c	c	c	c	c	c	c
Transit Account:												
Start-of-Year Balance	7	5	5	1	c	c	c	c	c	c	c	c
Revenues and Interest	5	5	5	5	5	5	5	5	5	5	5	5
Intragovernmental Transfers	0	0	2	0	0	0	0	0	0	0	0	0
Outlays ^{a,b}	7	8	8	9	10	10	10	9	9	10	10	10
End-of-Year Balance	5	5	1	c	c	c	c	c	c	c	c	c
Memorandum:												
Cumulative Shortfall: ^c												
Highway Account Shortfall	n.a.	n.a.	n.a.	-6	-15	-24	-33	-42	-52	-62	-72	-72
Transit Account Shortfall	n.a.	n.a.	n.a.	-3	-7	-12	-16	-20	-24	-29	-33	-33

Notes: n.a. = not applicable.
 Contract authority is a mandatory form of budget authority typically provided in authorization acts.
 Obligation limitations are limitations on the obligation of contract authority typically provided in appropriation acts.
^a After 2014, the estimated outlays assume obligations will continue at the 2014 level, adjusted for inflation. The total outlays shown reflect prior and future obligations.
^b Outlays include amounts “flexed” or transferred between the highway and transit accounts. CBO estimates that amount would total about \$1 billion annually.
^c CBO projects that, under provisions of the Conference Report for H.R. 4348, the highway account and the transit account of the Highway Trust Fund would be exhausted in fiscal year 2015. Under current law, the Highway Trust Fund cannot incur negative balances. However, following rules in the Deficit Control Act of 1985, CBO’s baseline for highway spending assumes that obligations presented to the Highway Trust Fund will be paid in full. The memorandum to this table illustrates the cumulative shortfall of fund balances, assuming spending levels that would be authorized by the Conference Report for H.R. 4348.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The yeas and nays are ordered.

The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, if I could have everybody’s attention, according to CBO, this is paid for the old way, where we spend all the money in a year or two and then it is paid for over 10.

This body came together last August in a bipartisan way to put in place the Budget Control Act, and this bill violates the deemed budget by \$2.5 billion. This will be the third time we violate the Budget Control Act deemed budget. For all of those people who are meeting in the evenings, meeting in groups in rooms trying to solve our Nation’s fiscal issues, a vote to waive this motion says we don’t have the discipline, the courage, or the will to do what we told

the American people we would do to try to get our fiscal house in order.

I urge my colleagues to vote against this motion to waive right now.

Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, the Congressional Budget Office is a non-partisan body that determines what spending is for the Congress, and they have determined that this bill is paid for and it reduces the debt.

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

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from Hawaii (Mr. INOUE), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted “nay.”

The yeas and nays resulted—yeas 63, nays 30, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—63

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

NAYS—30

Ayotte	Chambliss	Crapo
Barrasso	Coats	DeMint
Boozman	Corker	Enzi
Burr	Cornyn	Graham

Grassley	Lee	Risch
Hatch	McCain	Roberts
Hutchison	McConnell	Rubio
Isakson	Moran	Sessions
Johnson (WI)	Paul	Thune
Kyl	Portman	Toomey

ANSWERED "PRESENT"—1

Snowe

NOT VOTING—6

Alexander	Coburn	Kirk
Bennet	Inouye	Udall (CO)

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 30. One Senator responded "present." Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order falls.

ABANDONED MINE LAND TRUST FUND

Mr. ENZI. Mr. President, I am extremely disappointed to be here today to discuss a provision in the conference report that impacts my home State and potentially impacts a number of other states. The provision relates to the abandoned mine land trust fund, and undoes a carefully construed compromise that occurred in 2006 between a coalition of Eastern and Western States, mine workers, and coal companies.

This provision was included at the last moment. This pay-for was not in either the Senate version of the Transportation bill, nor was it in the House version. Although it has a tremendous impact on Wyoming, neither Senator BARRASSO nor I were consulted about the impact of the provision. We are extremely disappointed that is the case and seek commitments from our colleagues to fix this provision hopefully as a technical correction, but at any rate not later than the end of the year to reconstruct the careful compromise that occurred in 2006. While I respect the work of the conference committee, provisions like this are the reason that Congress is unpopular. I look forward to working with my colleagues to undo this terrible provision and make Wyoming and other impacted states whole.

Mr. BARRASSO. Mr. President, I second the comments of Senator ENZI. This is an egregious provision that was included at the last moment without any consultation of Senator ENZI or I. I am extremely disappointed that we have not been able to address this matter before the conference report was filed, and it is essential to fix it as soon as possible preferably in a technical corrections bill that will be drafted in the coming weeks but most certainly by the end of the year.

This provision is not well thought out. It has the potential to impact not only Wyoming but a number of other States as well. I look forward to working with my colleagues to fix the provision in an expeditious manner.

Mrs. BOXER. Mr. President, I understand the problems that my colleagues from Wyoming have with section 100125 of the conference report. I recognize that this provision was included in the conference report without their consultation. We will be working on a cor-

rections bill in the coming weeks, and I intend to work with them to address this issue in that bill.

Mr. INHOFE. Mr. President, I second the chairwoman's commitment to working with the Senators from Wyoming to fix this problem in the technical corrections bill. It is important that we find a way to address the issue as soon as possible, and I will work with them to make Wyoming and the other impacted States whole.

Mr. HATCH. Mr. President, a portion of the abandoned mine land trust fund program falls within the jurisdiction of the Senate Finance Committee. I am also committed to working with my colleagues from Wyoming to correct this situation. I hope we can do so as soon as possible.

TRANSIT TITLE

Mr. MENENDEZ. Mr. President, we are poised to pass a truly historic transportation bill and I wanted to engage in a brief colloquy with my colleague Chairman JOHNSON, with whom I have worked closely over the past year and a half to craft the transit title of the bill. He has been a true pleasure to work with and I think we should all be proud that we have secured stable funding for public transportation over the next 2 years.

The bill has record amounts of rail funding and by abandoning earmarks, all of the major formula programs have been increased significantly. We have greatly enhanced the Federal Transit Administration's powers to provide safety oversight and set national standards, which will ensure millions of transit passengers can travel safely and efficiently.

But for the purposes of this colloquy I wanted to focus on section 20013 on private sector participation in public transportation. I ask the chairman, does anything in this section show a preference by Congress for public transportation to be provided by private operators rather than public operators?

Mr. JOHNSON of South Dakota. Absolutely not. That section is intended to help public and private sector providers to better coordinate service and allow for more private investment in public transportation projects. Public providers of public transportation do our Nation a great service in providing affordable efficient service, lowering pollution, and easing traffic congestion. There is no reason to have a policy that favors private-public transportation service, and this language does not do so.

Mr. MENENDEZ. Chairman JOHNSON, I completely agree. This language should not be interpreted to encourage or require public-private partnership activities in transit or give any preference to grantees based on the decisions they make on this issue.

For years, the committee has endorsed the longstanding congressional policy that decisions involving the choice between public and private transit operators should be left to local au-

thorities who are better equipped to make local transportation decisions. The Federal government is clearly best suited to making broad public policy decisions rather than micromanaging the local transit choices selected to meet the needs of rural, urban, and suburban communities. Does the chairman agree?

Mr. JOHNSON of South Dakota. Absolutely. Nothing in this bill changes the fact that decisions to use public or private service should be up to local providers. We firmly believe that the public versus private question should be decided on the basis of local needs, not ideology. And most importantly, the Federal Government should remain neutral, and it should not intrude on local decisionmaking. The language in current 49 U.S.C. 5306 regarding private sector participation states that such issues are guided by local policies, criteria, and decisionmaking. This bill maintains this language, reaffirming Congress' commitment to local control on this issue.

Mr. MENENDEZ. I thank the chairman. I look forward to continue working with you to oversee the implementation of this and other provisions in this bill and continue to do all we can do to support a robust, well-funded public transportation program.

Mrs. FEINSTEIN. Mr. President, I rise today to thank my colleagues on the transportation conference for including the National Flood Insurance Program reauthorization and for removing the controversial residual risk provision.

That provision was a real concern to me and more than a dozen cities and counties in California. It would have required nearly 1 million residents in my State to purchase flood insurance even though they live behind fully functioning levees that meet or exceed Federal safety standards. That provision alone could have quadrupled the number of homeowners in my State who have to buy flood insurance.

The flood insurance bill called this low-level risk behind levees "residual risk." It is the risk left over after a levee has been built—the risk of levee failure, in essence.

These are levees that homeowners funded with their own tax dollars, and the provision would have forced them to spend even more money. That is just not good policy. And I was proud to add my voice to that of the Senator from Arkansas in strong opposition to including it in the bill.

The bottom line is this: Until the residual risk provision was removed, the National Flood Insurance Program reauthorization would have had a devastating effect on communities in California and across the Nation.

Even homeowners in communities who maintain their levees to Federal safety standards with their own tax dollars would have been forced to pay for Federal flood insurance. I simply could not support such an unfair policy. It sent the message to homeowners

and local communities that regardless of their investments in flood protection, it is simply not good enough. That is not the message we should be sending when this country needs to invest more in flood control infrastructure, not when homeowners are struggling to pay their mortgages, not when housing starts are near alltime lows, and not when our economy is still struggling to get back on track.

I was not alone in my opposition to the residual risk provision. I received letters from elected officials across the State—Oceanside, Long Beach, Lakewood, Los Angeles, Santa Maria, Stockton, Sacramento, Yuba City. Del Norte, Sutter, Yolo, and Butte Counties were opposed, as well as San Joaquin County.

This was not a regional issue. The letters came in from southern California, the central coast, northern California and the Central Valley.

In San Joaquin County, in the middle of my State, this provision would have meant 280,000 additional residents had to purchase flood insurance. This is a county where 1 in every 194 homes is in foreclosure—3.3 times the national average. At even \$1 a day, this added expense could jeopardize the county's already shaky housing market.

The purchase requirement would have covered most of the city of Stockton, with a population of nearly 300,000. This would have further devastated a city that suffered the second highest foreclosure rate in the Nation last year.

In Palo Alto, this provision would have required another 5,500 homeowners to buy insurance.

In Sutter County, an estimated 28,000 of the 34,308 parcels would have been affected. That is 81.6 percent of all parcels in the county.

In Butte County, 14,000 parcels would have been affected.

In Los Angeles County, supervisors Mark Ridley Thomas and Don Knabe tell me that at least 200,000 properties and 800,000 residents would have been impacted. These homeowners are currently protected by 130 miles of levees and 18 dams in L.A. County.

Many of the affected homeowners live along the Los Angeles River, which isn't really a river at all—it is a concrete channel. And it is very hard to imagine a flood ever occurring there. More than \$200 million has been invested to minimize the risk.

The federally authorized Los Angeles County Drainage Area Project reinforced levees along the Los Angeles River to protect against floods well beyond a 100-year event. Local taxpayers contributed \$55 million to complete this project; Federal contributions totaled another \$155 million. This investment was made so that residents could avoid \$32 million in yearly flood insurance premiums. With the inclusion of the residual risk provision, homeowners in the area would have once again had to pay flood insurance bills every year.

I appreciate the efforts of Senators COCHRAN and the chairman and ranking member to address this problem, but changes they made to the original draft did not go far enough. Even with their changes, the provision could have further depressed home prices by driving up ownership costs in many areas.

Let me be clear: This policy wasn't proposed because homeowners lived behind unsafe levees. These were safe levees that meet Federal standards. Some believe this provision was added to the original bill to restore the fiscal solvency of the program. By bringing in new, low-risk properties, it is true that the fiscal health of the Flood Insurance Program would have improved. But I, for one, oppose propping up the Flood Insurance Program on the backs of constituents who played by the rules.

If the goal is to ensure that people are informed about the risks they face, I continue to be willing to work with my colleagues to accomplish that. In fact, California already offers a model for achieving that very goal.

The bottom line is this: Even with the changes made to the residual risk provision, the bill would have still required homeowners and businesses protected by certified levees to purchase mandatory flood insurance. Candidly, I was shocked that we even considered adding this provision without a full floor debate because it was not a trivial extension. The bill would have imposed substantial new costs to nearly 1 million homeowners in California alone.

Again, I thank my colleagues on the conference committee for removing this provision. This conference report was not the time or place for it to be considered.

Now, with the 5-year reauthorization of the National Flood Insurance Program in place, we will be taking an important step to stabilize our housing market. We have also taken some very responsible steps to put the program back on the path to fiscal solvency.

I commend my colleagues for putting together this package of bills. I know they had a tremendous challenge, and I think they have done an exceptional job.

Mr. BAUCUS. Mr. President, I would like to turn to discussing the vital contributions of staff who worked on this bill. We are very fortunate in the Senate to be able to rely on the expertise and the support of so many talented and dedicated staffers whose efforts enabled us to finalize this conference report.

This bill turned out to be unique because it spanned so many different issues. In addition to the ones I have already mentioned, my staff also had to work on pension matters, flood insurance, Federal trust funds, labor, and a range of other issues. All of this combined to make this a very complicated bill with many moving parts.

Accordingly, I want to take this opportunity to publicly and professionally thank the following staffers

for guiding this bill through markups in different Senate committees, negotiating with counterparts from the House of Representatives, and getting us over the finish line with a conference report that provides the American people with the good policies included in this bill:

There was Tom Lynch, who worked on both the Environment and Public Works Committee's portion of the bill and the Finance Committee's portion.

Tax Counsel Ryan Abraham, whose work along with Tom Lynch on the highway trust fund was key to being able to fund highways and transit projects under the bill.

Tom, Ryan, and Lily Batchelder, chief tax counsel and head of Finance Committee's tax team, held more than 20 staff meetings with Democrats and Republicans before our Finance Committee markup.

Mark Hybner, who was critical to refining the Indian Reservation Roads Program among other things, a program that is very important to the seven tribes in my State.

Tax and benefits counsel Tom Reeder, a true seasoned professional without whom we couldn't have found the essential offsets to ensure the highway trust fund would remain solvent.

Spencer Gray, who shepherded the secure rural schools and payment in lieu of taxes through this process.

Dave Hughes and Ann Cammack, who made critical contributions both to raise revenue and in tracking policy.

Sean Morrison and Blaise Cote, the Finance Committee's two excellent research assistants.

Heather O'Loughlin, easily one of the most versatile and capable staffers working in the Senate, who was key both to the education and the flood insurance portions.

Amber Cottle, Bruce Hirsch, Gabriel Adler, Hun Quach, Chelsea Thomas, and Rory Murphy, who were very helpful in the effort to develop offsets during the Finance Committee markup.

Department of Transportation detailee and Billings Montana native Avital Barnea, who lent helpful assistance at a crucial time.

Jeffrey Arnold, who was very helpful in assisting on Pension Benefit Guaranty Corporation provisions and phased retirement.

Intern extraordinaire Pete Markuson, who logged a lot of meaningful hours.

The outstanding press team of Jenny Donohue, Meaghan Smith, Ryan Carey, Kate Downen, Kathy Weber, and our newest addition, Sean Neary.

And my indispensable leadership staff of Jon Selib, Russ Sullivan, and Paul Wilkins, who as always remained focused and unflappable despite the challenges.

Finally, I also want to use this opportunity to thank Bettina Poirier, David Napoliello, Andrew Dohrmann, and Grant Cope from Chairman BOXER's Environment and Public Works Committee staff; Ruth Van

Mark, James O’Keeffe, Murphie Barrett, Kyle Miller, Dmitri Karakitsos, and Alex Renjel from Senator INHOFE’s staff; Charles Brittingham with Senator VITTER; Tyler Rushforth with Senator REID; Ellen Doneski, James Reid, Ian Jefferies, Rich Swayze, Richard Russell, and Bailey Edwards from the Commerce Committee; and Chris Campbell, Mark Prater, Jim Lyons, Nick Wyatt, and Preston Rutledge from the Finance Committee.

Without the individual and collective contributions of each one of these people I have mentioned, we would not have pulled this off. For them and their efforts to help support American jobs, all of us should be very grateful.

Mr. LEVIN. Mr. President, the bill before us today takes several important steps in several policy areas to move our Nation forward. It prevents a pending student loan interest rate hike that would make college less affordable for American students and their families. It makes important investments in our roads, bridges, and other transportation infrastructure, investments that will put Americans to work today and make our economy more competitive for years to come. It reauthorizes the Flood Insurance Program that provides security to millions of Americans, while making the program more efficient and more fair to States such as Michigan that for too long have paid more in premiums than they receive in benefits. While this legislation does not include everything I had hoped for or supported, it makes significant progress on issues our constituents need us to address.

Millions of Americans will be relieved that this bill avoids a looming increase in student loan interest rates. On July 1, those interest rates are scheduled to double, an increase that Americans already struggling to pay for higher education simply cannot afford. Extending the current 3.4 percent interest rate for another year lifts a significant burden, financial and emotional, from students and their families who were looking to us for aid.

I am pleased Senate and House conferees have come to an agreement on a transportation reauthorization. Reauthorization of our Nation’s transportation programs is long overdue.

Investing in transportation infrastructure creates jobs and improves our international competitiveness. We create more than 35,000 jobs for every \$1 billion in Federal funds we spend on transportation infrastructure. The bill will create or preserve an estimated 3 million jobs nationwide. In Michigan, the bill will provide more than \$2 billion over the next 2 years for road projects and another \$261 million over the next 2 years for Michigan transit projects. Funding transportation infrastructure improvements at robust levels is one of the most obvious things we can do to help boost the U.S. economy.

The conference report extends Federal surface transportation programs at current levels, with a small adjust-

ment for inflation, through September 2014. Given the difficult budget climate, this has to be viewed as a victory. Our State transportation agencies need to be able to do long-term planning. This bill helps that cause and is surely better than the short-term extensions we have been living under. Given the negative budget climate and the difficulty we had finding the revenue to offset the highway trust fund shortfall, a 2-year bill is what is possible, although I would have preferred a longer term bill.

I am pleased the agreement includes a provision that would direct the Corps of Engineers to accelerate its feasibility study of preventing the inter-basin transfer of aquatic invasive species, such as the destructive Asian carp, between the Mississippi River and the Great Lakes basins. While the Corps is planning to produce an interim report at the end of 2013, this provision would require a full feasibility report that would also include a recommendation for implementing preventative measures. Accelerating this study will put us on a better track to protect our \$7 billion Great Lakes fishery that supports thousands of jobs.

The conference agreement includes a provision regarding harbor maintenance that is based on an amendment to the Senate Transportation bill. This is the first time we have addressed harbor maintenance in a transportation bill, and including this language will help elevate this important issue and strengthen momentum to use trust fund receipts for harbor maintenance.

I am disappointed, however, that the provision in the conference agreement does not include the strong enforcement language I urged conferees to include that would ensure that appropriators actually include funding for harbor maintenance that is collected for this purpose.

Navigation infrastructure is a vital link in the transportation system, one our economy depends upon. Maintaining our harbors and ports is vital to our economic competitiveness. I will continue to work to ensure that we provide sufficient Federal funds to properly maintain our harbors.

The conference agreement also extends for 1 year mandatory PILT funding, or payments in lieu of taxes, that will provide about \$4 million to Michigan local governments to help offset losses in property taxes due to non-taxable Federal lands within their boundaries. These payments can help support a variety of infrastructure and educational needs. I had urged conferees to include this provision in the bill, and I am pleased it was included in the final agreement.

The conference report should provide some much needed equity to Michigan and other States through a 5-year reauthorization of the National Flood Insurance Program.

Michigan residents have paid more than six times more in premiums than they have received in payouts from the

National Flood Insurance Program. We must correct this disparity, and the conference report takes some steps to do so in requiring that premiums be more reflective of the true risk of flooding.

The conference report will phase out subsidies for repetitive-loss properties that continue to be rebuilt in high-risk areas. It will also phase out subsidized rates for vacation homes and businesses located in high-risk areas, many of which have received subsidized rates for more than 30 years.

This bill will clarify the law to allow property owners to purchase flood insurance from a private insurer, rather than the Federal Government, if they so choose. This means private companies can compete with FEMA to offer consumers a better price.

Finally, I am very disappointed that the conference report removes an offshore tax provision that I authored with Senator CONRAD to fight against tax evasion. This provision, which was included by voice vote in the Senate bill and is similar to a provision I introduced as part of a broader offshore tax bill, was scored as raising over \$1 billion over 10 years and could have helped pay for transportation programs or reduced the deficit. I am disappointed that Congress has yet again missed an opportunity to fight offshore tax evasion, which robs billions of sorely needed dollars from our Treasury each year.

The legislation before us today does not include everything I had hoped for or supported, but it is necessary, and we should pass it without further delay.

Mr. HATCH. Mr. President, at the first public meeting of the conference committee charged with producing transportation reauthorization legislation, I laid out a series of basic principles that I think should guide our efforts to finance transportation policy. I had voted against the Senate bill in large part because it failed to follow these basic principles.

Boiled down, these principles are simple. The user-pays model that is the reason for the creation of the Highway Trust Fund should be preserved. Revenues and spending should line up on a year-to-year basis. We should avoid spending down the trust fund. And we should not raise taxes, but rather should examine the spending side of the ledger.

The conference agreement is an even further departure from these principles than the Senate bill was. The conference agreement by and large uses sources of revenue that are problematic in and of themselves to facilitate yet another general fund transfer that requires our Nation to make payments for 10 years on 2 years of programs.

Despite all of the committee mark-ups, and staff meetings, and press conferences, and frantic press accounts, at the end of the day we simply got the fourth in a series of general fund transfers that stretches back to 2008.

I think the supposed consensus the conference committee product represents can best be summed up by the Margaret Thatcher quote I cited at the Finance Committee markup of a revenue title held on February 7.

“To me consensus seems to be the process of abandoning all beliefs, principles, values and policies in search of something in which no one believes, but to which no one objects the process of avoiding the very issues that have to be solved, merely because you cannot get agreement on the way ahead . . .”

Well I object. The taxpayers of this country deserve better than this legislation, and I will be voting against it.

Mr. LAUTENBERG. Mr. President, I rise today to oppose to the flood insurance language that is included in the conference report to accompany H.R. 4348, which the Senate will consider today.

The Senate had been debating a stand-alone bill to reform the National Flood Insurance Program for several days, but we were prevented from voting on amendments to the bill and ultimately passing the legislation. Since agreement on a process for considering flood insurance amendments was blocked, we are now forced into an up-or-down vote on a conference report that contains provisions that will save or create millions of jobs in the transportation sector and keep Federal student loan rates from doubling. I will support the conference report because of those provisions, but I oppose the flood insurance portions.

Last September, I saw firsthand how Hurricane Irene's floods devastated communities in my State of New Jersey. President Obama and I toured the wreckage together. It was heart-breaking. We saw families with their belongings on their front lawns, and much of their homes destroyed. Unfortunately, Hurricane Irene was not the only storm to cause major flooding in New Jersey recently. In just the last 3 years, FEMA has declared five federal disasters that caused major flooding in New Jersey. For many of the people who have been hit by these floods, their homes are all they have. Many of them have owned their homes for generations. They have raised their children and built their lives in them. For these homeowners, it would be wrong to turn our backs on them. But I am afraid the flood insurance language in the conference report could do exactly that.

The flood insurance language we are considering will require major insurance premium increases for people living in certain homes built before FEMA's flood maps were finalized. For years, families who bought homes built before floods maps were available paid lower rates for their flood insurance. We did that because we recognized it would be wrong to charge extremely high premiums on families who did not know their flood risk when they purchased their home. But the flood insurance reform proposals on the table

would bring the hammer down on those families. Most families affected by the change would see their premiums double. Some may even see their premiums increase five-fold. In New Jersey, we know of families in over 1,800 homes that would see their premiums increase under these provisions. Residents in other States, including Louisiana, Texas, New York, Pennsylvania, and Florida, would also face these dramatic rate hikes.

To address some of these concerns, I introduced two amendments on flood insurance this week. One would have prevented premium increases for primary residences built prior to 1974, and the other would have allowed the increases to occur for some homeowners, but provided for a hardship exemption from premium increases for families that cannot afford the higher rates. Let's remember, many of these homeowners rely on fixed incomes, are retired, and have budgeted with the expectation that their premiums would stay steady. We should not change the rules in the middle of the game when homeowners have played by those rules from day one. Many of these families simply do not have the means to raise more money if rates increase.

I also cosponsored an amendment from Senator PRYOR to eliminate a requirement in the stand-alone bill that owners of homes behind dams and levees obtain flood insurance. I am pleased that the language in the conference report does not include that requirement.

Flood insurance reform will have real implications for millions of people throughout the United States, including in my home State of New Jersey. Changes to the National Flood Insurance Program should not be taken lightly, and deserve to be debated and amended on the Senate floor. I am disappointed my Republican colleagues have prevented us from considering important flood insurance amendments this week, and I oppose including flood insurance reform in the legislative package we are considering today.

The PRESIDING OFFICER. Under the previous order, the question is agreeing to on the conference report to accompany H.R. 4348.

Ms. MIKULSKI. Mr. President, I rise in support of the transportation conference report. This legislation will establish for the first time Federal safety standards for metro systems.

My promises made are promises kept. After the deadly DC Metro crash on June 22, 2009, I promised two things to the workers at Metro and my constituents who ride Metro. One, I would deliver the \$150 million in dedicated funding for Metro's capital improvements in the annual Transportation appropriations bill. I have done this every year. Two: pass legislation giving the U.S. Department of Transportation authority to establish safety standards for metro systems across the country. Today, this legislation delivers on that promise.

We always say a grateful nation will never forget. Then we pound our chests, hold hearings, and nothing is ever done. Well, not this time and not this Senator. Immediately following the Metro crash, I was the first to introduce a bill, the National Metro Safety Act of 2009, to establish Federal standards. My bill required the U.S. Department of Transportation to work with the National Transportation Safety Board to implement their most wanted safety recommendations: crash-worthiness standards, emergency entry and evacuation design standards, and data event recorders for rail cars; and hours-of-service regulations for train operators.

Now, 3 years later, Congress has finally acted. This highway bill includes similar language to my transit safety bill. It requires the Secretary of the U.S. Department of Transportation to create and implement safety standards and a safety training program. The Secretary must also take into consideration the recommendations of the National Transportation Safety Board when establishing the safety performance standards for railcars.

This bill before us today also requires transit authorities to complete comprehensive safety plans and States to have a safety oversight program approved by the U.S. Department of Transportation. The Secretary must certify that these oversight programs are meeting the new Federal safety standards each year. If a State oversight agency is not doing its job, the Secretary can withhold Federal funding or require that 100 percent of funding be used to fix the metro system's problems.

In addition, the U.S. Department of Transportation has the power to conduct inspections, investigations, and audits of transit system railcars, facilities, and operations. It can also investigate accidents and provide corrective guidance. The Secretary has the authority to issue a subpoena when investigating an accident as well as require additional reporting and record-keeping.

Every weekday more than 7 million people board railcars. Now they can breathe a bit easier knowing their metro will soon have Federal safety standards just like commercial buses, airplanes, and commuter rail systems. I want to thank Senators TIM JOHNSON and BOB MENEDEZ for working with me on this important safety issue.

Mr. JOHNSON of South Dakota. Mr. President, today I wish to speak in support of the surface transportation conference report. As chairman of the Senate Banking, Housing, and Urban Affairs Committee, which is responsible for authorizing the public transportation portion of the bill, I was proud to serve as one of the conferees.

After intense and exhaustive negotiations our conference committee reached an agreement on a bill that will benefit every American. In my home State of South Dakota alone,

this bill will support 10,000 jobs and across the country it will support nearly 3 million jobs. It will improve rural transit service and make our Nation's highways safer and more efficient. I am relieved that we will not let another construction season go by without certainty of Federal funding.

From the start, the Banking Committee worked in a bipartisan fashion on the transit reauthorization which is why we were able to pass our portion of this bill out of committee by a unanimous voice vote. I am happy to say that most of our committee-passed bill is still intact in the final product we have before us today.

This conference report will increase funding for public transportation through the end of fiscal year 2014 and deliver critical investments in the Nation's aging transit infrastructure.

In addition, the bill will institute much needed reforms such as speeding the construction of public transportation projects. The bill also includes transit safety provisions that have been stalled for 3 years.

Finally, our bill increases formula funding for all types of transit: additional urban and rural formula funds, new money for every State to address state of good repair needs, and more money for tribal transit. Our Nation's transit systems need more than \$77 billion to address backlogged repairs. This bill can't address all of those needs, but it can ensure that our transit systems don't fall further behind.

Americans make 35 million trips on public transportation every weekday. Many of these trips are in our cities, but in places like South Dakota, rural transit service connects seniors with their doctors and helps our workers travel long distances to get to jobs. Everyone benefits from public transportation, and this is a bill the American people deserve.

This bill wouldn't have been possible without the hard work and determination of more people than I can name today. However, there are a few in particular that I must single out.

We would not be at the finish line today if we didn't have Senator BOXER as our conference chairwoman. And Senator MENENDEZ, our Transportation Subcommittee chairman, worked side-by-side with me on transit since we started work on this bill last year. I thank them for their support.

And I would be remiss if I did not mention my staff. Homer Carlisle, my lead transit aide, did outstanding work in helping craft this bill. In the last year, he worked countless late nights that often lasted into the early morning. Additionally, Charles Yi and Dwight Fettig were instrumental in getting us to this point today.

There is just so much credit to go around. We had four committees working on this bill and without such dedicated hard-working staffs we could not have reached this agreement.

I am also pleased this conference report will provide stability to the Flood

Insurance Program by reauthorizing it for 5 years. The National Flood Insurance Program protects millions of homeowners and is critically important to our Nation's housing market.

As the people of South Dakota and others across the country have experienced firsthand, flooding is responsible for more damage and economic loss than any other type of natural disaster. It affects people across the Nation, in every State, which is why we are going to do the right thing today and pass this bipartisan legislation to provide stability and much needed reforms for the program.

Since 2008, when our last long-term reauthorization expired, we have passed 18 short-term extensions of this program. During this time, the program has lapsed 5 times, for as long as 33 days, with detrimental effects on homeowners and the insurance and housing markets.

By passing this bill, we will end the uncertainty of month-to-month extensions for the NFIP and the families and businesses that rely on its \$1.2 trillion of coverage.

This bill is not perfect, and no one has gotten everything that they wanted. Unfortunately, we were unable to reach a bipartisan agreement on addressing the outstanding debt of the program that has accumulated since Hurricane Katrina. But we have found enough common ground to move critically important reforms forward. As part of that effort, I want to thank my colleagues on the Banking Committee and in the House for their cooperation and input.

The flood insurance bill didn't just come together in one night. It came together in countless late nights worked by staff over the last year. So I want to take this opportunity to thank my committee staff—Beth Cooper, Brett Hewitt, Chris Ledoux, Glen Sears, Laura Swanson, and Charles Yi for their work on this legislation. Additionally, I want to thank Alison Wright MacDonald and James Ollen-Smith from the Office of Legislative Counsel.

Lastly, I am pleased that the conference report includes a provision to avert a catastrophic interest rate hike on student loans. If Congress had failed to act, over 7 million students, including an estimated 31,000 undergraduates in South Dakota, would have seen their interest rates double.

Earlier this month, I talked with students at Southeast Technical Institute in Sioux Falls. They told me a rate hike would make it harder for them to complete their schooling and would likely deter countless students from pursuing their higher education goals.

At a time when too many students are graduating with enormous debt loads, we should not make it more difficult for students to finance their education and manage their debt. I am glad we have reached an agreement that prevents the rate hike from taking effect. This is an important victory

for students across South Dakota and throughout our country.

In passing this conference report we will send a clear message that it is still possible to work across the aisle and pass commonsense bipartisan legislation in the interest of the American people.

I urge my colleagues to support this bill and I yield the floor.

Mr. REID. Mr. President, I yield back all time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on adoption of the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from Hawaii (Mr. INOUE), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), and the Senator from Illinois (Mr. KIRK).

The result was announced—yeas 74, nays 19, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—74

Akaka	Hagan	Murkowski
Baucus	Harkin	Murray
Begich	Heller	Nelson (NE)
Bingaman	Hoeven	Nelson (FL)
Blumenthal	Hutchison	Pryor
Blunt	Inhofe	Reed
Boozman	Isakson	Reid
Boxer	Johanns	Roberts
Brown (MA)	Johnson (SD)	Rockefeller
Brown (OH)	Kerry	Sanders
Burr	Klobuchar	Schumer
Cantwell	Kohl	Sessions
Cardin	Kyl	Shaheen
Carper	Landrieu	Shelby
Casey	Lautenberg	Stabenow
Chambliss	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Udall (NM)
Conrad	Lugar	Vitter
Coons	Manchin	Warner
Durbin	McCaskill	Webb
Feinstein	McConnell	Whitehouse
Franken	Menendez	Wicker
Gillibrand	Merkley	Wyden
Grassley	Mikulski	

NAYS—19

Ayotte	Enzi	Paul
Barrasso	Graham	Portman
Coats	Hatch	Risch
Corker	Johnson (WI)	Rubio
Cornyn	Lee	Toomey
Crapo	McCain	
DeMint	Moran	

ANSWERED "PRESENT"—1

Snowe

NOT VOTING—6

Alexander	Coburn	Kirk
Bennet	Inouye	Udall (CO)

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this conference report, the conference report is agreed to.

The title was amended so as to read: "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes."

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I move to reconsider the vote and lay that motion upon the table.

The motion to lay upon the table was agreed to.

VOTE EXPLANATION

• Mr. ALEXANDER. Mr. President, I am disappointed in the final version of this bill. If I had been present, I would have voted against it for a number of reasons, including the fact that it violates the Budget Control Act, it does not use the money produced from the pension reforms to shore up the financial strength of pension systems, and it fails to prevent the EPA from regulating coal ash as a hazardous material.●

VOTE EXPLANATION

• Mr. BENNET. Mr. President, I want the record to reflect that I would have voted in favor of H.R. 4348, but I went home to Colorado to be with my constituents, many of whom have lost their homes and are facing severe challenges as several fires continue to rage across the State.

By finally reauthorizing our transportation programs for over 2 years, we will provide some measure of certainty for States, municipalities, and businesses across the country urgently in need of more than just a 2-month extension. The bill includes resources, modeled on legislation that I introduced with Senator MARK WARNER, for transit-oriented development competitive grants to help local communities work with private investors to promote long-term transit planning, and the legislation also contains a common-sense modification to the rural transit formula for which I advocated. These provisions will benefit transit agencies across my State as they provide quality service to Coloradans. The bill also maintains continued funding for the Payment in Lieu of Taxes (PILT) Program and Secure Rural Schools and Community Self-Determination (SRS) Act. These programs are lifelines for financially strapped rural counties and local businesses.

Of course this is not a perfect bill. I am disappointed that the conference committee eliminated the Senate provision funding the Land and Water Conservation Fund, a program that has been vital to preserving Colorado's western heritage. And I would have liked to see a longer reauthorization, with structural reforms to the highway trust fund to ensure we can continue to finance improvements to our public infrastructure and leave more—not less—for the next generation. That said, I commend my colleagues for all their hard work getting this bill across the line.

I am also pleased that this legislation will prevent loan rates from doubling and averts an increase that would

have put the dream of a college degree further out of reach for thousands of Colorado students, and increased an already crushing debt burden on the middle class.●

Mrs. BOXER. Mr. President, it has been a very long and winding road to get to this place. I am overwhelmed with the amazing vote we just had—the margin of success, the fact that this is the product that is not only bipartisan but bicameral. I understand that the House vote was equally lopsided in favor of passage. I think this sends a tremendous signal to the people of America, and that is that we can work together. Do not give up hope. When it comes to the well-being of our people, we must get together.

I know the President must be smiling broadly because he has stated over and over how important it has been for us to pass a highway bill and to pass a reduction in student loan interest rate bill in order to help our people.

I have said many times that what kept me going and so many others—and I am going to name the various chairmen whom I worked with here and over on the House side and staff—what really kept us all going is the fact that we know how hard the construction sector has been hit in this recession. The housing crisis started this recession. It has not gotten better. It is slowly coming around, but new construction is going to take a while before all of the inventories are back in their appropriate place. What is going to help us? We could fill 10 Super Bowl stadiums with unemployed construction workers. We are looking at well over 1 million construction workers who are unemployed. Well, this was the answer.

The transportation sector is hurting. The construction sector is hurting. And today we have sent a message, a powerful message that for 2 years and 3 months, we have funded a good bill that is going to employ up to 3 million workers and help thousands of businesses, and it is all in the private sector, the things that need to be done.

We know we have 70,000 bridges that are deficient. We know we have 50 percent of our roads that are deficient. We know we have transit systems that need capital improvements. We know we have bike paths that need fixing and pedestrian walkways that need fixing. All of that has been resolved.

Are there things in this package that I do not like? Absolutely. Are there things in this package my Republican counterparts do not like? Absolutely. We had to give. We had to take. We struggled.

I am going to read into the RECORD the names of these staffers. This is an unbelievable list. I am going to do it quickly. I am going to say to these staffers from the various committees that they knew how important their work was.

If we didn't succeed, there would be no more money in the highway trust fund, and all of the repairs on our roads

would stop and the repairs on our bridges because everybody out there, since President Dwight Eisenhower was President, depends on the Federal share.

We cannot have a strong economy without a strong infrastructure. Here are the names. I am not reading Democrats and then Republicans; I am reading the bipartisan list of staffers: Bettina Poirier, Ruth VanMark, David Napoliello, James O'Keefe, Andrew Dohrmann, Murphie Barrett, Tyler Rushforth, Kyle Miller, Jason Albritton, Grant Cope, Mike Burke, Tom Lynch, Mark Hybner, Charles Brittingham, Alex Renjel, and Dimitri Karakitsos.

I also thank the leadership staff. When things were looking glum, there they were. They are David Krone, Bill Dauster, and Bob Herbert.

Here are the staff directors of the key committees who worked on this—remember, this was a four-committee process, including EPW, Banking, Commerce, and Finance. I thank Russ Sullivan, Dwight Fettig, Ellen Doneski and their extraordinary staff. They include Ryan Abrahams with the Finance Committee; Ian Jefferies, David Bonelli, Anna Laitin, and James Reid with the Commerce Committee; and Homer Carlisle with the Banking Committee.

I also want to thank the Senate legislative counsel, Rachelle Celebreeze and Gary Endicott, whom I drove crazy yesterday by telling them to please produce the paper.

This staff loved their work so much that I thought they would never end it. I had to beg them: Please finish because there will always be something more you can do. You can always find something better or put a comma in a different place. They wanted to make it as perfect as they could. There was a time when we just had to say, OK, we are done. They got it done. I am very moved of their dedication.

I know my staff at EPW—for 3 days, the staff members, whose names I read—if they got 4 or 5 hours of sleep, they got a lot. They are running on empty right now. I tell them that their names will forever be in this record, and people they don't know will flourish because of their work when we start hiring people to do this infrastructure work.

I thank my dear colleagues, JAY ROCKEFELLER, MAX BAUCUS, and TIM JOHNSON. No way could I have done it without them. I also pay tribute to MARY LANDRIEU, who is on the Senate floor today. Senator LANDRIEU and her State have gone through so many traumas—so many—with hurricanes and all of the attendant problems, and the BP oilspill, which did so much terrible damage to her State and the other Gulf States—environmental damage, commercial damage, broken hearts, broken spirits.

Let me tell you, you never break MARY LANDRIEU's spirit. She teamed up with Senator VITTER, and they wrote

the RESTORE Act. Then she went to all of the other colleagues of the gulf cost and said: You have to help me. They put together a great package. What it means—without going into detail; she will do that—is that when the court decision comes down and the funds come to the Federal Government for all the violations of law that took place with the BP spill, 80 percent of the funds will be directed to the very people who got hurt.

Senator LANDRIEU, it is an honor and a privilege to work with you. You have been a model of a Senator who never, ever stops fighting. I am so grateful I was able to step to the plate and help you.

I will add more names of colleagues, but I don't have time at this point. Others want to speak. This is a great moment. The bill we passed is a good bill. It is going to speed up project delivery without waiving any environmental laws that we keep the protections in and give a little more flexibility to the States on the alternative transportation routes. But, believe me, we also add a new piece that gives more power to the local people to decide on these projects. I am so pleased.

I will add more statements to the RECORD later today. We have done this, and we are going to mark this moment.

After we get our breath back and get our energy back, we are going to look at a long-term solution to the problem of the highway trust fund. We know the gas tax receipts are going down, and we have to solve the problem. If it wasn't for Senator BAUCUS and his staff, we never would be at this point because we didn't have the funding. They have to come up with it. I thank them and the Republicans on the committee.

With that, I yield the floor, thanking one and all for this tremendous vote today.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, before the Senator from California leaves the floor, for a much needed rest and relaxation and celebration with her extraordinary staff, let me be one of the first to thank her, to join my colleagues who have thanked her for her leadership.

This Transportation bill would not be a reality for the Nation—not for California, Texas, New York, or Louisiana,—if it weren't for the leadership of the chairperson of this committee. Senator ROCKEFELLER was there to push, Senator BAUCUS was there to push, Senator JOHNSON was there to push, but the leader of this victory was Senator BARBARA BOXER.

Her colleague, Senator INHOFE, stood bravely against winds of opposition, ideology, without common sense—ideology without regard to the needs of the Nation. Senator INHOFE, a Republican, stood against those winds and with the Senator from California to produce a jobs bill for the Nation.

I hope people appreciate the extraordinary accomplishment this is in the

context of the political quagmire we find ourselves in just a few months before a very significant national election, with both sides hugging the opposite wall. For these two to come forward today and meet in the middle of the Chamber and produce a bill with this kind of vote, people did not think it was possible up until just a few weeks ago. There was still the majority saying it will never happen.

But I know something about BARBARA BOXER, as well. She came here as a fighter. Her name "BOXER" says it all. It is the way she fought her way to the Senate, and she continues to fight not just for the people of California but the people of the Nation.

I knew 2 years ago—now a little over 2 years ago—when the Deepwater Horizon platform blew up in the gulf, one of the first people I could go to, to ask for help, for support, for ideas and advice about what to do would be Senator BOXER. She is a strong environmentalist. She has a heart for our oceans, and she understood the challenge of Louisiana's eroding coastline—more so than many Members in this body.

I will be forever grateful for the fact that she and her staff sat with me and other colleagues and crafted the RESTORE Act, which is a historic piece of legislation. It has no precedent in Congress. It will, for the first time, set aside such a significant amount of money from a penalty that has yet to be determined—BP—that under the law, after the Valdez spill, now has to pay to the Federal Government \$1,000 for every barrel of oil that was spilled or gushed out of the explosion for months on end. They have to pay \$1,000 for every barrel of oil that was spilled. The estimates are that, unfortunately for our coast, our people, our fishermen, shrimpers, charter boat captains, and the pelicans, fish, shrimp, and oystermen, for us it was 5 million barrels of oil spilled between August and July, until the well was capped. It is the largest pollution event in the history of the Nation. It will be the largest fine.

I have every confidence that the people of the gulf coast and the Nation will find justice in the courts. I hope this fine is as high as it can be, based on the damage that has been done from Texas to Florida and off the coast of Louisiana. When I brought this to Senator BOXER, she understood that we had to find a way for justice in the gulf. I crafted the RESTORE Act with my colleague DICK SHELBY. For months we negotiated about how to craft it, what to say, how to specifically direct the funding, and had the benefit of having the support of the White House, the support of every commission and every individual appointed by the President supportive of this idea.

So I first thank the VP's Presidential commission that was one of the first to step up and support this concept of an 80-percent set-aside and redirect to the gulf.

I particularly thank Secretary Ray Mabus, whom we will remember led the President's first commission, former Governor of Mississippi, who knows the gulf coast well and understands Louisiana's coast as a neighbor for so long. He stepped up and said: Yes, this is the right thing to do. We had hundreds—and, really, thousands—of individuals and hundreds of organizations that started to come forward.

Let me name a few: the Environmental Defense Fund was absolutely instrumental, National Audubon Society, National Wildlife Federation, Nature Conservancy, Ocean Conservancy, Oxfam America, and GNO, Inc.—Greater New Orleans, Inc. They were some of the first organizations to step up.

The Greater Houston Partnership was invaluable in the early days to build support among the business community, as were the Mobile Chamber of Commerce, Ducks Unlimited, America's WETLAND Foundation, Restore or Retreat—a vibrant local and dynamic organization in south Louisiana—Chamber of Southwest Louisiana, Baton Rouge Area Foundation, and Women of the Storm—representing thousands of women, not just throughout the gulf coast, but as well from your State and every State. Women stepped up who said this kind of accident has to stop. This kind of explosion should never happen again.

Most important, they said the people who were hurt the most, the area damaged the worst should be compensated by this fine. This money should not come to the general fund of the United States to be spent everywhere else in the Nation for a variety of unrelated purposes. The RESTORE Act says: No, the right way for this money to be allocated is to the area where the accident occurred, where the injury occurred, and that is exactly what RESTORE does—no more and no less.

There is one other person who deserves particular thanks and a shoutout, and that is the Senator from Rhode Island SHELDON WHITEHOUSE. When Senator SHELBY and I finished crafting this bill, which was introduced by a few colleagues—a similar bill—on the House side, Representative STEVE SCALISE, CEDRIC RICHMOND, and Representative BONNER from Alabama—we were having a great deal of difficulty moving a bill through a committee that only had two gulf coast Members and Senator BOXER.

The other Members were sympathetic but not that enthusiastic, and I can most certainly understand why. As you know, this is going to be a tremendous amount of money. It is going to direct these funds to only five States. They were sympathetic, but what was in it for everyone else? SHELDON WHITEHOUSE and I put our heads together and came up—it was his idea—with the bill itself and thought maybe we could, as a part of RESTORE—an integral part of RESTORE—say perhaps the oceans deserved justice as well because water knows no boundaries. What happened

in the gulf could have impacts in the Atlantic, up the Atlantic, and out to the Pacific. Who knows. And that is the problem. We don't have enough scientific research going on in this Nation about our oceans, which is 70 percent of our planet. In Louisiana, we derive great pleasure, joy, and income from our oceans, and from our oil and gas exploration, which is usually safe, on any normal day. This was not a normal day in the gulf, not a normal operation when the Horizon rig blew up. We get our fish, our oysters, our seafood industry, our restaurant industry, our hotels, and our ecotourism—and I could go on and on—from the ocean. We make our living from the ocean. Senator WHITEHOUSE and I thought—and I think most reasonable people agreed—the oceans deserve something out of this. So at no cost to the five States, we put in a provision that a small portion—a half percent of the interest earnings that would be generated—not the fund itself, not taking money away from the gulf coast, as some have claimed, but appropriately saying interest earnings—would create a trust fund for the oceans so that every State could use it for research along their coast.

But that was a bridge too far for the Republican leaders in the House who think we can learn nothing, who want no partnerships, no research whatsoever, I guess, to go on in the oceans. So as that amendment became a part of the committee process over here, we had that amendment connected to RESTORE at the committee level. It was part of RESTORE. It was moved to the floor and it enabled us to build a broader coalition, which is the way legislation is built. It is not one person's idea. It is not one person's work. The best of the bills and legislation we pass are about teams, about generosity and sharing and understanding, a little give here, a little take there.

It is a shame there are some people on the other side of this Capitol who don't seem to know that is the basic operation of a democracy. I am not sure what books they read in school, but they weren't the ones we read at Ursuline Academy, taught by the Ursuline nuns. But SHELDON WHITEHOUSE read those same books, and we put this bill together. I couldn't have been happier. Not only could I go home and say we did this great thing for the Gulf of Mexico and that everyone came together to help us in our time of need, but I could also look at our great friends from other parts of the country and say there is a portion in here for the oceans.

That is how the bill came to the floor. One of my proudest days, in my 16 years here in the Senate, was when this Senate voted, under the leadership of Senator BOXER and myself and Senator SHELBY, for this bill—the RESTORE Act—with 76 votes. I don't think the transportation bill itself got 76 votes, to indicate how difficult it is to get 76 votes. Other than just for im-

material items, it is hard to get 76 votes for apple pie and Mother's Day greetings. But we got 76 votes, and I was so proud. Not only was it the right thing to do—a great help to the region I help to represent—but also very fair, with the inclusion also of the land and water, which was not part of RESTORE but an amendment that was put on to help this effort with other parts of the country. So the good news is we passed that bill and paid for it in full over here with a pay-for that was also agreed to by 76 Senators.

But when the bill went over to the House, one of the first and most serious detrimental things that happened was the oceans endowment trust fund was stripped out. I want those who stripped it out to know this: We will be back. We are going to lead a coalition of Democrats and Republicans in the Senate who are going to send a strong message to House Republicans that the oceans do deserve our time, our attention, our love and support and our money. We can't do this on a wish and a prayer. We have wildlife and fish and migratory birds that depend on healthy oceans. The people of our country and the world depend on that.

This will not be the last time they see the national oceans endowment. I will be proud to have my name right next to SHELDON WHITEHOUSE's and we will go into battle again.

But around here, you don't win everything every day, and so they cut it out. But we will put it back and it will be bigger and stronger than it was when they took it out.

The other thing the House Republicans did, which I have no understanding of why, to pay for this RESTORE Act, the student loans, the transportation bill, and the flood insurance bill, is they took \$700 million away from Louisiana's Medicaid budget. I will have more to say about the details of that later, because I want to stay focused on RESTORE, but I want to put in the record what our Commissioner of Administration said, who, of course, works for Republican Governor Bobby Jindal, and Republican Secretary of Health and Hospitals Bruce Greenstein:

... the loss of more than \$400 million—

And that was in fiscal year 2013, and it was another \$250 million, so it was \$650 in 2014.

—in so-called FMAP money, already built into the state's Fiscal 2013 budget passed by the Legislature and signed into law by Gov. Bobby Jindal, would altogether lead to a loss in Medicaid dollars that would require \$1.1 billion in cuts.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of this quote from Paul Rainwater and Bruce Greenstein.

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

Louisiana Commissioner of Administration Paul Rainwater and Secretary of Health and Hospitals Bruce Greenstein said the loss of more than \$400 million in so-called FMAP

money, already built into the state's Fiscal 2013 budget passed by the Legislature and signed into law by Gov. Bobby Jindal, would altogether lead to a loss in Medicaid dollars that would require \$1.1 billion in cuts.

Ms. LANDRIEU. The House Republicans who came up with this idea insisted on this offset when there were others that could have been offered that were much more fair, much less impactful, and much less hurtful. There were some Republican Members who absolutely insisted this offset be included, and so the Republican Governor Bobby Jindal, with a Republican legislature and a Republican delegation in the House, will have to find a way forward. I am not sure what that way is going to be, but when the bill left the Senate that was not even discussed under any circumstance whatsoever.

But even this terrible action taken on the House side cannot diminish the extraordinary victory of the RESTORE Act. Bills such as this, that basically distribute anywhere from \$5 billion to \$20 billion for coastal restoration efforts, take years, even decades to pass. We did this in 2 years, working together, staying focused, and building a support structure nationwide from the business community to the environmental community. The Chamber of Commerce stepped up, the American Petroleum Institute did their part, and many of the oil and gas companies stepped up as well. With the coalition of environmentalists, business organizations, wildlife enthusiasts, we were able to get this significant bill passed. It is going to be a tremendous downpayment for the challenge in the gulf coast.

Let me, for the record, say again that there were 86,985 square miles of water closed to fishing, approximately 36 percent of Federal waters in the gulf that were closed to fishing for months, causing a loss to the industry of \$2.5 billion. There were 600 miles of the gulf coastline that were oiled. Over half of those miles were in Louisiana, and some oil is still lingering. In fact, scientists who have been studying the baseline said the erosion of the marsh that was oiled was eroding at twice the speed as normal, and that normal erosion is pretty breathtaking in terms of its rate.

We have lost basically the size of the State of Rhode Island in the last 50 years. If our delegation is not successful in continuing to have victories such as this, it is conceivable, with the climate change that is happening, the rising of the tides and the frequency of these great storms, that one day, if we are not successful in preserving these wetlands—and these are wetlands of all of America, that drain 40 percent of our Nation, that supply 40 percent of the fisheries to everybody, and 80 percent of the oil and gas to everyone—that New Orleans will be existing as a city with a 30-foot concrete levee around it and everything else washed away—our culture, our hope, our way of life.

I have said this a thousand times: We are not sunbathing here in south Louisiana. We are not vacationing in south Louisiana. We have fun, we have weekends where we fish and we hunt, but we are not vacationing for weeks and weeks in south Louisiana, lying on the beach and getting a tan. There are no beaches to lie on. We only have two. Grand Isle is 7 miles long, and Holly Beach, which got washed away in Rita and still has not been rebuilt.

The Corps of Engineers continues to tell me there is nothing they can do for the last inhabited island off the coast of Louisiana. Well, there is a lot they can do, and we will see to that in another bill. But we want these wetlands preserved for our children, for our grandchildren, and for the economic vitality of the Nation. This is the mouth of the greatest river system in North America and we intend to save what we can. We will never get everything back. We have lost 1,900 square miles since 1930. We lose 25 square miles of wetlands each year, and we lose a football field every 30 minutes.

Two million people live in coastal Louisiana, about ½ million in Mississippi, about 1 million in Alabama, and probably about 4 million in Texas. We cannot get up and move. There is no place to go. We don't want to live in Arkansas and Missouri. We want to live on the gulf coast, and we have been there since before this Nation was a nation, and we are not leaving. We are tired of retreating. We know this can be done. We have been to The Netherlands and places around the world where wetlands have been saved—levees built that don't break. It is cost effective in the long run. In the short run it costs investment. In the long run, it creates wealth for everyone.

Three trillion dollars is contributed to the national economy by the gulf coast every year, 17 percent of the national GDP comes from the gulf coast every year, 50 percent of all the oil and gas that fuels this Nation comes from the gulf coast, and 80 percent comes from offshore. Every year, despite how much we do, we get zero back from offshore oil and gas drilling off our shore. The interior States have received 50 percent since 1923, but not Texas, not Louisiana, not Mississippi, and not Alabama. We drill, drill, drill, and send oil everywhere, keeping lights on everywhere. The pipelines just run through our State. We are happy to have the industry, but we would like to share the revenues with the Federal Government. We send to the Federal Government about \$6 billion a year, and have for decades. So when people say, don't you ever get embarrassed by asking for so much money? No. I could not possibly ask for as much money from Washington as we have already sent here. So I am going to continue to ask for funding for our State because we send off of our coast, and we are happy to do it, but we believe in fair partnerships and mutual respect. And until we get that, I am not going to

stop advocating for our State. So RESTORE is a first step. It is the right step.

It is the fair step and justice for the goals for right now. This isn't taxpayer money. No taxpayers are paying this. BP is going to pay this. But we are going to come back next year and talk about the sharing of the tax revenues that the oil companies—not individuals but the oil companies—pay to the Federal Government every year for every barrel of oil, every cubic foot of gas they take out of the gulf. That sharing should be done not just here in America, it should be done off the coast of Africa, off the coast of South Africa, off the coast of Brazil, off the coast of Ghana, so the people who live along the coast can be respected, since that is where the drilling and the exploration is taking place.

Just as people in North Dakota and Utah and Wyoming share their revenues with the Federal Government, we intend to have a more robust revenue-sharing effort in the future. But until the day that happens—and I am confident, as sure as I am standing here, it will—this RESTORE money will go as a significant downpayment to help jump-start coastal efforts. We are not doing it like every man or woman for himself. It is not a grab bag for Governors. Senator SHELBY and I carefully crafted this so the money will be spent wisely, well, and efficiently in coordination with the Federal and State governments.

Is it going to be perfect? No. I am sure we are going to have some stumbling blocks. But this is unprecedented in its nature. This kind of public works effort has never been undertaken in this great way. So the scientists hopefully will lead us, the engineers and designers will design what we need, and we can continue giving our best effort in hopes of saving a great place on this Earth; that is, the great marshes of the gulf coast and the great delta that this mighty Mississippi River built thousands and thousands of years ago and leave it better to our grandchildren than most certainly we found it.

It has been a wonderful part of my life's work. It has been a worthy project to work on. There are others who have most certainly joined me in this leadership. But I am very proud of the work this Senate did and very disappointed in some things the House did on it. But as Senator BOXER said, it is legislation and we just can't have a perfect bill. It was better to get this than to leave it on the cutting-room floor, even though they did leave important pieces of it there.

I wish to thank Senator BOXER's staff, in particular, Senator INHOFE's staff for being so courteous, and Senator BOXER's staff for being very tenacious—to Tina and Jason particularly—to help us negotiate one of the great environmental pieces of legislation in decades.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise today to discuss the transpor-

tation reauthorization bill that passed today. Having served on past transportation bill conference committees, I know the long hours and intense negotiations that were required to prepare this bill for consideration today, and I want to extend my congratulations, appreciation, and respect to Senators BOXER and INHOFE. I know from past experience that they are both principled, tough negotiators, and I am sure that is why the transportation bill returned from conference with so many key provisions intact.

In March, the Senate acted in a bipartisan manner to pass a transportation bill that contained significant achievements for our country, and would have greatly benefited my State of Connecticut. The bill would have reduced red tape for transportation projects while still protecting our environment and resources. It included a provision I worked on with my colleague from Delaware, Senator CARPER, which would have required cities and States to take air quality goals into account when drafting transportation plans. It also would have provided mass transit benefits the same tax beneficial treatment as parking benefits, and would have funded Connecticut's transportation programs at a level that met our basic needs for the next few years.

The bill that came back from conference retained many of these provisions, but I regret to see that it weakened others and discarded some of the rest. As I stated earlier, I am no stranger to working on a conference committee, and I fully realize that the best legislation is produced through a give and take on various issues. Clearly, that was the case here. Despite my disappointment on some of these compromises, I believe that it was essential that we acted to ensure that our national transportation programs did not lapse on July 1, and that is why I supported the transportation bill conference report. I would like to take a few minutes to briefly explain some of my concerns, and why I ultimately voted the way I did.

My concerns can generally be broken down into three categories: environmental, Connecticut-specific programs, and the long-term viability of the transportation system. First, let me touch upon the environment. We have come a long way since the days when Federal and State transportation departments labored under the mistaken belief that building our roads and highways bigger was better, no matter the consequences. We have long since realized that land deserves to be preserved, the purity of our water protected, and our air quality improved. I worry that the bill would be a step backwards because it would waive environmental reviews of many transportation projects, including some in environmentally endangered areas of our country. By providing a categorical exclusion under the National Environmental Policy Act for any projects within an existing

operational right-of-way, I can foresee wetlands being filled, sensitive habitat threatened, and resources spoiled, all without any environmental review. There is a right way and a wrong way to expedite projects, and I believe this is the wrong way. I understand this was a necessary concession in order to get a conference report agreed to, but I hope it will be addressed in the future.

The second concern I have is the impact of the bill on my State, Connecticut. The Federal highway program is just that: a Federal program that is intended to address the needs of the national transportation system. Nonetheless, our country's different regions have particular needs. Connecticut, and the Northeast in general, have urgent needs when it comes to transportation. My State has one of our Nation's oldest transportation systems, because Connecticut has been around a long time, one of the Nation's highest ratios of traffic volume to miles of road, and is a frequent pass-through State for commuters throughout the Northeast. Federal transportation funding should go to areas with the greatest need, just as happens with other government programs such as farm subsidies and disaster relief. Connecticut residents do not protest these agricultural support programs despite our paying a disproportionate share of taxes for them, but we deserve to receive adequate funds to address our unique transportation needs. Under this bill, Connecticut will receive inadequate funding. I would urge my colleagues to reconsider this problem, as well as the 95 percent minimum rate of return for all States, during deliberations on the next transportation bill just as we did during consideration of the 2005 transportation bill.

Finally, I want to take a moment to address a growing concern across the country: the future of our Highway Trust Fund. Since the establishment of the Federal highway system, we have utilized a user-fee system to fund our transportation programs. That system served us well for years, and relied on a gas tax to fill the Highway Trust Fund, which in turn distributed funds to our States. As is so often the case, with the good comes the bad: as we make cars that are more fuel efficient, thereby cleaning up our air and reducing emissions, we also purchase less gas per mile driven, and the amount of money flowing into the Trust Fund shrinks as a result. The gas tax has stayed static at 18.4 cents per gallon since 1993. Because it is not adjusted for inflation, the federal gas tax has experienced a cumulative loss in purchasing power of 33 percent since 1993. For 4 years now, the Trust Fund has been running a deficit and we have had to bail it out with transfers from the Treasury. This is not the way the system was meant to work, and it is not a way it can long survive.

The blame lies at all of our feet. Neither party has had the courage to face the reality that we are running out of

money for our roads and bridges. Instead of dealing with the problem, we have continued to bail out the trust fund, hoping that some future Congress will take necessary steps to fix this problem. I applaud my colleague from Wyoming, Senator ENZI, who took a stand and proposed adjusting the gas tax for inflation, basically a half-cent a gallon increase. This could have gone a long way to reducing the amount of money we need to use to bailout the trust fund. Unfortunately, we never had a chance to discuss the matter. I understand that colleagues do not want to talk about raising taxes. But in the end we have no choice but to talk about raising taxes if we want our transportation infrastructure to keep pace with our people's needs.

We need leadership from Congress, and the President, to face the facts: our transportation system is both broke and broken. The system does not have funds for some basic repairs, let alone to make the new investments for infrastructure we urgently need. In 2002, the United States was ranked fifth, in terms of infrastructure quality, worldwide. Today, we have dropped to twenty-fourth. We have fallen 19 places down in less than a decade.

Unfortunately, the large-scale investments we need will not be possible until we can fix the funding issue. The Simpson-Bowles Commission recommended a 5-cent per year increase to the gas tax for 3 years. Others have recommended shifting to a system that charges users for vehicle-miles-travelled. Such a VMT would ensure that those driving fuel efficient, electric, or alternative fuel vehicles pay for the wear-and-tear to the roads they cause. Although I will not be a member of the Senate when the next transportation bill is debated, I would urge my colleagues to begin to address this issue before the trust fund goes broke once again. Washington must have the courage to keep all options on the table, and then do what works to fix this problem.

In closing, I wish to again express my gratitude to Senators BOXER and INHOFE. This is a true jobs bill, and it will guarantee that millions of construction workers are still employed come Sunday, that student loan interest rates do not double this school year, and that our truly important flood insurance program will be reauthorized.

I thank Senator BOXER, Senator INHOFE, the staff of the EPW committee, as well as the staffers at the Departments of Transportation both in Washington and Connecticut, for their efforts in bringing this bill to fruition.

Ms. LANDRIEU. Mr. President, I forgot to thank my own staff, which would be very important to do. Elizabeth Weiner, Elizabeth Craddock, Jane Campbell, my chief of staff, and my entire staff for their tremendous work—we are all going to get a good rest in the week to come—and other staff, Tanner Johnson in particular, no

longer with my staff but who put the original bill together.

I yield the floor, and 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.

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

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

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Ms. LANDRIEU. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of S. Con. Res. 51, the adjournment resolution which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 51) providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives.

There being no objection, the Senate proceeded to the concurrent resolution.

Ms. LANDRIEU. Mr. President, I ask unanimous consent the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 51) was agreed to, as follows:

S. CON. RES. 51

Resolved by the Senate (the House of Representatives concurring). That when the Senate recesses or adjourns on any day from Friday, June 29, 2012, through Monday, July 2, 2012, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 9, 2012, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Friday, June 29, 2012, through Friday, July 6, 2012, on a motion offered pursuant to this concurrent resolution by its majority leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 9, 2012, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

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

The PRESIDING OFFICER. The clerk will call the roll.