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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, October 21, 2011, at 10 a.m.

Senate

WEDNESDAY, OCTOBER 19, 2011

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Immortal, invisible, God only wise, You are surrounded by inaccessible light. Today, help our lawmakers make substantive progress in their efforts to keep America strong. Remind them to trust You for today's challenges and difficulties, knowing that You hold all our tomorrows in Your hands. May this perspective of trusting the future to Your powerful and loving providence infuse them with a spirit of optimism to believe that they will reap a bountiful harvest if they persevere in doing what is right. Lord, give them the serenity to accept what they cannot change, to change what they should, and the wisdom to know the difference.

We pray in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 19, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MINORITY LEADER

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

RAISING TAXES

Mr. MCCONNELL. Madam President, I want to make a couple of observations this morning about what is going on in Washington at the moment and what is not. What is going on is that Democrats are obsessed for some reason with raising taxes. That is the only possible way to explain their latest idea to impose a permanent tax hike on about 300,000 U.S. business owners and then use the money to bail out cities and States that cannot pay their bills. That is the proposal we will be voting on apparently tomorrow.

I do not know if our friends on the other side have noticed, but Washington cannot pay its own bills right now. Think about it. The Federal Government spent $3.6 trillion last fiscal year, a new all-time record. And in the wake of the single largest spending year in history, Democrats want to put together another bailout.

Add up the projected deficits of all 50 States this year and you get $103 billion. That is all 50 States' deficits added up. Well, what about us? What about us here in Washington? We are expected to run a deficit of $1.3 trillion. Washington needs to prove it can get its own house in order before it starts demanding more money from job creators and throwing together another bailout.

This is the third time in 3 years the President has asked us to bail out the States. How many more times? And how many more billions before someone realizes this is a very bad idea? More bailouts. More bailouts are not going to solve the problem. They will just enable it.

But the bottom line is this: Everyone knows the last thing you want to do in a jobs crisis is raise taxes. It is common sense. The President himself has said as much. But for some reason he is determined to keep trying anyway. And Republicans are not about to go along with it. So Democratic leaders in Congress have decided to do nothing instead. If they do not get their tax hike, then they do not want to do anything at all. That is why rather than working with us on legislation that would get the government out of the way so the private sector can create jobs, including legislation that is in the President's own bill, they have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

choreographed a political sideshow this very week.

Here is how it works: The President proposes a stimulus bill and calls it a jobs bill. Congress rejects it in a bipartisan way for very sensible and straightforward reasons. The President then goes on a bus tour to criticize Republicans for voting against the so-called jobs bill. Democratic leaders consult with the White House on breaking the same bill into smaller pieces. And how do they break it up? By identifying parts they know Republicans will oppose, then add the tax hike just to make sure. Then another bus tour or a press conference with the President complaining about Republicans again. Repeat for 13 months in the hopes that Americans will forget they are all now living under the economic policies that were enacted during the first 2 years of the Obama administration, and hope for success. That is the game plan. In other words, they are actually designing legislation on the other side to fail so they will have someone else to blame for the economy 13 months from now. That is what is going on in the Senate this week.

So what is not going on? What is not going on is the kind of bipartisan cooperation Americans want. My friend the majority leader is out there telling people the Republicans are rooting for the economy to fail. Nothing could be further from the truth. Look, if Republicans wanted the economy to fail, we would all line up behind the President's economic policies rather than opposing them, because they have not solved this jobs crisis we have been in. We have done that.

The President got everything he wanted the first 2 years he was in office. So I think it is time Democrats realize they were elected to lead, not to choreograph political theater. It is completely preposterous. At a time when 14 million Americans are looking for a job in this country, for the President to be riding around on a bus saying we should raise taxes, it is completely preposterous for the President to be riding around on a bus saying we should be raising taxes on the very folks who create jobs.

Think about that. We have 14 million people out of work and two self-identified conservatives for every liberal in this country, and the President is out there doing his best Howard Dean impersonation. He is completely out of touch. Let's forget about the tax hikes.

Let's drop the talking points about millionaires and billionaires and let's work together on bipartisan jobs legislation that is designed to pass, not designed to fail.

Republican leadership in the House and Republican leadership here in the Senate has been crystal clear. We are ready to work with the White House on legislation on which we can all agree. The two parties did it last week on trade bills. There are other areas where we can do the same.

The House voted on three bills this year, one as recently as last week, to roll back excessive regulations by bureaucrats in Washington who are destroying jobs and threatening to put even more Americans out of work. All three of those House bills got solid bipartisan support. Why do we not have those votes in the Senate and show that we can work together to help businesses create jobs? Let's park the campaign bus, put away the talking points, and do something to address the jobs crisis.

The American people want action. The election is 13 months away. Why do we not do what we were elected to do?

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Following leader remarks, the Senate will be in a period of morning business for 1 hour, with the Republicans controlling the first half and the majority controlling the final half. Following morning business, the Senate will resume consideration of H.R. 2112, which is the Agriculture, Commerce, State, Justice, and Transportation appropriations bill.

At noon there will be a rollcall vote in relation to the McCain amendment regarding surface transportation. Additional rollcall votes are expected during today's session. We hope to lock in an agreement on three district court judges as well as the nomination of John Bryson to be Commerce Secretary.

JOB CREATION

Mr. REID. Madam President, my friend the Republican leader—and I will talk in more detail in a few minutes—is complaining about a tax of one-half of 1 percent—one-half of 1 percent on people who make more than $1 million a year to pay for a program that would stop teachers from being laid off and rehire some of the teachers who have been laid off.

The massive layoffs we have had in America today of course are rooted in the last administration. It is very clear that private sector jobs have been doing fine. It is the public sector jobs where we have lost huge numbers. That is what this legislation is all about. It is unfortunate my friend the Republican leader is complaining about that.

I would also note that my friend said the House passed another bill. Well, they pass lots of bills, but they rarely go anyplace. A report led by HENRY WAXMAN of California, long-time Member of the House, indicated last week that the House has voted 168 times to roll back regulations on clean air, clean water. These safeguards are important to have a healthier America. But the Republican response has been cutting back environmental and health safeguards, I guess hoping that a sicker, more polluted country is a better place to create jobs. It is not.

I am going to talk a little bit today about the legislation that I moved to on Monday dealing with, as I have indicated, maintaining jobs for teachers, firefighters, and police officers. Seventy-five percent of Americans support this legislation. This is not a poll that some Democratic pollster did, it is a CNN-Gallup poll.

This week, my Republican colleagues have rallied against teachers and first responders. That is our latest proposal, to create hundreds of thousands of American jobs and save other jobs. Republicans point to a similar program with a proven track record keeping 422,000 teachers in the classroom. That is important. They are using this as evidence that our programs are a failure.

I know the American Recovery Act saved Nevada from going into bankruptcy. The money we got there, hundreds of millions of dollars, allowed the Governor, a Republican Governor, to save Medicaid. Money is fungible. It saved teachers. It saved a lot of programs in Nevada.

So I say again, they call Democratic legislation—my Republican colleagues, my friend the Republican leader—legislation that created hundreds of thousands of jobs a failure. That is because they are using a different benchmark for success than we are.

Democrats' No. 1 priority is to create jobs. There are 14 million Americans out of work today. So to us, putting hundreds of thousands of people back to work teaching children, having more police patrolling our streets, firefighters fighting our fires, doing the rescue work they do so well, is our priority.

It seems that the No. 1 priority of my Republican colleagues is to defeat President Obama. Their strategy is to keep the economy weak as long as possible, so they oppose legislation with a solid record of creating jobs. Never mind that Republicans have yet to propose a single idea on their own—a single idea—to get 14 million people working again. Never mind that in the past they have supported every one of the job-creating measures we have proposed. We have a bill that was defeated, so we have taken pieces of that legislation, and virtually every piece of that legislation Republicans, in the past, have supported.

It appears that Republicans suit up every day and come to work with the sole purpose of defeating President Obama instead of suiting up with the sole purpose of creating jobs. And they oppose the policies that will turn our economy around for one reason and one reason only: politics and defeating President Obama.

The famous author Gore Vidal once said: ''It is not enough to succeed. Others must fail.'' It seems this is the Republican motto this Congress. To me and to most Americans, putting politics ahead of this country's economic future is so far outside of the mainstream, it is barely on the map. That is where the Republicans have headed.

Republicans have been candid about their goal this Congress. My friend the minority leader said:

The single most important thing we want to achieve is for President Obama to be a one-term President.

Defeating job-creating legislation, defeating the economy, and defeating the President—that is how Senate Republicans measure success. But it is not how Republicans in the rest of the country measure success. The rest of America doesn't share those out-of-touch values. Like Democrats, the rest of the country believes there are some things more important than politics, even in an election year. Creating jobs is that most important thing.

To Democrats and the vast majority of Americans, there is no goal more important than getting our economy humming once again. That is why Americans overwhelmingly support our plan to retain or rehire more than 400,000 teachers and put more cops and firefighters back doing the things they do to keep our communities safe.

In Nevada, this legislation will provide an additional $260 million to keep teachers in the classroom and maintain class size. It will support 3,600 jobs in my State and pump much needed money back into the economy.

Seventy-five percent of Americans believe we should help State and local governments put teachers, police, and firefighters back to work, and 76 percent of Americans agree that the wealthiest people in this country should help get our economy back on track. I repeat, three out of four Americans—actually, it is a little more than that: 76 percent—including two-thirds of Republicans, support the Democrats' Teachers and First Responders Back to Work Act.

Republicans in Congress aren't just out of touch with America, they are out of touch with other Republicans. Fifty-four percent of Republicans support the Democrats' plan to create jobs building roads, bridges and schools. Fifty-eight percent of Republicans support our plan to extend the payroll tax for American workers and businesses. Sixty-three percent of Republicans support our plan to put teachers in the classroom and police officers on the beat. Fifty-six percent of Republicans even support our proposal to ask millionaires and billionaires to contribute their fair share—one-half of 1 percent—to pull our Nation out of this terrible recession.

The trend is clear: Americans overwhelmingly support the Democrats' plan to create jobs, even with Republicans supporting our ideas by a wide margin. Yet my friend the Republican leader said this yesterday on the Senate floor:

There's a growing bipartisan opposition to trying the same failed policies again. And there's bipartisan opposition to raising taxes, especially at a time when 14 million Americans are out of work.

Well, I say to my friend the Republican leader, you are entitled to your own opinion but not to your own facts. There is not bipartisan opposition to legislation that will create and save jobs for teachers and first responders. On the contrary, there is bipartisan support for the legislation. I have just gone over those numbers. Republicans, like the rest of Americans, do not oppose our proposal to ask millionaires to contribute their fair share. On the contrary, they support that proposal—a one-half of 1 percent surtax on people making more than $1 million a year. It is only in Congress that Republicans oppose job-creating legislation and fair tax policy for the sake of politics.

In the rest of the country, Republicans, like other Americans, are focused on where their next paycheck will come from and how they will make their mortgage payment. Like Democrats, they are tired of Republicans in Congress rooting for the economy to fail instead of working with us to secure our economic future.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam 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.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE NOMINATIONS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the previous order, at 12 noon the Senate proceed to executive session to consider the following nominations: Calendar Nos. 272, 273, and 274; that there be 10 minutes for debate equally divided in the usual form; that upon the use or yielding back of time, Calendar No. 272 and Calendar No. 274 be confirmed and the Senate proceed to vote without intervening action or debate on Calendar No. 273; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to any of the nominations; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session, with 2 minutes of debate equally divided between Senators MCCAIN and BOXER or their designees prior to the vote in relation to McCain amendment No. 739, with all other provisions of the previous order remaining in effect.

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

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Madam President, I ask that the quorum call be rescinded and that I be allowed to speak in morning business, although I believe we are in the Republican time.

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

FEMA

Mr. PRYOR. Madam President, in some ways, I hate to come to the floor and talk about this because I very seldom do, but I am announcing to all my colleagues and to the administration that I am putting a hold on all Treasury Department nominations until I get something resolved.

Let me back up and tell the story. Some of my colleagues are familiar with this story because this has come up a few times before and I have already spoken on the floor a couple times about this and certainly in the Homeland Security Committee I have spoken about this.

A few years ago, in Arkansas, we had some floods. In this one particular area around Mountain View, AR, some people's houses were flooded. FEMA came in. In one particular case—in the Guglielmanas case, which is a family there—they talked to this couple. They are on Social Security. They talked to this couple about how they are entitled to some FEMA recovery money to repair their home. FEMA was actually in the home, took pictures, helped them fill out the paperwork, walked them through the entire process, and they ended up getting $27,000 in FEMA money for disaster recovery. The Guglielmanas did everything absolutely by the book. They followed all of

FEMA's directions. They did it picture perfect, exactly the way we would think all citizens should conduct their business.

Then, 3 years later, they got a notice in the mail and FEMA said: Oh, we messed up. We shouldn't have given you that money because of some technical reason and because of that we now want all that money back.

They worked a great hardship on this family. This is supposed to be government of the people, by the people, and for the people. That is not what has happened in this case. This has worked a great hardship on this family.

There are lots of community efforts around these floods: local civic clubs, churches, the community at large rolled out to help people. The Guglielmanas said they didn't need that because they had FEMA's help. So they have foregone a lot of local assistance, a lot of charity assistance, general help from their friends and neighbors because of FEMA. Now FEMA has come back and said they owe them the entire $27,000. This could ruin them financially.

I have met with FEMA Director Fugate. He and I have had what I would think of as productive conversations, although this matter hasn't been resolved. One of the things we talked about is to get an amendment to the existing statute. We are working on that. We are working that bill through the system right now in the Senate. I have worked with colleagues on the Homeland Security Committee and also the Appropriations Committee. I am not saying we would have unanimous agreement on my approach, but certainly I have been trying to work with anybody in the Senate to make this bill better.

Unfortunately, what has happened in the last few days is FEMA has now taken the additional step of turning this matter over to the Department of Treasury for debt collection. To add insult to injury and to rub salt in the wounds, this $27,000 debt, now with fines and penalties and interest, has gone to $37,000—$37,000 in debt after these folks were assured by the government they were completely entitled to because this was flood recovery; and the only reason they are not entitled to it is because of some technical issues that FEMA should have recognized from day one. They should have never offered to help these people, but what they have done is, they have now caused them great injury.

This is a matter of equity and fairness. Enough is enough. We have been talking to FEMA for months about this. Now Treasury is involved. Enough is enough. We need to get this resolved for this family and maybe a few others.

It is not just localized in Arkansas. We are going to see this happen over and over around the country because FEMA has a backlog of these cases—it is a long story—that got tied up in litigation for a few years and I can almost guarantee that virtually every Senator in this Chamber at some point is going to have to deal with this.

I hope all will listen to what I am saying and, hopefully, help me get this resolved. But that is why I am putting a hold on all the Treasury nominees. We need to get this resolved, and we are going to do whatever it takes to get it resolved. We want to resolve this situation fairly for this family in Arkansas. Again, they are just the first of many whom we are going to see who have this same type problem.

FEMA has done them harm. Our government has done them harm and put them at a disadvantage. There is a principle in law called detrimental reliance. These people clearly relied on the government and relied on FEMA to their detriment and they are paying the price and the penalty for that now. When the IRS and Treasury gets involved, there are penalties and interest. American citizens should not be treated this way, especially those who are playing by the rules and don't have any other recourse.

That is all I wanted to say in my morning business—I see we have several in the Chamber to talk on other matters—that I am putting Treasury on notice that I am going to hold all their nominees until we sit down and work through this and, hopefully, get a good and fair result for this one family in Arkansas.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

COMMONSENSE SOLUTIONS

Mr. JOHANNS. Madam President, there has been a lot of talk about how we go about rebuilding the infrastructure after recent disasters and how we assist struggling States to accomplish that goal.

Many in this body do not believe the Federal Government should borrow money in an attempt to bail out States. We have our own financial mess right here at the Federal level that citizens across this country are saying, rightfully so, we have to get solved. But we can all agree that one of the best things the Federal Government can do is get out of the way and cut through the redtape. We must remove Federal hurdles and barriers, so much cumbersome process that constitutes the largest barrier to rebuilding our infrastructure.

In fact, I am very pleased to rise this morning and report there is language in the appropriations bill that I believe should get unanimous support in this body. It is part of the transportation section.

It simply says States may rebuild their roads and their bridges that have been damaged in disasters without having to repeat environmental study after study.

Gosh, what a commonsense solution.

Keep in mind, we are talking only about replacing roads and bridges that have already been through process, that are already there, that were carrying traffic before the disaster. What we are saying is the most practical we could possibly say; that is, there is no need to repeat the expense of the time-consuming studies. Let's get out there and help the States get the work done. In other words, it saves States time and money by cutting through redtape and allowing them to, very simply, rebuild their roads and bridges.

I commend the senior Senator from the State of Nebraska, Mr. NELSON, for authoring this language. It is a commonsense approach, something we are used to in the Midwest, and it doesn't add one dime or one dollar to the Federal deficit.

This language should receive unanimous bipartisan support, especially from every Senator whose home State has been hit by disaster. Literally, as I speak, our State is trying to figure out how to recover.

Notwithstanding the fact that I think most people would agree this is so common sense, my colleague from Washington State, Senator MURRAY, has an amendment that would strike this language. I can't imagine why this body would stand in the way of States trying to rebuild their roads and bridges. In fact, in addition to States, Senator NELSON's language would help counties and communities that are so cash strapped, with so limited tax base, saying we will help them too.

For local authorities, the cost of repeating environmental studies is crushing. Even President Obama has called on his administration to drop unnecessary regulations and to look for redtape to cut through. Senator MURRAY's amendment, in all due respect, would do exactly the opposite. Her amendment would dig our bureaucratic heels into the sand, and it would say to States and communities and counties we know they have been struggling, we know they have been hit hard by disaster, but we are going to keep our expensive hurdles squarely in place. We are going to force them to jump over each and every one of them.

The language authored by my colleague, Senator NELSON, is a commonsense way to remove these Federal hurdles. I received assurance just this morning from the department of roads in my home State that this language would clear the way for several rebuilding projects in Nebraska. But we are not alone. I am guessing road departments across this country would say the same. There is little doubt in my mind that it would do the same for other States that have been faced with disasters, from the Midwest to the Northeast. We should rally behind Senator NELSON's language and make sure his efforts to clear a pathway for recovery are not blocked by the Murray amendment.

I encourage my colleagues to vote against the Murray amendment, to stand with me on the side of cutting redtape preventing States from rebuilding roads and bridges.

I yield the floor.

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

CLASS ACT

Mr. THUNE. Madam President, I rise to speak to an issue that I think has been on the minds of a lot of people here and hopefully people across this country too; that is, this failed CLASS Act Program, which last week we finally got some—I would characterize it as good news because I think this is a program that was destined to fail.

On Friday last week, Secretary of Health and Human Services Kathleen Sebelius came out and said: Despite our best analytical efforts, I do not see a path forward for CLASS implementation at this time.

Essentially, what came with that and what accompanied that was a big volume of analysis that had been done that essentially supports the conclusion that it doesn't add up. We can't make the math work. I think that is something that hopefully my colleagues, as what we know now, will recognize; that we ought to eliminate and we ought to repeal this CLASS Act once and for all. That is something I tried to do as we were debating the health care bill almost 2 years ago. I offered an amendment in December of 2009 that would repeal the CLASS Act, believing at the time it wasn't going to work. We had, at that time, plenty of evidence to that effect. Unfortunately, it was included as a part of the health care reform bill to help pay for it. At that time, it was estimated it would generate about $70 billion in revenue to be used to offset the cost of the health care bill or at least to put it in balance and to claim there was some deficit reduction associated with it.

I think the more recent estimate of what it would generate in terms of revenues in the early years is on the order of about $86 billion. But we—those of us who have been skeptics about this program—suggested at the very beginning that this was not, in fact, the case, that it was a budgetary gimmick, and that it was going to saddle the Nation with additional debts. That was what the Congressional Budget Office concluded. There would be revenue in the early years, but as you got into the outyears, as the premiums came in there would be some revenues, but in the outyears, when the demands on the program started to come in, it just didn't add up and would add significantly to the Federal deficit. I think that is a conclusion now that has been drawn even by those who supported the program.

So my thinking at this time is that we, as a Senate—and hopefully the House of Representatives—ought to move to repeal the CLASS Act once and for all. We should not leave this on the books and allow it to become an opportunity at some point in the future for someone to say we ought to try to reactivate this or implement this, knowing full well it does not work.

There were a lot of warning signals along the way that were ignored. There were repeated warnings by the Actuary and the administration that this was not going to work that were ignored by the Obama administration in their push to pass health care reform.

We did a report not that long ago. There was a working group that examined this. The report was called ''CLASS's Untold Story.'' It was myself and some of my colleagues in the Senate and some of my House colleagues who requested it and delved into a lot of the e-mail traffic that occurred prior to its inclusion in the health care reform bill. We came across a number of warnings that were issued by the HHS Actuary.

The Chief Actuary predicted at the time that this would result in an ''insurance death spiral.'' He said:

> This could be a terminal problem for this program. The program is intended to be actuarially sound, but at first glance this goal may be impossible. The resulting premium increases required to prevent fund exhaustion would likely reduce the number of participants, and a classic assessment spiral or insurance death spiral would ensue.

That was in May 2009. In May 2009, that warning was coming from the Actuary at HHS.

Some time passed. This continued to be part of the discussion with regard to the health care bill. Come August or July of 2009—and this was again after additional analysis, review, and examination of this particular proposal—the Actuary went on to say:

> Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant Federal subsidies to continue.

It would collapse in short order. That is what was said by the HHS Actuary in July of 2009.

So they continued to plow forward, thinking that somehow they were going to be able to salvage this program, figure out a way to make it work.

In the August and September timeframe of 2009, the Actuary again says:

> As you know, I continue to be convinced that the CLASS proposal is not actuarially sound.

That was the expert advice that was given to the administration about this proposal way back in 2009. Yet they plowed ahead and in December 2009 added it to the health care bill, assuming it would help offset the cost of that health care legislation.

At the time, many of my colleagues here on the floor talked about what a great program it was and how it all was going to pay off and was all going to balance out. We had people say it was a critical program, it was a breakthrough program, it was a win-win. We had Democrats come over here and talk about the virtues of this program—I believe knowing full well there were questions about it.

Having said that, there was a big push on at the time to pass health care reform. As a consequence, this piece of that reform was included notwithstanding our efforts to repeal it or to strike it at the time. So we went forward. Here we are now 18, 19 months later, and there is full recognition of the fact that this does not pencil out, it does not add up, the math flat does not work.

Where do we go from here? In my view, what we ought to be doing is repealing this bill, which is why it seems mystifying to me that the administration is now suggesting that if Congress were to repeal the CLASS Act, he would veto the repeal bill. You have all this actuarial data; you have all these statements; you now have all this analysis that has been done that demonstrates the very point we were making at the initial consideration of this; that is, it was just not going to work.

So I hope and invite my colleagues here on both sides of the aisle to join me in the effort to repeal this legislation. I introduced a bill, along with Senator GRAHAM, back in April of this year that would repeal the CLASS Act. It has 32 cosponsors. I hope we get enough cosponsors here in the Senate to where we can put an end to this once and for all.

We are going to be looking for opportunities to do that in the weeks and the months ahead because, as I said, this is something that clearly does not work. It now not only has all the arguments that were being made at the time prior to its passage, but subsequent to its passage all the analysis that has been done comes to the same conclusion; that is, the numbers just do not add up.

What does that mean for the future of long-term care? I submit there are other things we should do. I don't think this is an issue which is going to go away. We have more people who are living longer in this country. Long-term care is a very serious issue. But going about it and trying to fix it in a way that would burden future generations with more and more mountains of debt piled on their backs—the cost of this over time—is the wrong way to go about it, and that is precisely what this particular approach would do.

We have had many discussions about various remedies for the long-term care issue. We will continue to put our ideas forward in hopes we can address it as part of some bill that would take a look and examine these issues but do it in a way that is fiscally responsible, fiscally sound, that is actuarially sound, and that does not create the massive amount of borrowing, the massive amount of debt, and that does not put in place a flawed program that we knew at its inception was not going to work.

I hope we will put an end to this, that we can get colleagues on both sides together to agree to that, and that we will be able to add cosponsors to that piece of legislation and look for the first opportunity to repeal this legislation and make sure we end it once and

for all, knowing full well this was ill-conceived and ultimately would be a failed program.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. MORAN. I ask unanimous consent to address the Senate for up to 10 minutes.

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

GIPSA

Mr. MORAN. I am here today, as we debate H.R. 2112, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, to address a particular provision that, in my view, needs to be addressed. I also hope to have the opportunity later today to offer an amendment regarding the Watershed Rehabilitation Program and to allocate some additional funds for that program, and I hope to have the chance to speak during the debate on this bill on the proposed school lunch regulations the Senator from Maine has so appropriately addressed previously.

At this time, I would like to turn my attention to a problem with the pending legislation; that is, its failure to address the proposed rule titled ''Implementation of Regulations Required Under Title XI of the Food, Conservation, and Energy Act of 2008; Conduct in Violation of the Act,'' commonly known as the GIPSA rule. This proposed rule has the potential to adversely affect livestock producers in my State and around the country, as well as consumers of meat products.

The House included a funding limitation on implementation of this rule in its appropriations bill. That is not included in the Senate version of the bill. I am a member of the agricultural appropriations subcommittee and believe that, in this case, the House is correct.

Initially, this rule that the Department of Agriculture is proposing grew out of the 2008 farm bill. As a Member of the House of Representatives back then, I was a member of the conference committee that developed that farm bill. It directed the Department of Agriculture to issue regulations in five very discrete areas.

In June 2010, the Department of Agriculture responded with the issuance of its proposed GIPSA regulations that clearly went way beyond the mandate of that 2008 farm bill and way beyond the Department of Agriculture's authority under the Packers and Stockyards Act. The GIPSA rule as written is exactly the type of burdensome regulation that was the focus of our President's January 18 Executive order.

In addition to the Executive order, the President promised to have a very transparent and open administration in regard to the development of rules. Unfortunately, the process surrounding the GIPSA rule has been far from transparent. This rule was proposed with zero economic analysis from the Department despite the major impacts it could have on the agricultural economy.

For months, USDA denied that this would be an economically significant rule, until multiple private sector studies and overwhelming comments from agricultural producers and others, such as those in my home State of Kansas, finally convinced the USDA this rule would indeed have a significant economic impact. Private analysis at that time indicated that these GIPSA regulations, if finalized as proposed, would cost the U.S. meat and poultry industry nearly $1 billion.

Under this pressure, the Department of Agriculture is now conducting an economic analysis. While I certainly welcome that economic analysis, I am very concerned about whether this analysis will be made public before a final rule is announced and whether the public will be able to analyze and comment on the data and methodology used by USDA to complete the study.

In fact, I asked the Secretary of Agriculture, during an agriculture appropriations subcommittee hearing, if he would release that economic analysis before the comment period concluded or open a comment period after the analysis is complete so people can make comments based upon what the economic analysis demonstrates. Certainly, in my view, the Secretary failed on a number of occasions to answer my question and give me that commitment that the process would be open and transparent and that a comment period would occur.

I sincerely believe it is incumbent upon this Congress to exercise its oversight discretion and direct the necessary transparency and thoughtful analysis that USDA to date has not publicly provided. We need time to study and comment on the methodology, and we need to make sure we get these rules right if they are going to be implemented. It would be irresponsible to not adjust the rules to mitigate a negative economic impact determined by the Department's own economic analysis.

As I mentioned, the House included a provision barring funding for the current proposed GIPSA regulations, and USDA should be delayed from going forward until it can limit itself to the five areas set forth in the farm bill—its congressional authority—and until public comments can occur regarding that economic analysis. We ought not have a final rule without the benefit of the economic analysis. The Department of Agriculture should not just be going through the motions because there was insistence that an economic analysis occur. We need to be able to mitigate any negative impacts that we learn from that economic analysis.

Madam President, I appreciate the opportunity at this point in the day to address an issue that is appropriate as we discuss the agricultural appropriations bill throughout today. I look forward to being back on the floor later today to offer an amendment to that bill regarding watershed rehabilitation and also at that time to speak in regard to what I view as some crazy ideas that are proposed School Lunch Program regulations.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

ANTHRAX ATTACKS

Mr. CARDIN. Madam President, I rise to remember the 10th anniversary of the anthrax attacks on our country.

During the weeks following the terrorist attacks of September 11, 2011, our Nation was exposed to chemical warfare for the first time.

Two anthrax attacks were delivered through our country's postal system. The first set of letters was mailed to media outlets, including ABC, CBS, NBC, the National Enquirer, and the New York Post in September.

Three weeks later, two other anthrax letters were mailed to U.S. Senators—Senator Daschle and Senator PATRICK LEAHY. The letter to Senator LEAHY never made it to Capitol Hill. The envelope addressed to Senator Daschle, however, was opened on October 15 in the Hart Senate Office Building in the mailroom of the office I use today. Emergency responders rushed to join Capitol Police to evaluate the situation and determine the extent of contamination.

It was 10 years ago this week on October 17, 2001, the Capitol was evacuated. At that time I was a Member of the House of Representatives. I remember the fear and trepidation all Americans felt in the days and weeks following September 11.

I take this time to honor the courage of our Nation's Federal employees. Two made the ultimate sacrifice, dying from the exposure of the deadly anthrax toxin at the postal facility that handled all the mail that came to the Senate and House offices. U.S. postal workers Thomas L. Morris, Jr. and Joseph P. Curseen, Jr. gave the ultimate sacrifice after being exposed to the infected Senate mail while they worked in the Brentwood post office facility here in Washington, DC.

Mr. Morris and Mr. Curseen were Maryland residents. Like so many other Federal employees, they went to work every day, serving the American people and trying to earn a living for themselves and their families. Less than a week after being exposed to the deadly anthrax at the mail facility, both men died of their exposures.

The Brentwood postal facility, which was shuttered for months while the building was disinfected, now proudly bears their names, honoring two Federal employees who died doing their jobs.

Literally thousands of other Federal employees bravely went back to work, making sure our government continued to function in the most uncertain of times. While most Federal workers

crammed together in small makeshift office space, other brave Federal employees put themselves in harm's way trying to contain the spread of the weaponized spores and to clean up the deadly bacteria.

It has been fashionable of late to criticize the Environmental Protection Agency, but I remind everyone that members of the EPA's region 3 led the emergency response efforts following the anthrax attacks. They were joined by a small army of other EPA emergency responders from around the country who responded to the call for extra personnel to manage the massive decontamination efforts.

The EPA's headquarter staffers were fully engaged as well. The EPA national pesticide program worked quickly to develop new methods necessary to wipe out the anthrax. Scientists worked primarily out of EPA's pesticide lab, which is located 20 miles away in Fort Meade, MD.

It was not just EPA employees who answered the call to duty. Capitol police were the first ones to respond, and they continued to provide protection to legislative branch employees as well as the emergency responders and the public.

The Department of Defense lent its expertise. As the cleanup progressed, thousands of tests were taken and then sent to Fort Detrick in Maryland where chemical weapons specialists analyzed samples and reported results to the emergency command center. Defense Department personnel were also engaged in the decontamination efforts, working side by side with EPA emergency responders.

The photos I brought to the floor today show some of the emergency responders wearing specialized protective gear, working on the decontamination of Senator Daschle's office. Each desk, chair, filing cabinet, and piece of paper in the office was removed. The last item to be removed from room 509 at the Hart Building was an American flag that hung in Senator Daschle's front office. Emergency responders are seen here folding the flag that was placed in a special sealed bag and sent off to be decontaminated. Countless employees at the Sergeant at Arms, the Architect of the Capitol, and Senate and House staffers continued the business of running our government and the legislature. It was critical that Congress continue to function, demonstrating to the Nation and the world that terrorist attacks could not cripple the institution of democracy.

Other Federal employees put themselves in harm's way during and after the anthrax attacks. These Federal employees worked hard to do what many thought impossible, putting public buildings back into use after a chemical attack. At great risk to themselves, they bravely met the challenges to ensure our government continued to function.

Today I honor the memory of Thomas L. Morris, Jr. and Joseph P. Curseen, Jr. who gave their lives while engaged in public service. Today I salute those Federal employees who risked their own lives so that the legislative branch of the greatest government on Earth could continue, and those who continued to work every day in the face of grave danger and uncertainty. Today I simply want to give a heartfelt thank you to all of America's Federal employees. You recognize that public service is an honorable calling and you work every day to keep this Nation the great Nation it is.

With that, let me once again thank our Federal workforce and what they do for our country.

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. UDALL of Colorado. Madam 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.

SKI AREA RECREATIONAL OPPORTUNITY ENHANCEMENT ACT

Mr. UDALL of Colorado. Madam President, I have come to the floor this morning to talk about the most important issue facing our country and our people; that is, jobs and job creation. In a bit of good news last night, overcoming 18 months of obstacles in the Senate, the Senate passed my Ski Area Recreational Opportunity Enhancement Act that will help expand economic opportunities in many of our mountain resort towns in Colorado. It will also help create jobs throughout the rest of the country in States such as the Presiding Officer's, New York, which has a robust ski industry, as our State does.

I wish to acknowledge Senators BARRASSO of Wyoming and RISCH of Idaho. They have been tremendous partners in this effort, both in this Congress and in the last one. I thank them upfront for their leadership in pushing for passage of this important piece of bipartisan legislation.

Even though our economy is showing some signs of recovery, there is still a long way to go. This is especially true in rural communities that are dotted all over my State of Colorado. I know this question of job creation is on the forefront of the minds of all my colleagues. It is on the minds of Coloradans wherever I am in the Centennial State. So the action we took last night not only represents a major step forward in our efforts to create jobs, it is a reminder to the American people that we can work together on commonsense, job-creating legislation.

Let me speak a little bit about the bill we passed last night. It is narrowly tailored, it is pragmatic, it is bipartisan, it doesn't cost one dime to the American taxpayers, and it reduces government regulation while allowing businesses to create more jobs. That is the direction we need to head. It gives greater flexibility to businesses to productively use public lands. It facilitates outdoor recreation, and it endorses responsible use of our natural resources.

Often, ski areas are located on National Forest lands through the use of permits issued by the Federal Government that spell out what activities are allowed. But under the existing law—although we are going to change the law given what we did last night—the National Forest Service limits ski area permits primarily to ''Nordic and Alpine skiing.'' This is the phrase used in Federal regulation. But the classification I mentioned doesn't reflect the full spectrum of snow sports or the use of ski areas for nonwinter activities. For example, the word ''snowboarding'' is not used in the law, even though we know snowboarding now exists in every single ski area across the country. So the problem with that regulation is it has created uncertainty for both the foresters and the skiers as to whether now other activities, particularly those in the summer, can occur in permitted areas. In effect, ski areas on National Forest lands are restricted to winter recreation as opposed to year-round recreation. One only has to imagine what will happen when we open ski areas to year-round recreation. We will create opportunities for businesses to expand and openings for new businesses to explore previously restricted ventures. Colorado ski resorts have told me they will be able to create more jobs this year when they are given more flexibility, and Colorado's ski towns have said the same to me, so it is just plain common sense.

The Ski Area Recreational Opportunity Enhancement Act clarifies how ski area permits can be used. It ensures that ski area permits can be used for additional snow sports such as snowboarding, as well as specifically authorizing the Forest Service to allow additional recreational opportunities, such as summertime activities, in these permitted areas.

Let me note that the authority—this expanded authority—is limited. It doesn't give ski areas carte blanche use of public lands. The primary activity in the permit area must remain skiing or other snow sports.

We want to preserve the unique characteristics of our world-renowned mountain communities. Therefore, certain types of development—water parks, amusement parks, and other activities that require new and intrusive structures—are prohibited. Rather, we envision opening opportunities for zip lines, mountain bike terrain parks, Frisbee golf courses, ropes courses and activities that are similar. As I mentioned, not only will they increase economic activity and create new jobs, the ski areas tell me it will actually help them recruit more Americans for jobs that currently go to foreign visa holders.

Many Coloradans would love to work year-round in and around our mountain communities, but they are forced to take other jobs that can ensure them year-round employment. Subsequently, our ski areas often recruit visa holders to run the lifts, work in the resorts, and cover the winter months because they oftentimes can't recruit locals for such short-term employment. In effect, this bill we passed last night will help create year-round demand in our mountain communities and provide the year-round employment that Coloradans need. This is a win-win situation.

For those who earn a job because of this bill, it will be very welcome news from a Congress they see as increasingly ineffective and disengaged.

As I have implied and said already, I represent a State where the use and the enjoyment of the outdoors is just who we are. It is why we live in Colorado. One could say it is in our blood, but it is also in our wallets. Tourism and outdoor recreation is the No. 1 economic driver for our State. Activities such as hiking, skiing, shooting, and angling contribute over $10 billion a year to our economy, supporting over 100,000 jobs and generating $500 million in State tax revenue.

This is not limited to Colorado. The Outdoor Industry Foundation found that outdoor recreation activities add over $730 billion to the national economy every year. In fact, during this time of economic uncertainty, outdoor recreation and tourism are two very bright spots in our economy. Perhaps most important, this is an area of our economy that continues to grow. It has grown by more than 6 percent in just 2011, and it has outpaced U.S. economic growth more generally.

More Americans are spending time outside, enjoying nature and getting exercise. I have long felt it is in the National interest to encourage Americans to engage in outdoor activities that can contribute to our health and wellbeing. But as Americans enjoy recreating outdoors, they are also supporting a large and growing industry of supply stores, manufacturers, guides, hotels, and other important businesses that are the backbone of many rural communities.

Ski resorts are a major component of this economic sector in Colorado, many western states, and, indeed, many places throughout the country. This bill is a huge priority for them and its passage—while long overdue—is truly a remarkable move that will help job creation all across the country.

Michael Berry, president of the National Ski Areas Association, said it best when he noted:

Ski areas serve as a portal to the country's national forests. Bringing summer and year-round recreation to rural communities is the No. 1 priority in Washington for ski areas today. We are anxiously awaiting to plan and implement year-round operations at ski areas, create year-round jobs and encourage more kids and families to enjoy the great outdoors. All of this will of course benefit the rural communities in which ski areas are located.

The ski areas have been great partners in this effort, and I cannot wait for President Obama to sign this important legislation into law so they can begin immediately creating the important and well-paying jobs Americans are desperately waiting for.

At a time when it seems as though Congress is too wrapped up in partisan wrangling to find commonsense ways to create jobs, this is a remarkable achievement. It signals to job seekers everywhere that not only are we capable of finding creative ways to create jobs, but that when we put our minds to it, we can set aside our differences and work together.

I hope this bipartisan action will catch on and that we can continue to chip away at both our unemployment numbers and our record of partisan dysfunction.

Here is what is most important to note: The outdoor recreation industry is a part of our economy across our country and there is very significant growth occurring. So this is an important achievement because we have been tied up in partisan knots. We showed last night we can actually do something on behalf of the American people that will help create jobs.

I wish to particularly acknowledge the staff who worked so hard on this piece of legislation. Scott Miller, a longtime staffer on the Energy and Natural Resources Committee, worked tirelessly, as did a former staff member of mine, Doug Young, who now works for the Governor of Colorado, John Hickenlooper. We began this work in the House of Representatives, where the Presiding Officer and I both served. I wish to thank also, in special fashion, Wendy Adams and Stan Sloss, who persevered time and time again as we fought through a series of procedural holds and other setbacks. While economic challenges still face our country, this is a positive step forward.

I wish to thank all my colleagues for supporting me in this effort.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2112, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2112) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs for the fiscal year ending September 30, 2012, and for other purposes.

Pending:

Reid (for Inouye) amendment No. 738, in the nature of a substitute.

Reid (for Webb) modified amendment No. 750 (to amendment No. 738), to establish the National Criminal Justice Commission.

Kohl amendment No. 755 (to amendment No. 738), to require a report on plans to implement reductions to certain salaries and expenses accounts.

Durbin (for Murray) amendment No. 772 (to amendment No. 738), to strike a section providing for certain exemptions from environmental requirements for the reconstruction of highway facilities damaged by natural disasters or emergencies.

McCain amendment No. 739 (to amendment No. 738), to ensure that the critical surface transportation needs of the United States are made a priority by prohibiting funds from being used on lower priority projects, such as transportation museums and landscaping.

McCain amendment No. 741 (to amendment No. 738), to prohibit the use of appropriated funds to construct, fund, install or operate certain ethanol blender pumps and ethanol storage facilities.

Sanders amendment No. 816 (to amendment No. 738), to provide amounts to support innovative, utility-administered energy efficiency programs for small businesses.

Landrieu amendment No. 781 (to amendment No. 738), to prohibit the approval of certain farmer program loans.

Vitter amendment No. 769 (to amendment No. 738), to prohibit the Food and Drug Administration from preventing an individual not in the business of importing a prescription drug from importing an FDA-approved prescription drug from Canada.

Coburn amendment No. 791 (to amendment No. 738), to prohibit the use of funds to provide direct payments to persons or legal entities with an average adjusted gross income in excess of $1 million.

Coburn amendment No. 792 (to amendment No. 738), to end payments to landlords who are endangering the lives of children and needy families.

AMENDMENT NO. 739

The ACTING PRESIDENT pro tempore. Under the previous order, the time until noon will be equally divided between the Senator from Arizona, Mr. MCCAIN, and the Senator from California, Mrs. BOXER, or their designees.

The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent that the final 10 minutes of debate prior to noon on the McCain amendment No. 739 be equally divided between Senator MCCAIN and myself or our designees.

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

Mrs. BOXER. To lead us off on this very important amendment and to explain why it is important to not support the McCain amendment is a senior member of the Environment and Public Works Committee and a great member of that committee and a great supporter of the environment and transportation, Senator CARDIN of Maryland. I yield him 6 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I thank Senator BOXER for her extraordinary leadership as chair of the Environment and Public Works Committee.

She has stood for legislation that will allow us to rebuild our roads, our bridges, our infrastructure in this country, to create jobs, and make America competitive.

I rise to oppose the McCain amendment, and I will give three reasons why: First, jobs; secondly, the transportation enhancement programs help our traveling public. It is what they want, what they need; third, there is a safety issue.

First, on jobs. Let me point out that the Transportation Enhancements Program represents 1.5 percent of the annual Federal surface transportation funds—1.5 percent—a relatively small amount of money of the total pie. But it is interesting that the projects funded by the Transportation Enhancements Program actually yield more jobs per dollar spent than the funds that are used for the traditional transportation programs. So on a jobs basis, we actually get more jobs from a lot of the projects that are in the Transportation Enhancements Program.

Secondly, let me talk about the type of programs involved. We are talking about bicycle paths. We are talking about when people travel on a road and there is a pulloff where one can safely view the scenery. These types of projects we are talking about could be jeopardized by the McCain amendment.

I know my colleague from Alaska talked yesterday about the safety issue, but let me underscore it. Today, more accidents are caused from our pedestrians and our bicyclists. They are on the rise. There are actually an increased number of fatalities related to cyclists and pedestrians. Fourteen percent of roadway fatalities involve cyclists or pedestrians and two-thirds of these accidents occur on Federal highways. Accidents involving pedestrians and cyclists result in far more serious injuries. While motorist fatalities are on the decline, pedestrian and cyclist fatalities are on the rise.

When we have a pulloff on a highway where someone can pull their car safely off in order to look at the vista, that is the way it should be. In my own State of Maryland, we are constructing the Harriet Tubman scenic byway so people can visit the Eastern Shore of Maryland and see firsthand where Harriet Tubman operated the Underground Railroad. These roads are county roads. These are roads which are narrow and on which we have a lot of commercial traffic as well as people who just want to look at the scenes. The State of Maryland should have the flexibility of using these transportation enhancement funds in order to do what the traveling public wants them to do; that is, to provide a safe experience for the motorists to be able to enjoy our transportation highways. That is what the Transportation Enhancements Program allows our States to be able to do. The McCain amendment would jeopardize those funds.

So the Transportation Enhancements Program offers flexibility to our States to be able to provide the whole array of transportation options. It is a very small part of the overall transportation budget. It provides those enhancements that the traveling public wants and needs. It creates jobs, and it allows for greater public safety.

So for all those reasons, I urge my colleagues to reject the McCain amendment.

With that, 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. CARDIN. Madam 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.

Mr. CARDIN. Madam President, I ask unanimous consent that during this debate, all time that elapses during quorum calls be equally charged to both sides of the debate.

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

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

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam 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.

Mrs. BOXER. Madam President, the Transportation Enhancements Program that the McCain amendment would essentially cripple was established in 1991 in a bipartisan transportation bill signed by President George H.W. Bush, and it has been continued in subsequent bipartisan transportation bills which passed in 1998 and 2005.

This program benefits all Americans by making significant investments in safety, helping to reduce congestion, expanding transportation choices, and it strengthens local economies, provides jobs, protects the environment.

This amendment eliminates seven of the activities eligible under the Transportation Enhancements Program, and it prevents any funds from being spent on those activities.

Here is the thing about the TE Program, the Transportation Enhancements Program: There are things in it we need to reform. Senator INHOFE and I, along with Senator VITTER and Senator BAUCUS, are working very hard, and we have a bill, a bipartisan bill. The Acting President pro tempore is a proud member of our committee. We are going to mark up that bill very soon. Yes, it needs reform. But this amendment takes a meat ax to a very important program, and it would have far-reaching and unintended consequences.

By prohibiting any funds to be used on these activities that Senator MCCAIN has singled out, this amendment actually eliminates the flexibility of our States and prevents them from spending funds on activities which are necessary to construct and maintain our highway system.

So even setting aside the loss of jobs that would incur as a result of the McCain amendment, let me tell you the other unintended consequences. But maybe Senator MCCAIN intended that there would be fewer jobs. But I am assuming he did not intend, for example, this kind of a situation.

In the case of historic bridges, a bridge could be deficient, but under this amendment we could not fund a rehabilitation project because the bridge is historic. Because he says we cannot spend any money on historic sites, a regular fix to a bridge that happens to be historic would not take place.

I just happened to have finished a book I strongly recommend: ''The Great Bridge: The Epic Story of the Building of the Brooklyn Bridge.'' What a story David McCullough tells. That bridge was built in the 1800s. It is historic. Under the McCain amendment, they could no longer get funds. That is the unintended consequence because it is historic. So even though it is probably one of the heaviest traveled bridges—and the Acting President pro tempore could attest to that—in our Nation, imagine this amendment which would not allow bridges such as this to get funded. It is a poorly drafted amendment. I do not know, maybe this was intended. I cannot imagine it was intended, but this is the truth. This is what would happen.

We also have in this amendment a prohibition on the use of funds for landscaping, which is necessary to complete any Federal aid highway project in order to prevent erosion along a highway. So I happen to be a person who believes, when we do a project, it ought to look good, it ought to make people feel good. Landscaping is important and it creates jobs and it cleans the air. OK. But setting all that aside, it is a safety question because a lot of times those plants will hold the soil in place and stop erosion when we have strong and heavy rains.

Yesterday, our friend from Alaska, Senator BEGICH, mentioned the Seward Highway outside Anchorage and how scenic overlooks were added to provide a safe place for tourists to pull over. Under the McCain amendment, as I understand it, we could not spend money on scenic outlooks. But let me tell you, in the case of this particular scenic outlook, it was necessary for safety because people were so inspired, before the scenic outlook, they would just pull over in a dangerous way, have no place to go, and it was not good for safety.

I wish to talk about the Transportation Enhancements Program in Senator MCCAIN's State of Arizona. The demand is so strong from Arizona for these funds that Arizona submitted three times what they were actually able to get under the Transportation Enhancements Program. For example, in 2006, 72 applications requested $31 million in local project TE funding, but only $11 million was awarded to 24 projects.

In Safford, AZ, TE funds are being used to improve five intersections and the surrounding streetscapes along Main Street to provide safer means of travel for pedestrians. According to the city of Safford, in Arizona, this project provides a viable transportation component dedicated to pedestrian safety within the increased vehicle traffic on Main Street. This downtown project to improve safety, mobility, and commerce was supported by the town of Thatcher, the Safford Downtown Association, and the Graham County Chamber of Commerce.

Again, we have a situation where I believe this amendment has very adverse consequences to our local people, to our States.

Right now, the way TE is in our bill—the old bill—it is up to the States whether they want to do this. No one can force them to spend the money on this. They have the flexibility.

So now seven ways of using these funds would be taken away from the States. Let's be clear on it. This is a State decision how they spend this money. They do not have to take this money. They make the decision themselves. This amendment would take away that ability.

There is also a prohibition on controlling outdoor advertising in the McCain amendment. That means if a State wanted to remove outdoor advertising, they could not use any Federal funds to do it, and they could not effectively control their advertising, which is required under current law. Again, they are supposed to control outdoor advertising, but the funds would not get to them to do that. I think if we ask the average person, they want their local people to have control over these things. So we need to defeat the McCain amendment or table the McCain amendment.

My friend from Arizona also is telling us that 10 percent of surface transportation funding goes to transportation enhancements. That is not correct. The Transportation Enhancements Program represents a tiny fraction of the Federal highway program—about 2 percent—not 10 percent, as my colleague JOHN MCCAIN said. Furthermore, the seven activities prohibited by the amendment have represented less than 1 percent of the entire Federal highway program.

This amendment is making a dramatic and sweeping policy change in what should otherwise be a clean appropriations bill. It represents an issue we have been discussing at the EPW Committee for quite some time in the context of a multiyear surface transportation reauthorization bill, which, as I said at the outset, is the proper vehicle for such a policy change.

I thought we had decided as a Senate—Republicans and Democrats—we should not legislate on these bills. Senator MCCAIN does not like seven things in the Transportation Enhancements Program. Maybe I do not like two things or Senator GILLIBRAND may not like four things. It is not up to one colleague to stand here and decide, without any hearings or any discussion, what they do not like in a particular bill.

I do not think that is the way we should legislate, especially since the TE Program is run by the States. We make the funds available. They decide whether they want the funds for those activities. They do not have to do it. They do not have to take the funds. They do not have to do any of the eligible projects. So it, at the moment, has a lot of flexibility built in. As we reform in the next bill, we will look at some of the areas where we think we can make this a better program.

Believe me when I tell you that Senator INHOFE and I have been working very closely on this, along with Senator VITTER and Senator BAUCUS. So we think we are going to have a very good reformed TE Program. This is not the place to change a program that our States like. They like it because it is flexible. They like it because it has a number of ways they can use the funding.

So we are going to have a bill. It is called MAP–21, which stands for Moving Ahead for Progress in the 21st Century. It is going to have a lot of reforms in it. It is going to consolidate a lot of programs. It is going to be a bill most of us can embrace and be happy with. It is going to have a reform TE Program, and that is the way to do this. There will be significant reform. But it is not right, in my view—and we will see how the vote goes—for one Senator to say: I do not like seven things that are in this potpourri of things we can use TE for, so I am saying we cannot do it. We cannot use the funds.

It is just not right, and I pointed out how this is worded in such a fashion that bridges such as the Brooklyn Bridge and other historic bridges could lose all their funding as a result of the way this is drafted.

So let's turn away from this McCain amendment. We know what works around here. What works around here is bipartisan cooperation, coordination. I see the Senator from Texas, Mrs. HUTCHISON, in the Chamber. She works so closely with Senator ROCKEFELLER, and I will tell you what that means. It means we have wonderful progress in the Commerce Committee, which we would never have. Senator INHOFE and I work very closely in the EPW Committee. Everyone kind of smiles about it because they know on the environment side we do not work closely. That is true. We know that. He thinks global warming is the biggest hoax ever perpetrated on the American people. I think it is happening. It is real. So we know we do not see eye to eye on that, and we have decided that is just a fact. So we do not engage in long arguments about it. We pursue our agendas, and we try to get the votes. But on infrastructure, he is one of the most conservative, I am one of the most liberal Members here. The fact is, there is no daylight between us on infrastructure because he believes that is one of the major functions of our government and I do, too, and it makes a lot of sense.

I want to note the McCain amendment is opposed by the National Association of Counties, the American Association of State Highway Transportation Officials, the National League of Cities, the National Trust for Historic Preservation, and the U.S. Travel Association. America does not support this amendment.

This is a group of bipartisan organizations. When you look at the National Association of Counties, I started as a county supervisor. You have Republicans, Democrats, Independents, everything in between.

Highway Transportation Officials is completely nonpartisan. National League of Cities, we have Republicans and Democratic mayors and councils; National Trust for Historic Preservation, again a mixture of different views. And the U.S. Travel Association. I mean, I do not know how that breaks down, but it certainly is a bipartisan group.

Please, I hope people will turn away from the McCain amendment. It is not good for jobs. It is going to hurt jobs. It is going to have the unintended consequences of not allowing us to fix some of our most deficient bridges. It goes against the people we are supposed to represent here, the people out there on the ground: our county officials, our State highway transportation officials, our city officials, and those who work so hard to preserve the history of this greatest Nation in the world.

We cannot turn our backs on historic preservation. Otherwise we do not know what our past was. I cannot tell you how many mistakes were made in California where in the early years we did not realize what we were losing. What people would give back to get back some of those old courthouses that were torn down—I cannot tell you—from the 1800s. And they could have been fixed up. But people did not have the foresight. This McCain amendment would do real damage.

The U.S. Travel Association, you know, we are talking here about small businesses. We are talking about people who work in recreation, in airline travel. They do not want to see this happen, this McCain amendment. So I am assuming Senator MCCAIN will be here. We have reserved the last 10 minutes before noon.

At this point I think I have said all I can say to persuade my colleagues, who

I hope are listening in their offices, that they should turn away from the McCain amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Madam 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.

Mr. COBURN. Madam President, I wish to speak for a moment in regard to amendment No. 739, which is Senator MCCAIN's amendment. Senator MCCAIN has been very careful with this amendment, to make sure, in terms of enhancements, that he excluded those things that were most important to a lot of people in this country in terms of alternate transportation.

This amendment, which limits the expenditures, mandatory expenditures on enhancements of the Highway Trust Fund money, does not include—in other words, it would not prohibit funding for bicycle paths, or pedestrian and bicycle facilities, pedestrian and bicycle safety, and education activities, the conversion of abandoned railway corridors to trails, for either trails or bicycle paths. It would not prohibit funding for environmental mitigation of highway runoff pollution, reduce vehicle-caused wildlife mortality, maintain habitat connectivity, and it would not prevent funding for the acquisition of scenic easements and scenic or historic sites. I think Senator CARDIN might have related something other than that. I wanted to clarify that for my colleague who cannot be here.

What a lot of Americans do not realize is that we have several hundred thousand bridges in our country that are substandard, in disrepair, or are at great risk for those who travel over them. And by mandating that 10 percent of highway funds have to be spent on nonhighway needs, at a time when our country is running massive deficits, has almost $15 trillion worth of debt—as a matter of fact, we are in excess of $15 trillion worth of debt right now, that we should make sure we only apply those enhancements to the things that are most specifically needed.

We do have a commitment from Senator BOXER and Senator INHOFE that we will have some flexibility with enhancements in the future on the next highway bill. What Senator MCCAIN is trying to do here will legitimize that and certainly does not harm the purpose of that.

Basically what Senator MCCAIN's amendment would do, funding this bill for 7 of the 12 transportation enhancement activities, is it would prohibit funding for scenic and historic highway programs, including tourist and welcome centers. We should not be building a welcome center when there is one bridge in any State that is a danger for the American people who are going across it.

Landscape and scenic beautification are nice things. But you know, when you are down making hard choices about the things that are most important, that is not one of them. Historic preservation we cannot have as a priority now. Rehabilitation and operation of historic transportation building structures or facilities; we should not, in fact, spend that money on archeological planning and research when, in fact, we have dangerous bridges that people are coming across every day.

Finally, although transportation museums are great, that cannot be a priority today when we are borrowing $13 trillion every year to keep the transportation trust fund at a level that will not allow us to increase the level at which we resolve these difficult bridges. We cannot continue to borrow that $13 trillion. So this is a commonsense amendment. It is a modification of what I have offered in the past. It is a smarter amendment. It is a better amendment. It still allows the bicycle community and the enhancements associated with that to continue.

I would remind my colleagues, the Federal Highway Administration obligated $3.7 billion in enhancement funds for 10,857 projects between 2004 and 2008.

That included $1 billion for signing, beautification, and landscaping. That billion dollars could have fixed well over 5,000 bridges that are dangerous today.

There was $224 million on projects to rehabilitate and operate historic transportation buildings. Another 2,500 bridges could have been fixed for that. And $28 million to establish 55 separate transportation museums.

It is not about not wanting the money to get out there, about targeting the bicycle community—it is absolutely protected in this—but it is about ordering our priorities. If there is anything we have not done a good job of in Congress over the last 10 or 15 years, it is making hard choices about what is a priority and what isn't. I think the vast majority of Americans would think the safety of the bridges they drive across is more important than any of these things Senator MCCAIN is saying we are going to limit in this bill.

Of the 604,000 bridges in the United States in 2010, 24 percent of them are deficient. This includes 69,000 that are structurally deficient. In other words, they have significant deterioration, and they have had to have load reduction carrying capacity limitations placed upon them. And 77,410 bridges are functionally obsolete; they don't meet the criteria of design standards.

These figures expose a nationwide problem of deficient bridges as well as the misplaced priorities of Congress. We need to fix this, and I am in support of the McCain amendment.

I yield the floor at this time and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam 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.

Mr. MCCAIN. Madam President, this amendment is about white squirrel sanctuaries, museums, roadside landscaping, Lincoln highway, roadside museums, antique bike collections—my favorite is the National Corvette Museum Simulator Theater. I will try to go to that one, since my first purchase as a young naval officer was a wonderful Corvette, which I remember with great affection. I would like to go back into their simulator theater.

Then, of course, there are wildlife echo passages. We have some great pictures here of some of the things. I think the squirrel sanctuary is good. But one of my favorites is, of course, the roadside museum featuring a giant coffee pot. I am a coffee drinker, so I think a coffee pot is pretty nice.

You know, we have some fun stuff here. Here we have 60 antique bikes for a bicycle museum. They paid $440,000 for 60 antique bikes for that museum. Again, I think bicycle museums are nice. But it is also a fact that more people travel over deficient bridges every day—that is 210 million people—than go to McDonald's. So we have these projects here—and, obviously, full disclosure, we picked some of the more interesting and exciting ones to get our colleagues' attention. But the fact is that we have deficient bridges and we have highways that need to be repaired.

What I am saying here is let the States decide their priorities. Do not force the States to set aside 10 percent of their funding for these so-called transportation enhancement activities. If they want to have enhancement activities—and we do—I am so pleased, when driving through Phoenix and Tucson, to see the bougainvillea, the cactus, and other things that have been built there and put in, which have been very helpful. But those decisions on those State highways were made by the State of Arizona and the cities and the counties.

Instead, we have forced every State in America to use 10 percent of their taxpayer dollars, which are in the form of gasoline taxes, which were originally put in to build the national highway system in America under the Eisenhower administration, which they pay—they pay that. At the same time, we have a situation, such as the deputy director in southern Nevada of the Nevada Department of Transportation, saying:

> It is really getting out of hand to where these pots of money have those constraints associated with them and you can't spend money where you want to.

That is what this is all about. This is a fundamental philosophical difference that we have about where taxpayer dollars should go and who decides. That is what this amendment is about. I want the mayor of Phoenix to decide where the money goes. I want the Department of Transportation in Arizona to decide where the money is best spent. We should not be forcing people to spend money on things that are not necessary anymore.

I think a white squirrel sanctuary is probably an important thing and squirrel lovers all over America are overjoyed. But who loves this boulder? Really, $498,750 to beautify an interchange with decorative rocks?

It is not as if this money is spent in a vacuum. It is that we have to set priorities. I want the States to set those priorities, rather than them be mandated by some provision enacted in the Senate, which does not have a good handle on what those States' priorities are.

I note the presence of the Senator from Washington, who wishes to use a few minutes in opposition to the amendment. I look forward to hearing her eloquent opposition. Maybe she will change my mind.

I yield to the Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I would very much like to thank the Senator for yielding me time and will take just a couple minutes in rising to speak in opposition to the McCain amendment No. 739.

I believe the intent of my colleague is to prohibit the use of funds communities across the Nation use for streetscaping and bike and pedestrian paths and transportation improvements that help separate motor vehicles from local wildlife.

I believe communities should determine for themselves, as they have done for decades, how to use those funds. And the proper place for updating these laws would be in the reauthorization process. So I oppose the amendment on those grounds alone.

However, the amendment goes much further than that. It actually prohibits the use of funds in the entire division C; that is, the Transportation, and Housing and Urban Development Appropriations Act, for any landscaping or historic preservation. So this impacts not just the Department of Transportation but also HUD. In particular, it would prohibit cities and towns from using their CDBG dollars for eligible activities, such as historic preservation or basic landscaping or streetscaping activities.

It actually prohibits the use of funds for the rehabilitation or operation of historic transportation buildings, structures, and facilities. That would cripple Amtrak. There are over 126 stations that Amtrak services in 41 States that are on the National Register of Historic Places. Under this amendment, Amtrak would not be able to operate or rehabilitate any of them. Amtrak could not make any improvements to stations to comply with access requirements for persons with disabilities under the Americans with Disabilities Act. Amtrak could not even operate in Union Station.

The amendment would also prohibit the structural preservation and rehabilitation of historic bridges, such as the Brooklyn Bridge, or other covered bridges in the Northeast.

This amendment goes too far, and it is not appropriate for the Transportation-HUD appropriations bill we are currently considering. So I urge my colleagues to oppose the McCain amendment.

Again, I thank my colleague for yielding time to me.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, I believe I heard the Senator from Washington say that it would prohibit activities by Amtrak. I know of nothing in this page-and-a-quarter amendment that would in any way affect Amtrak or the Brooklyn Bridge. In fact, I would like for the money to be used to repair bridges because there are so many thousands of bridges in the country. There are 146,633 deficient bridges in this country. I would hope the Senator from Washington would agree with me that deficient bridges are a threat and a danger. I believe it was in the State of Washington where one collapsed, as I recall.

So you can distort this amendment if you want to. You can say it would be the end of Western civilization as we know it. You can say this will cause irreparable harm and damage. It doesn't, my friends. It doesn't. It just says that none of the amounts would be for scenic or historic programs or tourist and welcome centers. And we are not prohibiting these things from being built. If the States want to build them, if the counties want to build them, if the cities want to build them, let them do it. But right now we are mandating that 10 percent of the money they get go to certain purposes, which results in this outcome.

So I say, with respect to my colleagues who are opposing this amendment, if my colleagues would like to amend the amendment so that it doesn't have the Draconian effects that are predicted here, I would be more than happy to amend the amendment to make sure that doesn't happen. What I am trying to say and what this amendment clearly says in its 10 lines on the front and 4 lines on the back is that we think these things are unnecessary in light of the fact that we have so much infrastructure in need of repair.

So, again, I had no contemplation that civilization would be affected so terribly by such an amendment which would try to give the director of transportation in southern Nevada the ability to be able to say: It is really getting out of hand to where these pots of money have these constraints associated with them, and you can't spend money where you want to. That is what this amendment is all about, my friends.

I have been engaged in many debates on the floor of the Senate on various amendments, but to construe this very short amendment as somehow inhibiting or harmful to the work that needs to be done is obviously, in my view, fairly transparent and certainly not applicable to this amendment.

Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Three minutes 22 seconds.

Mr. MCCAIN. If Senator INHOFE would like to use that time, I would be happy to yield to him.

Mr. INHOFE. I have a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. It is my understanding that the last 10 minutes would be equally divided, but perhaps the Senator from Arizona has already used maybe 2 of those minutes. Is that correct? I just want to be recognized for, say, 6 minutes in opposition.

The ACTING PRESIDENT pro tempore. Is this in addition to the 5 minutes that the Senator was allocated, so a total of 11 minutes of debate?

Mr. INHOFE. Well, let me clarify. It doesn't make any difference to the Senator from Arizona or to me how much time I have. I need to have about 5 minutes to clarify a couple of things.

Mrs. BOXER. Madam President, I am happy to yield my 5 minutes to Senator INHOFE at the appropriate point.

Mr. INHOFE. I think the appropriate time is here.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. First of all, I disagree with the Senator from Washington for a different reason than the Senator from Arizona disagrees with her. I think his amendment goes too far—not just far enough but too far—and I think it is very important that people understand.

Let me talk to the conservatives, let me talk to the Republicans, because this is certainly misunderstood. It wasn't drafted that way to carry out the intent of the Senator from Arizona, I am quite sure. This amendment doesn't eliminate the mandate that States have to spend 10 percent of their surface transportation funds on transportation enhancements.

Now, for clarification purposes, the 10 percent really is not represented properly. It really should be 2 percent. It is 2 percent of the State's total highway program. That happens to equal 10 percent of the Surface Transportation Program. But let's go ahead and use the 10 percent.

There are currently written into the law 11 eligible transportation enhancement activities. There is not room to put them all up, but we will put up this

chart. What the Senator from Arizona is saying is that you still have to spend 10 percent of your surface transportation money on transportation enhancements, but he is saying the States have to use it on his transportation enhancements. Those are the bike and pedestrian facilities, the bike and pedestrian safety, rails to trails. The bikers are going to be very happy with this. They are the only ones coming out ahead should this be passed.

Now, environmental mitigation in our law is restricted specifically to wildlife, bridges and tunnels, and to stormwater runoff enhancements. Now, stormwater runoff is taken care of anyway; these are the enhancements.

So what this amendment is saying is that we are going to have to spend this 10 percent on bicycles and on various types of wildlife, bridges, and tunnels so that the turtles can get under the highways and not get run over, and that is not what I know the Senator from Arizona wants.

In other words, we are taking the flexibility away from the cities, away from the States, and saying to them: You have to spend your 10 percent, and you have to spend it on these four things. I would just suggest to you that in my State of Oklahoma, these are not the four things on which we would want to spend it. I come down here all the time, and there is this mentality that we have in Washington: No idea is a good idea unless it comes from Washington. Well, in my State of Oklahoma, we have a great highway program. I want them to have the latitude to decide what is really best.

Now, the chairman of the Environment and Public Works Committee, Senator BOXER, and I have disagreed on environmental issues tooth and nail. We have fought with each other more than any two people on the floor of the Senate. She knows I have done everything within my power to do away with all transportation enhancement requirements. I have done this.

If this amendment had eliminated the mandate that States spend 10 percent of their Surface Transportation Program funds on all transportation enhancements, I philosophically would have supported it. If the McCain amendment had said that we want to do away with all transportation enhancements, I would have philosophically supported it. The problem with that is we would not be able to get a highway bill done.

I often say that I have been actually ranked as the most conservative member of the Senate probably more than anyone else, but I have also said I am a big spender in two areas: No. 1 is national defense and No. 2 is infrastructure. That is what I think we are supposed to be doing here—roads and bridges.

I am sure my colleagues will recall that during the debate on the extension of the highway bill last month, Senators BOXER, COBURN, REID, and I worked out an agreement that reforms the Transportation Enhancement Program which would be included in the next highway bill that the EPW Committee will be marking up next month. I hope we will be marking this up next month. These reforms would allow the States to make a determination as to how they want to spend their funds.

To go back to this 10 percent, the idea behind this is this would increase what we are able to do and let the States have the discretion, so they can totally eliminate all enhancements. The States can do that. But they also would be allowed to use the 10 percent of the surface transportation funding on the various programs that are out there having to do with endangered species and the burying beetle and all that. That is where the problems really are.

So I don't think we should mistakenly vote for the McCain amendment and say to the people in this country: You have to spend 10 percent of your surface transportation funds on these four things. And again, the bikers would love the bike trails and all that, but I don't believe that is what we should be doing here.

I reserve the remainder of my time.

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

The Senator from Arizona has 2 minutes 55 seconds.

Mr. MCCAIN. Madam President, again, the question is, What do we do with the money? And obviously, when taxpayers are told that, with 146,633 deficient bridges in this country, that we don't need to be spending it on the examples I have provided—I hope it is well understood that if those projects are felt needed by the States and the counties and the elected officials in the States, then they should be able to go ahead with them, but if they don't choose to, they should also have the right not to. It is time some of this kind of stuff stopped.

I hope my colleagues will vote in favor of the amendment.

I yield the remainder of my time.

Mr. INHOFE. I would ask the Chair how much time I have remaining.

The ACTING PRESIDENT pro tempore. No time is remaining.

Mr. INHOFE. I ask unanimous consent that I have 30 seconds remaining.

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

Mr. INHOFE. I only want to say that I agree with everything the Senator from Arizona is saying in terms of the bridges. I have fought for the bridges and highways.

I have tried my best to get rid of all the enhancements—all of them. But to have an amendment that says to my State of Oklahoma: You still have to spend 10 percent of your surface transportation funds, but you have to spend it on bike trails and turtle bridges, I think that is wrong.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF MARK RAYMOND HORNAK TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NOMINATION OF ROBERT DAVID MARIANI TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NOMINATION OF ROBERT N. SCOLA, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

The ACTING PRESIDENT pro tempore. Under previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of Mark Raymond Hornak, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania, Robert David Mariani, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania, and Robert N. Scola, Jr., of Florida, to be United States District Judge for the Southern District of Florida.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 10 minutes of debate, equally divided in the usual form.

Who yields time?

The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise to speak on both nominees. I will start with Bob Mariani. And I refer to him that way because I have known him a long time, but his full name is Robert David Mariani. Bob Mariani is someone I know to be a person of not just high intellect and ability but also someone with great integrity.

Bob Mariani was born in Scranton, PA—the same city in which I was born. I still live there and so does he. He received his law degree cum laude in 1976 from the Syracuse University School of Law and also received his college education cum laude from Villanova University, graduating within the top 10 percent of his class. He was ranked second within his major field of study as an undergraduate.

Bob Mariani is a well-respected lawyer and advocate in northeastern Pennsylvania. He has received the highest rating—well qualified—from the American Bar Association. He spent 34 years as a civil litigator in Scranton, PA, where he specializes in labor and employment law. Since 2001, he has been the sole shareholder in the law firm that bears his name. He was also the sole proprietor of a similar law office that bears his name from 1993 to the year 2001, and a partner as well in an earlier iteration of that law firm,

Mariani & Greco, from 1979 to 1993. Bob has taught labor law at Penn State University and been an instructor at Penn State's Union Leadership Academy Program, where he taught labor law and collective bargaining.

Bob has received a whole series of commendations and awards that I won't list due to the time we have today, but probably the most important thing I could say about Bob—and I know I might be a little biased because I know him and have great respect for him—is that he is a person who will apply the law; who understands when someone comes before him, they should be accorded basic fairness no matter who they are, no matter what point of view, and no matter where they come from.

I know integrity and commitment to public service—not just of the law but the public service a judge can provide—are the values that will guide Bob Mariani as a judge, and so I am very happy we will be voting on his nomination.

Also today, we will be voting on the confirmation of Mark Raymond Hornak. I have not known Mark as long as I have known Bob Mariani, but I have known him for more than 15 years now. Mark is a native of Homestead, PA—southwestern Pennsylvania.

By way of a quick summary of his educational background, he got his law degree summa cum laude—the highest honors—in 1981 from the University of Pittsburgh Law School, graduating second in his class. He was editor-in-chief of the University of Pittsburgh Law Review. He got his college degree from the University of Pittsburgh as well, and was a dean's list student and member of the honor society there.

His career has been varied and significant as a lawyer and advocate. He has been a partner in the law firm of Buchanan Ingersoll & Rooney since 1982. He has specialized in civil litigation, labor and employment law, media defense and governmental representation, and is a member of the firm's executive committee.

He is the solicitor of the Sports & Exhibition Authority of Pittsburgh and Allegheny County, and also has been very active in his community in Pittsburgh.

He also represents national television, radio, and publishing clients in media litigation, including defamation, first amendment and access issues, and in transactional matters.

Prior to joining the Buchanan Ingersoll & Rooney firm, Mark served as law clerk to the Honorable James M. Sprouse of the United States Court of Appeals for the Fourth Circuit.

Mark also has a long list of honors and achievements that I won't list today, but, again, he is someone who has great integrity and ability and who understands serving on the bench on a Federal district court—whether it is in the Middle District of Pennsylvania, as in Bob Mariani's case, or the Western District of Pennsylvania, as in Mark Hornak's case—is public service, and with it comes the responsibilities and obligations of being a public servant. Both of these candidates understand that—both Bob Mariani and Mark Hornak—and so I am honored to be able to speak today regarding their nominations.

I would urge a ''yes'' vote on both nominations.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, we have a judge who will be in front of the Senate, and it is my understanding it has been worked out that there will be a voice vote. I want to thank the leadership of the appropriate committee, the Judiciary Committee, for handling this with dispatch. In a big-growth State such as Florida, where there is such a caseload in the Federal judiciary, when we have a vacancy it needs to be attended to right away.

Fortunately, the two Senators from Florida have tried to take the politics out of the selection of judges by letting the interviewing process, the selection process be done by a panel of prominent citizens called a judicial nominating commission, and they recommended these three to the two Senators. The Senators then interviewed them and let the White House know, and the White House agreed—much to the credit of this White House—that they would select from among those we submitted. Those we submitted are the ones who came out of the judicial nominating commission. Thus was the selection of Judge Robert Scola, whom we will confirm today, and who was nominated in May of this year.

Judge Scola received his bachelor's from Brown University, went to Boston College for law school, and graduated cum laude. He practiced law as a criminal defense attorney representing individuals and corporations in both State and Federal courts and then he spent 6 years working as a prosecutor in the Miami-Dade County State Attorney's office. He was then appointed back in 1995 by the Governor to the Eleventh Judicial Circuit Court bench, where he has sat as a State court judge all the way up until today. He received his well-qualified rating from the American Bar Association.

Certainly Senator RUBIO and I told the White House when we submitted the names from the judicial nominating commission that we agreed with all of these nominees. So with this strong tradition of bipartisan support for our judicial nominees, I bring to the Senate's attention for confirmation Judge Robert Scola.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise for literally 30 seconds, because I failed, when talking about both the Mariani and Hornak nominations, to thank Senator TOOMEY, my colleague from Pennsylvania. We worked together on both these nominees to arrive at a consensus position, and so I am grateful for Senator TOOMEY's help, and grateful for the work of his staff as well.

I yield the floor.

Mr. LEAHY. Mr. President, the Senate will vote today on 3 of the 26 judicial nominations reported favorably by the Judiciary Committee and still awaiting a Senate vote. All three of these nominations, two to Federal district courts in Pennsylvania and one to the Southern District of Florida, were reported unanimously by the Judiciary Committee before the August recess. All three have the support of both Democratic and Republican home State Senators. Two of them are to fill judicial emergency vacancies. Senate Democrats were prepared to have votes on all three nominations 3 months ago when they were first reported to the Senate. I have heard no reason or explanation for why the Republican leadership refused until now to consent to votes on these nominations.

There is also no good reason or explanation for the Republican leadership's continued refusal to vote on the more than two dozen nominations stalled before the Senate. With Republican agreement, we could vote on all of them. Like the three nominations the Senate considers today, 21 of the other judicial nominations pending on the calendar and still being delayed were reported unanimously by the Judiciary Committee. At a time when vacancies on Federal courts throughout the country remain near 90, with over 10 percent Federal judgeships vacant, the delays in considering and confirming these consensus judicial nominees is inexcusable.

The American people need functioning Federal courts with judges, not vacancies. In his recent letters to the Senate majority leader and Republican leader, Bill Robinson, the president of the American Bar Association, highlighted the serious problems created by these excessive vacancies, writing:

> Across the nation, federal courts with high caseloads and longstanding or multiple vacancies have no choice but to delay or temporarily suspend their civil dockets due to Speedy Trial Act requirements. This deprives our federal courts of the capacity to deliver timely justice in civil matters and has real consequences for the financial well-being of businesses and for individual litigants whose lives are put on hold pending resolution of their disputes.

Mr. Robinson is not alone. We recently heard from Justice Scalia, who testified before the Senate Judiciary Committee that the extensive delays in the confirmation process are already having a chilling effect on the ability to attract talented nominees to the Federal bench. Chief Justice Roberts has also described the ''persistent problem of judicial vacancies in critically overworked districts.'' Justice Kennedy has spoken about the threat to the quality of American justice. This is not a partisan issue, but an issue affecting hardworking Americans who are denied justice when their cases are delayed by overburdened courts.

Though it is within the Senate's power to take significant steps to address this problem, refusal by Senate Republicans to consent to voting even on consensus judicial nominations has kept judicial vacancies high for years. The number of judicial vacancies has been near or above 90 for well over 2 years. A recent report by the nonpartisan Congressional Research Service found that we are in the longest period of historically high vacancy rates in the last 35 years. These needless delays do nothing to help solve this serious problem and are damaging to the Federal courts and the American people who depend on them.

More than half of all Americans—almost 170 million—live in districts or circuits that have a judicial vacancy that could be filled today if the Senate Republicans just agreed to vote on the nominations now pending on the Senate calendar. As many as 25 States are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. The Republican leadership should explain why they will not consent to vote on the qualified consensus candidates nominated to fill these extended judicial vacancies.

Senator GRASSLEY and I have worked together to ensure that each of the 26 nominations on the Senate calendar was fully considered by the Judiciary Committee after a thorough but fair process, including completing our extensive questionnaire and questioning at a hearing. In fact, all the nominations reported by the committee have not only gone through vetting by the committee, but were vetted by the administration. The White House has worked with the home State Senators, Republicans and Democrats, and each of the judicial nominees being delayed from a Senate vote is supported by both home State Senators. The FBI has conducted a thorough background review of each nominee. The ABA's Standing Committee on the Federal Judiciary has conducted a peer review of their professional qualifications. When the nominations are then reported unanimously by the Judiciary Committee, there is no reason for months and months of further delay before they can start serving the American people.

Despite the damaging high vacancies that have persisted throughout President Obama's term, some Republican Senators have tried to excuse their delay in taking up nominations by suggesting that the Senate is doing better than we did during the first 3 years of President Bush's administration. It is true that President Obama is doing better in that he has worked more closely with home State Senators of both parties. As I have noted, all of the judicial nominees pending and being stalled on the Senate Executive Calendar have the support of both home State Senators in every case. That was not true of President Bush and led to many problems.

I have continued the practices I followed as chairman when President Bush was in office. In fact, when the Kansas Senators reversed themselves and opposed a judicial nominee that they had once approved, I honored their change of position and did not proceed to a vote in committee on that nominee.

But it is wrong to suggest that the Senate has achieved better results than we did in 2001 through 2003. As I have pointed out, in the 17 months I chaired the Judiciary Committee in 2001 and 2002, the Senate confirmed 100 of President Bush's Federal circuit and district court nominees. By contrast, after the first 2 years of President Obama's administration, the Senate was only allowed to proceed to confirm 60 of his Federal circuit and district court nominees. Indeed, as 2010 was drawing to a close, Senate Republicans refused to proceed on 19 judicial nominees that had been considered and reported by the Judiciary Committee and forced them to be returned to the President. It has taken the Senate nearly twice as long to confirm the 100th Federal circuit and district court judge nominated by President Obama as we had when President Bush was in the White House.

During the third year of President Bush's administration, the Senate confirmed 68 of his Federal circuit and district court nominees. Indeed, by mid-October 2003, 63 judges had been confirmed. In contrast, this year the Senate has yet to confirm 50 of President Obama's judicial nominees—despite the fact that 26 have been ready for final consideration and approval and remain stalled from confirmation by the Senate.

For those who contend percentages are significant, I note that the Washington Post reported this week that a lower percentage of President Obama's nominees have been confirmed than President Bush's, with only 68 percent of President Obama's Federal circuit and district court nominees confirmed compared to 81 percent of President Bush's.

I think confirmations and vacancy numbers better reflect the reality in our Federal courts and for the American people. It is hard to see how the Senate is supposed to be doing better when it remains so far behind the pace we set in those years. During President Bush's first 4 years, the Senate confirmed a total of 205 Federal circuit and district court judges. As of today, we have almost 100 confirmations of President Obama's circuit and district court nominations to go in order to match that total during the next 12 months. At this juncture in President Bush's administration the Senate had confirmed 163 Federal circuit and district court judges, and the vacancy rate was down to 5 percent, with 46 vacancies. By contrast confirmations of President Obama's Federal circuit and district court nominees total only 109, and judicial vacancies are now nearly twice as high with a vacancy rate of over 10 percent.

This is not the way to make real progress. No resort to percentages of nominees ''processed'' or ''positive action'' by the committee can excuse the lack of real progress by the Senate. In the past, we were able to confirm consensus nominees more promptly, often within days of being reported to the full Senate. They were not forced to languish for months. The American people should not have to wait weeks and months for the Senate to fulfill its constitutional duty and ensure the ability of our Federal courts to provide justice to Americans around the country.

All three of the nominations the Senate will vote on today were reported unanimously by the committee in July. President Obama first nominated Robert Mariani in December 2010 to fill a judicial emergency vacancy in the Middle District of Pennsylvania. Mr. Mariani has been a litigator in private practice for 35 years. For almost 20 years, he has managed his own law firm as a solo practitioner. Mr. Mariani has the bipartisan support of his home State Senators, a Democrat and a Republican. The ABA's Standing Committee on the Federal Judiciary unanimously rated him ''well qualified'' to serve, its highest possible rating.

Mark Hornak is nominated to fill a vacancy in the U.S. District Court for the Western District of Pennsylvania. As with Mr. Mariani, both of Pennsylvania's Senators support Mr. Hornak's nomination, which received the highest possible rating from the ABA's Standing Committee on the Federal Judiciary, unanimously ''well qualified.'' Mr. Hornak has worked in private practice for 30 years in the Pittsburgh office of Buchanan, Ingersoll & Rooney, where he is a member of the firm's executive committee. He has served as a court-approved mediator and special master in the Western District of Pennsylvania, the district to which he is nominated. Following his law school graduation, he served as a law clerk to Judge James Sprouse of the U.S. Court of Appeals for the Fourth Circuit.

We will also vote on the nomination of Judge Robert Scola to fill a judicial emergency vacancy in the Southern District of Florida. For the past 16 years, Judge Scola has served as a State judge in the Eleventh Judicial Circuit of Florida. He has been reelected to that position three times. Judge Scola previously spent 9 years in private practice as a criminal defense attorney, and 6 years as a State prosecutor in Miami-Dade County. The ABA's Standing Committee on the Federal Judiciary unanimously rated Judge Scola ''well qualified'' to serve, its highest rating. Judge Scola has the bipartisan support of his home State Senators, a Democrat and a Republican. The Chief Judge for the Southern District of Florida, Judge Federico Moreno, a President George H.W. Bush

appointee, wrote months ago to the Senate to urge the speedy confirmation of Judge Scola to address his court's overburdened schedule. I am glad we are finally able to consider his nomination today.

I hope that in the weeks ahead we can build on today's progress by considering more of the nearly two dozen well-qualified nominees still awaiting a Senate vote. This is an area where the Senate must come together to address the serious judicial vacancies crisis on Federal courts around the country that has persisted for well over 2 years. We can and must do better for the nearly 170 million Americans being made to suffer by these unnecessary Senate delays.

Mr. GRASSLEY. Mr. President, today the Senate will vote on three more judicial nominations. With these votes, we will have confirmed 14 nominees this month and 52 nominees this year. We continue to achieve great progress in committee as well. Eighty-four percent of the judicial nominees submitted this Congress have been afforded hearings. Only 78 percent of President Bush's nominees had hearings for the comparable time period during his Presidency. We have reported 76 percent of the judicial nominees, compared to only 71 percent of President Bush's nominees. In total, the committee has taken positive action on 83 of the 99 nominees submitted this Congress, or 84 percent. Overall, we have confirmed over 70 percent of President Obama's judicial nominees since he took office.

I will support the confirmation of each of the nominees today. I have a few words to say about each nominee.

Mark Raymond Hornak is nominated to be U.S. district judge for the Western District of Pennsylvania. Mr. Hornak graduated with a B.A. from the University of Pittsburgh in 1978, and with a J.D. from the University of Pittsburgh School of Law in 1981. He began his legal career as a clerk for Judge Sprouse on the Fourth Circuit. Since his clerkship, the nominee has spent his entire career at Buchanan Ingersoll & Rooney where he practices labor and employment law, representing primarily employers and public agencies.

Mr. Hornak received a unanimous ''well qualified'' rating from the American Bar Association Standing Committee on the Federal Judiciary.

Robert David Mariani is nominated to be U.S. district judge for the Middle District of Pennsylvania, a seat deemed to be a judicial emergency. He received his A.B., cum laude, from Villanova University in 1972, and his J.D. from Syracuse University College of Law in 1976. Mr. Mariani began his legal career by practicing labor, employment, commercial, real estate, civil, and criminal law. During this time, Mr. Mariani also served as the Solicitor to the Scranton-Dumore Sewer Authority.

Beginning in 1980, Mr. Mariani dedicated himself to the exclusive practice of labor and employment law. His expertise includes collective bargaining, labor arbitration, and employee pension and benefits law under ERISA and the Internal Revenue Code. Mr. Mariani has practiced before Federal and State courts, the NLRB, the EEOC, and the Pennsylvania Human Rights Campaign. He also serves as counsel to the Northeast Pennsylvania School District Health Trust and the Berks County School District Health Trust. In addition to his practice, Mr. Mariani also serves as an arbitrator, where he resolves complex labor disputes through negotiation.

Mr. Mariani received a unanimous ''well qualified'' rating from the American Bar Association Standing Committee on the Federal Judiciary.

I had some initial concerns regarding Mr. Mariani's nomination. Mr. Mariani has expressed labor policy preferences against at-will employment and in favor of card check for union employees. I asked him about these statements at his hearing and in followup questions. Based on his responses, I am willing to give him the benefit of the doubt that he will be able to be fair and impartial as a judge.

Robert N. Scola is nominated to be U.S. district judge for the Southern District of Florida, another seat deemed to be a judicial emergency. Judge Scola earned his B.A. in 1973 from Stanford University and his J.D. from Boston College of Law in 1980. From 1980 to 1986, Judge Scola served as a prosecutor in State court. He began with misdemeanor cases and finished with prosecuting first degree murder and death penalty cases.

From 1986 to 1995, Judge Scola served as a criminal defense attorney. He practiced solo for most of this time. From 1992 to 1993, he joined two other attorneys in criminal defense. Judge Scola specialized in criminal defense in both State and Federal court.

Governor Lawton Chiles appointed Judge Scola to his current position as a circuit judge for the Eleventh Judicial Circuit of Florida in and for Miami-Dade County in 1995. Since then, the circuit has elected and reelected him without opposition in 1996, 2002, and 2008. He has served in the family division, civil division, and has also served as an appellate judge for county court and administrative law cases.

Judge Scola received a unanimous ''well qualified'' rating from the American Bar Association Standing Committee on the Federal Judiciary.

The PRESIDING OFFICER. Under the previous order, the Hornak and Scola nominations are confirmed.

The question is, Will the Senate advise and consent to the nomination of Robert David Mariani, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

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

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 169 Ex.]

YEAS—82

Akaka	Graham	Murkowski
Alexander	Grassley	Murray
Ayotte	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Begich	Hatch	Portman
Bennet	Heller	Pryor
Bingaman	Hoeven	Reed
Blumenthal	Inouye	Reid
Boxer	Isakson	Rockefeller
Brown (MA)	Johanns	Rubio
Brown (OH)	Johnson (SD)	Sanders
Cantwell	Kerry	Schumer
Cardin	Kirk	Sessions
Carper	Klobuchar	Shaheen
Casey	Kyl	Snowe
Chambliss	Landrieu	Stabenow
Coats	Lautenberg	Tester
Cochran	Leahy	Thune
Collins	Levin	Toomey
Conrad	Lieberman	Udall (CO)
Coons	Lugar	Udall (NM)
Corker	Manchin	Warner
Cornyn	McCain	Webb
Crapo	McCaskill	Whitehouse
Durbin	Menendez	Wicker
Feinstein	Merkley	Wyden
Franken	Mikulski	
Gillibrand	Moran	

NAYS—17

Barrasso	Enzi	Paul
Blunt	Hutchison	Risch
Boozman	Inhofe	Roberts
Burr	Johnson (WI)	Shelby
Coburn	Lee	Vitter
DeMint	McConnell	

NOT VOTING—1

Kohl

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012—Continued

AMENDMENT NO. 739

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided between the Senator from Arizona, Mr. MCCAIN, and the Senator from California, Mrs. BOXER, or their designees.

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

The PRESIDING OFFICER. I ask for order.

Mrs. BOXER. The reason I asked for order is because this amendment affects each and every one of you and

your constituents. The McCain amendment says to the States that they cannot use a certain section of the transportation bill for several things, including scenic or historic highway programs, including tourist centers, landscaping, or scenic beautification, historic preservation, and it goes on.

The point I want to make is this amendment is opposed by the National Association of Counties, the American Association of State Highway Transportation Officials, the National League of Cities, the National Trust for Historic Preservation, and the U.S. Travel Association. That is a nonpartisan list, and let me tell you why. The way this amendment is drafted, historic bridges could never even be repaired. The Brooklyn Bridge or other historic bridges could not be repaired and we could not control erosion. We would have major problems.

I move to table the McCain amendment.

The PRESIDING OFFICER. That motion is not in order while time is remaining.

The Senator from Arizona has 1 minute.

Mr. MCCAIN. Mr. President, I have made the argument that these projects are unnecessary. We have tens of thousands of bridges that are deficient. We need to spend the money where it should be spent, and I hope my colleagues will understand that this might have been appropriate some time ago, but in this day and age, with our crumbling infrastructure, we need to put the money in the right place.

I yield the remainder of my time.

Mrs. BOXER. Mr. President, I move to table McCain amendment No. 739, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. ISAKSON).

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

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—59

Akaka	Cantwell	Franken
Alexander	Cardin	Gillibrand
Baucus	Carper	Hagan
Begich	Casey	Harkin
Bennet	Coats	Hoeven
Bingaman	Cochran	Inhofe
Blumenthal	Collins	Inouye
Blunt	Conrad	Johnson (SD)
Boozman	Coons	Kerry
Boxer	Durbin	Kirk
Brown (OH)	Feinstein	Klobuchar
Landrieu	Murray	Shaheen
Lautenberg	Nelson (NE)	Stabenow
Leahy	Nelson (FL)	Tester
Levin	Pryor	Udall (NM)
Lieberman	Reed	Warner
Menendez	Reid	Webb
Merkley	Rockefeller	Whitehouse
Mikulski	Sanders	Wyden
Murkowski	Schumer	

NAYS—39

Ayotte	Hatch	Paul
Barrasso	Heller	Portman
Brown (MA)	Hutchison	Risch
Burr	Johanns	Roberts
Chambliss	Johnson (WI)	Rubio
Coburn	Kyl	Sessions
Corker	Lee	Shelby
Cornyn	Lugar	Snowe
Crapo	Manchin	Thune
DeMint	McCain	Toomey
Enzi	McCaskill	Udall (CO)
Graham	McConnell	Vitter
Grassley	Moran	Wicker

NOT VOTING—2

Isakson	Kohl

The motion was agreed to.

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

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

The Senator from Iowa.

UNANIMOUS CONSENT REQUEST—AUTHORITY FOR COMMITTEE TO MEET

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, October 19, 2011, in Dirksen Room 106, for the consideration of a bill to reauthorize the Elementary and Secondary Education Act.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Mr. President, reserving the right to object, I find it a tragedy that in the Senate we are operating in a way that allows an 868-page bill to be offered with only 48 hours to read it and approximately 1,000 pages' worth of amendments to this bill with virtually no time to even think about the amendments. I think it is precisely what is wrong with this body, that we would try to rush things through.

I have been here since January, and there have been no hearings on No Child Left Behind. I have had no hearings that involve teachers, no hearings that involve superintendents, no hearings that involve principals. I think this is an affront to the process.

As I go around my State and I talk to teachers, I have yet to meet one teacher who is in favor of No Child Left Behind. They abhor it. They hate all the stuff we are telling them to do from Washington. They want more local control.

I am one of the old-fashioned conservatives who believes that schools are and should be under local and State control. There is no provision in the Constitution for the Federal Government to be involved, period. This was part of the Republican platform for nearly 30 years, that we didn't believe in Federal control; we wanted to have local control.

I met with six teachers recently from Marion County. Some of them are special ed teachers. They like what they do. They like teaching kids who have difficulty learning and have to be taught in a different fashion in order to get through to these kids. But they showed me a cute little boy of 15 years old who has a three-word vocabulary. He was tested in world geography and then the teacher was told she is a bad teacher because the child, who has a three-word vocabulary, did poorly on testing.

This is insane, and it needs to be discussed in a rational fashion. We need to have teachers involved in the process, for goodness' sakes, principals, superintendents.

I have a letter here from the American Association of School Administrators, the National Association of Elementary School Principals, the National Education Association, the National School Boards Association, and the National Association of Secondary School Principals, and they said:

> We . . . hope that the important work of getting policy right will not be pushed to the side in a race against the clock. . . .

I feel pushed aside—an 868-page bill and 48 hours to read it. It is wrong. All I am asking for is a hearing to listen to teachers—should we not listen to the teachers—a hearing to listen to the superintendents, a hearing to listen to the principals. Let them read the bill and find out what is in the bill.

I am not going to accept what NANCY PELOSI said: You can read about it after the fact. That is the process that is going on here. Mr. President, 868 pages—when are we going to read it? After they pass it. Who has been involved in crafting this legislation? I am on the committee. Nobody asked me. Nobody consulted with me. And I think that is the same with most of the people on the committee.

The letter from this group also says:

> . . . we note that the proposed law . . . is still heavily reliant on the idea of testing every child, every year through one single high-stakes summative assessment. . . .

There are many problems. I would be in favor of getting rid of No Child Left Behind. No teachers are for it. I would like to see a survey of teachers. I would like to have the teachers do a survey of their population to ask who is in favor of No Child Left Behind before we act. I would like teachers to propose amendments to my office to fix No Child Left Behind if we are not going to scrap it. I would like to hear from the superintendents: What do you think of this 868-page bill we got yesterday or on Monday? What do you think of this bill, and how could we make it better?

We will not have time to hear from them because we are struggling to get through the 868 pages and another thousand pages of amendments. This process is rotten from the top to the bottom.

What I would ask for is that we have a hearing. Let's invite teachers to

Washington, let's invite superintendents, let's invite principals to Washington. Let's find out what they think of No Child Left Behind before we rush through an 868-page bill that no one has had time to read. This is what is wrong with Washington. This is the type of arrogance about the way Washington works that is really making us unpopular in the public's eyes.

I say fix No Child Left Behind. I say repeal it or fix it, but at least give us time to read the bill.

I object to this unanimous consent request.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Objection is heard.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I am sorry the Senator from Kentucky is objecting to our meeting.

I say to my friend from Kentucky, the one thing I believe both Senator ENZI and I did and other members of our committee on both sides of the aisle did to get this bill to where it is was to put aside ideology—to put aside ideology—to do what is best for our kids.

I believe the HELP Committee—on both sides of the aisle, Senator ENZI and I on both sides—has done everything possible to move the bill in a considerate, logical legislative manner. We started on this last year. I say to my friend from Kentucky, we had 10 hearings last year—10 good, long hearings. We had superintendents. We had teachers. We had principals. We had broad input from across America as to what they wanted in a reauthorization bill. I am sorry the Senator was not here last year, but the Senate is a continuing body. Does that mean every 2 years we have to start all over from scratch every time? So we had all our hearings last year. And that was cleared again with Senator ENZI and me. We talked about: Well, lets get the hearings out of the road, and this year we could focus on putting the bill together. So we had our hearings. I say to my friend, we brought in teachers, principals, superintendents from all over America.

Then, starting in January, we began a time-honored process whereby the chair and ranking member started working on putting the bill together with our professional staff. That is why we have professional staff. Senator ALEXANDER was involved in that. Other Senators were brought in—Senator BENNET, Senator FRANKEN. Others on the Republican side were brought in on that.

I would say this: The Senator from Kentucky had every day since he was sworn in in January to come to me or go to Senator ENZI and say: I am on the committee. Here is what I would like in the bill. And that would have been considered. Other Senators did that. I see two of them sitting here right now who came and said: Here is what I would like to have in the bill.

Well, I sat down with Senator ENZI. We discussed it. Some yes, some no, some modifications—we would work it out through the process as we went through. I do not know if the Senator from Kentucky went to see Senator ENZI about what he wanted in the bill. I know he did not come see me. Our doors are open. There was no secret that we were meeting about this. We started in January. Everybody on our committee, the staffs, all knew that.

That is the legislative process. When it was all done, we wanted to put together a bipartisan bill. That is what we did. I say to my friend from Kentucky, it was not filed 48 hours ago; it was filed a week ago yesterday, Tuesday. That bill was filed. It was put online. I put that bill online. So we had a whole week to look at it, and, quite frankly, what happened is we got feedback. I say to my friend, we put the bill online. We got feedback from a lot of people—the community out there—and as a result of that, we made some final changes. That is the legislative process. Senator ENZI and I worked together on a managers' amendment to incorporate some of the objections that came in during the week to make the bill even more bipartisan. We filed that managers' amendment on Monday morning at 10 o'clock. But that was not the whole bill. I put the whole bill online a week ago Tuesday. It was just the managers' amendment that was, again, a fine-tuning of it before we met in markup.

So I say the Senator from Kentucky had every opportunity to let us know what he wanted in that bill, and I never saw him. I never saw him. He never came to me. I am on the floor all the time. My door is open. My staff is available. My professional staff is available. If the Senator from Kentucky had something he wanted in the bill and it was not included, he has the right to offer an amendment.

I wanted this committee to operate in an open manner—in a manner in which we have operated in the past legislatively. If the Senator did not have something in the bill that he wanted in, he has the right to offer an amendment and to debate it and to get a vote on it in our committee.

The Senator has filed 74 amendments. We had 144 amendments filed. Under our rules, they had to be filed 48 hours before. The Senator from Kentucky filed 74 amendments. Well, now the Senator from Kentucky is objecting to our even meeting to consider his own amendments. Please, someone, explain the logic of that to the Senator from Iowa. He has the amendments. The process is open. He can offer amendments, get them debated, get them voted on. But the Senator from Kentucky is objecting to us meeting in order to even consider his amendments.

Secondly, I heard the Senator again on the floor today—and earlier, when we met earlier this morning in committee to start our process of marking up the bill—he said he wanted to do away with No Child Left Behind. That is exactly what this bill does. It gets rid of No Child Left Behind and some of the narrow proscriptions and prescriptions in the bill and does, in fact, return a lot to local control. And we build a partnership with the Federal Government and State and local governments—a better partnership than what we have had in the past. I think that is why we have a good, bipartisan bill.

Again, the Senator from Kentucky and I probably have different views on this. I understand that. That is why we have the Senate. That is why we have debates. That is why we have committee meetings and markups. If I were writing the bill, I would write a completely different bill than the Senator from Kentucky would write. He would write one completely different from mine. That is why we meet in committees. That is why we hammer these things out over a long process. You do not just shut the door and say: It is my way or no way.

I am the chairman. I am willing to listen to his amendments and have him offer them. But how can I hear his amendments, how can we consider his amendments if the Senator will not even allow us to meet under the rules of the Senate? I have no logical explanation for that.

Well, there is a lot more I could say, Mr. President, but this is just illogical. That is all I can say: It is just illogical.

I see the Senator from Colorado on his feet. I yield to the Senator from Colorado for any questions he might have.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I have never done this in the 2½ years I have been in the Senate. I have not been here a long time, and I have spent a lot of time complaining about the way this place works. But I had to come to the floor to implore the Senator from Kentucky to reconsider his objection. I do it not because I have a perspective on this as a Senator; I do it because I had the honor of serving as the superintendent of the public schools in Denver for 4 years of my life and have dedicated years of my life but, more importantly, seen the dedication of the people who are working in our schools.

The Senator speaks of the tragedy of this process. I will tell you what a tragedy is. A tragedy is that only 9 of 100 children living in poverty in this country, in 2011, can expect to get a college degree—that is a tragedy; the fact that when I became superintendent in the Denver public schools, on the 10th grade math test, there were 33 African-American students proficient on that test and 61 Latinos proficient on that test—the test that, if we are honest with ourselves, which we are not, measures a junior high school standard of mathematical proficiency in Europe. That is a tragedy. It is a tragedy that there are people working in our schools right now, at 11:15 a.m. in Colorado, doing the best they can to serve our kids, and we think a 2-hour meeting is too long. That is a tragedy.

I would not have drafted the bill exactly the way it has been drafted. The chairman knows that. He and I even have disagreements about some of the things in this bill. But finally, after 2½ years, there is a bipartisan piece of legislation in front of the committee that is having the benefit of the work of the Senators who are there, and we are told that meeting for 2 hours is too long.

The Senator has every right to make his objection under the Senate rules, which the Presiding Officer has observed may need some updating. But I think if you ask yourself, why is it that we have a 12-percent approval rating, which is going down, it is because of this kind of thing.

I actually look forward to hearing the amendments of the Senator from Kentucky. I wanted to know what they were. As the chairman mentioned, there are 146 amendments that have been filed. I have some I have filed—only three or four. The Senator from Kentucky has 74 of the 140 amendments.

In the 2 hours we met today, we considered three amendments or voted on three. We were debating a Republican amendment, and I was very interested in what Senator ISAKSON had to say when our meeting came to an end. If we are going to do this in 2-hour increments, my math—I am proficient in math, thank goodness—is that it would take 60 days to do this in 2-hour increments.

Do you know why people are fed up with this place? It is because they do not think the debate we are having is about them. They think the debate we are having is about us. And do you know what. They are right about that.

The teachers all across my State, all across the district I worked in, want us to lift this burden from them—in my view, the biggest Federal overreach ever in domestic policy. That is what the bill does, not for ideological reasons but to help respond to the voices of our teachers, respond to the voices of our superintendents, respond to the voices of our parents who are sick and tired of the almost comical but to them painful measures of annual, yearly progress—the idea that we are going to label all our schools ''failing'' by 2014 because we have a completely made-up accountability standard in Washington, DC.

This bill does away with that. It does not do it in exactly the way I would want to do it, left to my own devices, but it does it in a way that can get bipartisan support in the Senate. I mean this broadly. I am not saying it in this case. When people see the political games that are being played, when they see people who are unwilling to work together, and they are killing themselves to deliver for our kids, I am not sure there is anything more backhanded we could do.

So I would beg the Senator from Kentucky to let us have the hearing, the committee meeting. Let us consider his amendments. I and all the rest—today's conversation was one of the first—I regret saying this—one of the first substantive conversations I have had in a committee hearing since I have been here.

I thank the chairman and I thank the ranking member for creating a context where that can happen. Let's have the conversation. I would be happy to meet 24 hours a day to talk about this subject with the Senator from Kentucky—24 hours a day, every day. Because if we care about the widening gap between rich and poor in this country, we cannot sustain anything remotely approaching our——

Mr. PAUL. Will the Senator yield?

Mr. BENNET. I will in 1 second—anything remotely approaching our claim to be a land of opportunity when 9 out of 100 children born in poverty can graduate with a college degree, when 91 out of 100 children who are unfortunate enough to be born poor are constrained to the margin of our democracy, the margin of our economy. I will stop here.

But to be clear about it, there are 100 seats in the Senate. When I walk into this room, I think about what if the 100 people who were here were children living in poverty in the United States. Here is how many would have a college degree. That chair. That chair. That chair. These four chairs and this one. That is it. The rest of this Chamber would be occupied by people who did not have the benefit of a college degree.

Mr. PAUL. Will the Senator yield for a question?

Mr. BENNET. Yes.

Mr. HARKIN. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Again, I want—I recognize the Senator wants to speak. Let's do this in a logical, orderly manner. If people want to be here to speak, I think the Senator from Colorado made some good points. I was yielding to him for a question. I would yield if the Senator from Minnesota has a question. Then, obviously, the Senator from Kentucky will have every right to speak.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Parliamentary inquiry: Under the current structure, how long before a Member on this side can be recognized?

The PRESIDING OFFICER. A Senator cannot be recognized until the floor is relinquished.

Mr. BURR. I thank the Chair.

Mr. HARKIN. I yield to the Senator from Minnesota for a question.

Mr. FRANKEN. I thank the chairman for allowing me to ask a question. I want to know because I have only been here 2-plus years. But it seems to me that actually, from my perspective—this is my perspective—this committee has worked in a pretty functional way. It took a long time. We started having hearing on this however long ago was it, about a year and a half?

Mr. HARKIN. It started at least a year and a half ago, maybe a year and three-quarters.

Mr. FRANKEN. During this whole period, I talked with the Senator. I have asked to see the ranking member and meet with him in his office to tell him what I wanted to see in this bill. I agree with the Senator from Kentucky, who has talked about there is just one test at the end of the year and the kids do not—the teachers do not get to see the results until the kids are out the door. I think that is terrible. I am offering an amendment that the ranking member referred to today.

I have gone all around my State since I have been a committee member and talked to teachers about what they want to see to fix this or to get rid of No Child Left Behind and replace it with something that makes sense. That is exactly what we are doing. Is this not the normal order of things?

That is my question.

I went to Senator ALEXANDER and met with him in his office to explain what I wanted. My staff has been meeting every other Member—not every other Member's staff but every other Member's staff who seems to be engaged in this on both sides of the aisle, with Senator HARKIN's staff, with the committee staff, with staff from Senator ENZI's office. I keep hearing whose staff they are talking to about this piece of this amendment or that amendment or this piece is going to be in the managers' bill. I think I have spent more time on this bill than on any other bill in my time here, and nothing has stopped me from being engaged in it. I do not think there is anything that has stopped anyone in our committee from going back over the transcripts of the many hearings we had. I do that often.

So my question is: Am I wrong or has this not been conducted in a way that is actually, as these things go, pretty functional for any Member who wants to be engaged in the process? I think there is a responsibility on the behalf of committee members, and is there not a responsibility on the behalf of committee members to be active in the committee, to come to hearings, to be engaged in the process, to approach the chair, to approach the ranking member? Is that not part of our responsibility?

Mr. HARKIN. I say to my friend from Minnesota, I think that is right. If the Senator wants to be engaged in the process of legislation, then, as I say, the Senator from Minnesota has talked to me many times about what he wants in the bill. The Senator from Colorado and even Members on the Republican side have talked to me about what should be in the bill, what should not be in the bill. That is the process.

I would say to my friend from Minnesota, I have been chairman twice before, not of this committee but of the Agriculture Committee when we did major agricultural bills. One was in 2001 and the other one was in 2007, and

both times I worked with the ranking members, basically, the same kind of process. We got bipartisan bills through that were signed by President Bush both times, 2001 and in 2007. This was the process we used.

We let amendments be offered. We opened it up. No one on the committee ever raised an objection to our meeting during the Senate session. We got our jobs done. That is the way we have always done it. That is just the legislative—as I said, considerate, logical legislative process. That is the way we have always conducted it. What it does is it allows Members—Senators who are interested, as the Senator from Minnesota has been so keenly interested in this Education bill, to give them time to go to the ranking member, to go to me, to go to other Members, to see what they can get in the bill.

I say to my friend from Minnesota, I am sure we did not put in everything the Senator wanted in the bill.

Mr. FRANKEN. Absolutely not.

Mr. HARKIN. But I think the Senator has the right to offer the amendments in committee.

Mr. FRANKEN. I wish to thank the ranking member. We talk on the phone about this. We have talked over dinner about this bill. I wish to thank Senator ALEXANDER, whom I asked to come to his office. We spent a very substantive session talking exactly about how I saw this—what was wrong with No Child Left Behind and how we could essentially get rid of it and solve what it is that every teacher hates about it and what principals hate about it and what superintendents hate about it.

Senator ALEXANDER and I had some disagreements on things. But, man, I think we agreed on 80 percent of this. I think I had an 80-percent agreement—I mean, that is Senator ENZI's rule. He has this 80-percent rule, which is that we agree on 80 percent and we focus on the 20 percent. I have a 64-percent rule which is that 80 percent of the time we agree on 80 percent. We see that Senator BENNET laughed because he is proficient at math.

Mr. HARKIN. I did not know if the Senator from Kentucky wanted me to yield to him for a question to get involved in the colloquy or the Senator from North Carolina.

Mr. BURR. I would like my own time.

Mr. PAUL. I do have a question. Several Senators on the committee have said they would be happy to have meetings 24 hours a day. Why do we not have a hearing on the bill? Why do we not invite teachers, superintendents, and principals? There has been no hearing since the last election. There is no reason why we cannot.

The other question we have and we need to answer is: What do we say to the American Association of School Administrators, the National Association of Elementary School Principals, the National Education Association, the National School Boards Association, and the National Association of Secondary School Principals that say: Let's do not get pushed aside in this race against the clock.

I am not opposed to much of what is going to happen with the bill. I think No Child Left Behind has many errors and we can fix some of them. What I am opposed to is the process of giving us an 868-page bill yesterday and saying take it or leave it. We need more time to read the bill. We need these organizations that are very interested in education—it is their livelihood—to come in and make comments on this bill. That would be an open-hearing process. Anything else to me is disingenuous.

Mr. HARKIN. I will yield the floor very soon. I say to my friend from Kentucky, I will say again: We put this bill online 1 week ago Tuesday. Some of the mail the Senator is talking about, the letters came in after that because they read the bill. I think the primary objections on all those letters had to do with teacher evaluations and what we were going to do in the bill on teacher evaluations.

That is what we fixed in the managers' amendment that we laid down Monday morning. I am told—I have not seen it—but I am told the National Education Association, for example, has withdrawn from that letter because of the fix we made. That is why we put the bill online.

I said that earlier. We put it online. A lot of objections came in. We modified it in the managers' amendment to move forward on that bill. That is exactly how we do it. I say to my friend from Kentucky that we have had a whole week.

Again, my friend filed 74 amendments to the bill. How can you file 74 amendments if you haven't read the bill? It seems to me that if you file 74 amendments, you must have read the bill. I assume that last week the Senator must have read the bill and then filed 74 amendments. You cannot have it both ways—say I haven't read the bill, but here are 74 amendments. That doesn't hold together logically.

Again, I will close on this note. The Senator from Colorado is absolutely right. We are here talking about process and who is up, who is down, all of this kind of stuff. These teachers out in America who are grappling with kids who are under this burden of No Child Left Behind and these AYPs, knowing that no matter how much they progress their kids in 1 year, they are still failing—this bill relieves them of that, takes that yoke off them.

Every one of us has heard from teachers, parents, and administrators that this No Child Left Behind is not good, that it has to be fixed, and that is what our bill does. How are we going to change it and fix it if we are not even allowed to meet?

Again, I hope the Senator from Kentucky will allow us to move forward in this process and allow us to have our amendment process. I say to my friend he has another shot at this bill on the floor. We will have committee, and we will come to the floor, and amendments will be offered on the floor. That is the legislative process. No one person gets to dictate what is in this bill—not me, not Senator ENZI, not the Senator from Kentucky. But all working together collaboratively in a bipartisan fashion, I think we can move this bill forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I say to my colleagues that there were a lot of blanket statements about one's level of participation. I have negotiated with the chairman of this committee for 9 months on the reauthorization of our emergency preparedness and biodefense in this country. I know what negotiations are. I know what compromise is. I know what commitment of time is. I got this bill last Friday. I will find out where it went online, or which copy went online. My staff got this bill last Friday. Yes, we have read it. We have eight amendments, which is not as voluminous as Senator RAND PAUL; but he gets that ability, as he gets the ability to be heard.

The minority's only leverage in this institution is to have an opportunity to offer amendments and to debate them. I hear what the Senator is saying, but based upon the timeframe you set—you don't get the privilege of doing that when you have to deal with the minority.

I know the chairman, for whom I have deep respect, has been here a long time, and he knows it. This could have been something very easily worked out with communications on both sides of the aisle. The fact is that, as I prepared for this markup, I was told there was an agreement, and that agreement meant the chairman and ranking member were going to hold this bill intact. There were going to be no exceptions to it. They were going to vote to make sure this bill didn't change.

That doesn't give one a lot of comfort, knowing what the outcome of amendments will be regardless of the merit of the amendments. When we started this morning, the chairman was very gracious and let me say my due for about 5 minutes. I am appreciative of that. I made it very clear to Members at that time, the only thing I asked them to do was weigh it on the merits of the amendment—my first amendment out of the chute, and it was my best shot. I will say right here on the floor, it was a damn good amendment. You know what. Lockstep we went down the line, and they proved to me that there is a deal.

You know, the next amendment was offered by Senator FRANKEN. I was the first one who stood up and said I disagree with the base text—it was offered by both of them—but I will support it. I am in year 17. Senator FRANKEN said he spent more time on this bill than any bill ever. Boy, if that is the case,

that is a sad statement about how much time we spend on legislation, because you could not have had it more than since last Tuesday, according to the chairman himself.

Mr. FRANKEN. Will the Senator yield for a question?

Mr. BURR. I will take questions at some point, but I patiently sat here waiting for my own time. I will use it, and then I will allow the Senator to stand and ask a question.

In the same statement, there was criticism of the participation. Apparently, I or Senator PAUL had not spent the time or hadn't devoted the time to this particular piece of legislation. I have been working on this for years. I think the chairman knows I am passionate when I get involved. It is not from a standpoint of a lack of knowledge, it is from a standpoint of trying to achieve the right end.

The chairman said very clearly that we are not going to make this perfect out of committee; we are going to have another shot at it on the Senate floor.

Let me remind my colleagues that 55 times in this Congress the majority has chosen to fill the amendment tree, meaning that no minority Member has had an opportunity to amend the legislation. How could I feel good about a truncated markup process that happens 4 days after I physically got an 868-page bill, when the caveat that I am given is: Oh, but you will have another opportunity to do it on the floor? Maybe, maybe not. I don't think the chairman can make an assurance to me that we are going to have an open rule on the Senate floor that allows unlimited amendments. If he can, I will yield to him for that consent. It is above his pay grade. It is above mine, too. That decision won't be made by the chairman or ranking member, and it won't be made because somebody is trying to perfect the bill.

I learned a long time ago that coming to the Senate floor and screaming doesn't do any good. It wakes people up in the gallery, and people at home think this must be important. This is about our kids. This is about whether K–12 education works. There is one takeaway we can all make: No Child Left Behind was well-intended legislation, and it was implemented poorly, embraced by very few. North Carolina happened to be a State that received a tremendous amount of waivers. We got a waiver from Average Yearly Progress because our State had a yardstick that was actually better, and the Secretary of Education recognized that. It didn't, through those waivers, change any of the Federal intrusion into K–12.

Let me explain what I mean. We have right now about 93 education programs that are authorized; not all of them are funded. If your system determines that you can use one of those programs, you can access that money. But if there is not a program for what your problem is, you don't get a shot at the money. I suggested through legislation that we take all of those programs and throw them into two pots and give States full flexibility to decide how they use the money.

This bill—they talk about flexibility. Well, it does eliminate the title of 40 programs, and it throws them into 6 new major mega-education programs—still with the strings. You have to spend it the way we design it in Washington, not the way you interpret it at home. And for a superintendent, that should not settle real well—flexibility versus prescription. One way is Federal intrusion into local education. The other is a partnership for education success.

Having gone with this one-size-fits-all called No Child Left Behind, I would think the natural swing would be, gee, if we want to fix education, why don't we enlist educators, superintendents, and principals in this bill? The 868 pages that we are going to debate—it will happen; minority rules can only last so long, and we will be marking this bill up and, hopefully, it will come to the floor and we will get an opportunity to amend it.

But incorporated into this bill is 20 pages that define reading. I want you to think about that. When the claims are made that this is not Federal intrusion, a one-size-fits-all, this bill spends 20 pages defining for every local school system what reading is. This is insane.

I have a simple challenge for my colleagues. What happened about the accountability of parents, teachers, principals, elected school boards, and community leaders? Healthy communities today have a relatively successful K–12 education system. In most cases, it is because employers recognize the fact that that is potentially their future workforce, and their educational success is that community's success for survival and for advancement.

But what this bill does is say we are going to determine what ''highly gifted'' is for teachers, and we will determine what success or failure is. We are going to take the place of the parent, teacher, superintendent, elected officials, and the business community; we are going to take that all over.

From the standpoint of the amount of money, we are still participating at about the same level—about 10 percent of the overall cost of K–12. But if you don't play by our rules, you don't get our programs or our money. I daresay there is not one of us who recognizes the fact that every community has a unique problem—where one is a school building, the next one is available highly gifted teachers; and where one might be the ability to have a second language taught, the other might be the passion of Teach for America teachers that infiltrate their system.

I cannot come up—no matter how many pages I write—with a K–12 education bill that I can honestly say trumps any community's that I represent that they could come up with on their own. If anything, I know I would be woefully short of what they could do.

The answer, to me, is let's get them more in charge, empower them more, and let's give them greater flexibility. Let's be what we are best at—a financial partner in the success of education. As a matter of fact, we will take up an amendment at some point that triggers the flexibility in the 868 pages. But it is only triggered if a school system accepts one of six things. One of those things is actually federally mandated firing of the principal or X amount of teachers of a failing school.

How in the world could we put in Federal legislation that you get the full flexibility if you are willing to go out and fire the principal or 20 teachers at a school that has been determined by Washington to be a failure?

This is almost surreal to me. In many ways, it goes way past where No Child Left Behind tried to get to, which was creating a measurement tool that could be seen by all and judgments made based upon that, though it wasn't perfect.

What my colleague Senator PAUL has asked for, quite honestly, is very reasonable. Take the bill—the one that we are considering, not the one that went up last Tuesday—I got this e-mail while I am standing here, which says:

> The original ESE bill was put up on line one week ago. The managers' amendment on Monday. The document explaining the changes was online yesterday.

So everybody is right. The only problem is what Senator PAUL described, which was the bill that we are considering right now went up on Monday.

The explanations for the changes went up yesterday. I am sure if Senator PAUL came up with 74 amendments, his staff has been a little busier than mine because they only came up with 7 or 8. But what Senator PAUL has asked for is very reasonable.

Take this bill—not a hypothetical bill—and let's have a hearing on it—not a markup, a hearing—at whatever speed the chairman can put it together, where we bring in actual educators, we bring in superintendents or we bring in school board members, maybe we bring in a parent. That would be novel.

I can still remember, when I started 17 years ago, and reading about the Washington, DC, schools, my first teacher-parent mentor meeting. I remember the expectations I had of a parent who didn't care about a fifth grader's future. If they did, why would this child be so challenged to read? What I was met with, as I walked in and met with that parent, was the parent of a fifth grader who said: Congressman, you are my son's only hope. I want him to have so much more than I do.

I wasn't there because of a government program. I was there because I think every child ought to have the opportunity to succeed, and we can't write that in a bill. We can't describe for every community how they get to success. If we could, No Child Left Behind would have been perfect because

everybody believed it would have that big a change. So you see, this is about not just changing a system, it is about creating passion—a passion for success.

I will tell you, passion for success is not taking the Federal Government's HR Department—which is pitiful—and saying: Well, let's export this to every school in America. That is not the answer. The answer is for us to get out of the way and for us to empower those local officials to make the changes they need to and for the judgment to be of those community leaders and those parents.

We will have a debate soon on what is highly qualified, and it is very proscriptive as to what a highly qualified teacher needs to be. But in my definition, highly qualified is a pharmacist who has decided they don't want to work in a store anymore and would like to teach chemistry in a high school. Unfortunately, under all the Federal standards today, that person can't do that because they don't have a certificate to do so. We will codify that into law, in 868 pages, and all the talented folks we have around the country—who could walk into a classroom and not only have the educational foundation to be able to teach our students but the passion to want to be there and to say it in a way that isn't taught out of a textbook but is learned through their occupation—will be gone. It will be gone. Even though that pharmacist may not want to compound drugs anymore, if their choice is that or retirement, they will retire because we have cut out something that would allow them to contribute.

I didn't mean to go this long, but I will be honest, in my patience to get the opportunity to speak, I heard some outlandish comments that, quite honestly, I could take to be very personal. To suggest any Member had sufficient time to review this legislation—the only person who could make that comment would be one who got the bill before I did, and I think I am entitled to have it at the same time every other member of the committee gets it.

To have an agreement that says we are not going to take amendments—that says one can offer them, but we are not going to take them—I think that is a black eye on the entire institution, if we would adopt a policy such as that. But I have seen it up close and personal already.

I would love to take the chairman at his word that we will have an opportunity on the floor to fix this bill, but—based upon how the floor has been run up to this time—I can't believe there will be even one opportunity for me to offer an amendment. So I have to roll my dice on the markup process in committee, and I have to do it in a way that accommodates every member. If Senator PAUL believes he needs more time, I have to be there to try to defend his time.

If that is inconvenient for people, it is going to be inconvenient. The truth is, our children's future is way more important than our convenience. Our children's future is way too important to rush a bill. Our children's future is way more important than a deal between a ranking member and a chairman as to how to make this easy out of committee so we can fix it on the floor.

I have been here 17 years. Perfection is not possible in Congress, but perfection should be our goal every day. When we look at what we have debated, we understand why less than 15 percent of the American people think highly of us. I think what we are getting ready to do will have a significant impact on how that number is reduced, not how it is increased.

I thank my colleagues for their patience. They certainly don't have to request time from me. I will yield back and gladly allow them whatever of their own time they would like to take.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. I would like to say to the Senator from North Carolina, before he leaves the floor, that I am well aware of his longstanding commitment to education issues and to the kids in this country. I have no doubt of that, and I hope he didn't take anything I said to suggest that. I actually think the two of us probably share a lot of agreement on what we ought to be doing.

My issue is simply—and as I said about the Senator from Kentucky, he has every right to do this—that, as my colleague and other members of the committee, I want to engage in a debate on the bill. I want to consider the amendments of my colleagues and to offer my own.

I am painfully aware, having been in a school system, that Congress was supposed to reauthorize this bill in 2007. It is now 4 years later, and because of our own fecklessness, our own inability to get anything done, every single year teachers and parents and principals keep having to put up with what is the crudest accountability system I could imagine. The only thing cruder than the accountability system was the response of big school districts, such as the one I used to work in, to that accountability as people tried to comply with well-intentioned but incredibly poorly thought-through laws and regulations from Washington, DC. I don't want these schools to have to endure 1 more year of this meaningless accountability, where we are comparing this year's fourth graders to last year's fourth graders and telling ourselves that actually makes a difference.

There is a lot of good work being done in our States right now around standards—elevating them—so we quit fooling ourselves about whether we are meeting international norms when it comes to our kids. There is a lot of great work being done in Colorado and other States that have come along creating a growth model that we—not we but moms and dads and teachers and principals—can actually track how this group of fifth graders did compared to how they did as fourth graders and how they did as third graders and then compare them to similarly situated kids across the country. That makes all the sense in the world compared to what we currently have.

I sat out there in absolute despair wondering why this town was so mean to our teachers and to our kids. Isn't it a bare minimum that the Congress could reauthorize the legislation when they were supposed to—in 2007? Yet now we find ourselves here.

I thought the Senator from North Carolina was very eloquent this morning and today on the floor as well and I appreciated the points he made. My objection is a narrow one, which is the idea that the right way to approach reauthorizing No Child Left Behind, the right way to approach trying to fix this situation is to create a bunch of procedural barriers that don't allow us to have a substantive discussion about it.

I agree completely with what the Senator from North Carolina said 1 minute ago. There is a reason we have not a 15-percent approval rating but a 12-percent approval rating. There is a reason. I think we should come together in a bipartisan way and reauthorize this bill, get rid of AYP, and do some of the important things in this legislation. Then I hope the Senator would look at one of my amendments, because one of my amendments has his pharmacist in mind, if only we could get to a discussion of the merits of this bill.

I see the Senator from Kentucky has left the floor, but I would just say that my only objective in coming down here today was simply to implore him to withdraw that objection. Knowing it is his right to object, I can't think of why he would do it if he wanted to change the trajectory of the work from the Federal level.

I thank the Senator from North Carolina and the Senator from Minnesota and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I also respect my good friend from North Carolina, and I want to thank him for his vote on my amendment. I think he is going to like some of my other amendments too.

I wish to take issue too with one thing he said. I think he said it in a moment where, if he thought about what he said, he might reconsider it. I had commented that I have spent more time probably on this bill than on any other, and I have spent a lot of time on the Affordable Care Act. The Senator from North Carolina then said, if I had spent more time on this bill than any other, that is a pathetic commentary or a sad commentary because we just got this bill the other day. The fact is—and I think the Senator would acknowledge this—work on any piece of legislation doesn't start when the bill is introduced. My work on this bill

started very soon after I arrived in the Senate.

My work started with a bill I coauthored with ORRIN HATCH, which is going to be an amendment. It is an amendment to recruit and train principals for high-needs schools. We have had schools I have seen turned around by principals because principals can create the ethos of the school. They have so much to do with selecting the teachers and transforming a school. This amendment would create a program where we recruit people who want to be principals in high-needs schools and have them monitored—if they haven't been a principal before—by a principal who has successfully turned around a high-needs school. That work started immediately upon my getting to the Senate.

I have been going back to and traveling around the State of Minnesota talking to teachers and superintendents and principals. The Senator from North Carolina talked about the need to have superintendents and principals and teachers here. We had 10 hearings. I believe it was the other side at one point that said, please, stop the hearings.

My colleague talked about the transformation models, which I do have problems with. What do we do with a school that has failed? What do we do now with a school in the bottom 5 percent? If the Senator from North Carolina was there, we had a superintendent—Joel Klein, superintendent of schools or chancellor of the schools in New York—who spoke exactly to the transformation models. Again, what works in New York certainly doesn't work in Pine City, MN, or parts of North Carolina, but there are plenty of teachers available and plenty of principals available in New York City. So I think we need more flexibility in transformation models than in this bill—than Joel Klein suggests—and maybe that is in the managers' bill now. Joel Klein is a superintendent, and he spoke to the transformation models. He said the transformation models gave him the ability to fix schools that were failing, schools that were dropout factories.

So the very thing we have been asked for here: Let's have testimony from superintendents; aren't these transformation models surreal? We have had these hearings.

I would suggest to the Senator from Kentucky who has just come in, my office will print out the transcripts of all the hearings we have had and you can read what teachers and principals and superintendents have said.

I have to say that the work you do on these bills doesn't start when the bill hits the desk. In my case, it started 2 years before. And I don't think the Senator actually meant——

Mr. BURR. Would the Senator yield for 1 second?

Mr. FRANKEN. For a question. Sure.

Mr. BURR. If the Senator interpreted my comments to be personally targeted to him, then I do apologize. The Senator said—and I wrote it down: I spent more time on this bill than any other bill ever.

My criticism about the statement was, I said: If the Senator got the bill when I did, then there is not a whole lot of time between Friday when I got the bill and Wednesday when it was marked up.

I don't question for a minute the Senator from Minnesota or the staff has spent a tremendous amount of hours on education. But in defense of Senator PAUL and what he has sought is there has not been a hearing on this legislation. There are some things in this 868-page bill our committee has not had a hearing on that it would be great to have the opportunity to ask someone who is an education professional. In the absence of the ability to do that, you, I, the Senator from Kentucky, our staffs, all have to rely on what committee staff tells us. And that is not always the most accurate thing, regardless of which side of the aisle you are seeking that information.

I appreciate what the Senator from Minnesota has said. I think that education should be a passionate debate, and we have seen some passion here this afternoon. I would hope the Senator from Minnesota would suggest to Senator HARKIN, maybe there is a pathway where we can get predictability in the number of amendments, predictability in the time it takes to mark this up, with some accommodation to the sensitivities that Senator PAUL and others have raised, because I hope the Senator from Minnesota will agree with me, there is not an urgency to do it this week, and if we could, when we come back from the end of October, have a hearing, I think we could have a pathway to mark up and completion.

Having said that, it probably will be a product that I couldn't support, I will aggressively try to amend, and I would be anxious and hopeful that I would have the opportunity again on the floor to try to affect its content.

But if the Senator will be an advocate for that, I think there is a pathway that doesn't in any way, shape, or form delay our ability in this institution to conference with the House or to present the President a bill. I would be more concerned with whether we produced the right product, and I think we can achieve that better.

I thank the Senator for yielding to me.

Mr. FRANKEN. Certainly. And obviously I believe in the markup we will have a healthy discussion of every part of this bill and of every amendment. I think the Senator from North Carolina is going to be so thrilled with my amendments, that at the end of the day he is going to not just cast an aye vote on the bill but an enthusiastic one.

I accept your apology. I don't think you said exactly what you said you said. What you said was if the Senator spent—it is not worth going into.

The point is that your work on a bill doesn't start when a piece of legislation is written. Most of the work comes before. And I want everyone to understand that who is listening.

This bill has been a tremendous passion of mine. You mentioned passion for success. I want the growth model. Senator BENNET was superintendent of the Denver schools, and very successful. When I did my principal bill, I went to a school in St. Paul, MN, Dayton's Bluff, which had been a failed school and was turned around by a successful principal. So I had a roundtable there. This was very early in my tenure here. One of the principals said, You know those No Child Left Behind tests, we call them autopsies. What he meant was you take them at the end of the year, you take them in late April, and you don't get the results until the kids are out of school, and then the results are abrogated.

We have something in Minnesota that the teachers, superintendents, and principals agree on, something called the NWEEA tests. What are those? They are computer-adaptive tests. What does that mean? In Minnesota, very often they take these three times a year. They are computer tests so that teachers get the results right away. The principal called the No Child Left Behind test autopsies because the kids are out of school and the teacher can't use it to inform instruction. If you do a computer test and you get it right away, the teachers can use the tests to inform their instruction. I think that is what most parents thought we were doing in the first place when President Bush first suggested this law.

Secondly, they are adaptive. What does that mean? Well, that means if a kid gets a question right and keeps getting questions right, the questions get harder; but if they start getting questions wrong, they get easier. It is much more diagnostic and you can see exactly where a child is. Right now, the No Child Left Behind test forbids these assessments from going outside grade level.

Arne Duncan, Secretary of Education, said something profound. He said that a sixth grade teacher who takes a kid from a third grade level of reading to a fifth grade level is a success, is a great teacher; but under No Child Left Behind, the way it is now, that teacher is a failure. That makes no sense whatsoever. We have to measure growth. That is what the Senator from Colorado was talking about. We need to measure growth. And that is no mystery.

I go around to schools, and I remember being in a school in St. Cloud, MN. I was introduced by the principal to the teacher who won Teacher of the Year, a math teacher. I met the math teacher, and the math teacher said, ''Growth.''

This is not a mystery, and we have had hearings on this and we know this. We need to be measuring how much kids grow, and that will help kids who are from poor schools, because they are starting at a lower level. But if the

school is good and they are increasing their growth, they will be rewarded.

My daughter graduated from college. I am looking at the pages now who are juniors in high school. My daughter, immediately out of college, became a teacher at a school in the Bronx, 97 percent free and reduced price lunches, a third-grade teacher. That is the first year they do No Child Left Behind testing. She had to take her kids from here to here, to this arbitrary level of proficiency in order to be considered a success, where 15 miles to the north a teacher in Westchester had to take her kids from here to here. That doesn't make any sense.

In Minnesota, I have learned from my teachers I have talked to that there is something called ''the race to the middle.'' What is that? Under No Child Left Behind, the way it works now is that there is an arbitrary bar of proficiency a teacher is judged on, on what percentage of their kids in these different subgroups meet or exceed that bar of proficiency.

Well, the smartest kid in the class is going to pass, no matter what. There is nothing you can do to that kid that won't make that kid exceed the bar of proficiency. So guess what. The teacher ignores that kid.

The kid at the bottom, the most challenged kid, well, no way that kid is going to make it, so let's ignore that kid.

A race to the middle. The kid right below and right above proficiency, those are the kids who are drilled—drilled and killed, as they call it in Minnesota.

We know what is wrong with No Child Left Behind. We have been discussing it for 1½ years in hearings. We have been talking about it. I have been talking to the ranking member. He mentioned today these computer-adaptive tests in the markup. These things aren't mysteries. Members were welcomed to the hearing, and some didn't come.

But the work on a bill doesn't start the day the bill hits the table. The work of a Senator, if the Senator is a hard-working Senator, is every day. It is going back to your State and finding out what teachers and principals and superintendents need. It is going to the hearings. It is talking to the other Members, to the chairman, to the ranking member, and to your staff. And your staff is getting information from other staffers—not just the committee staff but from other staffers. I don't want to leave people with the impression that we work once the bill hits the table.

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

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

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. 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. BROWN of Ohio. Mr. President, I would like to speak about two amendments, if I could. One is about basic civil rights and fair housing organizations and the other is about counseling and I would like to speak on both of them.

Our Nation's fair housing organizations help enforce basic civil rights, something that has been important in this country for many years. They investigate housing discrimination and they educate tenants and homeowners of their rights. They fight the pernicious discrimination that targets and redlines low-income Americans in communities of color. Housing discrimination not only violates our laws, it is a barrier to economic mobility. That is why the Department of Housing and Human Development invests in the Fair Housing Initiative Program which supports fair housing groups across the country.

They investigate mortgage lending fraud and predatory lending. They investigate foreclosure cases that force homeowners out of their homes—an endemic problem in the Presiding Officer's State of Maryland, my State of Ohio, and across the country—before facts and underlying rights are observed. Simply put, FHIP helps the very organizations that educate the public and enforce the laws that protect people from housing discrimination.

The program is cost-effective, saving HUD money as it streamlines government resources to move more effectively and efficiently and investigate complaints. The fair housing organizations investigated 65 percent of the Nation's complaints of housing discrimination, nearly twice as many as all agencies combined. Fair housing advocates in Cincinnati, Dayton, Toledo, Cleveland, Akron, Columbus, and in towns across Appalachian Ohio fight predatory lenders.

For millions of Americans, the barrier to opportunity and security is the latent discrimination of ruthless landlords and unscrupulous lenders. Without FHIP, our country and our economy are subject to the very discrimination that not only hurts individual renters and homeowners but holds too many communities back. That is why I am offering this amendment to restore full funding to FHIP in line with the House level. State and Federal fair housing enforcement is already stretched thin. In my home State, the State Civil Rights Commission has four investigators devoted to housing complaints. It would be devastating to cut private fair housing programs any further.

This amendment is supported by the Leadership Conference on Civil and Human Rights, the NAACP, the National Council of La Raza, and the National Fair Housing Alliance. It is also supported by Miami Valley Fair Housing Center, Neighborhood Housing Services of Greater Cleveland, the Coalition on Homelessness and Housing in Ohio, the Ohio CDC Association, the Toledo Fair Housing Association, and the Homeownership Center of Greater Dayton.

On Sunday, the Martin Luther King, Jr., Memorial was dedicated on our National Mall. It is a reminder of the era that blatant Jim Crow laws, brutal beatings and segregation may be over, but our fight to remove stains and strains of discrimination continues.

It continues through thousands of fair housing organizations that serve millions of our fellow Americans. It continues with this body investing in these organizations.

I ask unanimous consent to have printed in the RECORD a letter of endorsement of many organizations. This is a letter from those civil rights organizations supportive of our legislation.

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

OCTOBER 18, 2011.

Hon. DANIEL INOUYE,
Chairman, U.S. Senate Committee on Appropriations, Washington, DC.

Hon. THAD COCHRAN,
Ranking Member, U.S. Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN INOUYE AND RANKING MEMBER COCHRAN: The, undersigned civil rights organizations, urge you to support level funding for the Fair Housing Initiatives Program (FHIP) by accepting the House number of $42.5 million in your upcoming negotiations. FHIP funding is crucial to protecting all families and individuals seeking fair housing choices across the United States.

As you know, the Senate Appropriations Committee's Transportation-HUD bill includes only $35.9 million for FHIP, $7 million less than the figure approved by the House Subcommittee. Such a decrease in FHIP funding would greatly limit the abilities of local organizations to educate the community and the industry about fair housing, and limit the establishment of fair housing organizations in areas where pervasive housing discrimination occurs unchecked.

FHIP provides unique and vital services to the public and the housing industry. Private non-profit fair housing organizations are the only private organizations in the country that educate the community and the housing industry and enforce the laws intended to protect all of us against housing discrimination.

FHIP saves money for the federal government, and for state and local governments. According to a recent HUD-funded study, ''FHIP grantee organizations weed out cases that are not covered by civil rights statutes'' or that do not have merit, thereby avoiding costly lawsuits and mediations. The vetting of complaints by fair housing organizations ''saves resources for HUD and state agencies that do not have to investigate these complaints.''

''FHIP funding is a critical component of the U.S. civil rights enforcement infrastructure,'' according to HUD. 71% of the cases in which a FHIP organization is a complainant result in conciliation or a cause versus 37% of nonFHIP referred cases.

Cuts to FHIP and FHAP will leave entire states and many communities without a place to protect their rights or to report housing discrimination. Over the past ten years, more than 25 fair housing organizations have already had to close their doors or drastically limit their staff due to insufficient funding levels. By cutting FHIP, many more states and communities will be at risk of losing any fair housing resources.

Fair housing organizations operate efficiently and effectively on shoestring budgets. In 2010, there were 28,851 complaints of housing discrimination filed. This number of complaints still represents less than one percent of the annual incidence of discrimination, which is estimated to exceed four million. Private fair housing organizations investigated 65% of the nation's complaints, i.e. almost twice as many as all government agencies combined.

We cannot afford to leave states and communities without a place to protect their rights or report housing discrimination. With the cuts HUD currently faces, the role of fair housing organizations will only become increasingly important.

We thank you for your past support for the Fair Housing Initiatives Program, and we ask that you support level funding of $42.5 million as the budget process moves forward. In this economy and devastated housing market, everyone deserves a fair shake at purchasing and renting the home of their choice, regardless of their identity characteristics. We as a nation cannot afford to limit the housing activities of any single family or individual.

Sincerely,

Bazelon Center for Mental Health Law, Lawyers' Committee for Civil Rights Under Law, Leadership Conference on Civil and Human Rights, NAACP, National Association of Neighborhoods, National Community Reinvestment Coalition, National Council of La Raza, National Fair Housing Alliance, National Gay & Lesbian Task Force Action Fund, Poverty & Race Research Action Council.

Mr. BROWN of Ohio. Mr. President, I would like to speak on a second amendment. Since a peak in 2006, housing prices, as we know in this country, have fallen by nearly one-third. Total homeowner equity slashed in half with the loss of more than $7 trillion. Some 6 million people have lost homes since the height of the financial crisis. Yet just yesterday we heard a leading Republican Presidential candidate tell an editorial board in Nevada that his solution to the Nation's housing crisis is to speed up the rate of foreclosures. This despite clear evidence that basic legal requirements have often gone ignored in foreclosure proceedings; this despite clear evidence that some banks have specifically targeted certain communities in specific neighborhoods for foreclosure; this despite the fact that persistent foreclosures are dragging down property values across the Nation.

I remember some years ago in Cleveland, in Cuyahoga County in my State, we had more foreclosures—except for the moratorium year last year—every year than the year before for the last 14 years. I remember neighborhoods in Cleveland where there might be only a couple of foreclosures on a street, but we knew what happened when those homes were foreclosed on—well, what obviously happened was vandalism and stripping off the aluminum siding and stealing the pipes, and the property would be degraded and the property would be ignored—and what happened to other homes in the neighborhood and what happened to the prices and the values of those homes even though people were paying their mortgages and staying in their homes.

So this—this statement to the Nevada newspaper—this despite the clear message from my distinguished colleagues, Senator MCCAIN of Arizona and Senator NELSON of Florida, representing States such as Ohio that have been devastated by high rates of foreclosures.

Earlier this week, my colleagues stated on this floor—some colleagues said we need to do more to get people mortgages they can afford, to make payments on them, rather than throwing them out of their homes. I couldn't agree more. If we are going to strengthen our economy, we must find a stronger response to the foreclosure crisis, not rushing the process but better managing it.

Right now, the provision of homeowner counseling is one of the most effective ways we have to deal with this crisis. I remember talking to fair housing coalitions and organizations in Toledo and Dayton and all over my State, telling how they were able, one family at a time, to avert foreclosure. We know what that means not just for that family but to that community because they were able to do foreclosure counseling. I have seen firsthand in my State how these programs help better manage the mortgage payment process that helps to keep homeowners in their homes.

Organizations such as the Neighborhood Services of Greater Cleveland, the Columbus Housing Partnership, and the Coalition of Homelessness and Housing in Ohio are leaders in foreclosure counseling. The Department of Housing and Urban Affairs invests in the Housing Counseling Assistance Program that supports these Ohio programs and hundreds like them across the country. Housing counselors provide guidance and assistance and advice to help families meet the responsibilities of tenancy and home ownership.

Foreclosure counseling is particularly valuable to those obviously in danger of losing their home. According to a study by the Urban Institute, homeowners who are assisted by mortgage counselors have a 60-percent better chance of saving their home. If a family has counseling with a professional counselor, somebody to advocate for them and assist them, they have a 60-percent better chance of saving their home than if they don't have that assistance.

HUD has requested $88 million for housing counseling for each of the last 2 fiscal years. Yet, last year, Congress provided no money for this important program—a program that keeps people in their home, helps their neighbors because this house might not be foreclosed on, helps those people build equity and savings that are essential for stable houses, stable families, stable homes, stable neighborhoods, stable communities.

Given this lack of funding, I am particularly grateful for the work done by the subcommittee chair and ranking member in restoring funding for this program. Special thanks to Senator MURRAY and Senator COLLINS. The subcommittee has worked hard to find $60 million to fund the program. I applaud them for their efforts. Senator SANDERS has also been a great champion in this effort. Even with this level of funding, the demand for housing counseling exceeds the level of services that would be supported.

It is imperative that we provide these investments. They are necessary to meet the needs of the record number of homeowners facing foreclosure, they are necessary to help advise borrowers preparing to purchase new homes, and they are necessary and vital to our housing and economic recovery.

Historically, we know that to pull ourselves out of recession in this country, we need a vibrant manufacturing sector, especially driven by auto, and we need housing, more home construction, more home renovation, and appreciation of housing prices. We are doing OK with auto manufacturing, but we are not doing nearly well enough with housing.

I applaud my colleagues for their work. I appreciate their support for this program, and I look forward to their continued support and to their supporting the Senate number in conference.

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

Ms. MIKULSKI. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. CARDIN. Mr. President, I know the Senator from Missouri is here, and I am going to make a unanimous consent request that I anticipate he will object to on behalf of other Senators. So let me do that formally and then make my comments.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 112; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nomination; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Missouri.

Mr. BLUNT. Mr. President, I object on behalf of Senator HATCH and Senator ISAKSON.

The PRESIDING OFFICER. Objection is heard.

Mr. CARDIN. Mr. President, I certainly understand that my friend from Missouri is doing this on behalf of other Senators. I want to express my disappointment that these Senators are objecting to the confirmation of William J. Boarman, an individual who is eminently qualified to be our Nation's 26th Public Printer and head of the Government Printing Office.

President Obama nominated Bill Boarman 18 months ago. The Senate Committee on Rules and Administration reported the nomination favorably in July of 2010. The nomination languished because of Republican objections so President Obama made a recess appointment on January 3, 2011, and renominated Mr. Boarman on January 27, 2011. Again, the Senate Rules Committee reported the nomination favorably by voice vote this past May.

The Public Printer is not a controversial position. Previous Printers have been confirmed without controversy or delay. This obstruction is unprecedented.

Bill's career in the printing industry spans 40 years. He started as a practical printer, trained under the apprenticeship program of the International Typographical Union and served his apprenticeship at McArdle Printing Company in Washington, DC.

In 1974, he accepted an appointment as a journeyman printer at the GPO. Mr. Boarman was elected president of his home Local 101–12 when he was 30 years of age. He later served as a national officer with the ITU, where he was a key architect of the merger between the ITU and the Communications Workers of America. He was elected ITU president shortly before the merger and has been reelected to seven successive terms since.

He has served as an unpaid consultant to several Public Printers and has testified before various congressional committees regarding GPO programs and policies. He is an expert in this field. He is eminently qualified. I think the Members of this body know that.

Mr. Boarman served as chairman of the $1 billion CWA/ITU Negotiated Pension Plan and the $125 million Canadian Negotiated Pension Plan. He has experience in management. He was among the union leaders who spearheaded the creation of the AFL–CIO Capital Stewardship Program and the Center for Working Capital in the Federation.

Because of his experience in the field of pension administration, he was chosen to represent CWA on the Council of Institutional Investors, serving 12 years as a member of the CII Executive Board and three terms as its cochairman. He has also served on the Maryland Commission on Judicial Disabilities and as cochair of the Taft-Hartley Northern American Study Group educational investment conference.

He has served as president of the Union Printers Home, a 122-bed skilled nursing facility in Colorado Springs, CO. I mention his extensive background to underscore the point that Bill Boarman is, perhaps, uniquely qualified to serve as the Nation's Public Printer, and there is absolutely no good reason to hold up his confirmation.

All we are asking is, let's bring this nomination forward for a vote—a person who has eminent qualifications. There is no substantive objection to his confirmation. I hope my colleagues who have raised the objection will allow us to move forward.

The Public Printer serves as the chief executive officer of the GPO, the agency charged with keeping the American people informed about the work of the Federal Government.

GPO is one of the world's largest printing plants and digital factories and is one of the biggest print buyers in the world. GPO disseminates the CONGRESSIONAL RECORD and the Federal Register and a number of other products and services in both print and digital form.

The agency has been tasked to build its digital capability into a state of the art operation to improve transparency and citizen access to government documents and reports.

We hear all the time about making this system more transparent. Mr. Boarman knows how to do that. Let's give him a confirmed position so we can help bring the public more into what we do here in Congress.

Bill Boarman faces the challenges of maintaining the traditional printing skills of an aging workforce while helping a 150-year-old organization adapt to a world in which most documents are ''born digital.''

As Bill has said:

> Few Federal agencies can count as their heritage the scope of the work GPO has performed, ranging from the first printing of the Emancipation Proclamation to providing digital access to the Government's publications today. The men and women of GPO are responsible for that heritage.

It is past time that Bill Boarman—a man with over 40 years of experience in the printing industry—be considered and confirmed as the Nation's 26th Public Printer.

I urge my colleagues on the Republican side of the aisle: Let the Senate do what it is legally responsible to do: advise and consent on these nominations. Let us vote so we can confirm this position that was first brought forward over a year and a half ago.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I want to associate myself with the remarks of my colleague from Maryland regarding the nomination of Mr. Boarman. My colleague from Maryland has offered a spirited and comprehensive description of why Mr. Boarman should be confirmed as our Public Printer. I wish to, one, validate everything he said; and, second, Mr. Boarman, we need to know, is a reformer. He has the heart of a reformer. He has the spirit of a reformer. He has the know-how of a reformer.

As we look at the position he is being asked to serve in, we need someone who has technical competence in the field, experience in managing a large organization, and also one who has dealt with the challenges related to both delivering a product but also those related to the workforce.

I think we are doing a national disservice by not putting this man in office so he can take charge and maintain something that is a nonpartisan job—the Government Printing Office. It is not as though he is going to be in some back room reprinting little pamphlets from the 1930s Bread March. He is here to be our Public Printer.

We know we are into a new age, a digital age. He has a lot of reform to do. We know there is workforce reform that needs to be done but done with sensitivity. Again, he is somebody who himself is from the rank and file.

I think this: Once again, we are playing politics with a job that certainly is not political. We have an esteemed, qualified individual who wants to be a reformer, to get the job done, and who knows we are in a more frugal atmosphere.

I think we are wasting time, we are wasting money, and we are wasting the talent of an exceptional individual.

I am going to say this: The more we continue to delay and be deleterious on these appointments, why would anybody want to come forth to serve in the public domain? They often have to give up jobs or put their jobs on hold while they are waiting for these confirmation processes. We put more sand in the gears of government, and then we blame government for grinding to a halt.

Let's have an orderly way of dealing with nominations and at least give the man a vote up or down, yes or no.

Mr. President, I yield the floor.

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

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

Ms. MIKULSKI. Mr. President, the American people are watching this and saying: What are they doing? Well, actually we are doing a lot. Senator BLUNT and I are managing the bill. You might say: But there is nothing going on. Well, there is a lot going on because we are reviewing amendments of Senators. That is what all this discussion is, to see what we can take or there might even be bipartisan agreement. And then we are lining up how we will proceed on the next four to six amendments, again alternating both sides of the aisle.

So if people are watching this and saying: What are they doing, just what are they doing, well, we are doing a lot. We hope to, by the close of business tomorrow, finish the Agriculture, Commerce-Justice, and Transportation-Housing bill appropriations. We are going to have some robust debate on some amendments. Some are quite controversial. But right now, we are trying to see what we agree on and, what we don't agree on, how could there be a regular, civilized, orderly process for having a debate and then voting.

We anticipate that somewhere around 5:30 or 6:00, we will have a cluster of votes. So that is kind of the game plan so far.

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

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

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the next first-degree amendments in order to be called up and made pending to H.R. 2112 and the substitute amendment No. 738 be the following: Ayotte, No. 753; Crapo, No. 814; Moran, No. 815; Coburn, No. 793; Coburn, No. 798; DeMint, No. 763; DeMint, No. 764; Grassley, No. 860; Sessions, No. 810; Lautenberg, No. 836; Brown of Ohio, No. 874; Merkley, No. 879; Bingaman, No. 771; Gillibrand, No. 869; Feinstein, No. 855; and Menendez, No. 857; further, that a motion to recommit from Senator LEE be in order; that, if offered, the motion be set aside and the Senate return to the consideration of the pending amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, this means this is now the order in which we will proceed. These are the amendments that both sides have agreed should be offered in this tranche or cluster.

We are saying to the Senators who now have these amendments, get ready to come to the floor. As I understand it, KELLY AYOTTE will be here to offer her amendment, which will be important, and then what we would like to do is alternate on both sides of the aisle. The Senator from New Hampshire will offer her amendment. We hope then that there would be a Democrat, and we will go back and forth. If a Senator is not here, we will move on to the people who are here.

We have 16 amendments. We would like to finish these amendments this evening. The more that can come and be ready to offer their amendments and debate—and Senators will be able to present their amendments and debate them, but we would like to do that.

That is the way we are going to proceed. These are the amendments. We will alternate on both sides of the aisle. We encourage Senators who have these amendments to come over and we will call them up.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I join my good friend in suggesting we would like to see our colleagues come over here. These three appropriations bills are being handled on the floor and they are open to amendment. We haven't had appropriations bills on the floor of the Senate in this way in quite a while. We would like to get these bills done. Hopefully, we can get these bills done maybe even this week and send them on over to the House to talk about these bills and their bills—3 bills, 16 amendments, and those aren't all the amendments we expect to be offered. But we hope these amendments are offered today—a significant number—and as the Senator from Maryland said earlier, we expect votes on some of these amendments around 6 o'clock. Between now and then, we look forward to a vigorous debate on as many of these as the sponsors can come and debate. But the Agriculture bill that I am the ranking member of; the Transportation, Housing and Urban Development bill, which the Senator represents so well; and the Commerce-State-Justice bill are all bills that are moving forward in as close to a regular process as we have had in a while.

We look forward to seeing these amendments debated this afternoon and some of them—as many of them as possible—voted on this afternoon and this evening.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, the Senator from Missouri is right. We haven't had a regular order for some time. Leadership on both sides of the aisle has created this fantastic opportunity. We are actually following a regular order on our appropriations. We are actually following a regular order. This is our opportunity to show we can have a regular order, that we can move our annual appropriations together in a well-measured, well-paced, well-debated, and well-scrutinized way.

I hope our colleagues who have amendments will come over. We know Senators have lots of opinions, and opinions sometimes get translated into amendments. But we ask our colleagues now to show we can govern. Come down, come to the floor and offer these amendments and show we can move three very important bills. The one affecting transportation and housing is important to our economy. This is a jobs bill, putting people to work building highways, roads, and housing. Agriculture is an important part of our economy, and also Commerce, Justice, and Science is the innovation committee, the trade committee, and the advocacy for justice committee. We look forward to these amendments and debating them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, in a few minutes, I want an opportunity to, for clarification, talk about the LRA, troops who have gone over to northern Uganda, including Rwanda and south Sudan. I will wait now because a lot will want to speak subject to these amendments.

I wish to mention something I think is significant because nobody is talking about it. People have heard me talking over the years about the overregulation being pursued by this administration in every area and what it is costing in terms of jobs.

I know I talk about this quite often, but this time I am talking about a different area of overregulation. Most of the time I am talking about what the EPA is doing to destroy businesses in this country. I do that because I am the ranking member on the Environment and Public Works Committee, which has jurisdiction over the environmental regulations and the EPA.

When we see what they are doing, it is something that is more serious—or at least as serious as all the deficits that are coming out of this administration because it is chasing jobs overseas. We will talk about that. This is a different area altogether.

We talk about the overregulation that comes from the EPA in the EPW Committee, where we have jurisdiction. Today, I want to mention what is going on in the USDA. In the 2008 farm bill, the USDA was instructed to revisit and update the marketing regulations authorized to the Packers and Stockyards Act of 1921. That particular act is governed by the Grain Inspection, Packers, and Stockyards Administration, or GIPSA, as it is referred to. That is all within the USDA.

The agency is supposed to regulate and deal with the marketing practices within the livestock industry. I am from Oklahoma, and it is a huge industry in Oklahoma. This provision of the farm bill was heavily debated and amended when it was considered and, ultimately, the USDA was instructed to provide regulations for a few explicit objectives. Among them were broader contract cancellation rights for livestock growers; the disclosure of foreseeable future necessary capital investment required for contract growers within their growing contracts; and criteria for GIPSA to determine whether producers are treated with unreasonable preference or advantage. The House already considered this. In fact, they have done their Agriculture appropriations bill.

Several months after the farm bill was enacted—the one I referred to—GIPSA released its preliminary rule,

and the rule they published went far beyond the requirements that were explicitly stated in the law.

One of the biggest problems with the rule is that it would allow GIPSA and the USDA to punish livestock producers and buyers for engaging in practices it considers unfair or unjust, even when there is no proof that their practices are actually harming competition within the industry. They want to do this in the name of leveling the playing field, which we hear a lot about around here, and that playing field would be between the packers and livestock producers, but what they are doing is regulating this industry in a way that would prohibit any real innovation or differentiation among companies in the industry. It forces a one-size-fits-all approach to running the livestock industry.

For one, the new rule would require packers and stockyards to keep written documentation justifying any differentiation in price that one pays to different livestock producers. Can you believe this? The USDA wants stockyards to justify every pricing decision they make. If that isn't big government, I don't know what is. The USDA wouldn't require this if they didn't intend to review these documents to determine whether the stockyards provided this justification. When doing this, the USDA bureaucrats will have the power to punish and fine stockyards that it believes are behaving unfairly. This is government determining whether they are behaving unfairly.

My question is this: In what other industry would this be considered acceptable or even appropriate? Can we imagine Walmart being forced to send the Federal Government justification for every price it negotiates with its suppliers? No. That would be ridiculous, and we all understand that.

The livestock industry is no different. This is American business, capitalism, and the individuals participating are doing so voluntarily. No one is forcing anyone to be in the livestock business. Negotiating prices—where some folks get higher and some folks get lower prices—is part of the deal. Some get advantages and some disadvantages, but it isn't government making that determination. That is the way it should be.

Another problem with this rule is that it would ban packer-to-packer sale of livestock. I don't know why the USDA wants to do this. Who cares if one stockyard sells or buys from another? It is none of their business. It seems perfectly American to me. But this will have a particularly negative impact in Oklahoma.

Right now, we only have one pork packing plant of any size in my State of Oklahoma, and the next closest plants are in Iowa, Missouri or probably Nebraska—I am not sure—maybe hundreds of miles away. If packers or entities owned by packers are no longer allowed to sell hogs to other packers, it will force Oklahoma producers to ship hogs out of the State to get them to market. This would increase operating costs, it would be prohibitive, and it would take them out of the market. Even if Oklahoma pork producers chose to ship hogs out of State, the prohibition of packers to sell animals to other packers would force producers to incorporate a middleman to eliminate the direct sale between packers. All this would do is increase the cost of production. That would make us in Oklahoma less competitive.

Let's keep in mind that the Oklahoma pork industry only took off after the construction of a pork processing plant. In 1987, before this plant was constructed, the annual cash receipts for pork producers were $33 million. That was it. The pork processing plant was constructed in the mid-1990s, provided necessary infrastructure to our State to do this. However, since then, the pork industry's annual cash receipts have risen more than tenfold to $555 million in 2007. So making this processing plant less capable of serving the needs of Oklahomans and our pork producers will undoubtedly hurt our industry and our consumers.

Unfortunately, these are only a few examples of the bad provisions of the new GIPSA rule I have heard about extensively from my livestock producers, and I am sure everyone else from agricultural States has heard about the concerns their States have. They believe that if this rule is finalized, it will force them to completely change the way they conduct business, and no government rule should force private businesses to do this, especially when the industry practices they have developed have been very effective at safely bringing meat products to the market.

Another problem with this rule is that the USDA has not publicly released the study it did to determine its economic impact. And we know why they haven't. It is very expensive. Several private studies have been done, and one of them estimated that the rule would reduce U.S. economic activity by $14 billion and would result in the loss of over 100,000 jobs. The USDA needs to release the economic impact analysis it did. There is no justification for their not doing this. So we have made that request, and we are waiting for that to happen.

There is a nominee for Secretary of Commerce—a very nice person, a fine person named John Bryson—whom I oppose. The reason I oppose John Bryson is he has been very active in this whole movement on cap and trade. We all know what that is. We have talked about it for 10 years. We had the Kyoto Convention that we did not become a part of, and there have been several efforts to have bills on the floor to have cap and trade, supposedly to stop catastrophic greenhouse or global warming. Now people know the science has been debunked. It is not real. Yet they are going ahead and doing it. But if the President is able to pass these regulations, it will cost the American people between $300 billion and $400 billion a year.

Now, I would say this. There are a lot of people out there saying: Well, it doesn't hurt to pass a tax increase of $300 billion if it is going to do something about global warming. Even President Obama's EPA nominee and choice, Lisa Jackson—now confirmed—has gone on record. In response to the question, if we were to pass any of these bills, whether it would be the McCain-Lieberman bill or the Waxman-Markey bill, any of these cap-and-trade bills that would be passing on a $300 billion to $400 billion tax increase, if that happened, would that reduce emissions, her answer was no.

Just logically look at that. If we do that in the United States, it will not change the emissions because this isn't where the problem is. The problem is in China and India and in Mexico.

So the cost of these regulations is unbearable for our economy, and here we are with over 9 percent unemployment. We are very fortunate in my State of Oklahoma because we have diversified, and our unemployment rate is down to 5½ percent. But nationally it is a disaster. So regulations are a very important part of this.

I want to make sure we make it very clear that it is not just the regulations that come from the Environmental Protection Agency because these regulations we are talking about are going to be from the USDA.

With that, Mr. President, I yield the floor, unless there is no one waiting.

Ms. MIKULSKI. Mr. President, I would advise the Senator that we are waiting for one of the Senators to come and offer an amendment, if he wishes to speak on another subject.

Mr. INHOFE. I would like to, and I would be happy to yield the floor to anyone else who comes to offer an amendment, if the Senator would alert me to that.

Ms. MIKULSKI. Why don't you proceed.

Mr. INHOFE. All right, I will.

U.S. TROOPS IN NORTHERN UGANDA

Mr. INHOFE. Mr. President, I know there is a lot of confusion, and a lot of people are blaming President Obama for sending 100 troops into northern Uganda.

First, I want to make sure everyone knows I am not a fan of President Obama. He is responsible for all these regulations that are driving out American businesses. He is responsible for the deficit. Actually, his three budgets have had deficits each year of $1½ trillion, and he is up to almost $5 trillion in deficits. It is coming not from the Democrats, not the Republicans, not the House or the Senate, it is coming from President Obama. And I disagreed with his position with Libya, sending our troops in there the way he did.

I am on the Armed Services Committee, the second ranking member, and I am very much concerned about what is happening right now and what this President has done to our military

in reducing our capability to the extent he has. But having said that, let me say that the criticism he has received for sending 100 American troops into northern Uganda is not justified, and let me explain what I am talking about.

This picture here is of a guy whose name is Joseph Kony. Joseph Kony is a monster. For 25 years, he has been in northern Uganda, but he has been in other countries too—Rwanda, now the new country of South Sudan, the Central African Republic, and the Congo. Those five countries are where he has been.

This is what he does. Many people don't know about him. In fact, 3 or 4 days ago Rush Limbaugh was commenting that nobody knows what the LRA is; that is, the Lord's Resistance Army, and so I am here to tell you and tell you why these troops were sent over. It was not President Obama; it was I who did this. We passed a law requiring that to be done. Let me explain why.

I have been active in Africa for many years. Fifteen years ago, I was in northern Uganda, in an area called Gulu, and I found out there is a guy up there by the name of Joseph Kony.

This is Joseph Kony. He is a spiritual leader. What he does is he goes into the villages and he abducts hundreds and thousands of young kids, usually between the ages of 11 and 14, and then he takes the girls and sends them into prostitution, but he trains the boys to be soldiers. We are talking about kids 11 to 14 years old. So he teaches them how to use AK–47s, and when they graduate, these kids have to go back to the villages from where they were abducted and kill their siblings and kill their parents. If they do not do it, they come back—and this is significant—and they are then mutilated.

These are all kids. See, they are holding their AK–47s and all that.

This next chart shows what happens if one of these kids comes back and he doesn't kill his parents or do as Joseph Kony says. He mutilates the kids, and the way he does it is he cuts off their ears, cuts off their noses, their lips, or cuts off their hands. This guy here, John Ochola, his hands were cut off and his nose and ears were cut off. This one just went through it, and he is still bleeding.

These are kids. These are kids, 12 and 14 years old. This is what he has been doing to thousands of kids for 25 years now. So having sympathy for that, I came back and talked to some of my colleagues here, and I said: We have to do something about this. At that time, we were not allowed to send troops in. This has nothing to do with sending combat troops into an area. Certainly this has nothing to do with what the President did in Libya. But we passed a law that said that we are sending assistance into northern Uganda and the other four countries, but they are specifically precluded from entering into combat. In other words, the 100 troops who went in cannot even carry a weapon. They cannot be involved by law. I put that in the law. Those words are there. So what we are doing is we are able to go in and assist them in intelligence, maybe loan them a helicopter or whatever they need to take this guy out or to bring him to the international court. That would probably be better.

But this is what this guy has been doing for 25 years, and you have to go see it to really appreciate it—these mutilated little kids.

Well, anyway, I will say this. Those who are critical of me for supporting sending our troops over are ill-founded in their criticism for two reasons. First of all, we already have troops all over the world in places such as Africa. In the continent of Africa, we have several thousand American troops in a program called Train and Equip. It is specifically called 1206 and 1208 funding. That means we go into these countries and we help train the African nations to prepare for when the squeeze takes place in the Middle East and the terrorists come down through Djibouti and the Horn of Africa and spread out through the African Continent. We are building five African brigades. We are training them so that when something happens, as it did happen in the countries where we are currently in battle, we don't have to send our troops in because we are training them so they can take care of their own problems. That is essentially what is happening.

I was in this brandnew country the other day, South Sudan. We have all heard about Sudan and Khartoum and heard and been told about all the atrocities that are committed there, and it just makes you cry when you see what is happening. Well, they now have split off, so South Sudan has a separate country. I was there last week. I was the first one there in terms of Members of the Senate just to cheer them on.

I had 25 members of the Parliament of this new country called South Sudan with me for a period of 2 hours. Do you know what they said, Mr. President. They said: If you really want to do something about terrorism, get this growing force that Joseph Kony has and help us take him out.

This question was asked of me today on a talk radio show: Why is it we can't get Uganda or Congo or Rwanda to do this?

I would suggest that the Presidents of these three countries came from the bush. President Museveni was a warrior in the bush, and he doesn't like to admit he can't take care of one monster named Joseph Kony by himself. The same is true with Paul Kagame, who is President of Rwanda. Remember 1994 when they had the genocide? And he came from the bush. He is a tough warrior, but he doesn't want to admit he would have to have help to take care of that. Joe Kabila, from the Congo, the same thing.

Well, I was able to get the three of them together, and they agreed they would work together with each other, and they asked if they could have some support from the United States in the way of intelligence and maybe a helicopter or two, and I said yes. So we passed the law. This law we passed was right here in the Senate. There was not one Senator who voted against it. I had 64 cosponsors—the largest number of cosponsors on any bill addressing a problem in Africa in the history of this Senate. So we are all in accord.

A lot of Members are not courageous enough to tell the truth about this. A lot join in saying: Oh, we are not going to send more troops over. Let me assure you, these troops are going to go over and save lives. And they could very well be saving American lives because if this terrorist movement is allowed to continue, then we will have another terrorist movement in that part of the world that should be getting a lot of our attention.

So with that, just to repeat two things, first of all, we already have troops over there in Training and Equip. These same troops will be doing that while there. Secondly, there won't be one American troop in harm's way in northern Uganda, the Central African Republic, South Sudan, Rwanda, or any of the other places where Joseph Kony might be leading his reign of terror.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 753 TO AMENDMENT NO. 738

Ms. AYOTTE. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment, and I call up my amendment No. 753.

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

The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Ms. AYOTTE] proposes an amendment numbered 753 to Amendment No. 738.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for the prosecution of enemy combatants in Article III courts of the United States)

After section 217 of title II of division B, insert the following:

SEC. 218. (a) PROHIBITION ON USE OF FUNDS FOR PROSECUTION OF ENEMY COMBATANTS IN ARTICLE III COURTS.—None of the funds appropriated or otherwise made available for the Department of Justice by this Act may be obligated or expended to commence the prosecution in an Article III court of the United States of an individual determined to be—

(1) a member of, or part of, al-Qaeda or an affiliated entity; and

(2) a participant in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners.

(b) DEFINITIONS.—In this section:

(1) The term ''Article III court of the United States'' means a court of the United States established under Article III of the Constitution of the United States.

(2) The term ''individual'' does not include a citizen of the United States.

Ms. AYOTTE. Mr. President, I filed amendment No. 753 to H.R. 2012, the appropriations minibus. My amendment would prohibit the use of funds for fiscal year 2012 for the prosecution of enemy combatants in our article III courts. This prohibition would apply to individuals who are members of al-Qaida or affiliated terrorist groups and who have participated in the course of planning or carrying out attacks against our country, the United States of America, or our coalition partners.

In no other conflict have we treated our enemies as criminals and tried them in our civilian court system. I believe we need to stop criminalizing this war, and that is why I have brought forward this amendment. These individuals should be treated with military custody and tried in military commissions, and that is why I have brought forward this amendment at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

Mrs. SHAHEEN. I am here to speak in favor of the entire appropriations legislation that is before us, but particularly the Commerce, Justice, and Science appropriations bill. I thank Senator MIKULSKI for her leadership, and all of the members of that subcommittee who have worked on this portion of the appropriations legislation before us.

Given the current financial constraints we are facing, I know this has been an especially difficult time to be trying to address the needs in the critical areas of our Federal budget, particularly with respect to Commerce, Science, and Justice, but I am here to speak to the section of the bill that deals with the Federal Bureau of Prisons.

I am here on behalf of New Hampshire, because we have a particular interest in this section of the legislation because it directs the Bureau of Prisons to activate three Federal prisons which are currently built but are not yet opened. One of those prisons is in Berlin, NH, in the northernmost part of our State.

I came to the floor last spring when we were debating the 2011 continuing resolution to talk about this issue of opening the Berlin prison because it was completed and not yet opened. The prison is a medium-security prison. It was completed last November at a cost of $276 million. Since November, when the project was completed, it has been costing us $4 million to maintain security at the prison to make sure that damage is not done to this new facility. We have had a warden on board since about that time, but she has not been able to hire any of the staff she needs to activate this prison.

Since that time, when I last came to the floor, our Federal prison system has gotten even more overcrowded. Last spring, I talked about the fact that our prison system was 35 percent overcrowded, and that for medium-security facilities it was 39 percent overcrowded. Since that time, we have had a net increase of 7,541 Federal prisoners in our system, so now our entire prison system is 39 percent overcrowded and medium-security prisons are 51 percent over capacity. If we are going to ensure safety, we need to begin to open some of these new facilities, and I am very pleased that we have language in the Commerce, Justice, and Science bill that would address opening these new facilities, including the Berlin prison.

This is a project that has bipartisan support. The new prison in Berlin was started under President Bush. It was continued under President Obama. The congressional delegation in New Hampshire supports the facility. It will create about 340 jobs in a region of the State that is very much in need of new jobs because it has lost a lot of its manufacturing base because the paper industry has moved offshore. It would have an impact of about $40 million to the region of the State where it is located which is, again, very important for a region that economically is in need of jobs and economic activity.

The community of Berlin has already spent $3 million for water and sewer upgrades. Since 2008, the residents of Berlin, local businesses, and State workforce development officers have been preparing for the prison to open. The community and local government officials have partnered with the business community to coordinate their resources. They have been waiting for these jobs.

When the New Hampshire Department of Employment Security first began reaching out to people in the North Country about the opportunities in the prison, the workshops were full of job seekers. We have been talking a lot about job creation here in this Congress, and now we have an opportunity to act on this bill to get people back to work in northern New Hampshire.

Families in New Hampshire and across the country are struggling. We need the jobs this legislation is going to create. At a time when we should be focused on reining in wasteful spending, we can't continue to spend millions of taxpayer dollars to maintain an empty building. So this funding is good economic policy, it is good fiscal policy, and I certainly intend to support this piece of the appropriations legislation before us, and I hope all of my colleagues will do the same.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Maryland.

Ms. MIKULSKI. Does the Senator from Idaho wish to offer an amendment?

Mr. VITTER. And if I could address the Senator through the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I have a modification to my amendment which will take about 1½ minutes.

Ms. MIKULSKI. Madam President, what I wish to suggest as a way of proceeding, with the concurrence of the other side, is the Senator modify his amendment, because that is quick. Then we will go to the Senator from Idaho. Then I have some rebuttals to some of the amendments offered.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 769, AS MODIFIED

Mr. VITTER. Madam President, I call for regular order with respect to amendment No. 769 and that the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. The amendment is pending. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 83, between lines 20 and 21, insert the following:

SEC. ____. None of the funds made available in this Act for the Food and Drug Administration shall be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g))) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided*, That the prescription drug may not be (1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or (2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262). None of the funds made available in this Act for the Food and Drug Administration shall be used to change the practices and policies of the Food and Drug Administration, in effect on October 1, 2011, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, with respect to such importation by individuals from countries other than Canada.

Mr. VITTER. Madam President, I ask unanimous consent that Senators STABENOW and BINGAMAN be added as cosponsors to the amendment.

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

Mr. VITTER. In closing, let me state that this again very tightly narrows the amendment to a very specific purpose, to allow safe FDA-approved prescription drugs to be reimported for individual consumer use from Canada, and Canada only.

In doing so, this makes it a nearly identical amendment to that which

was approved in the last Senate on a strong bipartisan vote. I urge and look forward to that same strong support for this Vitter amendment No. 769.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 814 TO AMENDMENT NO. 738

Mr. CRAPO. Madam President, I ask unanimous consent to set aside the pending amendment, and I call up my amendment No. 814.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself, Mr. JOHANNS, Mr. SHELBY, Mr. TOOMEY, Mr. MORAN, and Mr. VITTER, proposes an amendment numbered 814 to amendment No. 738.

Mr. CRAPO. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for the orderly implementation of the provisions of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and for other purposes)

On page 83, between lines 20 and 21, insert the following:

SEC. ___. None of the funds made available by this Act may be used by the Commodity Futures Trading Commission—

(1) to promulgate any final rules under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203; 124 Stat. 1376) (including under any law amended by that Act) or the Commodity Exchange Act (7 U.S.C. 1 et seq.), until the Commodity Futures Trading Commission, jointly with the Securities and Exchange Commission and the prudential regulators (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a))—

(A) has, pursuant to the notice and comment provisions of section 553 of title 5, United States Code, adopted an implementation schedule for title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) (including amendments made by that title) (referred to this section as ''the title'') that sets forth a schedule for the publication of final rules required by the title that—

(i) begins with the publication of the rules required under section 712(d)(1) of that Act (15 U.S.C. 8302); and

(ii) includes provisions that require a rulemaking and provisions that do not require a rulemaking; and

(B) has completed and submitted to Congress an analysis that includes—

(i) a quantitative analysis of the effects of the title on United States economic growth and job creation;

(ii) an assessment of the implications of the title for cross-border activity by, and international competitiveness of, United States financial institutions, companies, and investors;

(iii) an assessment of whether and how the definitional, clearing, trading, reporting, recordkeeping, real-time reporting, registration, capital, margin, business conduct, position limits, and other requirements of the title work together, and how those requirements affect market depth and liquidity;

(iv) an assessment of the implications of any lack of harmonization by the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators with respect to the timing and the substance of the rules of those entities; and

(v) an analysis of the progress of members of the Group of 20 and other countries toward implementing derivatives regulatory reform, including material differences in the schedule for implementation (as well as material differences in definitions, clearing, trading, reporting, registration, capital, margin, business conduct, and position limits) and the possible and likely effects on United States competitiveness, market liquidity, and financial stability; or

(2) to further define the terms—

(A) ''swap'' and ''security-based swap'' to include—

(i) for purposes of section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)) and section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)), an agreement, contract, or transaction that would otherwise be a swap or security-based swap, in which 1 of the counterparties is not—

(I) a swap dealer or major swap participant;

(II) an investment fund that—

(aa) has issued securities (other than debt securities) to more than 5 unaffiliated persons;

(bb) would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) but for paragraph (1) or (7) of subsection (c) of that section; and

(cc) is not primarily invested in physical assets (including commercial real estate) directly or through an interest in an affiliate that owns the physical assets;

(III) a regulated entity, as defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502); or

(IV) a commodity pool that is predominantly invested in any combination of commodities, commodity swaps, commodity options, or commodity futures;

(ii) an agreement, contract, or transaction that would otherwise be a swap or security-based swap, and that is entered into by a party that is controlling, controlled by, or under common control with its counterparty; or

(iii) except with respect to any law (including rules and regulations) prohibiting fraud or manipulation, an agreement, contract, or transaction that would otherwise be a swap or security-based swap and—

(I) is entered into outside of the United States between counterparties established under the laws of any jurisdiction outside of the United States (including a non-United States branch of a United States entity licensed and recognized under local law outside of the United States);

(II) has a valid business purpose;

(III) is not structured with the sole purpose of evading the requirements of the title; and

(IV) is not reasonably expected to have a serious adverse effect on the stability of the United States financial system; and

(B) ''major swap participant'' and ''major security-based swap participant'' in a manner that does not distinguish between—

(i) net and gross exposures; and

(ii) collateralized and uncollateralized positions.

Mr. CRAPO. I wish to note that as cosponsors of the amendment, Senators JOHANNS, SHELBY, TOOMEY, MORAN, VITTER, and KIRK are also supportive.

The unprecedented scope and pace of agency rulemaking in the United States today is posing incredible uncertainty and threat to our economy. Americans today know that jobs are the No. 1 issue we face, and consistently across the country Americans are also recognizing that the explosion of government regulatory action is one of the huge impediments to our job creation efforts in America.

Unfortunately, under the Dodd-Frank Act, we are seeing one of the most significant rulemaking levels of activity in every part of our economy. Many of the proposed rules do not give sufficient consideration to how they will affect Main Street or our economy as a whole, how they will interact with one another or, frankly, how they will impact our global competitiveness.

Through this amendment, I focus on the CFTC to send a strong message to all regulators involved in the rulemaking process that we cannot afford regulations that unnecessarily burden our businesses, our economy, and our competitive position in the global marketplace.

This amendment does three basic things:

It prohibits funds from being used by the CFTC to promulgate any final rules until the agency substantiates that those rules are economically beneficial; secondly, it adheres to congressional intent to provide end users with a clear exemption from margin requirements; and, third, it sets clear bounds on the overseas applications of the derivatives requirements.

With regard to the process portion of the amendment, in February, when many members of the banking committee wrote to our financial regulators, we strongly urged them to employ fundamental principles of good regulation in their statutory mandate and not to sacrifice quality and fairness in exchange for speed. We had two main concerns: that the regulators are not allowing adequate time for meaningful public comment on their proposed rules; and that the regulators are not conducting rigorous quantitative analysis of the costs and benefits of their rules and the effects those rules can have on our economy and our competitive position in a global marketplace.

On April 15, 2011, the Office of Inspector General for the CFTC issued a report of an investigation entitled ''An Investigation Regarding the Cost Benefit Analyses Performed by the Commodity Futures Trading Commission in Connection with Rulemakings Undertaken Pursuant to the Dodd-Frank Act.'' Unfortunately, the IG report demonstrated that the CFTC is not using rigorous economic analysis to shape its rulemaking.

In April, Harvard Law Prof. Hal Scott testified on urgently needed fixes in the Dodd-Frank rulemaking process. We also began hearing from CFTC Commissioners Scott O'Malia and Jill Sommers about problems with the rulemaking process, specifically with economic analysis.

In August, CFTC Commissioner Scott O'Malia stated that the current process

of enacting rules under the Dodd-Frank Wall Street Reform Act is inadequate, and excoriated the regulatory body for not putting together a clear rulemaking order and implementation schedule for public comment.

Again, in August, CFTC Commissioner Jill Sommers stated:

I believe it is a mistake for us to begin the process without a plan to logically sequence our consideration of final rules along with a transparent implementation plan.

In July, the SEC's proxy access rule became the first Dodd-Frank rule to be successfully challenged in court for failing to adequately analyze its economic costs and benefits. In the unanimous decision to vacate the rule, U.S. Circuit Court Judge Douglas Ginsburg wrote:

The Commission inconsistently and opportunistically framed the costs and benefits of the rule; failed adequately to quantify the certain costs or to explain why those costs could not be quantified; neglected to support its predictive judgments, contradicted itself; and failed to respond to the substantial problems raised by commenters.

In this amendment, we require the CFTC to fix its rulemaking process by prohibiting funding for any final CFTC rules until the Commission, jointly with the SEC and other prudential regulators, publishes a schedule outlining the order in which the agencies will consider and implement the final rules. Affected market participants will be able to weigh in and be heard about how rules should be adopted and implemented. Agencies will have to work together to come up with coordinated schedules for proceeding with rulemaking and implementation. The agencies will have to take into consideration economic impacts, international competitiveness, the interaction of their rules one with another, and the implications of inconsistencies in the approaches taken by different regulators.

It is more important that the CFTC and other agencies allow for meaningful public comment and economic analysis than it is to rush through these rules and risk undermining the integrity of the process and diminishing the utility of this important market.

Secondly, we protect end users from the burdensome margin requirements of the statute. When the Dodd-Frank conference was reopened to deal with the scoring issue, Senators Dodd and Lincoln acknowledged that the language for end users was not perfect, and tried to clarify the intent of the language with a joint letter, stating:

The legislation does not authorize the regulators to impose margins on end users, those exempt entities that use swaps to hedge or mitigate commercial risk.

However, regulators have interpreted the actual Dodd-Frank legislative language as providing authority to require end users to post margin. This amendment provides certainty for Main Street businesses that played no role in the financial crisis by establishing a clear exemption from excessive margin requirements.

End users have emphasized the critical importance of addressing this problem. In its letter, the Coalition for Derivatives End-Users highlighted the stakes of getting this issue right. They said:

While the Dodd-Frank Act and implementing regulations do much to increase transparency and reduce systemic risk in the derivatives market, they include provisions that, if implemented as proposed or otherwise expected, would impose unnecessary burdens on end-user companies. While we believe it is important to reduce risk within our financial markets, transactions with end users have not been found to pose systemic risk. Our companies and our economy cannot afford to unnecessarily tie up capital that would otherwise be used to promote growth and create jobs.

MillerCoors echoed these sentiments when it said:

This amendment protects our ability to efficiently buy malting barley, hops and other ingredients used to brew our beers.

FMC and the National Association of Corporate Treasurers noted:

This legislation addresses concerns that are of critical importance to end-users—companies using derivatives to reduce business and financial risk and not to speculate. FMC and the other members of the NACT support legislation enabling end-users to continue their cost-effective use of derivatives to manage the commercial risks that they face when they make investments to expand plant and equipment, conduct research and development, build inventories to support higher sales, and to sustain and ultimately grow jobs.

The third thing the amendment does is to limit the extraterritorial reach of Dodd-Frank—of the CFTC rulemaking to streamline regulation and protect American competitiveness. Chairman JOHNSON and Congressman FRANK recently sent a letter to the regulators that brought up the concern that the extraterritorial imposition of margin requirements raises questions about the consistency with Congressional intent regarding title VII.

They pointed out that Congress generally limited the territorial scope of title VII activities to within the United States. Extraterritorial application of one nation's laws to another nation's markets and firms is especially problematic in a global market such as derivatives, where it is common for counterparties based in different parts of the world to engage in transactions with each other.

The historical practice of U.S. regulators is to recognize and defer to foreign regulators when registered entities engaged in activities outside the United States are subject to comparable foreign regulation.

Given recent statements and actions by U.S. regulatory agencies, there is concern that proposals could create uncertainty as to how additional regulations could apply across borders and alter regulatory precedent. While there is bipartisan support from Members of Congress to encourage our regulators to work with their international counterparts to seek broad harmonization, there is a growing list of noteworthy and critical items that we are seeing related to the lack of progress on international harmonization.

The CFTC and the SEC are taking divergent approaches on some derivatives rules, raising questions about whether we can harmonize even within our own borders, let alone with foreign regulators. Foreign jurisdictions in Europe, not to mention Asia and Latin America, have outright rejected many reforms—such as the section 716 swap pushout provisions. It remains unclear as to what foreign jurisdictions will impose a margin requirement such as proposed by our prudential regulators. Simply put, the rest of the world is not following us in a number of critical areas.

Third parties, including market analysts and economists and academics, have also indicated that these rules will negatively impact U.S. competitiveness and growth. Our Fed Chairman Bernanke recently warned that the extraterritorial application of margin rules could create a significant competitive disadvantage for U.S. companies. We can't force Europe or Asia or Latin America to follow, and if our rules are finalized in the United States before other jurisdictions' rules, we risk substantially harming U.S. competitiveness, growth, and financial stability. That is why this amendment sets clear bounds on the overseas applications of the derivatives requirements, while allowing regulators to stop systemically dangerous transactions intended to evade U.S. requirements.

In conclusion, there can be no doubt about our resolve to address the root causes of the financial crisis. But equally, there can be no doubt about our resolve to ensure that we do this with great care. Failing to do so will threaten our businesses, our economy, and our competitiveness globally. I urge my colleagues to support this amendment as an important step to ensuring that while working together for the former, we do not neglect the latter.

I yield the floor.

AMENDMENT NO. 879 TO AMENDMENT NO. 738

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, as provided under the previous unanimous consent order, I ask the pending amendment be set aside so I may call up my amendment No. 879.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. MERKLEY] proposes an amendment numbered 879 to amendment No. 738.

Mr. MERKLEY. I ask unanimous consent further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit amounts appropriated under this Act to carry out parts A and B of subtitle V of title 49, United States Code, from being expended unless all the steel, iron, and manufactured products used in the project are produced in the United States)

On page 264, between lines 9 and 10, insert the following:

SEC. 153. BUYING GOODS PRODUCED IN THE UNITED STATES.

(a) COMPLIANCE.—None of the funds made available under this title to carry out parts A and B of subtitle V of title 49, United States Code, may be expended by any entity unless the entity agrees that such expenditures will comply with the requirements under this section.

(b) PREFERENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation may not obligate any funds appropriated under this title to carry out parts A and B of subtitle V of title 49, United States Code, unless all the steel, iron, and manufactured products used in the project are produced in the United States.

(2) WAIVER.—The Secretary of Transportation may waive the application of paragraph (1) in circumstances in which the Secretary determines that—

(A) such application would be inconsistent with the public interest;

(B) such materials and products produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or

(C) inclusion of domestic material would increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—For purposes of this subsection (b)(2)(C), labor costs involved in final assembly shall not be included in calculating the cost of components.

(d) MANUFACTURING PLAN.—The Secretary of Transportation shall prepare, in conjunction the Secretary of Commerce, a manufacturing plan that—

(1) promotes the production of products in the United States that are the subject of waivers granted under subsection (b)(2)(B);

(2) addresses how such products may be produced in a sufficient and reasonably available amount, and in a satisfactory quality, in the United States; and

(3) addresses the creation of a public database for the waivers granted under subsection (b)(2)(B).

(e) WAIVER NOTICE AND COMMENT.—If the Secretary of Transportation determines that a waiver of subsection (b)(1) is warranted, the Secretary, before the date on which such determination takes effect, shall—

(1) post the waiver request and a detailed written justification of the need for such waiver on the Department of Transportation's public website;

(2) publish a detailed written justification of the need for such waiver in the Federal Register; and

(3) provide notice of such determination and an opportunity for public comment for a reasonable period of time not to exceed 15 days.

(f) STATE REQUIREMENTS.—The Secretary of Transportation may not impose any limitation on amounts made available under this title to carry out parts A and B of subtitle V of title 49, United States Code, which—

(1) restricts a State from imposing requirements that are more stringent than the requirements under this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries, in projects carried out with such assistance; or

(2) prohibits any recipient of such amounts from complying with State requirements authorized under paragraph (1).

(g) CERTIFICATION.—The Secretary of Transportation may authorize a manufacturer or supplier of steel, iron, or manufactured goods to correct, after bid opening, any certification of noncompliance or failure to properly complete the certification (except for failure to sign the certification) under this section if such manufacturer or supplier attests, under penalty of perjury, and establishes, by a preponderance of the evidence, that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error.

(h) REVIEW.—Any entity adversely affected by an action by the Department of Transportation under this section is entitled to seek judicial review of such action in accordance with section 702 of title 5, United States Code.

(i) MINIMUM COST.—The requirements under this section shall only apply to contracts for which the costs exceed $100,000.

(j) INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

(k) FRAUDULENT USE OF ''MADE IN AMERICA'' LABEL.—An entity is ineligible to receive a contract or subcontract made with amounts appropriated under this title to carry out parts A and B of subtitle V of title 49, United States Code, if a court or department, agency, or instrumentality of the Government determines that the person intentionally—

(1) affixed a ''Made in America'' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this section applies, but were not produced in the United States; or

(2) represented that goods described in paragraph (1) were produced in the United States.

Mr. MERKLEY. Madam President, I rise to offer this amendment for the consideration of this body because it is important to boosting American jobs and manufacturing and ensuring that more of our American dollars are spent here at home. When the Federal Government spends tax dollars, it should be looking to American companies to provide goods and services. Recently, an issue came to light that gave me substantial concern.

A few months ago, a bid was awarded to a Chinese company to provide steel for a freight rail bridge in Alaska, the Tanana Bridge. There was strong American competition. However, the award went to the Chinese company.

If there were a level playing field, that would be one thing. But, in fact, China is employing a three-tiered strategy that provides enormous subsidies to its own manufacturing, tilting the playing field considerably. The first part of that strategy is to peg its currency so its products have a 25- to 40-percent subsidy—equivalent to that subsidy—because of the pegging of the currency.

The second piece is it provides all kinds of subsidies that are not actually permitted under WTO, but China is doing it anyway. These go directly to the heart of manufacturing competition. Recently, a bipartisan amendment was put forward. I applaud my colleagues from Wyoming, Senator ENZI and Senator BARRASSO. We said China is required under the WTO to post its subsidies, to notify the parties of its subsidies. It has done so only once since 2006. It is in violation. Also, under the WTO, the American Trade Representative is authorized to counternotify if China fails to do so—and we had not done so. So we called upon our Trade Representative to counternotify. Very interestingly, the next week we get this list of 200 subsidies that China is utilizing outside the framework of WTO to subsidize its manufacturers and compete unfairly against the United States.

The third part of the strategy is that China is using its central bank as the only authorized bank to control the interest rate on deposits and thereby also being able to control the interest rates on loans in a fashion that provides enormous subsidies to our competitors in China. Until recently, America had stood on the sidelines and not confronted any of these three Chinese strategies other than to say in some cases that are relevant to our national defense and our national transportation system there needs to be a provision to buy products inside America.

But this particular project fell between the cracks. Although the funds came from the Defense Department, it was not a straight Defense Department program, and although it was a rail program, it was not a passenger rail program. This amendment closes this loophole.

At a time when Americans everywhere are searching for jobs, we should be supporting American companies that employ and hire Americans, especially to make sure American companies are not disadvantaged by this three-tier Chinese strategy that tilts the playing field against our companies and thereby destroys jobs in America. Under this amendment, freight rail transportation contracts exceeding $100,000, funded in the appropriations bill, would use steel, iron, and manufactured products produced in America.

There is flexibility provided to the Secretary of Transportation to waive this requirement under one of three scenarios—if the application is inconsistent with the public interest, if the materials and products are not available in sufficient quantity or quality or that the inclusion of domestic material would increase the price by more than 25 percent.

I am not sure 25 percent is high enough, given that just pegging its currency creates a 25-to 40-percent subsidy for Chinese products, so this may not go far enough. This may only go a small portion of the way to leveling the playing field. I lay it down as a marker that we should create fairness so American manufacturers can compete. This amendment may not go as far as it should, but it is certainly a stride in the right direction. For that reason, I urge my colleagues to support

it. If we do not make things in America, we will not have a middle class in America.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 815 TO AMENDMENT NO. 738

Mr. MORAN. Madam President, I ask unanimous consent the pending amendment be set aside and the Moran amendment No. 815 be made the order of the day in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. MORAN] proposes an amendment numbered 815 to amendment No. 738.

Mr. MORAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, line 17, insert ''*: Provided further*, That $8,000,000 of the amount made available by this heading shall be transferred to carry out the program authorized under section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012)'' before the period at the end.

Mr. MORAN. Madam President, the amendment I am offering today was one I discussed in the agricultural appropriations subcommittee. I am a Member of that subcommittee and am very interested in the topic of the appropriations for the Department of Agriculture. This amendment would transfer $8 million from the Department's administrative account to the Watershed Rehabilitation Program. The Watershed Rehabilitation Program is a bit broader than this, but basically what we are talking about are PL–566 watershed structures. Across our country, more than 1,000 structures have been built over a long period of time. Many of them are up to 50 years old. These structures are built for purposes of flood control, for nutrient management, for conservation, wildlife habitat, for recreation. Clearly, these structures have been an important component of the economy and well-being of communities and people across America for a long time.

In fact, according to the Natural Resources Conservation Service of the Department of Agriculture, these PL–566 structures provide agricultural benefits at their estimate of $404 million. These benefits are things such as erosion control, animal waste management, water conservation, water quality improvement, irrigation efficiency, changes in land use—things such as that.

There are also nonagricultural benefits which the NRCS estimates at $877 million in benefits. These are associated with recreation, fish and wildlife, rural water supply, water quality, municipal and industrial water supply, incidental recreation uses. Then, of course, what is particularly important as we look at what has happened in our country during this season, during this year: flood control. Agricultural flood control by NRCS estimates is a value of $320 million; nonagricultural flood protection, $425 million. We are talking about flood control structures that have benefited, for a number of reasons, about $2 billion. This amendment does not create the opportunity to construct more of those structures. The problem this amendment addresses is that those structures are aging. As I said earlier, many of them are nearly 50 years old.

In my view, it is very much like the analogy we have with bridges. We focused some attention over the last several years on deteriorating bridges and infrastructure in our highway system. We know if we don't provide the maintenance, the deterioration occurs, and ultimately we could have a catastrophe. That is what I am trying to address here, is my fear that in the absence of paying attention to the maintenance of these flood control structures, we run the potential of having a disaster. Not only do the benefits accrue to agriculture and to communities and water supply and recreation, but the real thing here is about the loss of property values and, more importantly, the loss of life. In the absence of maintaining these structures, we run the risk that the investment we have made over decades begins to disappear. Not only do we lose the value of the asset, we potentially lose life by those who would be harmed by the flooding that will occur in the absence of these flood control measures.

Therefore, a watershed rehabilitation program was created years ago. The problem in the funding we have today in the appropriation bill before us is there is no money, zero money in the bill, to maintain these structures. So ours is a very modest proposal to keep the program ongoing of transferring $8 million into that rehabilitation program to maintain those structures and prevent bad things from happening. This is probably woefully inadequate in regard to the amount of resources that should be devoted to this. Looking at the bill and looking at the structure of the bill and how we tried try to find the right priorities and the balance within the agriculture appropriations subcommittee and at the full Appropriations Committee, we concluded that we had the opportunity to at least put $8 million into the program.

The watershed rehabilitation program is administered by the Natural Resource and Conservation Service, and here is what it is described to do. It assists project sponsors with rehabilitation of aging project dams. Only dams installed under PL–566 and a couple of other programs are eligible. The purpose of this program is to extend the service life of dams and meet applicable safety and performance standards. Priority is given by NRCS to those structures that pose the highest risk to life and property. Projects are eligible when hazard to life and property increases due to downstream development and where there is a need for rehabilitation to extend the planned life of the structure.

What that is saying is in many of these instances where the structure has been built, almost 50 years ago, communities have been built downstream and the dam becomes even more important to protect property and life for that development. So we are here trying make certain there is a level of funding for repairing and replacing deteriorated components, repairing damage from catastrophic events, such as the floods we have experienced this year, and upgrading the structures to meet new dam safety laws or to even decommission a structure.

I would guess we are not going to fund new structures here in this Congress in this fiscal environment. We ought to at least take the responsibility of providing money to maintain the structures that are there. In my view, it is important that we do so. Unlike in past years, we can be assured that the money we put into this bill will go to the highest priority projects, the dams that are in the most need of repair and maintenance. There is no opportunity for Members of Congress, under our rules here in the Senate, to earmark these dollars, and so the USDA, the Department of Agriculture, through the Natural Resource and Conservation Service, will make those decisions.

We are not one of the States that has the most dam structures, although it is an important aspect of maintaining water in its proper place and to provide wildlife habitat and conservation practices and improve the agricultural environment. Those structures are important to us, and we see this each and every day.

In fact, for most of the time I have been in Congress, we do an annual what I call conservation tour. We look at the role of the Department of Agriculture, the private sector, wildlife and habitat organizations, and how they partner and come together to make good things happen to improve our environment. This year we focused on water quality and water quantity. Clearly this program of PL–566 structures is critical.

When I talk about that partnership, it would be important for Members of the Senate to know that this program requires a 35-percent local match. There is local money. The sponsors of these projects, these dams across our country, will have to find local resources in order to make that match.

I would ask the Senate to approve the amendment I am offering today. Again, it is something I raised in our subcommittee and raised in our full committee with the hopes we would be able to find a satisfactory offset, and from my view, the priority we place on this program is one that is deserving of Senate support.

I offer the amendment as I described.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 771, AS MODIFIED, TO AMENDMENT NO. 738

Mr. BINGAMAN. Madam President, I call up amendment No. 771, and ask that it be modified with the changes that are already at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment, as modified.

The Senator from New Mexico [Mr. BINGAMAN], for himself and Ms. STABENOW, proposes an amendment No. 771, as modified, to amendment No. 738.

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

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

The amendment (No. 771), as modified, is as follows:

(Purpose: To provide an additional $4,476,000, with an offset, for the Office of the United States Trade Representative to investigate trade violations committed by other countries and to enforce the trade laws of the United States and international trade agreements, which will fund the Office at the level requested in the President's budget and in H.R. 2596, as reported by the Committee on Appropriations of the House of Representatives)

On page 209, between lines 2 and 3, insert the following:

SEC. 542. (a) The matter under the heading ''SALARIES AND EXPENSES'' under the heading ''OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE'' in title IV of this division is amended by striking ''$46,775,000'' and inserting ''$51,251,000''.

(b) Of the unobligated balance of amounts made available to the Department of Justice for a fiscal year before fiscal year 2012 for the ''Legal Activities, Assets Forfeiture Fund'' account, there are permanently rescinded $8,000,000, in addition to the amount rescinded pursuant to section 529(c)(2).

Mr. BINGAMAN. Madam President, this is an amendment to increase funding for the U.S. Trade Representative so that the Trade Representative can conduct trade enforcement activities.

The amendment is cosponsored by Senator STABENOW, and I ask unanimous consent to add Senator COONS and Senator BROWN from Ohio as cosponsors as well.

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

Mr. BINGAMAN. This amendment would provide an additional $4,476,000 to the Trade Representative's Office above the level that is provided for in the bill. That amount is fully offset. It would fund the USTR at $51,251,000 this year. That is the same level of funding that the President has in his budget request, and also the same level of funding that has been arrived at in the House Appropriations Committee in their legislation. Clearly, there is bipartisan support for this level of funding for the Trade Representative's office.

Last week, as all of us will remember, we sent to the President three new free-trade agreements. I supported those free-trade agreements because they promised to open new markets for American businesses so we can sell more goods that are produced here in the United States. However, if American businesses and workers are to benefit from trade agreements, the United States needs to do more to ensure our trading partners are competing fairly. This means we have to enforce the trade agreements and the U.S. trade laws. Right now, in my view, we are not providing enough resources to the Trade Representative's Office for enforcement activities.

The USTR's general counsel's office has 30 attorneys. Of that 30, 22 are staff attorneys actually involved in day-to-day litigation. These two dozen or so people are responsible for preparing and prosecuting trade dispute cases at the World Trade Organization or under the dispute resolution mechanisms in our free-trade agreements. They are also responsible for defending the United States when other countries file complaints against us. In my view, this is not enough staff to respond in a timely manner to the numerous allegations about unfair trade practices that are being committed by our trading partners.

For example, the U.S. Trade Representative's investigation into China's export restraints on rare earth minerals has been underway for more than 2 years. There are many other concerns about China's trade practices. In fact, many have been discussed here on the Senate floor today. Does China provide subsidies to its companies that are inconsistent with the World Trade Organization? Is China unfairly closing its markets to U.S. goods or unfairly requiring U.S. companies to transfer technology and intellectual property to Chinese companies as a condition of doing business in China? These are serious questions that American businesses have raised informally. In fact, the United Steel Workers formally raised these issues in a section 301 petition last year. Many of these allegations are not fully investigated because we simply have not committed the resources in the U.S. Trade Representative's Office to do the investigations.

Only two attorneys in the U.S. Trade Representative's general counsel's office work on the rare earths and raw materials cases. USTR needs the resources to act quickly to combat unfair trade practices before U.S. industries are irreparably harmed.

The Senate also recently demonstrated bipartisan support for trade enforcement when it passed the Currency Exchange Rate Oversight Reform Act. That was on October 11. The vote there was 63 to 35. I voted for that bill as well. This amendment I am offering today would help provide the U.S. Trade Representative with additional resources to enforce the provisions in that bill as well. I urge my colleagues to support the amendment.

Let me say a few words about the offset. The amendment would propose to rescind $8 million from the Department of Justice asset forfeiture fund. This fund contains the funds that DOJ obtains from seizing and selling assets, for example, speedboats that are seized from drug dealers. The Department of Justice uses some of these funds for law enforcement, but most of the funds are not used. The fund had a balance of more than $841 million at the end of fiscal year 2009; $974 million at the end of 2010; $701 million at the end of fiscal year 2011. The Department of Justice projects it will collect more than $1.7 billion from seized assets this year.

Because of the excess funds in this fund, this asset forfeiture fund, the President's budget suggested that we rescind 620 million of those dollars. The proposal I am making in this as an offset is that we add an additional $8 million so that the total amount rescinded from that fund would be $628 million rather than $620 million. This would leave in the fund $474 million, which I believe is an adequate amount to ensure that the Department of Justice has the resources it needs for its law enforcement activities.

I believe this is a very meritorious amendment. I think it improves the very good legislation that has been brought to the Senate floor by the Appropriations Committee, but I hope that this amendment can be approved and added to the legislation when the issue is raised for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I want to thank the Senator from New Mexico for his comments regarding the U.S. Trade Representative and the work of the U.S. Trade Representative's Office.

We do have to fight unfair and even predatory trade practices. In his cogent comments, he spoke about steel. We have been trying to look out for steel in my State for some time against these unfair practices. Sometimes we win, most of the time we lose ground. The amendment that is offered by the Senator from New Mexico would, as he said, increase the funding by $4.5 million for a new total of $51 billion. That is identical to what the House has. The amendment does rescind money from the forfeiture fund which has been used for law enforcement task forces, including drugs, human trafficking, and other things. I am inclined to support the amendment. I certainly support the philosophical thrust of the amendment. We have some questions about the offset. We have to get the concurrence of CBO to make sure it is budget neutral, and we are consulting with my ranking member to get her thoughts and views on it.

Again, I wish to say to the Senator from New Mexico that I support the thrust of the amendment, and I need to consult. We are waiting for a comment from our ranking member who is tied up on other legislative matters and we expect to hear from her shortly. When we do, we will be able to talk about how we will dispose of this amendment.

I thank the Senator from New Mexico for his advocacy.

AMENDMENT NO. 753

I wish to speak on another matter, which is an amendment that was raised, amendment No. 753, on terrorists and prosecutions, which was offered by the Senator from New Hampshire earlier. In order to expedite proceedings, I withheld my rebuttal, and now I choose to take this time to rebut the amendment of the Senator from New Hampshire.

I rise in opposition to her amendment. Although well intentioned, there are serious objections to it. Her amendment would prohibit the Department of Justice from trying anyone charged with terrorism-related concerns in an article III court in the United States.

I oppose the amendment for three reasons. First, the amendment is unnecessary. The Department of Justice has a strong track record of successfully prosecuting terrorists in criminal courts.

Second, it goes beyond the law that already prohibits certain terrorist suspects from even coming into the United States, even for prosecution. This was language included in the 2011 continuing resolution, and our fiscal year 2012 CJS bill does carry that same language. For example, we have already dealt with someone such as Khalid Shaikh Mohammed. This amendment also would reach beyond that and it wouldn't allow prosecutions on any new non-U.S. citizen on terrorism-related charges.

Third, this amendment is opposed by the Departments of Justice and Defense. I don't mean just the Departments. Attorney General Eric Holder and Secretary of Defense Leon Panetta object to this amendment. They feel they have a working agreement on how best to try terrorists.

I say to my colleagues, I hope they would reject the amendment of the Senator from New Hampshire when it comes up.

The Department of Justice has a strong record of successfully convicting terrorists in their criminal courts. One can look at the 1993 bombing of the World Trade Center, the attack on the U.S. Embassies in East Africa, and the trial and conviction of the Blind Sheik. Over 400 terrorists have been tried and convicted since 2001. Just last week, another success, the so-called underwear bomber, Umar Farouk Abdulmutallab, pled guilty in Federal court in Michigan. There were and are major cases resulting in criminal convictions of terrorists. So I would suggest the Senator from New Hampshire's concern that the Department of Justice is not equipped to try terrorist suspects does not have traction because the record shows otherwise.

I think we have to be careful because this amendment goes beyond current law. In 2011, we passed the Defense Authorization Act and then the 2011 continuing resolution, both of which prohibit the administration from bringing Guantanamo Bay detainees into the United States even for prosecution. Congress will have to change restrictions in law before Gitmo detainees are transferred to the United States for prosecution or detention. Senator AYOTTE's amendment would go beyond these restrictions to say that anyone indicted on a terrorism-related charge who isn't a U.S. citizen couldn't be prosecuted in Federal courts, unnecessarily court-stripping.

I have no sympathy for terrorists, and I am going to make sure we honor international law but that we prosecute to the fullest extent possible. What we want to be able to show is that the Department of Justice has successfully prosecuted them, and this amendment would prohibit—this amendment would not be about prosecuting terrorists, it would be about choking the Department of Justice.

Let me go to my third reason, which is the opposition by Secretary Leon Panetta and Attorney General Holder. Defense and Justice share responsibility for prosecuting terrorists. Justice prosecutes in criminal courts and the Defense Department prosecutes in military commissions. Defense and Justice have a joint protocol where they work together to evaluate terrorist cases to decide where best, where most effectively to prosecute them. In light of the restrictions Congress has already made on these trials, the Defense Department decided earlier this year to resume new charges in the military commissions. But Congress shouldn't restrict the ability of the executive branch to decide where best to prosecute terrorists—understanding some of the dynamics of international law, criminal codes, codes of military conduct, to decide where best to prosecute terrorists.

We don't want to set a dangerous precedent, if Defense or Justice are restricted from using every tool available to bring the terrorists to justice.

I hope, when we vote on this amendment, we defeat it, recognizing that the Senator from New Hampshire wants to be sure justice is served, and we want it too. The best way to serve justice is to let the Defense Department and Justice Department decide what court or tribunal is the best way to proceed—to ensure the fairness of a trial but to make sure we have the best, most effective, most efficient way to do it. I must say, when one looks at the record of the Justice Department in prosecuting these terrorists in civilian courts, prosecutions were achieved, convictions were obtained, and as the world watched it, justice was served. I am pretty proud of that.

I hope we will defeat the amendment of the Senator from New Hampshire but that we be united as a Congress and the Senate in making sure we prosecute those who engage in any predatory activity directed to the United States of America and its citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 860 TO AMENDMENT NO. 738

Mr. BLUNT. Madam President, I ask unanimous consent to temporarily set aside the pending amendment to offer the Grassley amendment No. 860.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BLUNT], for Mr. GRASSLEY, proposes an amendment numbered 860 to amendment No. 738.

Mr. BLUNT. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure accountability in Federal grant programs administered by the Department of Justice)

After section 217 of title II of division B, insert the following:

SEC. 218. (a) OVERSIGHT OF DEPARTMENT OF JUSTICE PROGRAMS.—All grants awarded by the Attorney General using funds made available under this Act shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—Beginning in fiscal year 2012, and in each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct an audit of not fewer than 10 percent of all recipients of grants using funds made available under this Act to prevent waste, fraud, and abuse of funds by grantees.

(2) MANDATORY EXCLUSION.—A recipient of a grant awarded by the Attorney General using funds made available under this Act that is found to have an unresolved audit finding shall not be eligible to receive any grant funds under a grant program administered by the Attorney General during the 2 fiscal years beginning after the 6-month period described in paragraph (5).

(3) PRIORITY.—In awarding grants using funds made available under this Act, the Attorney General shall give priority to eligible entities that, during the 3 fiscal years before submitting an application for a grant, did not have an unresolved audit finding showing a violation in the terms or conditions of a Department of Justice grant program.

(4) REIMBURSEMENT.—If an entity is awarded grant funds by the Attorney General using funds made available under this Act during the 2-fiscal-year period in which the entity is barred from receiving grants under paragraph (2), the Attorney General shall—

(A) deposit an amount equal to the grant funds that were improperly awarded to the grantee into the General Fund of the Treasury; and

(B) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

(5) DEFINED TERM.—In this subsection, the term ''unresolved audit finding'' means an audit report finding, statement, or recommendation that the grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within a 6-month period beginning on the date of an initial notification of the finding or recommendation.

(6) MATCHING REQUIREMENT.—

(A) IN GENERAL.—Unless otherwise explicitly provided in authorizing legislation, no funds may be expended for grants to non-federal entities until a 25 percent non-Federal match has been secured by the grantee to carry out this subsection.

(B) CASH REQUIREMENT.—Not less than 60 percent of the matching requirement described in subparagraph (A) shall be in cash.

(C) IN-KIND CONTRIBUTIONS.—No more than 40 percent of the matching requirement described in subparagraph (A) may be in-kind contributions. In this subparagraph, the term ''in-kind contributions'' means legal or other related professional services and office space that directly relate to the purpose for which the grant was awarded.

(7) NONPROFIT ORGANIZATION REQUIREMENTS.—

(A) DEFINITION.—For purposes of this section and the grant programs described in this Act, the term ''nonprofit organization'' means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(B) PROHIBITION.—The Attorney General may not award a grant using funds made available under this Act to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of the Internal Revenue Code of 1986.

(C) DISCLOSURE.—Each nonprofit organization that is awarded a grant using funds made available under this Act and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees and key employees, shall disclose to the Attorney General, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the Attorney General shall make the information disclosed under this subsection available for public inspection.

(8) ADMINISTRATIVE EXPENSES.—Unless otherwise explicitly provided in authorizing legislation, not more than 8 percent of the amounts appropriated under this Act may be used by the Attorney General for salaries and administrative expenses of the Department of Justice.

(9) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—No amounts appropriated to the Department of Justice under title II of division B of this Act may be used by the Attorney General, or by any individual or organization awarded funds under this Act, to host or support any expenditure for conferences, unless the Deputy Attorney General or the appropriate Assistant Attorney General provides prior written authorization that the funds may be expended to host a conference.

(B) WRITTEN APPROVAL.—Written approval under subparagraph (A) may not be delegated and shall include a written estimate of all costs associated with the conference, including the cost of all food and beverages, audio/visual equipment, honoraria for speakers, and any entertainment.

(C) REPORT.—The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all conference expenditures approved and denied.

(10) PROHIBITION ON LOBBYING ACTIVITY.—

(A) IN GENERAL.—Amounts appropriated under this Act may not be utilized by any grant recipient to—

(i) lobby any representative of the Department of Justice regarding the award of grant funding; or

(ii) lobby any representative of the Federal Government or a State, local, or tribal government regarding the award of grant funding.

(B) PENALTY.—If the Attorney General determines that any recipient of a grant under this Act has violated subparagraph (A), the Attorney General shall—

(i) require the grant recipient to repay the grant in full; and

(ii) prohibit the grant recipient from receiving another grant under this Act for not less than 5 years.

(11) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, the Assistant Attorney General for the Office of Justice Programs, the Director of the Office on Violence Against Women, and the Director of the Office of Community Oriented Policing Services shall submit, to Committee on the Judiciary of the Senate , the Committee on Appropriations of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Appropriations of the House of Representatives, an annual certification that—

(A) all audits issued by the Office of the Inspector General under paragraph (1) have been completed and reviewed by the Assistant Attorney General for the Office of Justice Programs;

(B) all mandatory exclusions required under paragraph (2) have been issued;

(C) all reimbursements required under paragraph (4) have been made; and

(D) includes a list of any grant recipients excluded under paragraph (2) from the previous year.

(b) USE OF FUNDS.—The Office of the Inspector General shall conduct the audits described in subsection (a) using the funds appropriated to the Office of the Inspector General under this Act.

Mr. BLUNT. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 753

Mr. DURBIN. Madam President, I wish to stand and second the remarks made by the Senator from Maryland, Ms. MIKULSKI, related to the Ayotte amendment. I think it is important for us to reflect on recent history.

It was last week that Umar Farouk Abdulmutallab pled guilty in Federal court to trying to explode a bomb in his underwear on a flight to Detroit, MI, on Christmas Day, 2009. Mr. Abdulmutallab, who will be sentenced in January, is expected to serve a life sentence. I wish to commend the fine men and women at the Justice Department and the Federal Bureau of Investigation for their extraordinary work on this case. America is safer because the Obama administration chose the right investigative agency, the Federal Bureau of Investigation, as well as our article III court system, to try Mr. Abdulmutallab.

One would never know this from the speeches on the floor and from the amendment which has been offered by the Senator from New Hampshire because the suggestion is, it was a big mistake—a mistake for us to consider trying a terrorist in our criminal courts. She suggests, and others have joined her in this suggestion, that all these cases should be tried before military tribunals, military commissions.

I wish to put on the RECORD, in support of what Senator MIKULSKI said earlier, the facts in this case. I can recall when Senator MCCONNELL, the minority leader, came to the floor and spoke in reference to Abdulmutallab:

> He was given a 50 minute interrogation, probably Larry King has interrogated people longer and better than that. After which he was assigned a lawyer who told him to shut up.

That was from Senator MCCONNELL.

Unfortunately, as colorful as that depiction of the facts might have been, it just wasn't accurate. It turns out that experienced counterterrorism agencies from the FBI interrogated Abdulmutallab when he arrived in Detroit. According to the Justice Department, during the initial interrogation, the FBI ''obtained intelligence that proved useful in the fight against al-Qaida.''

I say to my colleagues, watch this Ayotte amendment carefully, because it says that if there is a reference to a terrorist associated with al-Qaida, we can't turn him over to the FBI or to the court system. He has to go to military tribunals.

After this initial interrogation, Abdulmutallab refused to cooperate further with the FBI. Only then, after he stopped talking, did the FBI give him his Miranda warnings, which are required, of course, under criminal law in the United States. What the FBI did in this case was absolutely nothing new. During the Bush administration, the previous Republican President's administration, the FBI also gave Miranda warnings to terrorists when they were detained in the United States. Here is what Attorney General Holder said:

> Across many Administrations, both before and after 9/11, the consistent, well-known, lawful, and publicly-stated policy of the FBI has been to provide Miranda warnings prior to any custodial interrogation conducted inside the United States.

In fact, the Bush administration adopted new policies for the FBI that say: ''Within the United States, Miranda warnings are required to be given prior to custodial interviews.''

Let's take one example from the Bush administration: Richard Reid, the so-called shoe bomber. Reid tried to detonate an explosive in his shoe on a flight from Paris to Miami in December of 2001, very similar to what Abdulmutallab tried on that flight to Detroit. So how does the Bush administration's handling of the shoe bomber compare with the Obama administration's handling of the underwear bomber? The Bush administration detained and charged Richard Reid as a criminal. They gave Reid a Miranda warning within 5 minutes of being removed from the airplane and they reminded him of his Miranda rights four times within the first 48 hours he was detained.

If we listen to the Republican Senators who come to the floor, they would suggest to us that giving Miranda warnings is the end of the interrogation. Once a potential criminal defendant is advised that they have the right to remain silent, the Republican

Senators who support this amendment would argue: That is it. We just gave it away. They are going to lawyer up and shut up, and we won't learn anything.

Listen to what happened in the Abdulmutallab case: He was stopped. He was interrogated by the FBI. He spoke to them for awhile. He stopped talking. He was given his Miranda warnings. Let me tell my colleagues what happened next. He began talking again to FBI interrogators and provided valuable intelligence. There was no torture, coercion or waterboarding involved.

FBI Director Robert Mueller described it this way:

> Over a period of time, we have been successful in obtaining intelligence, not just on day one, but on day two, day three, day four, day five, down the road.

Let me remind my colleagues: Mr. Abdulmutallab is associated with al-Qaida, the very type of terrorist that would be precluded from an FBI investigation and an article III court prosecution by the Ayotte amendment.

How did this happen? Do you know how it happened? Instead of using coercive techniques, the Obama administration convinced Abdulmutallab's family to come to the United States, and his family sat down with him and told him: Why don't you cooperate with the FBI? And he did. That is a very different approach from what we saw in a previous administration when coercive techniques were used.

But real life is not like the TV Show ''24,'' when old Jack Bauer tortures somebody and they cannot wait to spill the beans. Here is what we learned during the Bush administration: In real life, when people are tortured, they will say anything to make the pain stop. They will lie and fabricate and go on and babble as long as necessary to stop the pain of the torture. They often provide false information instead of valuable intelligence.

Richard Clarke was the senior counterterrorism advisor to President Clinton and President George W. Bush. Here is what he said about the Obama administration's approach:

> The FBI is good at getting people to talk . . . they have been much more successful than the previous attempts of torturing people and trying to convince them to give information that way.

So what is the record here? The record is worth recounting. I will tell you, I am not sure of the exact number, but I have been told that anywhere from 200 to 300 accused terrorists have been successfully prosecuted in the article III criminal courts of America. The Ayotte amendment would stop the President of the United States from using that option—an option that has been used repeatedly over the last 10 years to stop terrorists in their tracks, prosecute them, incarcerate them, and make them pay a heavy punishment for what they tried to do to the United States.

This Ayotte amendment would tie the hands of this President and future Presidents where they could no longer make a decision about whether a case should be tried in the article III criminal courts or in a military commission or tribunal.

Look at the facts. Since 9/11, more than 200 terrorists have been successfully prosecuted, among them, Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheikh; the twentieth 9/11 hijacker Zacarias Moussaoui; Richard Reid, the ''Shoebomber;'' Ted Kaczynski, the Unabomber; Terry Nichols, the Oklahoma City coconspirator; and now Abdulmutallab.

The Ayotte amendment would stop the President of the United States and the Attorney General and the Secretary of Defense from picking the right place to investigate, to gather information, and to prosecute an individual who is suspected of terrorism in the United States.

During that same period of time, how many individuals have been successfully tried by the military commissions, which Senator AYOTTE believes should be the exclusive place to try a would-be terrorist? Three. So the record is, if you are keeping score, over 200 in the criminal courts; 3 in military commissions. Senator AYOTTE says: Convincing evidence for me. It is pretty clear to me, everybody should go to a military commission. Really? And of the three who were prosecuted in military commissions, two of them spent less than a year in prison and are now living freely in their home countries of Australia and Yemen.

Let's go to GEN Colin Powell, a known member of a former Republican administration and former Secretary of State and former head of the Joint Chiefs of Staff. You would think this man, with his special life experience and responsibilities to fight terrorism, would be a good place to turn. What does GEN Colin Powell think about the notion behind the Ayotte amendment, that we should not try people in criminal courts, only in military commissions? Well, GEN Colin Powell is quite a military man. Here is what he said:

> The suggestion that somehow a military commission is the way to go isn't borne out by the history of the military commissions.

It is a very honest statement. It should be honest enough and direct enough to guide Members of the Senate to defeat the Ayotte amendment. Whether it is a Democratic President or a Republican President, they should have every tool at their disposal to keep America safe. They should pick the forum they believe they can most effectively use to gather information and prosecute terrorists. Time and time and time again, under Republican President Bush and Democratic President Obama, they have turned to our court system, and they have successfully prosecuted terrorists.

One point made by Senator MIKULSKI that I think is worth repeating: What we are saying to the world is, come to America's court system, the same court system where we prosecute people accused of crimes and misconduct in America, and the would-be terrorists are going to be held to the same standards of trial. It will not be a military commission. It will be a court setting which can be followed by the public, not only in the United States but across the world. It says to them that our system of justice is fair and open, and whether a person is a citizen of this country or a suspected terrorist, they can be subjected to the same standards of justice.

I urge my colleagues, do not tie the hands of this President or any President in protecting America against terrorists. Leave to those Presidents the tools they need to effectively protect the United States of America.

Defeat the Ayotte amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from New Jersey.

AMENDMENT NO. 857 TO AMENDMENT NO. 738

Mr. MENENDEZ. Mr. President, I believe we have cleared with the two distinguished Senators who are managing the bill this unanimous consent request, which is to set aside the pending amendment to call up my amendment No. 857.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. ISAKSON, and Mrs. FEINSTEIN, proposes an amendment numbered 857 to amendment No. 738.

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

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

The amendment is as follows:

(Purpose: To extend loan limits for programs of the government-sponsored enterprises, the Federal Housing Administration, and the Veterans Affairs Administration, and for other purposes)

At the appropriate place, insert the following:

SEC. __. HOUSING LOAN LIMIT EXTENSIONS.

(a) FEDERAL HOUSING ADMINISTRATION.—Notwithstanding any other provision of law, for mortgages for which a Federal Housing Administration case number has been assigned during the period beginning on the date of enactment of this Act and ending on December 31, 2013, the dollar amount limitation on the principal obligation for purposes of section 203 of the National Housing Act (12 U.S.C. 1709) shall be considered to be, except for purposes of section 255(g) of such Act (12 U.S.C. 1715z-20(g)), the greater of—

(1) the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)); or

(2) the dollar amount limitation that was prescribed for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620).

(b) FANNIE MAE AND FREDDIE MAC LOAN LIMIT EXTENSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for mortgage loans

originated during the period beginning on the date of enactment of this Act and ending on December 31, 2013, the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation shall be the greater of—

(A) the limitation in effect at the time of the purchase of the mortgage loan, as determined pursuant to section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), respectively; or

(B) the limitation that was prescribed for loans originated during the period beginning on July 1, 2007 and ending on December 31, 2008, pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110-185, 122 Stat. 619).

(2) PREMIUM LOAN FEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Federal Housing Finance Agency shall, by rule or order, impose a premium loan fee to be charged by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation with respect to mortgage loans made eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation by a higher limitation provided under paragraph (1)(B), annually during the life of the loan, of 15 basis points of the unpaid principal balance of the mortgage, to achieve an estimated $300,000,000 from the revenue raised from such fees.

(B) PREMIUM LOAN FEE STRUCTURE.—The premium loan fee is independent of any guarantee fees, upfront or ongoing, charged to the borrower, and the premium loan fee shall not be affected by changes in guarantee fees.

(3) USE OF FEES.—

(A) IN GENERAL.—The fees imposed under paragraph (2) by the Federal Housing Finance Agency shall be deposited in the fund established under subparagraph (C), and shall be used to pay for costs associated with maintaining loan limits established under this section.

(B) SUBJECT TO APPROPRIATIONS.—Amounts in the fund established under subparagraph (C) shall be available only to the extent provided in a subsequent appropriations Act.

(C) FUND.—There is established in the United States Treasury a fund, for the deposit of fees imposed under paragraph (2), to be used to pay for costs associated with maintaining loan limits established under this section.

(4) FHFA REPORT ON FEES.—The Federal Housing Finance Agency shall include in each annual report required by section 1601 of the Housing and Economic Recovery Act of 2008 related to the period described in paragraph (2)(B) a section that provides the basis for and an analysis of the premium loan fee charged in each year covered by the report.

(c) DEPARTMENT OF VETERANS AFFAIRS LOAN LIMIT EXTENSION.—Section 501 of the Veterans' Benefits Improvement Act of 2008 (Public Law 110–389; 122 Stat. 4175; 38 U.S.C. 3703 note) is amended, in the matter before paragraph (1), by striking ''December 31, 2011'' and inserting ''December 31, 2013''.

Mr. MENENDEZ. Mr. President, let me speak to this amendment. I offer this amendment along with my distinguished colleague from Georgia, Senator ISAKSON, to temporarily restore the conforming loan limits that expired—the loan limits we had under the law that created the opportunity to loan at these levels—on September 30 of this year. In past years, extending these loan limits has usually occurred on the THUD appropriations bills.

As the chair of the Subcommittee on Housing, I can tell you that getting our housing market moving again is one of the most important tasks facing our country today because if we do not get that weak housing market moving again, we will not get the kind of robust economic recovery that the American people deserve. Historically, whenever we have been in the midst of an economic challenge or a recession, housing has been part of what has led us out of that recession.

Congress could be doing a great deal to get the housing market moving again. But perhaps the first rule we should follow is: Do no harm. Do no harm. But at this point, Congress, in my view, is doing harm to the housing market and to our economic recovery by allowing the higher loan limits to expire. With this bipartisan amendment, we could easily correct this problem.

The lower loan limits of the Federal Housing Administration, government-sponsored enterprises, and Veterans Administration have already resulted in a reduction of consumer credit in 669 counties across 42 States in our country. The expiration is making a weak housing market even weaker. It also makes it harder for middle-class home buyers to get mortgages when credit is already tight. And every day that passes is another day in which creditworthy borrowers are not getting loans or are having to pay much higher rates that could price them out of the market, and those loans are not going to come back.

I recently chaired a Housing Subcommittee hearing on a different topic, where the witnesses were not chosen for their views on a particular issue. They represented an entire cross section of all of the interested stakeholders in the housing field, including those who were submitted to us by our Republican colleagues to consider as witnesses. And there were several. Eight of the nine bipartisan witnesses who testified in the hearing agreed that the conforming loan limits should be temporarily extended to boost the housing market, and that now is not the right time to let them expire.

One of the witnesses, Dr. Mark Zandi, chief economist of Moody's Analytics, urged that the limits be extended for ''at least'' another year. That is a reversal of Dr. Zandi's position from earlier this year, when he had supported the expiration. He said at the hearing that the markets remain too fragile and that allowing the limits to expire would be ''an error.''

A recent report by the nonpartisan Congressional Research Service found that ''virtually no''—no—''jumbo mortgages are being securitized'' today. In other words, in an ideal world, the private sector would fill this gap in home mortgages, but the reality is that economic conditions right now are not allowing for that. It certainly has not taken place.

And in terms of cost, our amendment will actually save $11 million over the next 10 years, and $2 million in fiscal year 2012 according to CBO. It is more than fully paid for in a fair way by creating a ''premium loan fee'' of 15 basis points per year that would apply only—only—to the affected loans. This makes sense because the people benefiting from the loans would be directly responsible for paying the costs of those loans so taxpayers are made whole and no other home buyers would pay. And, as I say, it saves $11 million over the next 10 years.

Additionally, the amendment will likely help increase returns to taxpayers because FHA audits for the past decade have stated that the larger loans actually perform better and default at significantly lower rates than smaller loans, so allowing the larger loans could actually improve returns to taxpayers.

Finally, I thank the cosponsors of a very similar bipartisan bill—similar to the very essence of what we are trying to do in this amendment—that Senator ISAKSON and I have introduced, the Homeownership Affordability Act: Senators AKAKA, BEGICH, BLUMENTHAL, BOXER, SCOTT BROWN, CARDIN, CHAMBLISS, COONS, FEINSTEIN, INOUYE, LAUTENBERG, LIEBERMAN, MERKLEY, MIKULSKI, BILL NELSON, and SCHUMER. I wish to thank the National Association of Realtors, the National Association of Homebuilders, the Mortgage Bankers Association, and all the other groups that have advocated support for this effort. This is an important tool that we can use to boost our housing market and economic recovery at no cost to the taxpayers.

I see my distinguished colleague Senator ISAKSON on the floor, and I certainly would invite him, as a cosponsor of this amendment—someone who has a long history in the private sector, before he came to the Congress, on the whole question of real estate—I would be happy to yield to him at this time.

Mr. ISAKSON. I thank the distinguished Senator from New Jersey, Mr. MENENDEZ, for his leadership on this issue.

I ask to be recognized.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Thank you, Mr. President.

Let me try to dispel what concern there may be and the concern I heard right before we adjourned in August as to why not to extend the loan limits. People were afraid—and I understand the fear—that it might cause some additional liability in cost to the government and the taxpayers.

Let me make something crystal clear: We are going through a terrible foreclosure problem right now in this country, not because of loan limits but because of underwriting. Underwriting today, because of the ramifications of

the real estate collapse, is the most pristine underwriting I have ever seen.

I was in the business for 33 years—since 1966. I have seen a lot of housing recessions go by. I have seen a lot of difficulties. This one is the worst I have ever seen, but it was not caused by the amount of loans made. It was caused by underwriting.

As Senator MENENDEZ has said, this will pay the government back because of the fee associated with the loan, in the first place. In the second place, it will answer the big objective we need to start applying in this country, and that is doing no more harm. A lot of the problems that have been manifested in the real estate industry have been manifested by our doing the harm, either in what we imposed on Freddie and Fannie or what we did not allow to have happen.

The restrictions now on mortgage underwriting under Dodd-Frank and the requirements that are now true in all of our underwriting agencies are so strict that the underwriting of loans is so pristine that only the best of the best is being made. The unintended consequence of not extending these increases in August caused a number of real estate transactions that were made to never close. Because the limit went down, therefore, the loan went down.

No one in this body should confuse the amount of a loan with its ability to be repaid. They need to understand, it is the underwriting of the loan that ensures the repayment.

This, as the Senator said, will add an income to the U.S. Government. It will not add additional pressure on the U.S. taxpayers. It will at least give us breathing room in a housing industry that is still struggling terribly.

So I would ask any of our Members who were objecting back in August to these loan limits being restored, please come see me. I do not know a lot about many things. I know a whole lot about this because I made my living in this all of my life. I have no interest anymore, so there is no self-interest, except to know we are in deep trouble in our economy.

You are never going to get 9 percent unemployment down until you bring construction back. You are never going to get the American consumer to have more confidence until they feel as though the value of their homes is secured. Those things are not going to happen if a reluctant Congress continues to pass suppressing legislation or keep these loan limits down rather than doing things that will do no harm and help the housing market.

So I lend my full support to Senator MENENDEZ and what he has done. I ask for favorable consideration by our colleagues in the Senate.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I would like to compliment the Senator from New Jersey for this amendment. I think it is common sense. I think it accomplishes so many objectives. No. 1, it helps people with real problems be able to get back on their feet, maintain home ownership, and get our economy going and put people to work.

I know the Senator from New Jersey and others here support an infrastructure bank. Yes, we want to build roads and bridges. I would like to take broadband to every part of America. But we also need to look at home building, and Maryland's has come to a screeching halt, even in a robust State such as Maryland. Everybody I talk to in the Maryland business community says: Unless you crack the housing situation, you cannot crack the economic situation.

By having access to the American dream, which has now become an American nightmare, this American dream created jobs, whether it was people who built them, the real estate developers who developed them, or the people like Senator ISAKSON who made a career of selling them. This was about building a home, and in many instances it was about building community.

I think that where we are, if we agree to the Menendez amendment, that will go a long way in being able to help people. We have to really deal with this. Quite frankly, I have been disappointed. Just about every darn thing we have done to ''help with the housing mortgage situation'' has been a bust. It has been an absolute bust. We spent millions and so on. We had this program. We had catchy little titles. But nothing catches on to solve the mortgage crisis.

I believe the Menendez amendment, supported by someone who really understands business and housing and community—I think this amendment is a winner. I am happy to put my name on it. I will look forward to voting for it when the time comes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, just very briefly, I thank my colleague from Maryland and the bill manager. I hope we will get to a point where we can cast a vote on this. I appreciate Senator ISAKSON joining me and others in this effort, and particularly his expertise. If we listen to voices of reason as well as experience here, then Senator ISAKSON's arguments should be a winner. I look forward to hopefully having a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

MOTION TO RECOMMIT

Mr. LEE. Mr. President, I have a motion to recommit with instructions with respect to H.R. 2112.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. LEE] moves to recommit the bill H.R. 2112 to the Committee on Appropriations with instructions to report the same back to the Senate with reductions in spending in each division required to bring the overall spending for the division to fiscal year 2011 levels which shall not exceed $130,559,669,000 for division A (Ag), $58,786,478,000 for division B (CJS), and $55,368,096,000 for division C (THUD).

Mr. LEE. Mr. President, I stand to speak on behalf of this motion to recommit. What we are looking at here with H.R. 2112 is a measure that actually spends more in each of those areas than what we spent in fiscal year 2011. We are in dire economic circumstances in this country. We are currently spending at a rate of roughly $1.5 trillion annually in excess of what we are bringing in.

We have gone to great lengths through a number of accounting mechanisms to demonstrate to the American people that we are doing our best to spend less. In many circumstances, the message that has been sent has been a message of austerity. It becomes increasingly difficult to manage and to maintain that necessary message of austerity, one that is accompanied by hundreds of millions of Americans making sacrifices every day in response to this economic downturn.

It becomes absolutely essential that we actually make cuts. To make actual cuts, I think that means necessarily that we have to spend less in fiscal year 2012 than we spent in fiscal year 2011. We will continue, I fear, to lack credibility if we persist in using whatever techniques we use, accounting-wise or otherwise, to claim we are reducing spending when, in fact, this appropriations package—this minibus spending package, as we sometimes refer to it—actually spends more money than was spent in 2011.

This is why I have submitted this motion. I hope my colleagues will share this concern I have expressed, which has caused me to submit this motion. The idea of the motion is that we bring our spending levels back down in each of these areas to what we spent in fiscal year 2011.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the motion to recommit is set aside.

The Senator from Maryland is recognized.

Ms. MIKULSKI. We have set aside the motion to recommit offered by the Senator from Utah; however, I wish to rise in opposition to his motion. This is all about budget-speak. It is really hard to follow between budget authority and expenditures, et cetera. But let me just say this in plain English.

This bill is $500 million less than we spent in 2011—$500 million less than we spent in 2011. Now, this is not the chairperson of the CJS bill kind of making up numbers. This is confirmed by the Congressional Budget Office. It has been certified by the chairman of the Budget Committee. The CJS bill is nearly $500 million less than last year.

Now, am I doing fuzzy math? No. I do not do fuzzy math. The CJS bill is consistent with something called the

Budget Control Act. The Budget Control Act requires appropriations to cut $7 billion for our fiscal year 2012. When we got our allocation, the CJS subcommittee allocation was $500 million below 2011. I am going to say it again—$500 million below what we spent in 2011.

This allocation required the CJS subcommittee to take stern and even drastic measures. I eliminated 30 programs. Yes, Senator BARBARA MIKULSKI, a Democratic, a liberal, I cut and eliminated 30 programs: 4 in Commerce—I think you objected to 1; 20 in Justice; 1 in Space; 4 in the National Science Foundation. I could not believe it, but that is what we had to do.

We cut the Deep Underground Science and Engineering Lab by $1 billion. That was a $1 billion project the National Science Foundation wanted. We said we would like it too but not in these austere times. There were other programs that we were able to do. And we were not happy about it. We absolutely were not happy about it. We cut the Baldridge Program. We cut the public telecommunications facility planning and communications. I mean, we did what we had to do.

So while the Senator looks at I am not sure what, I can tell you we are $500 million below 2011. The Congressional Budget Office says it. The numbers were reviewed by the Budget Committee itself. The chairman signed off that we were $500 million below, to help the overall Appropriations Committee reduce its expenditures by $7 billion.

So that is for 2011. Now let's look at 2012. I mean, the President came to Congress and gave a dynamic State of the Union speech. It touched America deeply when he said: I want to outbuild, outeducate, outinnovate anyone in the world. And he proposed his budget.

When you look at what we are doing here, my appropriations, my Commerce-Justice appropriations, is $5 billion—that is ''b'' as in ''Barb''—not $5 million, like ''m'' in ''Mikulski.'' We are $5 billion below what the President said he needed in Commerce-Justice-Science, technology, the innovation subcommittee, to help outeducate and out-innovate anybody else in the world. So I am $5 billion less than what the President of the United States said he needed to have to accomplish national goals.

Now, we talk a lot about that we want America to be exceptional. Well, you have to spend money to be exceptional, and when you put your money in science, technology, and education, we can come up with new ideas, new products that we can make and sell around the world, and our children know they have a future in this new global economy.

I do not want to be nickel-and-dimed here. I have already been nickel-and-dimed to be able to comply with this bill. You know, I am back to where Obama was in January, that cold day, and now here we are. So when we talk about cutting, we have cut. We have absolutely cut. We cut discretionary spending at an incredible level. And do you think it is has helped create one job? Do you think the market is going ''hoorah, hoorah, look at what they are doing''? No. Do you know why? Because the private sector knows that if we are going to be a 21st-century nation, if we are going to be America the exceptional, we must educate.

We also must invest in scientific research so that the private sector can take that basic research we do, value add to it, and with the genius that is America, the ability—that intellectual property you can own and be protected, that you are going to develop a product, and you have the National Institute of Standards to come and help you develop the standards so that you will be able to sell it in America in every State and sell it around the world in every nation.

So come on. If we want to be America the exceptional, stop nickel-and-diming. One of the ways you deal with debt is a growing economy, restoring consumer confidence, restoring citizen confidence, No. 1, that we can govern ourselves and that we can govern ourselves in a smart fashion. Yes, we do need to be frugal, but we sure do not need to be stupid.

I am going to oppose this amendment, and I sure hope the people pass my bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 815

Mr. PRYOR. I see that I have other colleagues on the floor. I will only be a couple of minutes.

Today I rise to oppose an amendment offered by Senator MORAN, amendment No. 815. I really do appreciate the intent of Senator MORAN's amendment. I actually support the intent of what he is trying to do because he is trying to support the Watershed Rehabilitation Program.

While I am not opposed to that program, and I recognize that difficult decisions had to be made in order to meet our statutory spending caps outlined in the Budget Control Act, I regret to say I cannot support the Senator's amendment as it is written because its offset comes from departmental administration which provides numerous essential services to the USDA.

These cuts would force USDA to reduce their number of employees, which would have a detrimental effect on the Department and its operation. In fact, Secretary Vilsack reached out to the Agriculture Appropriations subcommittee staff to relay his serious concerns.

These USDA employees provide essential services to some of the most rural areas in the country, so I cannot support the amendment that would, in effect, reduce services to rural America.

On top of that, it is important for my colleagues to understand that the level for departmental administration is already over $13 million below the fiscal year 2010 level and $7 million below the President's request.

Although I definitely support the watershed rehabilitation program, I certainly hope Senator KOHL and Senator MORAN can find a good offset that is agreeable to the majority of us. Still, I must oppose this amendment and urge other Senators to oppose it as well.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I see my colleague from Colorado. I was going to call up an amendment and make some remarks. Is there a procedural matter or something the Senator would be interested in doing before that? If not, I will go forward. I thought maybe the Senator wanted to comment on Senator PRYOR's comments.

Mr. UDALL of Colorado. I have another set of comments I want to make on a pending amendment. I don't know where we are in the order here.

Ms. MIKULSKI. Does the Senator wish to offer an amendment?

Mr. UDALL of Colorado. I will rise in opposition to an amendment already offered.

Mr. SESSIONS. Then I guess I have the floor, Mr. President.

Ms. MIKULSKI. I am seeking clarification.

Mr. SESSIONS. I yield to the Senator for that purpose.

Ms. MIKULSKI. Does the Senator wish to comment on the Moran amendment?

Mr. UDALL of Colorado. Amendment No. 753 offered by the junior Senator from New Hampshire.

Ms. MIKULSKI. We are alternating back and forth, so we will go to Senator SESSIONS and then Senator UDALL.

Mr. UDALL of Colorado. Thank you. I look forward to hearing from the Senator from Alabama.

Ms. MIKULSKI. Then we will go to the Senator from Colorado for his comments.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senator from Colorado be recognized after I complete my remarks.

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

AMENDMENT NO. 810 TO AMENDMENT NO. 738

Mr. SESSIONS. Mr. President, pursuant to the unanimous consent agreement, I call up Sessions amendment No. 810.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 810 to amendment No. 738.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds to allow categorical eligibility for the supplemental nutrition assistance program)

At the end of title VII of division A, add the following:

SEC. __. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) in any manner that permits a household or individual to qualify for benefits under that program without qualifying under the specific eligibility standards (including income and assets requirements) of the program, regardless of the participation of the household or individual in any other Federal or State program.

Mr. SESSIONS. Mr. President, the purpose of amendment No. 810 is to eliminate the categorical eligibility for the Supplemental Nutrition Assistance Program, called SNAP, or the Food Stamp Program. A categorical eligibility standard has been imposed, and it has been causing a substantial increase in unjustified expenditures in the Food Stamp Program.

Let me share briefly the history over the last decade of the Food Stamp Program. Of course, we in America strongly believe that persons ought not to go to bed hungry, if we have the food and the ability to take care of them. We have had a very generous Food Stamp Program for a number of years. But in the last decade, it has shown incredible, amazing increases in spending. As a matter of fact, I think it has increased faster than probably any other significant item in the entire Federal budget. It is probably increasing more even than the interest on the debt, which is one of the most surging expenditures this Nation has.

In 2001, we expended $20 billion on the Food Stamp Program. This year, we are projected, under this bill, to spend $80 billion. In 10 years, spending on food stamps would have quadrupled. This year's proposal calls for an increase of 14 percent over last year. This is a stunning amount of money.

This country is headed to financial crisis. Erskine Bowles and Alan Simpson, who headed President Obama's debt task force, told us in the Budget Committee that the country has never faced a more serious financial crisis than the debt crisis we are now in. One of the reasons is that we have had these incredible surges of expenditures in programs over a period of years. We have not watched them or contained them and, indeed, we have done things to make them less accountable and efficient and more subject to fraud, abuse, and waste.

Again, this year proposes another 14-percent increase in the Food Stamp Program. That is $80 billion. The House proposed only a $1 billion increase; theirs comes in at roughly $71 billion for food stamps. So theirs is more level. But it still has an increase. Certainly, it is far less than this.

To give some perspective on what we are talking about when we say $80 billion, let me share a few facts. The Federal prison system costs $7 billion. The Department of Justice—the entire Department of Justice, which Senator WHITEHOUSE and I served in—and were proud to do so—gets $31 billion. Federal highway funding for the entire year is $40 billion. Food stamps is twice that of the Federal highway bill. Customs and Border Patrol get $12 billion. The Federal Education Department is $30 billion. $80 billion dwarfs the budgets of, I think, most any State in the country, except for maybe New York or California. Alabama's general fund budget and education budget is less than $10 billion. This is $80 billion and is increased $9 billion this year under this bill.

We have to get real. We don't have the money. We are borrowing 40 cents of every dollar we spend. No wonder Congress is in such disrepute. How can we defend ourselves against the charge of irresponsibility to good and decent American citizens when we are spending at this rate and continuing to show increased spending at this rate? I am still amazed at the budget the President submitted to us earlier this year, calling for a 10-percent increase in the Education Department, 10 percent for the Energy Department, and 10 percent for the State Department, at a time we are borrowing money at a rate we never borrowed before, when we have never, ever systemically faced such a substantial threat to our country's financial welfare—as every expert has so told.

I know we want to help poor people. I don't want to see people hungry. But do we need to be spending four times as much on food stamps as we were in 2001? Can we not look at this program and think we can make it better and more efficient? We need to get focused on what we are doing here and try to bring this matter under control. We can do better.

Federal regulations allow States to make households ''categorically eligible'' under the Food Stamp Program. By the way, States administer the program. They don't get money to enforce it and supervise it. They pay that out of their own budgets. But the food stamps benefit is a 100-percent Federally funded program. So there is a little bit of a conflict of interest. States are benefitting when more food stamps come into their State, right? They are receiving more Federal dollars. They are not paying any money into it. Why spend their money to catch fraud, waste, and abuse and crack down on problems? Why not utilize every possible action that would bring more food stamps to the State? That is what is happening.

I know a little bit about that because, unless the Presiding Officer is one, I am probably the only person in this body who actually prosecuted food stamp fraud. They were using it as currency in drug dealing. A lot of fraud is going on, and we need to do better about it. The States aren't stepping up because they don't have an incentive to do so.

Again, Federal regulations now allow States to make households ''categorically eligible'' for SNAP—the Food Stamp Program—simply because the household also receives certain other benefits or assistance from Federal programs. ''Categorical eligibility'' is a fancy way of saying ''automatically qualified.'' For example, if you qualify for one, you qualify for the other. Households that receive Temporary Assistance for Needy Families, TANF, or Supplemental Social Security income benefits or assistance are automatically eligible for SNAP benefits in some states.

These other programs, however, have looser eligibility standards than the Food Stamp Program. To be eligible for SNAP benefits, a household must meet specific income and asset tests. Households with income above a certain threshold, or savings above a certain amount, cannot qualify for food stamps. If you have a substantial savings, even if you don't have any income, you are not entitled for somebody else to pay for your food. I don't know what the number is, but if you have a savings amount, and if you are above that, you don't get food stamps. Is that irrational?

But in 42 States there is no limit on the amount of assets certain households may have to qualify for TANF. As a result, households with substantial assets but low income would be deemed eligible for SNAP benefits even if they have substantial assets.

Astonishingly, households can be categorically eligible for SNAP even if they receive no TANF-funded service other than a toll-free telephone number or informational brochure. I kid you not. Receiving the information about TANF or other applicable information can qualify a household to be categorically eligible for SNAP benefits.

A 2010 GAO report revealed that one State included information about a pregnancy prevention hotline on the SNAP application, and that was used as a basis to grant categorical eligibility. Other States reported providing household brochures with information about marriage classes in order to confer categorical eligibility for food stamps.

According to officials with the Food and Nutrition Service, increased use of ''categorical eligibility'' by States has increased approval of SNAP benefits to households that would not otherwise be eligible for the program due to SNAP income or asset limits. The Food and Nutrition Service, which supervises this, acknowledged that more people are eligible if you use this ''categorical eligibility'' rather than requiring them to comply with explicit requirements of the Food Stamp Program.

So my amendment would eliminate categorical eligibility for SNAP benefits, meaning that only those who meet the income and asset requirements

under the program would be eligible for benefits. They would have to apply just like anyone else.

Is it too much to ask someone who is going to receive thousands of dollars in food benefits from the Federal Government to fill out a form and to honestly state whether they are in need, to the degree they qualify for the program? Automatic eligibility through other income support programs would end under my amendment.

Last Friday, the Treasury Department closed the books on fiscal year 2011 and declared the Federal Government ended the year with $1.23 trillion in additional debt. That makes our gross debt now $15 trillion. Our appropriations for the SNAP program have gone from $20 billion in 2001 to $71 billion in 2011 and are projected now to go to $80 billion. From 2001 through 2011, there is a huge increase in funding for the program.

The percentage of people using food stamps has increased sevenfold since the program's national expansion in the 1970s, with nearly one in seven Americans now receiving the benefit. Meanwhile, food stamp funds have been mishandled and misused, and there are many examples of this. I have seen it in my personal practice as a Federal prosecutor. One recent notorious case was a defendant in Operation Fast and Furious. One of the people who came in, bought a whole host of illegal weapons in Arizona to take back across into Mexico, was a food stamp recipient. According to the report, he spent thousands of dollars on these guns, maybe tens of thousands of dollars on these expensive weapons. He bought 300 high-powered assault rifles. He had money for that. Yet we are buying his food for him.

In another case, a Michigan man was able to continue receiving foods stamps after winning $2 million in the lottery—$2 million. He even asked about it. He said: Can I continue to receive food stamps? Guess what they told him. Yes. The lottery winnings are an asset, and we are not checking assets now. It is not income, it is an asset. So he got to keep having food stamps while American working people were paying for it.

Categorical eligibility—that flawed practice—allows SNAP recipients to avoid the asset test required to determine need. This is a policy we cannot afford at a time this country is having a huge debt crisis.

President Obama has coined a somewhat disingenuous term called the Buffet rule in his push to raise taxes on millions of Americans who have zero in common with Mr. Buffet. Of course, he is one of the President's big allies. I would like to suggest something called the Solyndra rule. Under this rule, before any proposals are offered to raise any taxes, we first put an end to the wasteful, inappropriate spending in Washington.

Shouldn't we first clean up our act before we demand the American people send more money up here? Until we do that, raising tax rates will only be funding the continued abuse of the American taxpayer. Raising taxes to bail out Congress is akin to giving money to an alcoholic on the way to the liquor store. It doesn't help matters if the money comes from a wealthy person, if the money is going to be used for an unwise or unhealthy result. It is time for the President and this Senate to get their spending habits under control. These bills before us, I am afraid—and the ones we will be seeing in the future—don't reduce spending but increase spending, and I thank the Chair for the opportunity to express my concerns about it.

Finally, I would just say we are told: We can't do anything about it. We are told we can't fix the food stamps. Food stamps don't count like other appropriations. One might say: Why is that? They say it is an entitlement. What is an entitlement? An entitlement is when there is a law that says if a person's income is a certain level, they go in to the government and they have to give them money whether the government has any money or not; whether it has been appropriated or not. It is an entitlement program.

This makes it very hard for those of us in Congress to be able to make the kind of proposals that are appropriate to fix this program, one of which simply would be, in my opinion, to reduce spending back to the level of the House, which is showing a modest increase this year, after surging the spending level for the SNAP program over the last decade. All of us have to grasp something. I don't think the American people are happy hearing excuses. I don't think they are happy hearing us say: We would like to have done something about food stamps, but this is not germane. This somehow, technically, is an entitlement program, it is part of a legislative act and, therefore, we can't do anything about it on an appropriations bill, which we are here to debate. We can't change it. There have been some changes in the food stamp program, so we believe this amendment is clearly germane.

But I wish to say, as we wrestle with how to bring spending in America under control—as the person who is now the ranking Republican on the Budget Committee—I wish to say we have to quit using excuses. Every program has to be rigorously analyzed, and if there is waste, fraud, and abuse, we need to crack down on it. We don't have the money. We don't have the money. We can't do what we would like to do. We can't increase spending on program after program. This one is perhaps one of the most dramatic examples in the government, and it can be improved upon if we focus on it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado has the floor.

Mr. UDALL of Colorado. Mr. President, I welcome this spirited debate we have been having in the Senate on these important appropriations bills. Before I begin my remarks, I wish to yield to the chair of the Agriculture Committee who has some comments to make in response to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my colleague and, if I might, take a moment to respond.

Ms. MIKULSKI. We have an order that has been established. I can understand the Senator from Michigan wanting to rebut. How long does the Senator from Michigan wish to talk?

Ms. STABENOW. Just 2 minutes to respond to the previous Senator.

Ms. MIKULSKI. OK.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. No objection.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. I appreciate the courtesy very much. I wanted to take a brief moment to indicate to my friend from Alabama I couldn't agree more that we need to make sure the food assistance programs—every farm program and every program in the Federal Government—have rigorous review and that we are holding taxpayer dollars accountable. We have held accountability hearings in the Senate, in the Agriculture Committee. The good news is, there is only a 4-percent error rate in the entire SNAP program through the supplemental nutrition program being talked about, but there is more we can do.

The case of the lottery winner in Michigan the Senator talked about was outrageous, and it has been fixed. They can't do that anymore. We are going to fix it in the next farm bill as well. I could not agree more. We are going to go through and fix those things that don't make sense.

But I would also say that what the Senator is suggesting is, first of all, policy that needs to be done in the context of the farm bill negotiations. We have an extraordinary agreement we have reached between myself and our ranking member in the Senate and the chair and ranking member of the House Agriculture Committee, and we are putting together language to give to the supercommittee that will address nutrition as well as other areas. I would ask my colleagues to support our effort that we will be putting forward. We will have that language by November 1 that will address those egregious areas which, by the way, are very small, but we do need to address them and we need to do it in a way that also recognizes more people than ever before need food help.

I have people in Michigan who have never needed help in their entire life. They have paid taxes all their lives, and they are mortified they can't keep food on the table for their children throughout the month. So they are getting temporary help, and that is what

is it is designed for—people who need temporary help. Because of that, we want every single dollar to go where it ought to go, and we are going to do everything possible to see that happens. We are going to be putting forward policies that I am sure the Senate will support that will guarantee there is not $1 that is going to somebody who doesn't deserve it or to someone who is cheating or where there is fraud or abuse. We are going to make sure that happens. But this debate needs to be done in the context, as it always has been, of our farm bill policy on food and nutrition.

I ask my colleagues to oppose this amendment and to work with us as we put forward policies that will be coming very soon. I thank the Senator from Colorado for his graciousness.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 753

Mr. UDALL of Colorado. Mr. President, I appreciate the patience of the Senator from Maryland. This is a spirited debate about an important set of amendments being offered, and I wish to rise in opposition to amendment No. 753, which has been offered by the Senator from New Hampshire, Ms. AYOTTE.

While I enjoy working with Senator AYOTTE on the Armed Services Committee, and I appreciate her contributions to the committee, I have to say I strongly disagree with her amendment. Senator AYOTTE's amendment would prohibit the United States from trying enemy combatants in article III civilian courts. These courts refer to article III of our U.S. Constitution.

Our article III courts, as the Presiding Officer knows, are the envy of the world. While there is a role for military tribunals, they are certainly not the only solution. Frankly, by prohibiting the use of article III courts, we may actually hinder our efforts to bring terrorists to justice.

The Ayotte amendment would put the military smack in the middle of our domestic law enforcement efforts in our fight against extremists and terrorists. My friend from New Hampshire argues this is a war that should be prosecuted by our military. But the reality is, in many cases, the best course of action is for our domestic law enforcement, the FBI, and others, to take the lead. This amendment would prevent the Department of Justice from questioning or prosecuting terrorists caught on U.S. soil engaged in the criminal act of terrorism, and it would prevent Federal prosecutors from bringing these terrorists to justice in so-called article III courts. Federal prosecutors have tried, convicted, and imprisoned hundreds of terrorists in article III courts. The Department of Defense has obtained only six convictions in military tribunals.

DOD's job is to track down, kill or capture those who would harm America or our citizens. They do an incredible job of that. We all stand in awe of the work they do to keep us safe. But it is not the job of the Department of Defense to try each and every one of those individuals. It is a mission they do not want, and they would have to radically change their entire system to accommodate prisoners who are already handled by civilian courts.

Article III courts have kept Americans safe for over 200 years. I have to say I don't believe it is prudent to build a new judicial system from scratch in order to meet objectives that are already being met. For example, Umar Farouk Abdulmutallab, also known as the Underwear Bomber, was arrested in Detroit after trying to set off an explosive on an airplane. He was read his rights, questioned, prosecuted, and he recently pled guilty. Under this amendment, the FBI would have had to call in the military to detain Abdulmutallab without any resolution in his case. In fact—and I think this is an extremely important point—under this amendment, Abdulmutallab would have been given complete immunity from criminal Federal prosecution.

Further, if this amendment passes, our allies may well refuse to extradite terror suspects to the United States. If military commissions are determined as someday not having jurisdiction over these terrorists or invalidated by the Supreme Court—which, by the way, has happened in other settings in the Supreme Court—there would be no way ever to prosecute these high-value foreign terrorism suspects because of this amendment. What would that mean? It would mean no conviction of the Blind Sheik, who planned the first World Trade Center attack; no conviction of Moussaoui, the 20th hijacker on 9/11, and no conviction of the east Africa Embassy bombers, all of whom were convicted in article III courts.

Again, the Ayotte amendment, however well intended, would provide 100 percent immunity from Federal prosecution to suspected terrorists and eviscerate a very effective tool in our counterterrorism portfolio. That doesn't strike me as being as tough as we possibly could be on terrorists.

The fact is, the prosecutors at the Department of Justice have numerous Federal criminal laws at their disposal with which to charge suspected terrorists. The Federal courts have more than 200 years of precedent to guide them, while tribunals have almost none. As I have said, our Federal prosecutors have had great success so far.

In summary, I urge my colleagues to vote against amendment 753. It is simply not necessary, and I believe it will do more harm than good, while subverting the finest justice system in the world in the process.

As I yield, let me be clear that I wholeheartedly support the underlying bill, as it has been very ably authored by Senator MIKULSKI and others, but I have to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I rise in response to the comments by my esteemed colleague from Colorado about my amendment No. 753. And I would say this first. My amendment does not provide immunity to terrorists. What my amendment does is treat terrorists as they should be treated.

We are at war, and under the laws of war, traditionally we have tried enemy combatants in military commissions. And those individuals my colleague from Colorado cited, including Umar Farouk Abdulmutallab, could be held accountable in a military commission because our priority has to be, when we are at war, to gather intelligence, to protect our country, and not whether we should prosecute in our article III courts, in which I have great confidence. I served as attorney general of our State and believe very much in our article III court system. But our article III court system is not where terrorists with whom we are at war should be tried.

In light of the recent comments here on the floor, I feel compelled to point out some of the facts that I think are important for the American people to know about some of the cases that have been cited in support of saying terrorists should be tried in article III courts.

On October 12, Umar Farouk Abdulmutallab pleaded guilty in the U.S. district court in Detroit. That case has been cited not only by the Senator from Colorado but by the Senator from Maryland and the Senator from Illinois, and our Attorney General has cited it as well as the ultimate and final vindication of the use of our civilian courts for the trial of enemy combatants. The senior Senator from Illinois and the Obama administration were so confident that the so-called Underwear Bomber, as he has been named, guilty plea would settle the dispute once and for all, that on October 13, the Senator from Illinois came to the floor and essentially declared the controversy over. We have heard those same arguments today.

I think we need to review who exactly Abdulmutallab is. He is no common criminal. We are not talking about people who have robbed liquor stores or who are Americans who have committed criminal acts in this country. He is the Nigerian man who tried to detonate plastic explosives hidden in his underwear while onboard Northwest Airline's flight 253 to Detroit on December 25, 2009. Al-Qaida in the Arabian Peninsula claimed to have organized the attack with the Underwear Bomber claiming that AQAP supplied him with the bomb and trained him.

He was subsequently charged in Federal court with eight counts, including the attempted use of a weapon of mass destruction and attempted murder of 290 Americans. The Underwear Bomber pleaded guilty at trial, telling a surprised courtroom on the second day of his trial that the failed attack was in retaliation for the killing of Muslims worldwide.

This case has been cited as the final vindication for civilian trials, and I

think it is important to mention three points about this case.

First of all, the presumption seems to be that the civilian court system should have the primary responsibility for questioning, trying, and ultimately detaining foreign enemy combatants with whom the United States is in a declared war. That has not been the rule in prior conflicts. We are treating this conflict differently than we have treated other conflicts, where enemy combatants have been tried in military commissions.

Secondly, in my view, the administration's eagerness to appease the ACLU by trying enemy combatants in civilian courts misses the whole point about detention in a time of war. When we are at war, we detain and interrogate enemy combatants according to the laws of war to glean valuable intelligence that will help prevent future attacks, save American lives, and help us capture other enemy combatants.

Al-Qaida was at war with the United States long before our country recognized or strongly reacted to this threat. We remain at war with al-Qaida. When we put enemy combatants in our civilian court system, we are focusing on prosecution, and we potentially miss important opportunities to gather information to prevent future attacks by doing so.

In Abdulmutallab's case, the administration read him his Miranda rights after 50 minutes of questioning. In my view, this jeopardized valuable intelligence. And I know my colleagues on the other side of the aisle have said: Well, eventually he spoke, and he gave us lots of information. But why would we put information in jeopardy? Why would we read terrorists Miranda rights? I, as a prosecutor, have never heard a law enforcement official tell me that Miranda rights are a helpful information-gathering tool, but that seems to be the position I am hearing today.

Jeopardizing this intelligence was clearly unnecessary. And in this case, the fact that we didn't have to rely on a confession—this was a case where we caught the Underwear Bomber redhanded. So even if we were to have tried him in a military commission and had not given him Miranda rights, had gathered intelligence for as long as we could have, we still would have had him redhanded because the passengers on that flight saw him. He was caught with the explosives on his body. This was never a case about a guilty plea and whether we got some information about him. The essential question is whether we got the most information possible from a terrorist who was trying to attack Americans and our allies, to prevent future attacks, not whether we gave him Miranda rights.

With a case that was as open and shut as Abdulmutallab's, without any need to use confessional evidence or classified information, it doesn't prove the civilian court system is superior to military commissions. His conviction was never realistically in doubt.

Defenders of bringing our enemy combatants to the U.S. civilian trial often cite a number of cases and convictions related to military commissions. Again, I want to reiterate, I am a strong believer in our civilian court system, but I want to point out some of the downsides to using our civilian court system for enemy combatants: the costs of security; the cause of civic disruption in the area; the risk of compromising classified information; and the risk of eventual release of these combatants not to some other country but into American society, regardless of whether they are convicted in civilian court. And these concerns aren't academic.

I have heard some of my colleagues cite the case of Zacarias Moussaoui, who was a member of al-Qaida who was involved in the 9/11 attacks. The civilian proceedings spanned nearly a decade, and his case was finally resolved only last year. These proceedings cost millions of dollars and caused substantial civic disruption. For example, the Federal courthouse in Alexandria, VA, was described as ''an armed camp, with the courthouse complex and surrounding neighborhood becoming a virtual encampment, with heavily armed guards, rooftop snipers, bomb-sniffing dogs, blocked streets and identification checks.'' If we had tried him at Guantanamo Bay, in the military commission there, these security concerns would have been accounted for, and we wouldn't have had to disrupt Virginia to do that. It is not a problem we would confront in our military commission system.

In addition, in the civilian trial of 9/11 terrorist Zacarias Moussaoui, sensitive material was inadvertently leaked because our civilian court system, as wonderful as it is, is not set up as well to deal with cases involving sensitive information during a time of war.

Moussaoui also mocked 9/11 victims and used the civilian trial as a platform to spew terrorist propaganda.

All of these negative side effects of trying a terrorist in a civilian court would have been eliminated or significantly mitigated if he had been detained in military custody and tried before a military commission.

In the case of Omar Abdel Rahman, commonly known as the Blind Sheik, which has also been cited here today, the civilian trial provided intelligence to Osama bin Laden. So when I hear that case cited as a success, the first thing that comes to my mind is, if intelligence was provided to Osama bin Laden, how is that a success when our No. 1 focus should be on protecting the American people? And that has to be the distinction between trying enemy combatants in a time of war and the very important purpose of our civilian court system.

In the case of the Blind Sheik, according to Michael Mukasey, the former Attorney General, ''in the course of prosecuting Omar Abdel Rahman, the government was compelled—as it is in all cases that charge a coconspiracy charge—to turn over a list of unindicted coconspirators to the defendants. Within 10 days, a copy of that list of unindicted coconspirators reached bin Laden in Khartoum.''

The notion that a list—because you had to do it, according to our civilian court system where notice requirements are very important, where generally our court systems are open—would be provided to Osama bin Laden, in my view, is unacceptable, a risk we could have avoided if we treated the Blind Sheik as he should have been treated, which is as an enemy combatant and tried in a military commission.

Civilian trials of enemy combatants have provided a treasure trove of information to terrorists, and I think those risks have been very discounted by my esteemed colleagues who have come to the floor to oppose my amendment.

According to open source reporting, the cost of disclosing information unwisely became clear after the New York trials of bin Laden associates for the 1998 bombings of U.S. Embassies in Africa. Some of the evidence indicated that the National Security Agency, the U.S. foreign eavesdrop organization, had intercepted cell phone conversations. Shortly thereafter, bin Laden's organization stopped using cell phones to discuss sensitive operational details.

It is also important to note that the record of trying enemy combatants in civilian courts is not as good as it has been made out to be. Opponents of my amendment don't often speak about Ahmed Ghailani.

Ghailani is a Tanzanian who was charged with a total of 284 counts, including 200-plus counts of murder and 1 count of conspiracy in the 1998 bombings of the U.S. Embassies in Tanzania and Kenya. The bombings killed 224 people, including 12 Americans. He also spent time as Osama bin Laden's bodyguard.

He was tried in the U.S. District Court for the Southern District of New York. The Department of Justice directed the U.S. attorney not to seek the death penalty. At trial, the presiding justice excluded from evidence the testimony of a key witness—a Tanzanian, who may have issued statements implicating him in the bombings. And on November 17, 2010, a jury, after this evidence was excluded, found Ghailani only guilty of 1 count of a conspiracy and acquitted him of all 284 other charges, including the murder charges. He murdered 284 people—12 Americans—and he was acquitted of murder charges. I think that is a case that shows our civilian court system is not always the best way to deal with enemy combatants and is very contrary to what I have heard on the cases cited from my opponents of this amendment.

Proponents of civilian trial, such as Attorney General Holder, want to criminalize the war, but they fail to cite these cases where the civilian

court system leaked classified information to terrorists or, because of excluded evidence, where terrorists are not held fully accountable.

Military detention for enemy combatants has always been the rule, not the exception. Why are we treating this war any differently? Civilian courts rightly focus on prosecution, but in detaining enemy combatants when at war, they miss the most important goal we have to have; that is, gathering intelligence and protecting the American people against future attacks.

Civilian trials for enemy combatants incur tremendous costs and cause civic disruption. That is why the administration itself has reversed its position on trying Khalid Shaikh Mohammed in New York City. They wanted to try the mastermind behind 9/11 in the middle of New York City, but the American people were so outraged by trying someone who is the mastermind of 9/11 in the middle of New York City and the millions of dollars it would have cost to protect the citizens of New York from this horrible individual, giving him a forum in the middle of New York City.

Again, the costs associated with protecting the American people in these civilian trials alone is enough to treat them as they should be—in military commissions.

We risk compromising classified information, and we risk the eventual release of these combatants into American society.

For these reasons, consistent with a longstanding precedent, we should not be bringing enemy combatants to the United States for civilian trials. If the Obama administration is willing to kill enemy combatants without due process, and I applaud them for doing so, why is the administration so against placing these same enemy combatants in military custody and detaining them under the law of war, and when appropriate trying them in military commissions?

I think the answer is clear. Unfortunately, I am concerned that it is a political decision rather than putting intelligence gathering first in order to protect the American people and treat these enemy combatants as what they are—enemies of our country. I urge my colleagues to support my amendment. In my view, beyond the policy reasons for not trying enemy combatants in civilian courts, we should ask ourselves why should we bring foreign terrorists to the United States and give them the legal protections reserved for U.S. citizens and secured by those Americans who have fought and died for those rights? Why do these people deserve access to our American court system? They are our enemies. In the civilian court systems there are rights guaranteed, such as Miranda rights and speedy presentment, that should not be extended to enemy combatants. We need to prioritize protecting our country. I think the American people will agree with me when I say that no terrorist should ever hear the words ''you have the right to remain silent.''

I urge my colleagues to support my amendment No. 753.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 792, AS MODIFIED

Mr. COBURN. Mr. President, I ask the pending amendment be set aside and my previous pending amendment No. 792 be brought up.

I have a modification to that amendment that I sent to the desk. I thank the Senator from California for giving me this privilege.

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

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. The Secretary of Housing and Urban Development may not make a payment to any person or entity with respect to a property assisted or insured under a program of the Department of Housing and Urban Development that—

(a) on the date of enactment of this Act, is designated as ''troubled'' on the Online Property Integrated Information System for ''life threatening deficiencies'' or ''poor'' physical condition; and

(b) has been designated as ''troubled'' for ''life threatening conditions'' or ''poor'' physical condition on the Online Property Integrated Information System at least once during the 5-year period ending on the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 753

Mrs. FEINSTEIN. Mr. President, I rise as chairman of the Intelligence Committee to speak against amendment 753 to this appropriations bill. In sum, this amendment will require members of al-Qaida to be prosecuted only by military commissions. It will cripple executive authority and flexibility to go after terrorists. Of all things in this area where we should be agreed and the President should have maximum flexibility, it is with the disposition of people who commit acts of terror in this country. I feel very strongly about this.

The military commission system has been in effect since 2006. It has had six convictions. By comparison, terrorists have been tried by previous administrations, including the Bush administration, in article III courts, and more than 400 of them have been convicted and are serving time in Federal prisons.

One case may be brought up where somebody disagrees with a verdict. You can disagree with a Federal jury, but you cannot disagree with the record of conviction and the strong sentences imposed. I will go into this in a little more detail in a few minutes.

Just to say again, I have never seen a time when Congress has tried so much to constrain the power of the president and our professionals in law enforcement in their efforts to defeat terrorism.

As has been the policy of Republican and Democratic Presidents, the decision about how to prosecute a suspected terrorist should be based on the facts and the circumstances of each case and our national security interests, not politics.

Some of the most well-known terrorists of the past decade—''Shoe Bomber'' Richard Reid, ''Blind Sheik'' Omar Abdel Rahman and the ''20th Hijacker'' Zacarias Moussaoui—are serving life sentences after being tried in Article III criminal courts.

Prosecuting terrorists in military commissions makes sense in some cases, but requiring it for all AI-Qaeda terrorists in each and every case is not in the national security of the U.S.

In fact, that would severely limit our ability to handle some of the biggest threats.

To understand why this proposed amendment would be such bad policy, consider the two recent cases where al-Qaida tried to use operatives to attack our Homeland, but we captured and arrested the terrorists instead.

First, Najibullah Zazi, a legal permanent resident of the U.S., was arrested in September 2009 as part of an al-Qaida conspiracy to carry out suicide bombings on the New York City subway system.

Then on Christmas 2009, Umar Farouk Abdulmutallab attempted to detonate plastic explosives hidden in his underwear while on board Northwest Airlines Flight 253 before it landed in Detroit, Michigan. Al-Qaida in the Arabian Peninsula—AQAP—claimed responsibility for the attempted attack and said that Abdulmutallab had trained with and been tasked to carry out the plot for AQAP.

In both cases, the FBI arrested each Al Qaeda operative in the midst of the unfolding terrorist plot, and was able to obtain useful intelligence through interrogation.

Most recently the DEA and the FBI, through shared intelligence, were able to interrupt an Iranian plot to kill the Saudi Ambassador right here in Washington, DC. That man will be tried in Federal court. That man was successfully interrogated by the FBI. That man spilled his guts to the FBI, as they say in the vernacular.

Umar Farouk Abdulmutallab pleaded guilty last week to all counts of an eight-count criminal indictment charging him for his role in the attempted Christmas Day 2009 bombing of Northwest Airlines flight 253. He cooperated, provided intelligence, and will probably spend the rest of his life behind bars when he is sentenced in January.

By comparison, two of six of the individuals convicted in military commissions are already out of prison living freely in their home countries of Yemen and Australia. Consider all of the following relatively light sentences handed down by military commissions since 9/11:

Bin Laden's driver, Salim Hamdan—acquitted of conspiracy and only convicted of material support for terrorism—received a five-month sentence

and was sent back to his home in Yemen to serve the time before being released in January 2009.

Australian David Hicks—the first person convicted in a military commission when he entered into a plea agreement on material support for terrorism charges in March 2007—was given a 9-month sentence, which he mostly served back at home in Australia.

Omar Khadr pleaded guilty in a military commission in exchange for an 8-year sentence, but he will likely be transferred to a Canadian prison after 1 year.

Ibrahim Ahmed Mahmoud al-Qosi pleaded guilty to conspiracy and material support to terrorism in July 2010. In August 2010, a jury delivered a 14-year sentence, but the final sentence handed down in February 2011 was 2 years pursuant to his plea agreement.

Noor Uthman Muhammed pleaded guilty to conspiracy and material support to terrorism in February 2011. A jury delivered a 14-year sentence, but the final sentence will be less than 3 years pursuant to his plea agreement. These are military commission trials.

Ali Hamza al-Bahlul received a life sentence after he boycotted the entire military commission process and was convicted of soliciting murder and material support for terrorism without mounting a defense.

In the Zazi case, what the Senator from New Hampshire was suggesting would actually require the government to split up co-defendants even where they would otherwise be prosecuted as part of the same conspiracy.

For example, Zazi's alleged co-conspirators Zarein Ahmedzay and Adis Medunjanin would be prosecuted on terrorist charges in criminal court, but Zazi himself would have to be transferred to a military commission.

Splitting up co-conspirators into two different detention and prosecution systems might prevent prosecutors from achieving the guilty pleas and likely long prison sentences that will be secured in the Zazi conspiracy case. Prosecutors have already obtained convictions against six individuals, including Zazi and Ahmedzay, who face life in Federal prison without parole.

Importantly, we have heard from intelligence officials and others that a mandatory military commission policy will reduce our allies' willingness to extradite terror suspects to the United States for interrogation or prosecution, or even provide evidence about suspected terrorists if they will be shipped off to military commissions in all cases.

You might say why would our allies do that? I will tell you why: Because our allies—who know about the past five years and know about the opposition to military commissions in their countries—are very reluctant to give evidence to a judicial process that does not adhere to the rule of law as much as our tried and tested Federal court system does.

Take the 9/11 commission report, which recommends the following on page 380:

> [t]he United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists.

If Congress rejects the views of our allies and mandates military commission prosecutions for al-Qaida terrorists, it will also be a rejection of a recommendation from the 9/11 commission. Moreover, we will be undermining international law enforcement cooperation and dangerous terrorists could be set free as a result.

Every single suspected terrorist captured on American soil, before and after September 11, has been taken into custody by law enforcement—not the U.S. military. This should never change. If somebody commits an act on our soil, they should be prosecuted in an article III court. This doesn't mean that we are soft on terrorism in any way, but it does mean that terrorists should be brought to justice, forced to stand trial and given a very serious sentence.

As John Brennan, the Assistant to the President for Homeland Security and Counterterrorism, stated in a March speech:

> Terrorists arrested inside the United States will, as always, be processed exclusively through our criminal justice system. As they should be. The alternative would be inconsistent with our values and our adherence to the rule of law. Our military does not patrol our streets or enforce our law in this country. Nor should it.

I could not agree more.

In summary, amendment No. 753, authored by the Senator from New Hampshire, will severely and seriously undermine our ability to incapacitate dangerous individuals and protect the American people. I believe this is something we cannot afford and I hope this body will do everything it can to protect the executive branch's flexibility.

I ask unanimous consent to have printed in the RECORD a letter from the Department of Justice, dated March of 2010 which describes the more than 400 terrorist convictions in article III courts.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 26, 2010.

Hon. DIANNE FEINSTEIN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

Hon. CHRISTOPHER S. BOND,
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR CHAIRMAN FEINSTEIN AND VICE CHAIRMAN BOND: I am writing in response to requests by a number of Members of the Committee for information about statistics maintained by the Department of Justice relating to prosecution of terrorism and terrorism-related crimes, as well as the incarceration of terrorists by the Bureau of Prisons.

The Counterterrorism Section of the National Security Division (NSD) (and its predecessor section in the Criminal Division) has maintained a chart of international terrorism and terrorism-related prosecutions since September 11, 2001. A copy of that chart, which currently includes just over 400 defendants, and a brief introduction describing its contents, is enclosed with this letter. This chart was initially developed and has since been maintained and regularly updated on a rolling basis by career federal prosecutors. The bulk of the data included in the chart was generated, and relates to prosecutions that occurred, during the prior Administration. In fact, the data was cited publicly by the prior Administration on repeated occasions, including:

In a book entitled ''Preserving Life & Liberty: The Record of the U.S. Department of Justice 2001–2005,'' released in February 2005, the Department said, ''Altogether, the Department has brought charges against 375 individuals in terrorism-related investigations, and has convicted 195 to date.''

In its February 2008 budget request for Fiscal Year 2009, the Department of Justice said, ''Since 2001, the Department has increased its capacity to investigate terrorism and has identified, disrupted, and dismantled terrorist cells operating in the United States. These efforts have resulted in the securing of 319 convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations conducted primarily after September 11, 2001, and zero terrorist attacks on American soil by foreign nationals from 2003 through 2007.''

Please note that the chart includes only convictions from September 11, 2001 to March 18, 2010. It does not include defendants whose convictions remain under seal, nor does it include defendants who have been charged with a terrorism or terrorism-related offense but have not been convicted either at trial or by guilty plea. Finally, it does not include convictions related solely to domestic terrorism.

The NSD chart includes the defendant's name, district, charging date, charges brought, classification category, conviction date, and conviction charges, as well as the sentence and the date it was imposed, if the defendant has been sentenced. As the introduction to the NSD chart explains, the data includes convictions resulting from investigations of terrorist acts planned or committed outside the territorial jurisdiction of the United States over which Federal criminal jurisdiction exists and those within the United States involving international terrorists and terrorist groups. NSD further divides these cases into two categories. The first includes violations of federal statutes that are directly related to international terrorism and that are utilized regularly in international terrorism matters, such as terrorist acts abroad against U.S. nationals and providing material support to a foreign terrorist organization. There have been more than 150 defendants classified in this category since September 11, 2001. The second category includes a variety of other statutes (like fraud, firearms offenses, false statements, or obstruction of justice) where the investigation involved an identified link to international terrorism. There have been more than 240 individuals charged in such cases since September 11, 2001. Examples of the international terrorism nexus identified in some of these cases have also been provided for your review.

Prosecuting terror-related targets using these latter offenses is often an effective method—and sometimes the only available method—of deterring and disrupting potential terrorist planning and support activities. Indeed, one of the great strengths of the criminal justice system is the broad range of offenses that are available to arrest and convict individuals believed to be linked to terrorism, even if a terrorism offense cannot be established. Of course, an aggressive and

wide-ranging terrorism investigation will net individuals with varying degrees of culpability and involvement in terrorist activity, as the NSD chart reflects. Arresting and convicting both major and minor operatives, supporters, and facilitators can have crippling effects on terrorists' ability to carry out their plans.

You will also note that the sentences obtained in these cases range from a few months to life. Life sentences have been imposed by our courts in 12 international terrorism or terrorism-related cases since 9/11, and sentences of more than 10 years have been imposed in an additional 59 cases, including 25 cases in which the sentence exceeded 20 years. We believe the long sentences often imposed by our courts in these cases reflect the gravity of the threat posed by these individuals to our nation. However, it is important to note that while a long sentence is an important measure of success in a terrorism-related prosecution, it is not the only measure. Convicting an individual of an available offense and incarcerating him even for a relatively short period of time may be an effective way to disrupt ongoing terrorist activity, deter future activity, collect important intelligence, secure valuable cooperation, or facilitate rapid deportation of an individual.

This vital work continues. In the past year, thanks to the hard work of dedicated career professionals—FBI agents, other federal and state law enforcement officials, and career federal prosecutors—we have been able to disrupt terrorist plots, convict and imprison terrorists and their supporters, and collect intelligence we need to protect the country. We detected and disrupted a plot to attack the subway system in Manhattan with explosive bombs that could have killed many Americans. We conducted successful undercover operations to arrest individuals who separately attempted to blow up buildings in Dallas, Texas, and Springfield, Illinois. And we arrested individuals in Chicago who assisted in the deadly November 2008 terror attacks in Mumbai and were plotting other attacks.

Finally, the Bureau of Prisons (BOP) maintains a separate chart that identifies inmates in BOP custody who have a history of or nexus to international or domestic terrorism. There are currently more than 300 individuals on this chart, which is used to identify those inmates who may warrant increased supervision and monitoring of their communications, among other things. BOP's designation of these inmates may be based upon information from a variety of sources, including sensitive law enforcement or intelligence information that is not publicly available, regarding the inmate's past behavior and associations. BOP does not publicly disclose which inmates have been designated in this fashion. The disclosure of this information could interfere with BOP's monitoring and law enforcement investigative efforts. Moreover, disclosure of the identities of these inmates could pose risks to the security of the inmates and prison staff.

Should you or your staff wish to review the BOP chart, BOP is prepared to provide the Committee with access to the chart under conditions designed to protect security and operational equities.

Sincerely,

RONALD WEICH,
Assistant Attorney General.

Enclosure.

INTRODUCTION TO NATIONAL SECURITY DIVISION STATISTICS ON UNSEALED INTERNATIONAL TERRORISM AND TERRORISM-RELATED CONVICTIONS

The National Security Division's International Terrorism and Terrorism-Related Statistics Chart tracks convictions resulting from international terrorism investigations conducted since September 11, 2001, including investigations of terrorist acts planned or committed outside the territorial jurisdiction of the United States over which Federal criminal jurisdiction exists and those within the United States involving international terrorists and terrorist groups. Convictions listed on the chart involve the use of a variety of Federal criminal statutes available to prevent, disrupt, and punish international terrorism and related criminal activity. The convictions are the product of the Department's aggressive, consistent, and coordinated national enforcement effort with respect to international terrorism that was undertaken after the September 11, 2001 terrorist attacks.

Criminal cases arising from international terrorism investigations are divided into two categories, according to the requisite level of coordination and monitoring required by the Counterterrorism Section of the National Security Division (or its predecessor section in the Criminal Division). This coordination and monitoring exists in response to the expanded Federal criminal jurisdiction over and importance of international terrorism matters and the need to ensure coherent, consistent, and effective Federal prosecutions related to such matters. Typically, multiple defendants in a case are classified in the same category.

Category I cases involve violations of federal statutes that are directly related to international terrorism and that are utilized regularly in international terrorism matters. These statutes prohibit, for example, terrorist acts abroad against United States nationals, the use of weapons of mass destruction, conspiracy to murder persons overseas, providing material support to terrorists or foreign terrorist organizations, receiving military style training from foreign terrorist organizations, and bombings of public places or government facilities. A complete list of Category I offenses is found in Appendix A.

Category II cases include defendants charged with violating a variety of other statutes where the investigation involved an identified link to international terrorism. These Category II cases include offenses such as those involving fraud, immigration, firearms, drugs, false statements, perjury, and obstruction of justice, as well as general conspiracy charges under 18 U.S.C. §371. Prosecuting terror-related targets using Category II offenses and others is often an effective method—and sometimes the only available method—of deterring and disrupting potential terrorist planning and support activities. This approach underscores the wide variety of tools available in the U.S. criminal justice system for disrupting terror activity. Examples of Category II offenses are listed in Appendix B, and examples of Category II cases are described in Appendix C to illustrate the kinds of connections to international terrorism that are not apparent from the nature of the offenses of conviction themselves.

The chart includes the defendant's name, district, charging date, charges brought, classification category, conviction date and conviction charges. If a convicted defendant has been sentenced, the relevant date and sentence imposed is included. The chart is constantly being updated with new convictions, but currently includes only unsealed convictions from September 11, 2001 to March 18, 2010. The chart does not include defendants whose convictions remain under seal, nor does it include defendants who have been charged with a terrorism or terrorism-related offense but have not been convicted either at trial or by guilty plea. This chart does not include convictions related solely to domestic terrorism. Note that the chart maintained by the National Security Division is distinct from statistics maintained by the Bureau of Prisons to track inmates with terrorist connections. The chart lists more than 150 defendants classified in Category I and more than 240 defendants classified in Category II.

The chart is organized by conviction date, with the most recent convictions first. The earliest defendants included on the chart were identified and detained in the course of the nationwide investigation conducted after September 11, 2001, and were subsequently charged with a criminal offense. Since then, additional defendants have been added who, at the time of charging, appeared to have a connection to international terrorism, even if they were not charged with a terrorism offense. The decision to add defendants to the chart is made on a case-by-case basis by career prosecutors in the National Security Division's Counterterrorism Section, whose primary responsibility is investigating and prosecuting international and domestic terrorism cases to prevent and disrupt acts of terrorism anywhere in the world that impact on significant United States interests and persons.

APPENDIX A

Category I Offenses

Aircraft Sabotage (18 U.S.C. §32)
Animal Enterprise Terrorism (18 U.S.C. §43)
Crimes Against Internationally Protected Persons (18 U.S.C. §§112, 878, 1116, 1201(a)(4))
Use of Biological, Nuclear, Chemical or Other Weapons of Mass Destruction (18 U.S.C. §§175, 175b, 229, 831, 2332a)
Production, Transfer, or Possession of Variola Virus (Smallpox) (18 U.S.C. §175c)
Participation in Nuclear and WMD Threats to the United States (18 U.S.C. §832)
Conspiracy Within the United States to Murder, Kidnap, or Maim Persons or to Damage Certain Property Overseas (18 U.S.C. §956)
Hostage Taking (18 U.S.C. §1203)
Terrorist Attacks Against Mass Transportation Systems (18 U.S.C. §1993)
Terrorist Acts Abroad Against United States Nationals (18 U.S.C. §2332)
Terrorism Transcending National Boundaries (18 U.S.C. §2332b)
Bombings of places of public use, Government facilities, public transportation systems and infrastructure facilities (18 U.S.C. §2332f)
Missile Systems designed to Destroy Aircraft (18 U.S.C. §2332g)
Production, Transfer, or Possession of Radiological Dispersal Devices (18 U.S.C. §2332h)
Harboring Terrorists (18 U.S.C. §2339)
Providing Material Support to Terrorists (18 U.S.C. §2339A)
Providing Material Support to Designated Terrorist Organizations (18 U.S.C. §2339B)
Prohibition Against Financing of Terrorism (18 U.S.C. §2339C)
Receiving Military-Type Training from an FTO (18 U.S.C. §2339D)
Narco-Terrorism (21 U.S.C. §1010A)
Sabotage of Nuclear Facilities or Fuel (42 U.S.C. §2284)
Aircraft Piracy (49 U.S.C. §46502)
Violations of IEEPA (50 U.S.C. §1705(b)) involving E.O. 12947 (Terrorists Who Threaten to Disrupt the Middle East Peace Process); E.O. 13224 (Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism or Global Terrorism List); and E.O. 13129 (Blocking Property and Prohibiting Transactions With the Taliban)

APPENDIX B

Examples of Category II Offenses

Crimes Committed Within the Special Maritime and Territorial Jurisdiction of the United States (18 U.S.C. §§7, 113, 114, 115, 1111, 1112, 1201, 2111)
Violence at International Airports (18 U.S.C. §37)
Arsons and Bombings (18 U.S.C. §§842(m), 842(n), 844(f), 844(I))
Killings in the Course of Attack on a Federal Facility (18 U.S.C. §930(c))
False Statements (18 U.S.C. §1001)
Protection of Computers (18 U.S.C. §1030)
False Information and Hoaxes (18 U.S.C. §1038)
Genocide (18 U.S.C. §1091)
Destruction of Communication Lines (18 U.S.C. §1362)
Sea Piracy (18 U.S.C. §1651)
Unlicensed Money Remitter Charges (18 U.S.C. §1960)
Wrecking Trains (18 U.S.C. §1992)
Destruction of National Defense Materials, Premises, or Utilities (18 U.S.C. §2155)
Violence against Maritime Navigation and Maritime Fixed Platforms (18 U.S.C. §§2280, 2281)
Torture (18 U.S.C. §2340A)
War Crimes (18 U.S.C. §2441)
International Traffic in Arms Regulations (22 U.S.C. §2778, and the rules and regulations promulgated thereunder, 22 C.F.R. §121–130)
Crimes in the Special Aircraft Jurisdiction other than Aircraft Piracy (49 U.S.C. §§46503–46507)
Destruction of Interstate Gas or Hazardous Liquid Pipeline Facilities (49 U.S.C. §60123(b))

APPENDIX C

Examples of Category II Terrorism-Related Convictions

Fort Dix Plot (conspiracy to murder members of the U.S. military). In 2008, following a jury trial in the United States District Court for the District of New Jersey, Ibrahim Shnewer, Dritan Duka, Shain Duka, Eljvir Duka and Serdar Tatar were convicted of violating 18 U.S.C. §1117, in connection with a plot to kill members of the U.S. military in an armed attack on the military base at Fort Dix, New Jersey. The defendants were also convicted of various weapons charges. The government's evidence revealed that one member of the group conducted surveillance at Fort Dix and Fort Monmouth in New Jersey, Dover Air Force Base in Delaware, and the U.S. Coast Guard in Philadelphia. The group obtained a detailed map of Fort Dix, where they hoped to use assault rifles to kill as many soldiers as possible. During the trial, the jury viewed secretly recorded videotapes of the defendants performing small-arms training at a shooting range in the Poconos Mountains in Pennsylvania and of the defendants watching training videos that included depictions of American soldiers being killed and of known Islamic radicals urging jihad against the United States.

Fawaz Damrah (citizenship fraud). In 2004, following a jury trial in the United States District Court for the Northern District of Ohio, Fawaz Damrah was convicted of violating 18 U.S.C. §1425 for concealing material facts in his citizenship application. The government's evidence showed that in his citizenship application, Damrah concealed from the U.S. government his membership in or affiliation with the Palestinian Islamic Jihad (PIJ), a.k.a. the Islamic Jihad Movement in Palestine; the Afghan Refugees Services, Inc., a.k.a. Al-Kifah Refugee Center; and the Islamic Committee for Palestine. Damrah further concealed the fact that he had, prior to his application for U.S. citizenship, ''incited, assisted, or otherwise participated in the persecution'' of Jews and others by advocating violent terrorist attacks against Jews and others. During the trial, the government's evidence included footage of a 1991 speech in which Damrah called Jews ''the sons of monkeys and pigs,'' and a 1989 speech in which he declared that ''terrorism and terrorism alone is the path to liberation.''

Soliman Biheiri (false statements and passport fraud). In 2003 and 2004, following two jury trials in the United States District Court for the Eastern District of Virginia, Soliman Biheiri was convicted of violating 18 U.S.C. §§1425 and 1546 for fraudulently procuring a passport, as well as 18 U.S.C. §§1001 and 1015 for making false statements to federal agents. Biheiri was the president of BMI, Inc., a New Jersey-based investment firm. The government's evidence showed that Biheiri had deliberately deceived federal agents during a June 2003 interview in which he denied having business or personal ties to Mousa Abu Marzook, a Specially Designated Global Terrorist and a leader of Hamas. In fact, the government's evidence showed that Biheiri had managed funds for Marzook both before and after Marzook was designated as a terrorist by the U.S. government in 1995. Specifically, the government presented files seized from Biheiri's computer showing that Marzook had invested $1 million in U.S. business ventures managed by Biheiri and his investment firm.

Mohammad Salman Farooq Qureshi (false statements). In 2005, following the entry of a guilty plea in the United States District Court for the Western District of Louisiana, Qureshi was convicted of violating 18 U.S.C. §1001 for making false statements to the FBI regarding the nature and extent of his involvement with al-Qaeda member Wadih El Hage, and the non-governmental organization Help Africa People. Qureshi was interviewed by the FBI in 1997, 1998, 2000, and 2004 in relation to terrorism crimes and during those interviews lied about his knowledge of El Hage, Help Africa People, and other al Qaeda members. The proffer filed in support of the plea agreement established Qureshi's connections to and contacts with El Hage, his contact with a subject under investigation in Oregon, and his activities and financial support of Help Africa People, a non-governmental organization believed to have been used by El Hage and others to provide cover identities and funds in connection with the 1998 attacks on the United States Embassies in Kenya and Tanzania. By Qureshi's admissions, at least $30,000 in Qureshi's funds were given to El Hage in Nairobi, Kenya. El Hage is serving a life sentence for his role in the East Africa Embassy bombings.

Sabri Benkahla (perjury, obstruction, false statements). In 2007, following a jury trial in the United States District Court for the Eastern District of Virginia, Sabri Benkahla was convicted on two counts of violating 18 U.S.C. §1623, for perjury, one count of violating 18 U.S.C. §1503 for obstructing justice, and one count of violating 18 U.S.C. §1001 for making false statements to the FBI. These false statements included denial of his involvement with an overseas jihad training camp in 1999, as well as his asserted lack of knowledge about individuals with whom he was in contact. The government's evidence revealed that the grand jury and FBI in 2004 sought to question Benkahla about his contacts with Ibrahim Buisir of Ireland, and Manaf Kasmuri of Malaysia, both of whom are Specially Designated Global Terrorists, as well as those with Ahmed Abu Ali, his friend and fellow student at the University of Medina, until both were arrested by Saudi authorities in June 2003. Further, the government's evidence revealed that the grand jury and FBI sought to question Benkahla about his contacts with an individual suspected of being Malik al-Tunisi, a facilitator for the al-Zarqawi terrorist network in Iraq.

Akram Musa Abdallah (false statements). In 2009, following the entry of a guilty plea in the United States District Court for the District of Arizona, Akram Musa Abdallah was convicted of violating 18 U.S.C. §1001 for making false statements to the FBI. In January 2007, Abdallah knowingly made a false material statement to special agents of the FBI during an interview in connection with the federal investigation and prosecution of the Holy Land Foundation for Relief & Development (HLF) and its officers. At the time of the interviews, Abdallah knew the HLF was a Specially Designated Global Terrorist organization. Abdallah also knew that when he was interviewed, the HLF and its officers were pending trial in the United States District Court for the Northern District of Texas, for crimes including providing material support to a foreign terrorist organization. During the interviews, Abdallah told FBI agents he was not involved in fundraising activities for the HLF, when, in fact, between approximately 1994 and 1997, Abdallah was involved in numerous fundraising activities, including collecting donations, organizing, facilitating and coordinating fund raising events on behalf of the HLF in the Phoenix metropolitan area. In July 2004, the HLF and seven of its principals were indicted on a variety of charges stemming from its financial support of Hamas, and in November 2008, after a two-month trial, those defendants were convicted on all charges.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 769

Mr. ROBERTS. Mr. President, I rise to raise significant concerns with the pending modified amendment offered by my good friend and colleague, Senator DAVID VITTER. His amendment allows for the importation of prescription drugs from Canada. I am going to reiterate some of the same concerns that are voiced every time we discuss drug importation.

Let me also say that I think we all want more inexpensive drugs for our constituents. We all want broader access to drugs and therapies. That is a given. I know that is precisely the intent of my colleague. However, we want to ensure our constituents are safe when they are taking these drugs no matter what the expense—not only that, but Americans expect to be kept safe.

I must raise concerns that nothing in the Vitter amendment ensures the safety of drugs that would be imported from Canada. That is the lone country that is involved in regard to his pending amendment. Some say only the FDA-approved drugs would be imported and only safe drugs will be imported. But the reality is that the last four Secretaries of Health and Human Services—from Shalala, to Thompson, to Leavitt, and now Sebelius—have been unable to guarantee that these imported drugs are safe, not from Canada and not from any other country.

While my friend from Louisiana claims he has narrowed the scope of his

amendment, the modified Vitter amendment remains so broad in scope that it could potentially tie the hands of the FDA in limiting counterfeit drugs reaching the United States, which is something we desperately do not want. The FDA has found on several occasions that drugs promoted and sold as Canadian actually come from many other countries with very little oversight on safety and efficacy.

Finally, a New York Times investigation found that counterfeit drugs were sold through Canadian Internet pharmacies. It is easy to conclude that because these drugs were sourced from many other countries, it would be impossible to guarantee their safety.

The bottom line is the FDA cannot—not a little, not a lot; absolutely cannot—ensure that any drug coming from outside the United States is safe or effective. Until we can ensure that the drugs our constituents are taking are effective and, most importantly, safe, I must oppose the Vitter amendment today or whenever it is brought up and would encourage my colleagues to join me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENTS NOS. 814 AND 815

Ms. MIKULSKI. Mr. President, this is a very interesting bill on the floor. It is really three bills. It is the Agriculture appropriations, Commerce-Justice-Science, and the Transportation-Housing bill.

Our colleague, Senator HERB KOHL of Wisconsin, spent a good part of yesterday managing the bill. He chairs the agriculture subcommittee. I am doing it today. Senator KOHL is tied up on other matters.

He is adamant in his opposition to the Moran amendment providing $8 million for the Watershed Rehabilitation Program. While he is not opposed to the Watershed Rehabilitation Program, he wanted to make it clear that we had to make very difficult decisions. He does not support Senator MORAN's amendment as it would offset funding in the departmental administration providing numerous essential services to USDA. These cuts would force USDA to impose a reduction in force and would have a detrimental effect on the Department and its operation.

USDA has initiated buyouts to several thousand employees across many agricultural agencies. The level for the Department administration is over $13 million and $7 million below the request. Secretary Vilsack has reached out to the agricultural subcommittee and has concerns with overall staff reductions at the Department. Senator KOHL echoes Secretary Vilsack's concern.

Senator KOHL opposes this amendment, and on his behalf, I urge other Senators to oppose it as well.

He also opposed the Crapo amendment because, in a nutshell, says that dictating that funds cannot be used unless the rulemaking agenda and implementation schedule meet with congressional approval or constraining the regulatory process of defining terms just goes too far and is a veiled attempt to roll back critical Dodd-Frank reforms, particularly in the derivative area.

Again, on behalf of Senator KOHL, he urges all Senators to reject Crapo amendment No. 814.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 791

Ms. STABENOW. Mr. President, I rise to speak in opposition to the Coburn amendment No. 791, and I am pleased to be joined on the floor by my good friend and colleague and ranking member, Senator ROBERTS.

Let me start by saying that in the context of addressing a very large deficit we know needs to be addressed and in the context of the work being done by colleagues in what has been called the supercommittee, I am very proud of the fact that Senator ROBERTS and I and our colleagues, the chair and ranking member of the House Agriculture Committee, have come together and worked very hard, for different regions of the country, on different issues that we bring to the table. We have agreed on an overall reduction number that we have recommended as agriculture's portion of the deficit reduction.

We have already done deficit reduction, I have to say. We have already seen cuts in crop insurance, we have already seen cuts in the current year's budget that were substantial. But we know we need to do our part, and we are doing that. We are recommending $23 billion in deficit reduction.

Part of that, though, the critical part of that is we have asked the committee to allow us, as the leadership in the House and Senate, to propose the policy that goes with the cuts. We are working with all of those who are affected, from production agriculture, to conservation groups, the nutrition community, rural development, everyone who is involved and impacted by the 16 million jobs in agriculture. There are 16 million jobs. That is one out of four jobs in Michigan. This is incredibly important to our economy.

We are taking very seriously the need for us to come together and create changes, reforms in agricultural policy that streamline the system and the bureaucracy, do a better job with dollars, accountability, and reform what we are doing as it relates to the agricultural payment structure. It is in the context of that that I rise to oppose Senator COBURN's amendment. I appreciate his well-intended amendment, but I would say two things.

First of all, I understand he is proposing caps of $1 million on direct payments. We are in the process of changing that and recommending positive reforms in that whole system.

So we would ask that the Senate, our colleagues, to support us and the recommendations that we have been asked to put together by November 1, which is extremely fast-tracked, but we are working diligently, and our staffs are working diligently. There is not a lot of sleep right now so we can get this all done and put forward this new policy. So it is the wrong time and place to be suggesting this change, first of all, on an appropriations bill and, secondly in the context of this bipartisan, bicameral, good-faith effort to put forward changes in our system, which we are committed to doing, which will, frankly, usurp what this amendment is really all about.

Let me also say that it is important to talk about the fact that we have made changes in the last two farm bills. In 2002, there was a cap put on payments of $2.5 million, and we then lowered that in the 2008 farm bill to $500,000 for nonfarm income and $750,000 for farm income. We made a number of changes and a number of reforms in the last farm bill that moved us in the right direction, listening to the criticisms and concerns of the public and of colleagues. I think there were some very important steps that were made and positive changes in the last farm bill.

Understanding the world we are in now and the dynamics around deficit reduction and the economy and all of the other issues we are involved in, we are taking another major step, and I think it is a step being done in a way that says to colleagues and says to the public that we can work together. These are challenging policies, economic issues.

We have come together and worked very hard on a bipartisan basis with the House and the Senate, and I think this speaks well to the fact that if we sit down together and listen to each other and are willing to compromise, we can come together on something that is good for the country. We are in the process of doing that right now. I would ask our colleagues to allow us and support us in that effort.

We have put forward a proposal for $23 billion in deficit reduction, which is, frankly, more than would be required under sequestration for agriculture. We have gone above and beyond what the Bowles-Simpson proposal said. We know agriculture will want to do its part. We are asking colleagues to allow us to put together that policy to get there.

We will address the concerns that have been raised. We hear you. We understand. We will be proposing substantial changes that will, in fact, both create new tools for agriculture for our farmers and our ranchers but also address concerns that have been raised. I

ask my colleagues, rather than supporting this amendment, to support what is a good-faith effort that is going on right now in the House and Senate Agriculture Committees and allow us the time in the next week to put together the proposals to be able to make a change.

With that, I yield to my friend—and I do mean my friend—we have become good friends as well as colleagues on the Agriculture Committee. I have to say I loved being in Kansas and having the opportunity to be with Senator ROBERTS and experience the high esteem with which he is held there. At the same time, I saw tremendous devastation as a result of what has happened with the droughts. I understand that when there is bad weather, when there are bad conditions, we need to have support for American agriculture. Food security, national security depends on it. I certainly saw in Kansas what happens when the weather is bad and it has reinforced for me—as well as what happened in Michigan—certainly the importance of having a strong set of tools to manage risk and a safety net that is there when farmers need it.

I yield to my friend, the distinguished ranking member.

Mr. ROBERTS. Mr. President, I thank very much the distinguished chairwoman for yielding. We are talking about amendment No. 791, the pending amendment offered by my friend and colleague from Oklahoma, Senator COBURN.

I must oppose the Coburn amendment which will severely diminish the farm safety net for America's farmers and ranchers. I know that is not the intent of his amendment as he sees it but, unfortunately, that would be the practical effect, as the chairwoman has indicated.

The setting of adjusted gross income caps or what we call AGI caps is a policy issue that should be handled by the authorizing committee, not during the appropriations process. More specifically, this issue is a farm bill issue, if you will, and it is currently being considered in the context of the Joint Debt Committee process—the supercommittee. The chairwoman has described in detail our efforts, both the House principals and the chairwoman and myself, in submitting to the Joint Debt Committee our suggestions on how we can meet our deficit reduction responsibilities.

As people consider this amendment, I think it is important to remember that the 2008 farm bill, as the chairwoman has indicated, included the most comprehensive and far-reaching reform to farm program eligibility requirements in 20 years. That included reform to the AGI caps to which the Coburn amendment refers.

It is also important for my colleagues to understand that the adjusted gross income for a farmer is not pure profit. Personal expenses and the servicing of debt must still be covered. Given the capital-intensive nature of farming and the cost of inputs such as land and machinery, servicing debt alone can cost hundreds of thousands of dollars.

Supporters of these limits also tend to talk about how few farmers would be impacted by these caps. However, the advocates also only tend to look at those farmers who file Schedule F tax forms. This rather simplistic approach fails to reflect the fact that most operations that could be directly impacted by the AGI caps that they are recommending do not file Schedule F tax returns because of how they have chosen to organize their farming operation. Therefore, most advocates of these caps seriously underestimate the number of producers and the share of acres or production that would be left without a safety net.

To make matters worse, because this limit would be implemented using the appropriations legislation instead of authorizing legislation, it would not repeal the already existing AGI limits of $750,000 per on-farm income and $500,000 for off-farm income. In other words, this amendment would simply add another layer—another cap—another layer of bureaucracy to the already existing structure, further complicating USDA's work on this issue at a time when resources are extremely limited and when we are going to be in the process of writing a new farm bill, not to mention meeting our deficit obligations to the supercommittee.

Therefore, I encourage my colleagues to oppose the Coburn amendment and allow the agriculture committees the opportunity to address this issue in the appropriate venue.

I yield the floor.

Careful observation by this Member would indicate that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 741 WITHDRAWN

Mr. BLUNT. Mr. President, I ask unanimous consent to withdraw McCain amendment No. 741.

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

AMENDMENTS NOS. 763 AND 764 EN BLOC

Mr. BLUNT. Mr. President, on behalf of Senator DEMINT, I ask unanimous consent to set aside the pending amendment and offer amendments Nos. 763 and 764 en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BLUNT], for Mr. DEMINT, offers amendments numbered 763 and 764, en bloc.

The amendments are as follows:

AMENDMENT NO. 763

(Purpose: To prohibit the use of funds to implement regulations regarding the removal of essential-use designation for epinephrine used in oral pressurized metered-dose inhalers)

At the appropriate place, insert the following:

SEC. ____. None of the funds made available by this Act may be used to implement the final rule entitled ''Use of Ozone-Depleting Substances; Removal of Essential-Use Designation (Epinephrine)'' (73 Fed. Reg. 69532 (November 19, 2008)).

AMENDMENT NO. 764

(Purpose: To eliminate a certain increase in funding)

At the appropriate place, insert the following:

SEC. 7____. Section 101(a)(2) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 120; 124 Stat. 2394; 124 Stat. 3265) is amended by striking ''after October 31, 2013'' and inserting ''on the date of enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012''.

Mr. BLUNT. With that, it appears that there is not a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 753

Mr. LEAHY. Mr. President, I wish to speak to amendment No. 753 to H.R. 2112 by the distinguished Senator from New Hampshire, Senator AYOTTE. This amendment would tie the hands of our national security and law enforcement officers in their efforts to secure our national security.

I am surprised that this amendment is being offered at this time. Just a week ago, we learned of the foiled assassination attempt in the United States of the Saudi Ambassador to the United States. This case involved the Department of Justice, the FBI, and the DEA in a coordinated effort to prevent an act of terrorism on U.S. soil. I commend the agencies involved in the investigation. I was also pleased to see that, in this instance, members of Congress did not re-engage in armchair quarterbacking over whether the suspect should be transferred to military custody or sent to Guantanamo.

Nearly two years ago, when a terrorist attempted to blow up an airplane on Christmas Day, some politicians used the occasion to criticize the Attorney General after the suspect was arrested. They made all kinds of claims about the risks of trying him in a Federal court, none of which came true. In fact, after obtaining useful intelligence from the suspect, that case proceeded without incident in Federal court where, last Wednesday, the defendant pleaded guilty. He now faces a potential life sentence. That successful prosecution adds to the more than 440 terrorism-related convictions since September 11, 2001.

Over the last two and one half years, the President and his national security team have done a tremendous job protecting America and taking the fight to our enemies. Earlier this year, the President ordered a successful strike against Osama bin Laden and has stayed focused on destroying al Qaeda from his first days in office. Last month, the administration was also able to locate Anwar al Awlaki, a terrorist operative in Yemen who was recruiting Americans to attack within the United States. During the past two and one half years, the President and his national security team have developed a counterterrorism framework that has protected the American people while taking on al Qaeda and its affiliates. As the President's assistant for Homeland Security and Counterterrorism John Brennan noted last month: ''[T]he results . . . under this approach are undeniable.'' Al Qaeda has been ''severely crippled'' and the death of Osama bin Laden was a ''strategic milestone'' in that effort.

We must remain vigilant, but no one can deny the progress that has been made. As Mr. Brennan emphasized, the approach is ''a practical, flexible, result-driven approach to counter terrorism that is consistent with our laws, and in line with the very values upon which this nation was founded.'' He noted: ''Where terrorists offer injustice, disorder, and destruction, the United States and its allies stand for freedom, fairness, equality, and hope.''

The Judiciary Committee has held several hearings on the issue of how to best handle terrorism suspects. Experts and judges from across the political spectrum have agreed that our courts and our criminal justice system can play a role in this challenge, and indeed has been effectively involved many times already.

As a former prosecutor, I have absolute faith in the abilities of our Federal courts, prosecutors, and law enforcement to bring terrorists to justice. The Executive Branch must have all options available in handling terrorism cases, including the ability to prosecute terrorists in Federal criminal courts.

I find it deeply troubling that the Senate would prohibit the administration from trying terrorists in our Federal courts. While there may be a place for military commissions in our overall approach to dealing with terrorism suspects, they remain mostly an unproven tool. The federal courts have dramatically more experience with handling these types of cases and have a proven track record of success.

There have been only six convictions in military commissions since September 11. Of the six convictions, five resulted from plea bargains. On average, the sentences given to those six defendants convicted in military commissions have been far shorter than the sentences handed down in Federal criminal courts. There have been more than 443 terrorism-related convictions in Federal courts since September 11, 2001, including at least 78 convictions during the Obama administration.

This amendment would deprive Federal law enforcement of a critical tool in bringing terrorists to justice. It usurps the Attorney General's constitutional responsibilities.

This body does not hold the responsibility of prosecuting any one. We are not the ones who go to court. We are not the ones who bring cases before a jury. The executive branch should make those choices, and it has done a very good job in winning convictions.

It would not be responsible for us to try to second-guess the system and tell a prosecutor what they should do in future cases. We would never do this to a State prosecutor. Why would we do this to our Federal prosecutors who are so well equipped to handle these cases?

We have spent over 200 years developing our criminal justice system, and we have spent over 200 years developing our courts and our Federal prosecution processes. No one should try to pass an amendment that will overturn that. This is not the path forward. I urge all Senators to oppose this amendment.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 836 TO AMENDMENT NO. 738

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment and call up my amendment No. 836.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. SANDERS, Mr. MENENDEZ, and Mrs. GILLIBRAND, proposes an amendment numbered 836 to amendment No. 738.

The amendment is as follows:

(Purpose: To provide adequate funding for Economic Development Administration disaster relief grants pursuant to the agreement on disaster relief funding included in the Budget Control Act of 2011)

On page 88, between lines 8 and 9, insert the following:

For an additional amount for ''Economic Development Assistance Programs'' for expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas that received a major disaster designation in 2011 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), $365,000,000, to remain available until expended: Provided, That such amount is designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended.

Mr. LAUTENBERG. Mr. President, this amendment would increase funding for disaster relief grants at the Economic Development Administration.

We all know that this has been a record year for natural disasters. Our country has already experienced a record 10 natural disasters that cost more than $1 billion each time. Hurricane Irene alone caused more than $7 billion in damages on the East Coast. In my home State of New Jersey, 11 people lost their lives as a result of the hurricane.

While President Obama came to my hometown of Paterson, NJ, to see the damage firsthand, I must point out that we are still, almost across the country, in the wake of huge storms that demand attention and will require substantial funding.

In my hometown of Paterson, NJ, we witnessed unforgettable images. The streets and sidewalks were covered in mud. In some homes, the second floor was also covered with mud.

But New Jersey is not alone. As I said, there have been extremely severe storms across the country, and flooding and tornadoes have devastated the Midwest and the South. As a result, FEMA has declared Federal disasters in all but two States this year. In the wake of these disasters, we have seen the American people pulling together, neighbor helping neighbor to put their lives back together; furniture out on the lawn; memorabilia that was so water soaked that it is valueless in terms of recalling memories.

It is painful to witness. When you see families standing together holding hands, wondering what is going to happen to them, we look to our country and they say help us recover from this disaster. Perhaps we will never quite get over it, but we can use the help desperately.

The Federal Government has to do its part, and I am pleased the Commerce, Justice, and Science bill we are considering includes emergency funding for disaster relief grants at the Economic Development Administration. I thank Senator MIKULSKI for her good work as chairman on this bill, but the needs all across the country are overwhelming and more disaster assistance is needed.

This amendment increases the funding for EDA disaster relief grants by $365 million to a total of $500 million of availability. I point out that many of these disasters themselves have $1 billion worth of damage. My amendment is cosponsored by Senator SANDERS, MENENDEZ, GILLIBRAND, BLUMENTHAL, and LEAHY, and I thank them for their support. Any area that received a Federal disaster declaration this year would be eligible to compete for this disaster relief, including areas in 48 States so far this year. I want to be clear. Natural disasters devastate local economies, causing damages that can linger for years. FEMA reimburses local governments' homeowners for repairs in the immediate aftermath of a storm, but EDA grants are needed to

help communities get back on track for recovery and economic revitalization in the wake of a major disaster. Communities use these disaster relief funds to repair damaged public infrastructure, such as sewer and drinking water systems, and States use the EDA grants to create and coordinate efficient disaster response and recovery plans.

Additionally, local governments and nonprofits can lend EDA disaster relief funds to businesses to help our private sector to rebuild and to grow. Congress has recognized the value of this program in the past. During the past 5 years, we have provided more than $550 million in EDA emergency disaster relief funds. This includes $500 million in emergency supplemental funding for EDA in 2008 to respond to the hurricanes that devastated the South and the heavy rains that caused massive flooding throughout the Midwest.

When these areas were in need, Congress came together and extended a helping hand. Unfortunately, we have to do so again now. The funding in my amendment complies with the disaster relief provisions included in the Budget Control Act and is not offset with cuts from other programs in the bill. When disaster strikes, victims don't want us to reach for the budget ax, they want us to help them rebuild and recover.

We all recognize our country faces serious fiscal challenges, but we cannot put a price on human lives. Nothing is more important than protecting our communities, our families, and our economy. Hurricane Irene and many other natural disasters hit our country this year, causing widespread damage that is going to require a massive rebuilding effort. The American people are looking to us, to the Federal Government, to lend a helping hand.

I point again to the picture of what a disaster such as this can do, where water is virtually up to the second floors, and this was repeated across the State of New Jersey and in many other States as a result of hurricane Irene.

With that, I urge my colleagues to support this amendment. Although there are squabbles about funding for various programs, at no time is the help more urgently needed than now—again, right after these storms have hit, leaving terrible devastation and people urging and pleading with us to give them the help. I urge my colleagues to support the amendment.

With that, 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.

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

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

Mr. REID. Mr. President, we have worked long and hard this whole week trying to move forward on the legislation dealing with our appropriations bills. It has been difficult, and one reason it has been difficult is this is kind of a new area we are working in; that is, legislating. I was very impressed to see Senator MIKULSKI talk with great clarity about how nice it was for her to again be legislating.

But we are not there yet. We were hoping to have a number of votes today—tonight—but we haven't been able to do that. We are getting close. Our staffs are working very hard to come up with an agreement we hope we can do tonight, to set up a series of four to six votes in the morning and then, hopefully, a pathway to completing this legislation.

We have other issues. Always we have to do more than one thing at a time. So we will move forward, the Republican leader and I, on filing a couple of cloture motions that we are going to set up for votes either Friday or hopefully we can get them done tomorrow.

Mr. MCCONNELL. If I can make just a couple remarks.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. We do have a number of amendments pending, and we are working our way in the direction of getting back to a normal process. I share the majority leader's hope and his view that we will have a number of votes, hopefully tomorrow, as a result of an agreement we are working on.

TEACHERS AND FIRST RESPONDERS BACK TO WORK ACT OF 2011—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 204, S. 1723.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 204, S. 1723, a bill to provide for teacher and first responder stabilization.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 204, S. 1723, Teachers and First Responders Back to Work Act.

Harry Reid, Robert Menendez, Daniel Inouye, Herb Kohl, Sheldon Whitehouse, Jack Reed, Jeff Bingaman, Barbara Mikulski, Patty Murray, Debbie Stabenow, Richard Durbin, Sherrod Brown, Richard Blumenthal, Bernard Sanders, Robert Casey, Jr., Jeff Merkley, Patrick Leahy, Tom Harkin.

Mr. REID. I ask unanimous consent that the mandatory quorum call under rule XXII be waived.

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

Mr. REID. Mr. President, I withdraw my motion to proceed to Calendar No. 204.

The PRESIDING OFFICER. The motion is withdrawn.

The minority leader.

WITHHOLDING TAX RELIEF ACT OF 2011—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I ask unanimous consent to proceed to Calendar No. 205, S. 1726, and I send a cloture motion to the desk.

CLOTURE MOTION

The PRESIDING OFFICER. Without objection, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1726, the Withholding Tax Relief Act of 2011.

James Inhofe, David Vitter, Mike Crapo, Kelly Ayotte, Roy Blunt, Johnny Isakson, Jeff Sessions, Mike Lee, Saxby Chambliss, Tom Coburn, Jon Kyl, Susan Collins, Ron Johnson, Pat Roberts, Richard Burr, Lamar Alexander.

Mr. MCCONNELL. I now withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

The majority leader.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012—Continued

Mr. REID. Mr. President, as I indicated earlier, we have tried most all day to have some votes. We were unable to do that. We are not going to have any more votes tonight. I have spoken with the Republican leader. We have done the best we can for today. There will be more business on the floor this evening; hopefully, we will be able to set up some votes tomorrow. So I apologize to everyone for not being able to have some votes or to have some way of moving forward, but we have done, as I indicated, the best we can.

I guess the good news is some people will be able to watch the World Series.

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.

The PRESIDING OFFICER. The Senator from New York.

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

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

AMENDMENT NO. 869

Mrs. GILLIBRAND. As you know, Mr. President, Hurricane Irene and

Tropical Storm Lee left a trail of devastation all across New York. I saw firsthand the impact that they left on our communities: complete homes ruined, entire streets 7 feet of water, all people's belongings on their front yard, small businesses basically uncertain as to whether they could rebuild, whether they could rehire employees, crumbling bridges, washed-out roads, heating oil soaking into buildings and into the ground, farms with no feed for livestock, crops and livelihoods vanishing in a single day.

This farm in Middleburgh is just a snapshot of what our farmers are facing. Debris covers the land, most crops washed away. Whatever was left, contaminated. The Van Allers, who own this farm, told me that the worst sound they had ever heard was their cows suffering as the water rose.

This year has been unprecedented disasters striking agricultural regions all across the United States, not just in New York. In order to help these rural agricultural communities rebuild in my State and across the country, I am offering an amendment No. 869 to fund the backlog of State applications for the Emergency Conservation Program and the Emergency Watershed Program.

I call up this amendment now. This funding will help more than half the States in this Nation with the disasters they have experienced so far this year, from the flooding in the Midwest to the droughts in Texas to the devastation that happened all across New York State. This is emergency funding that will help our farmers and our businesses survive. I urge my colleagues to support this amendment to reduce the backlog of eligible projects that are needed desperately right now by these families and these farms to rebuild.

We wish to bring up amendment No. 869.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mrs. GILLIBRAND], for herself and Mr. SCHUMER, proposes an amendment numbered 869.

Mrs. GILLIBRAND. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase funding for the emergency conservation program and the emergency watershed protection program)

On page 83, between lines 9 and 10, insert the following:

SEC. ____. (a) Notwithstanding any other provision of this Act—

(1) the amount provided under section 732 for the emergency conservation program for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is increased by $48,700,000; and

(2) the amount provided under section 732 for the emergency watershed protection program for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is increased by $61,200,000.

(b) The additional amounts provided under subsection (a)—

(1) are designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D));

(2) are subject to the same terms and conditions as any other amounts provided under section 732 for the same purposes; and

(3) shall remain available until expended.

Mrs. GILLIBRAND. I wish to add Senators LEAHY, CASEY, and SANDERS as cosponsors to this amendment, along with Senator SCHUMER and myself.

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

Mrs. GILLIBRAND. Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I wish to offer for the RECORD the Budget Committee's official scoring of H.R. 2112, the Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2012, as reported.

The bill, as considered by the Senate, includes the text of two other committee-reported appropriations bills: S. 1572, the Departments of Commerce, Justice, and Science and Related Agencies Appropriations Act for fiscal year 2012; and S. 1596, the Departments of Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for fiscal year 2012.

The bill is divided into three divisions, each representing the reported legislative text from a subcommittee. Each division, therefore, will be considered separately for budget enforcement purposes.

Division A of the bill—Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations—provides $1.8 billion in security discretionary budget authority and $18.3 billion in nonsecurity discretionary budget authority for fiscal year 2012, which will result in new outlays of $14.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for division A will total $23 billion.

Division A of the bill includes a total of $266 million in budget authority designated as being for disaster relief for the Emergency Conservation Program, the Emergency Forest Restoration Program, and the Emergency Watershed Protection Program. Pursuant to section 106(d) of the Budget Control Act, an adjustment to the Appropriations Committee's 302(a) allocation has been made for this amount in budget authority and for the outlays flowing therefrom.

Funding in division A of the bill matches the subcommittee's section 302(b) allocation for security and nonsecurity budget authority and for overall outlays. No budget points of order lie against division A of the bill.

Division B of the bill—Commerce, Justice, Science and related agencies appropriations—provides $78 million in security discretionary budget authority and $52.8 billion in nonsecurity discretionary budget authority for fiscal year 2012, which will result in new outlays of $37.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for division B will total $63.5 billion.

Division B of the bill includes a total of $135 million in budget authority designated as being for disaster relief for the Economic Development Administration. Pursuant to section 106(d) of the Budget Control Act, an adjustment to the Appropriations Committee's 302(a) allocation has been made for this amount in budget authority and for the outlays flowing therefrom.

Funding in division B of the bill is $6 million below the subcommittee's section 302(b) allocation for security budget authority but matches the allocation for nonsecurity budget authority and for overall outlays. No budget points of order lie against division B of the bill.

Division C of the bill—Transportation, Housing and Urban Development, and related agencies appropriations—provides $57.6 billion in nonsecurity discretionary budget authority for fiscal year 2012, which, when combined with transportation obligation limitations in the bill, will result in new outlays of $46.4 billion. When outlays from prior-year budget authority and transportation obligation limitations are taken into account, discretionary outlays for the division C will total $122.7 billion.

Division C of the bill includes a total of $2.3 billion in budget authority designated as being for disaster relief including $1.9 billion for the Federal Highway Administration's Emergency Relief Program and $400 million for the Community Development Block Grant Program. Pursuant to section 106(d) of the Budget Control Act, an adjustment to the Appropriations Committee's 302(a) allocation has been made for this amount in budget authority and for the outlays flowing therefrom.

Funding in Division C of the bill matches the subcommittee's section 302(b) allocation for nonsecurity budget authority and is $196 million below the subcommittee's allocation for overall outlays. No budget points of order lie against division C of the bill.

I ask unanimous consent that the table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 2112, 2012—AGRICULTURE, COMMERCE-JUSTICE-SCIENCE, AND TRANSPORTATION-HUD APPROPRIATIONS [1]

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	Security	Non-Security	Total
Division A: Department of Agriculture, and Rural Development, Food and Drug Administration, and Related Agencies Act, 2012			
Senate-Reported Bill:			
Budget Authority	1,750	18,296	20,046

H.R. 2112, 2012—AGRICULTURE, COMMERCE-JUSTICE-SCIENCE, AND TRANSPORTATION-HUD APPROPRIATIONS [1]—Continued

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	Security	Non-Security	Total
Outlays	—	—	23,038
Senate 302(b) Allocation:			
Budget Authority	1,750	18,296	—
Outlays	—	—	23,038
Division A Compared To:			
Senate 302(b) allocation:			
Budget Authority	0	0	—
Outlays	—	—	0
Division B: Departments of Commerce and Justice, and Science and Related Agencies Appropriations Act, 2012			
Senate-Reported Bill:			
Budget Authority	78	52,752	52,830
Outlays	—	—	63,517
Senate 302(b) Allocation:			
Budget Authority	84	52,752	—
Outlays	—	—	63,517
Division B Compared To:			
Senate 302(b) allocation:			
Budget Authority	−6	0	—
Outlays	—	—	0
Division C: Departments of Transportation, Housing and Urban Development and Related Agencies Appropriations Act, 2012			
Senate-Reported Bill:			
Budget Authority	—	57,550	57,550
Outlays	—	—	122,721
Senate 302(b) Allocation:			
Budget Authority	—	57,550	—
Outlays	—	—	122,917
Division C Compared To: Senate 302(b) allocation:			
Budget Authority	—	0	—
Outlays	—	—	−196

[1] Divisions A, B, and C of Senate amendment 738 to H.R. 2122 include the Senate-reported legislative text of the respective Appropriations bills listed above.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 812

Mr. SESSIONS. Mr. President, I would like to speak on amendment number 812, which would prohibit the Patent and Trademark Office from using funds to implement Section 37 of the America Invents Act, more commonly known as the ''Medco Fix.''

The Medco fix was a bailout for a well-connected law firm—WilmerHale—and its malpractice insurer to the tune of $214 million, and the essence of special interest legislation that will result in increased costs for the government, hospitals and consumers. I offered an amendment to the America Invents Act to strike this special interest fix and it was narrowly defeated by a vote of 51 to 47.

This saga began in 2001, when WilmerHale apparently missed a routine deadline for submitting to the PTO a patent term extension (PTE) application on behalf of its client Medco. The PTO denied the application, concluding it was not filed in a timely manner. Legal deadlines like this exist for a reason. They provide certainty not only to the litigants in a particular matter but also to the public. Every day in courts across America where a deadline is missed the result is the same. Claim is dismissed the remedy available to the harmed party is a malpractice claim against the offending attorney.

Yet, in the 10 years since WilmerHale's malpractice, Medco never sued the law firm. Instead, in February 2011, the parties agreed to a settlement whereby the firm would pay Medco $214 million, of which $99 million will be paid by the firm's malpractice insurer.

WilmerHale also immediately paid $18 million up front to cover Medco's litigation and lobbying expenses over the past decade. The settlement was tied to their success in getting either the PTO or Congress to grant an extension of Medco's patent term before June 2015, when the extension period overturning the PTO decision would otherwise expire.

Both the company and its law firm have spent millions of dollars and many years lobbying Congress to change the rules and to politically fix their legal mistake. Unfortunately—in my view—they succeeded.

One of the many reasons I oppose this special interest fix is because I believe it is unnecessary, unwise and dangerous for Congress to interfere with ongoing litigation, which is what happened here. It goes against historical precedent and sound policy for Congress to directly interfere with active judicial proceedings on behalf of one party over another. Here, the U.S. District Court for the Eastern District of Virginia had already ordered the PTO to ''consider'' Medco's application timely filed and adopt an interpretation of the word ''date'' in the statute that includes a ''next business day'' construction rather than ''calendar day'' as the PTO argued. Although the PTO did not appeal the decision, a generic company, APP Pharmaceuticals, intervened in the case with an appeal to the Federal Circuit Court of Appeals. At the time that Congress was considering the America Invents Act, oral arguments before the appeals court already had been scheduled for just a few weeks later. The court had not even had the chance to hear arguments when some of my colleagues were arguing that the Medco fix merely enshrined in statute the holdings of the courts.

However, it is my understanding that APP—the intervening party—pointed out to the appeals court that even if the Medco fix applied to this appeal, according to the language of the America Invents Act, it would not take effect for one year from the date of enactment. Indeed, the America Invents Act provides that, unless otherwise specified, all provisions are to take effect one year after the date of enactment and no special effective date is provided for the Medco fix. Should we now expect them to come to Congress for a fix for lobbying malpractice?

Given this, the Federal Circuit postponed oral argument, ordered the parties to file briefs regarding the impact of the effective date, and then rescheduled the argument for November 15th. I would point out to my colleagues who so forcefully insisted on this fix that the Federal Circuit's actions demonstrate that this is by no means merely technical. The court is reviewing this very question of law, both for effectiveness and to determine whether Congress has the power to revive a patent once it has expired and entered the public domain.

As I have said many times before, this body should not be intruding on the jurisdiction of the judicial branch. Today, I am offering an amendment to right this wrong and to allow the Federal Circuit, without interruption, to fulfill its constitutional role in deciding a pure question of law.

Mr. President, there is no unanimous consent, I know, to bring up amendment No. 812, which I have submitted. It is a very important amendment. It is something I will insist on through every appropriate power an individual Senator has to get an amendment to be voted on. Hopefully it will be coming up tomorrow or the next day. Let me again summarize it briefly.

Amendment 812 would prohibit the Patent and Trademark Office from using funds to implement section 37 of the America Invents Act, more commonly known as the Medco fix. When the patent bill moved through the Senate and the House—that took a decade—efforts were made to reverse a decision by the Patent and Trademark Office that had declared a major Boston law firm had failed to file a document in time to preserve a patent for their client Medco and, as a result of that, Medco was to lose its patent sooner than otherwise would be the case. Generic manufacturers would be able to manufacture the drug and it was asserted that it would cost $214 million as a result of this error.

If a doctor makes an error, the doctor gets sued for malpractice. If lawyers make errors, they get sued for malpractice. They have malpractice insurance. Apparently they had some insurance.

At any rate, it appears millions of dollars, or hundreds of millions of dollars, were set aside for lobbying and other efforts to politically reverse the patent office during a time while the matter was litigated in court. When the patent bill came up a few months ago it was contended that this is the only vehicle to fix this problem and we needed to fix it. The House voted not to put it in their bill. Then somehow a new vote was obtained, and by the narrowest of margins the House put it in and it came to the Senate.

I had been objecting for a decade, and I objected and others objected, and we had a vote and by the margin of 51 to 47 it was decided not to amend the patent bill that the House had passed and to pass it just as the House did, although many people told me they agreed with me that this Medco fix intervening in ongoing litigation should not occur, but changing the patent bill would send it back to the House and endanger the passage of the bill.

I was disappointed then. But what we discovered is that the litigation continues. It is now before the U.S. Court of Appeals. The Court of Appeals is taking arguments on a number of issues that relate to this. It is a very real problem. It is a matter that ought

to be decided by the courts, not politicians. If some special relief act is to be utilized—and sometimes those can be—it can't be utilized while a party still has litigation ongoing. Only after the litigation is exhausted can someone appeal for a special relief act. In essence, that is what Medco is asking for.

I do not think it is right. I practiced law for a long time. I know how the system works. I know at this fine law firm in Boston, every day the first thing they look at when somebody sues one of their clients is: Did the person file a lawsuit too late? If they did, they will dismiss it. Every judge who sees a motion to dismiss for lack of timely filing objectively looks at it. If it is 1 day, 1 hour, 1 minute late, you are out. That is the rule of law in America. It doesn't make any difference if you are the widow lady or if you are the head of some company or if you are a big drug company or a big law firm. That is justice in America.

I do not think this is a good thing for us to do. Now that we have this legislation before us, it is germane and appropriate, because it has patent language in it, for us to fix this decision we sort of got forced into making and to have a vote on it as part of this bill. What we know is that the language of the patent act that we passed, the America Invents Act, would not take effect for 1 year from the date of enactment. During that time the litigation continues. Congress ought not intervene. Congress ought to let the courts decide. Then if the only remedy in Congress would be to file for a special relief act, Congress could consider it or not based on the circumstances of the case.

I do believe it is a very important issue. I truly believe Congress is unwise, very unwise, to begin to step into ongoing litigation involving highly competent parties with large amounts of money and start taking sides in that litigation. I believe it would be wrong.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NOMINATION OF HEATHER HIGGINBOTTOM

Mr. SESSIONS. Mr. President, time has been set aside for the Heather Higginbottom nomination. I hadn't intended to speak tonight, but it has been suggested that we might get started on that to provide more time tomorrow for other business in the Senate. So I will share my remarks tonight for the record, and hopefully we can have more of a good discussion tomorrow.

The Constitution makes it very clear that it is the President who nominates. Confirmation does not occur, however, without the consent of the Senate. In Federalist No. 76, Alexander Hamilton wrote:

To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

In other words, the Senate does have a duty to evaluate the President's nominees.

Unfortunately, the situation we face today with the nomination of Heather Higginbottom to be the Deputy Director for the Office of Management and Budget is one of those cases. I do not know her personally, but let me state from the outset that I have no questions about her character. She has many admirers. Senator KERRY, for whom she worked, is an admirer, and I respect that. The President certainly seeks her appointment and has asked me to try to see that the appointment moves along. I respect his desire to have an up-or-down vote and have agreed that we would have this vote and have so agreed for some time. But my concern is with the nominee's budgetary experience. It is the lack of experience that causes me to voice my opposition.

Let me first mention that the Office of Management and Budget has the primary responsibility to assist the President in overseeing the preparation of the Federal budget. This is a huge responsibility. In helping the President formulate his spending plan, OMB must evaluate the effectiveness of agency programs, policies, and procedures, assess competing funding demands among all of these agencies, and set the priorities and help the President.

OMB is not in charge—the President is—but in reality OMB is the agency that raises the concerns with overspending with the various Federal agencies. They submit their requests, and then the OMB says yea or nay. It is a very serious matter because very important people are asking for money. Sometimes you just have to say no to very prominent Cabinet people. The Cabinet people can appeal to the President, but they don't do it often. They recognize that OMB is the place where most of these matters have to be decided. OMB speaks on behalf of the President.

Ms. Higginbottom's experience points to someone who has been on the wrong side, however, of fiscal restraint. Instead of crafting policies to decrease spending, she has been focused on new programs to increase spending.

In her Budget Committee questionnaire, she was asked about her qualifications for the job. She cited her legislative and political experience. I believe she worked in a Presidential campaign at one point but cited no direct budgetary knowledge and provided no examples of developing a budget.

In one prehearing question, I asked Ms. Higginbottom:

Your background is in education and public policy. Outside of your legislative and political experience, have you acquired any budget training, including classes or continuing education?

She responded with one sentence:

I have not taken any formal continuing education classes on the budget.

I asked her whether she was the primary budget staffer during her tenure in the Senate. She essentially gave a nonanswer to that. It doesn't appear that she was deeply involved as a general office Senate staffer in budgetary matters, not the primary staffer and not a staffer whose Senator served on the Budget Committee.

In another prehearing question, she was asked whether, as a nation, we needed to focus on deficit reduction rather than new spending. She responded by deferring to the President's fiscal year 2012 budget, stating that it ''begins the challenging but essential process of adjusting spending to achieve fiscal sustainability immediately with a 5-year freeze of nonsecurity discretionary spending.'' Now, this is the same budget that adds to the debt every single year and has substantial deficits every single year.

During her confirmation hearing before the Budget Committee, on which I was the ranking Republican, she continued to use President Obama's incorrect formulations. I use that phrase kindly. She testified that President Obama's fiscal year 2012 budget—the one he submitted in January—would pay down the debt and ''puts us on a path to stabilize our debt.'' But this is the same budget proposal that, by OMB's own estimate, has a deficit of approximately $800 billion in year 10 of the 10-year budget, and not a single deficit in the 10 years of this budget that was submitted to us falls below $600 billion. I would just note that, for example, $600 billion is larger than any deficit President Bush ever had. So in the 10 years, the lowest budget deficit projected by President Obama's own Office of Management and Budget is $600 billion—the lowest.

Surely a more experienced, skilled, and serious nominee, one who is acquainted with the great debt threat we have in America, would recognize that these deficits are irresponsible, and one can't say we are living within our means or we are on a path to stabilize our debt.

You cannot say that. Even Treasury Secretary Geithner, when he testified before the Budget Committee, said the President's budget would be ''unsustainable'' if Congress passed it as written.

But the Senate Budget Committee was not the only forum in which Ms. Higginbottom was given an opportunity to highlight her experience. She had a hearing before the Homeland Security and Governmental Affairs Committee. They asked about her qualifications also, which they indicated were lacking.

Senator COLLINS said in her opening statement:

The nominee's background, while impressive in many respects, does not include a

great deal of experience in budget process or financial analysis.

Senator SCOTT BROWN used his first question to deal with her experience. He said:

I notice from your resume you have some great political experience and some really good policy experience. I was wondering if you'd share with the committee, you know, what type of accounting and budgetary experience you have.

Well, she first attempted to avoid the question, talking about her general legislative and policy experience. Senator BROWN interrupted her and got to the heart of the matter:

So I guess my original question is, what type of budgetary and accounting experience do you have?

Ms. Higginbottom responded that she was not an accountant and that her goal was to implement the President's policy agenda through the budgetary process. I would note that the President's policy agenda seems to be primarily to continue extraordinary new and expanded ''investments''—spending—in many, many areas of our government.

After opportunities to prove she was qualified through prehearing questions and through testimony at two confirmation hearings, she was reported out of the Homeland Security and Governmental Affairs Committee and the Budget Committee on a party-line vote. Our Democratic colleagues in both committees voted her out with the majorities they had. Because of her lack of experience, not one Republican voted for her.

So now a number of my colleagues have argued that the criticism is based not on a lack of experience but on her age, that somehow she is being unfairly treated because of that. She is young—young for this job—but the age allegation is not correct.

After her confirmation hearing in the Budget hearing, I sent her a followup question:

Some of my Democratic colleagues, during your confirmation hearing before the Budget Committee, indicated that when some of us questioned your experience, that we were using ''experience'' as a code word for age. The experience I am concerned about is actual budget experience. In a prehearing question, I asked you the following:

''Your background is in education and public policy. . . . have you acquired any budget training, including classes or continuing education?''

You responded in this way:

''I have not taken any formal continuing education classes on the budget.''

I asked if these facts had changed, and she basically said no. She said:

''For over a decade, I have worked at the highest levels of policymaking in the United States Senate and the White House. This work has included, but was not limited to, the budgetary implications of those policies.''

Not budget but policy issues and budgetary implications of those policies.

So the answer to the question I asked is no, clearly. She simply does not have the kind of serious budgetary experience to be the Deputy Director at an office that manages a government that is spending $3,700 billion this year and taking in about $2.3 trillion—borrowing 40 cents of every $1 we spend.

This is a most august position, and it requires a person who can have the confidence and judgment to say no to people who always want to spend more.

Arguably, she would be the least qualified Deputy Director in decades. The last two nominees in this position had a combined 21 years of budget and finance experience. For example, Rob Nabors, the most recent nominee before her, served 8 years on the House Appropriations Committee and 6 years at the Office of Management and Budget. Steve McMillin, the nominee before him, served 3 years on the Senate Banking Committee and 4 years at the Office of Management and Budget. You learn something operating out of the Office of Management and Budget. That prepares you to have a leadership role there. Combined, Ms. Higginbottom does not have 1 year of budget or finance experience. Over the last 20 years, nominees for this position have had an average of 6.5 years of experience. Well, in certain circumstances, in certain times, maybe less experience is OK. But at a time when this Nation has never faced a more serious debt threat, we need real, august, serious leadership.

Mr. Erskine Bowles, who cochaired President Obama's fiscal commission, which issued a most serious report to us, warned that if the United States fails to take significant action on debt reduction, the country would face ''the most predictable economic crisis in its history.''

We are borrowing 40 cents of every $1 we spend. Our Nation's gross debt is larger than our entire economy. The last thing we need now is someone who does not have the gravitas to say no to those who always tend to want to spend more. That is just one of the jobs OMB has—to say no.

When the Secretary of the Interior or the Secretary of Energy comes before the department, asking for approval of their budget which calls for more spending, a responsible OMB Director or his Deputy must be able to say no. Looking at President Obama's fiscal year 2012 budget, I am sorry to say this duty has not been met by Mr. Lew, the Director. And I cannot see he is going to get much strength and support for doing the right thing from this nominee.

I supported Director Lew, but I have been disappointed in his leadership. When the President submitted his budget to Congress, Director Lew came before the Budget Committee and made some of the most indefensible claims I have heard in public life. He did. Director Lew said the President's budget would allow us to live within our means, begin to pay down our debts, and spend only money we are taking in each year. Not one of those claims was true. Multiple fact-check organizations checked them and found them to be false. Even by OMB's own reckoning, the deficit would never be smaller than $600 billion at any point in the 10-year budget window. We would not be paying down our debt. We are not going to be spending only money we are taking in each year under the President's budget.

What would happen to a CEO of a corporation if they told potential investors: Well, we are living within our means. We will begin to pay down our debt. We are going to only spend money we are taking in each year. Invest in our company. And people invested in the company, and they found out that there was no budget plan in place that showed anything less than huge deficits for the entire next decade and that the company was borrowing 40 cents of every $1 that it was spending? What would happen then? I am telling you, he would be sued, if not prosecuted for fraud.

So this is the kind of leadership we have. I am not happy with it. The American people should not be happy with it. They came in to spend, not look the American people in the eye and tell them of the grave financial crisis we are facing in America.

Erskine Bowles, heading the commission appointed by President Obama, told us. He told us we are on an unsustainable path. It threatens our economic future; that we are facing the most predictable financial crisis in our history. When asked when that crisis might occur, when might we have economic damage arising from our debt, he said 2 years, maybe a little less, maybe a little more. Alan Simpson, his Cochairman, said: I think it could be less—less than 1 year.

This is not a game we are playing here. We do not need government officials spinning that we are living within our means and paying down our debt. We are running up debt in a fashion never, ever, ever before done in this Nation. It is unsustainable, and it is so dangerous because it is systemic, and it is hard to get off this trend. It is demographics. It is a lot of different reasons. But it is very serious, and we need leaders in OMB who are watching every single dime that is being spent, looking for every effort and place that savings can be effected. That is what we need, and I just do not feel as though this nominee fits that bill. She is a good person. She is, apparently, a good staffer, has a lot of friends. But the position of Deputy Director of OMB is a grave position. It has august responsibilities. It requires a most serious person who is willing to take strong stands and say no to people who, all too often, want to spend more and more.

When asked about our financial situation, in one of her answers she made reference to the first stimulus bill, the Recovery Act, so-called. This is what the nominee said:

Fortunately, Recovery Act spending has been extraordinarily transparent,

enabling the public to assess the job impacts of the various programs funded. Overall, the data demonstrate that the Recovery Act has delivered as promised by creating and saving millions of jobs across the country, and has been an essential factor in rescuing the American economy.

Well, I know the nominee is a friend and ally of the President, and I am willing to give her a vote, and I suppose she will be confirmed. But I just want to say that I think that is a bit of a Pollyannaish description of the success of the stimulus bill. It just did not meet those standards, and I do feel as though she has been less than rigorous in her understanding of these difficult financial issues that our Nation faces. So I encourage my colleagues to join me in opposing the nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to a series of votes in relation to the following amendments: Vitter No. 769, as modified; Webb No. 750; Merkley No. 879, as modified with the changes that are at the desk; Brown of Ohio No. 874, as modified with the changes that are at the desk; Moran No. 815; and Grassley No. 860; that there be no amendments or points of order against any of the amendments prior to the votes other than budget points of order; that there be 2 minutes equally divided in the usual form prior to each vote; that the Vitter, Webb, Merkley, Brown, and Grassley amendments be subject to a 60 affirmative vote threshold; and that all after the first vote be 10 minutes; further, that the following amendments be considered agreed to this evening: Sanders No. 816, Coburn No. 793, and Coburn No. 798, as modified with the changes that are at the desk; finally, that the following first-degree amendments filed by Senator COBURN be in order to be called up and made pending during tomorrow's session: Nos. 794 through 797; 799 through 801; and 833.

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

The amendment (No. 816) was agreed to.

The amendments (Nos. 793 and 798), as modified, were agreed to, as follows:

AMENDMENT NO. 793

(Purpose: To ensure transparency in federally attended and funded conferences, including the cost to taxpayers for food, drinks, and hotel stays associated with federally funded conferences of more than $20,000)

On page 209, after line 2 insert the following:

SEC. _____. The provisions of sections 517(c), 531, and 538 shall apply to all agencies and departments funded by divisions A, B, and C.

AMENDMENT NO. 798, AS MODIFIED

At the appropriate place, insert the following:

SEC. ____. Notwithstanding section 701, none of the funds made available by this Act may be used to purchase new passenger motor vehicles, except for national security, law enforcement needs, public transit, safety, and research: Provided further, all agencies and departments funded by divisions A, B, and C of this Act shall send to Congress at the end of the fiscal year a report containing a complete inventory of the total number of vehicles owned, permanently retired, and purchased during fiscal year 2012 as well as the total cost of the vehicle fleet, including maintenance, fuel, storage, purchasing, and leasing.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on amendment No. 738 to H.R. 2112, an Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

Harry Reid, Herb Kohl, Daniel Inouye, Sheldon Whitehouse, Jack Reed, Robert Menendez, Jeff Bingaman, Barbara Mikulski, Patty Murray, Debbie Stabenow, Richard Durbin, Sherrod Brown, Richard Blumenthal, Bernard Sanders, Robert Casey, Jr., Jeff Merkley, Patrick Leahy, Tom Harkin.

CLOTURE MOTION

Mr. REID. Mr. President, I have another cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on H.R. 2112, an Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

Harry Reid, Herb Kohl, Daniel Inouye, Sheldon Whitehouse, Jack Reed, Robert Menendez, Jeff Bingaman, Barbara Mikulski, Patty Murray, Debbie Stabenow, Richard Durbin, Sherrod Brown, Richard Blumenthal, Bernard Sanders, Robert Casey, Jr., Jeff Merkley, Patrick Leahy, Tom Harkin.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived with regard to both cloture motions.

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

MORNING BUSINESS

TRIBUTE TO CARL H. LINDNER JR.

Mr. MCCONNELL. Mr. President, I rise to mourn the passing of a great American and a man who did much to benefit the people of Kentucky as well as his native Ohioans, Mr. Carl Henry Lindner Jr. Carl Lindner was greater Cincinnati's most successful entrepreneur and a self-made billionaire. He passed away this October 17. He was 92 years old.

Carl Lindner was born in Dayton, OH, in 1919, the son of a dairyman. He quit high school to help out in his father's dairy store. That store grew into United Dairy Farmers, a chain of dairy and convenience stores that many northern Kentuckians frequent to this day to buy their famous ice cream.

Mr. Lindner made much of his fortune in the banking and insurance business. His name became famous across northern Kentucky and Ohio and nationwide as the owner of the Cincinnati Reds from 1999 to 2005, when he also served as that organization's CEO. Carl Lindner also in the past bought and sold Kings Island amusement park, Provident Bank, and the Cincinnati Enquirer newspaper.

Always the optimist, Carl was famous for carrying with him cards that he would hand out to anyone he met, with motivational sayings printed on them. One frequent version of this card would read, ''Only in America! Gee, am I lucky!''

Carl put his great wealth to use benefitting his community, bringing thousands of high-paying jobs to Cincinnati and northern Kentucky. He has been called a ''one-man chamber of commerce.''

He also generously gave millions of dollars a year to various charitable causes, including, but certainly not limited to, the Lindner Center of HOPE behavioral health center, the University of Cincinnati College of Law, the Cincinnati Museum Center at Union Terminal, the Cincinnati Symphony Orchestra, the Cincinnati Reds, the Western & Southern Open, Fort Washington Way, the Bond Hill/Roselawn library, the West End YMCA, and the necklace lights on the cables of the Roebling Suspension Bridge.

I had the benefit of knowing Carl quite well. He was an amazing man, and his loss will be deeply felt by many. Elaine and I send our condolences to his wife Edyth, his sons Carl III, Craig, and Keith, his 12 grandchildren and 5 great-grandchildren, and many other beloved family members and friends.

The passing of Mr. Carl Henry Lindner Jr. is a true loss for the people of northern Kentucky, Ohio, and the Nation. I know my Senate colleagues join me in remembering and honoring Carl for his very American success story, his service to his community, and the example he leaves behind for others of a full life well lived.

Mr. President, the Cincinnati Enquirer published recently an obituary for Mr. Carl Lindner. I ask unanimous consent that said article be printed in the RECORD.

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

[From the Cincinnati Enquirer, Oct. 18, 2011]

CARL HENRY LINDNER: 1919–2011

BILLIONAIRE INVESTOR, DEAD AT 92, WAS CINCINNATI'S BIGGEST BENEFACTOR

(By Cliff Peale)

From humble beginnings running his father's dairy store in Norwood, Carl Henry Lindner Jr. grew into a billionaire, a friend of U.S. presidents and Greater Cincinnati's most successful entrepreneur.

For nearly a century until he died late Monday at age 92, the former Reds owner never shed the fierce competitiveness and loyalty that made him a hometown icon.

His influence ran to every corner of Greater Cincinnati. The high-school dropout bought and sold Kings Island, the Reds, Provident Bank and the Enquirer. His name is on buildings from the University of Cincinnati's business school to the tennis center at Lunken Playfield.

But it was the banking and insurance business that made him a billionaire. At his death, his American Financial Group Inc. controlled assets of nearly $32 billion and he was routinely listed as one of the richest men in America.

Ever the optimist, Lindner often carried an inch-thick stack of cards with motivational sayings—one was ''Only in America! Gee, am I lucky!''—that he handed out to anyone he would meet.

He was a teetotaler, physically unimposing yet with a prominent shock of white hair and a penchant for wearing flashy neckties.

Even to his closest friends and colleagues, he was soft-spoken and rarely confrontational. Yet some business partners complained about unfair treatment and he flashed a harsh temper when confronting reporters who wrote what he perceived as unfriendly stories or criticism of his business dealings.

A devout Baptist and a longtime member of Kenwood Baptist Church, Lindner used his wealth and influence behind the scenes to become Greater Cincinnati's largest benefactor and economic development force. At the height of his personal giving he contributed millions of dollars a year to charitable causes, and brought thousands of high-paying jobs to downtown Cincinnati.

His companies brought thousands of employees to the region, and the annual Christmas party that he threw at Music Hall attracted some of the nation's biggest acts, including Bill Cosby and Frank Sinatra.

CONSIDERED HIMSELF OUTSIDER

At the same time, Lindner thought of himself as an outsider, building his business career outside of Cincinnati's old-money elite. He was never a member of many of the most exclusive business and country clubs and his bar-the-doors business style, starting with a hostile takeover of Provident Bank in the mid-1960s, was out of place in always polite Cincinnati.

Perhaps the most public role of his career was his ownership of the Cincinnati Reds from 1999 to 2005. Lindner owned a minority stake both before and after that period but was the Reds' CEO for six seasons, and each of those years the team lost more games than it won.

He approved the trade for Ken Griffey Jr. in 2000, even sending his private jet to bring Griffey to Cincinnati and then personally driving the hometown star back to Cinergy Field from Lunken Airport in his Rolls-Royce.

But as the Reds' losses mounted, Lindner never spoke publicly to fans and privately bristled at talk-radio criticism.

That period ended in late 2005 when Lindner sold a controlling stake in the Reds to a group headed by Bob Castellini.

Shy and scornful of reporters, Lindner nevertheless became a focus of media attention because of his substantial wealth and his far-flung business dealings.

The controversies included millions of dollars in political contributions as his Chiquita Brands International Inc. was waging a trade war with European countries, a bevy of lawsuits and federal charges over business deals that benefited Lindner and his company more than other shareholders, and a high-profile battle with the Enquirer in 1998 over a series of critical stories on Chiquita.

Lindner built a national reputation in the 1980s as a high-risk trader, becoming a business partner of symbols of the decade's excess such as junk-bond king Michael Milken and Cincinnati's own Charles Keating.

He was the classic ''value investor,'' buying properties few other investors wanted and waiting years, or even decades, to reap the benefits.

That gave him a portfolio including the old Penn Central railroad, Circle K convenience stores and New York City landmark Grand Central Station.

But Lindner spent the two decades before his death shedding assets that didn't deal with insurance and transferring others to his three sons. That left American Financial as mostly an insurance and financial services company.

He lost his stake in Chiquita in 2002 when that company emerged from Chapter 11 bankruptcy. In 2004, Lindner, his family and American Financial reaped nearly $1 billion in stock when they sold Cincinnati's Provident Financial Group Inc. to Cleveland-based National City Corp.

The moves consolidated the business around safer insurance businesses. Lindner also transferred tens of millions of dollars to his three sons and their families, solidifying for generations a wealth that he never enjoyed growing up.

STARTING FROM SCRATCH

Born April 22, 1919, in Dayton, Ohio, Carl Henry Lindner Jr. was the firstborn of a modest dairyman and his wife, Clara.

Lindner quit high school to help in his father's Norwood dairy store. Along with his father, he and his brothers Robert and Richard, and sister Dorothy, built it into United Dairy Farmers, a chain of dairy and convenience stores.

When the family founded what now is UDF on Montgomery Road in Norwood in 1940, the first day's sales amounted to $8.28.

Lindner often talked about the modest surroundings of his childhood, noting more than once that he picked up dates in an ice-cream truck.

Robert Lindner's family eventually took control of UDF, and Richard Lindner became sole owner of the Thriftway supermarket chain before selling it to Winn-Dixie Stores.

Lindner married the former Ruth Wiggeringloh of Norwood in 1942. They divorced seven years later with no children. He then married the former Edyth Bailey in 1951, and they have three sons who all went into the family business: Carl III, Craig and Keith.

Lindner cautiously entered the savings-and-loan and insurance business, founding his flagship company American Financial Corp. in 1959. In the early 1970s the company gained control of Great American Insurance, which would become its chief operating business.

Throughout the 1970s and 1980s the company bought and sold companies in a variety of industries. Lindner took the company private in 1981 and released little financial information to the public, but in 1995 the company sold stock to public shareholders under the new umbrella of American Financial Group Inc.

In 2003, Keith Lindner left American Financial to concentrate on the family's charitable pursuits. In 2004 Carl and Craig Lindner were named co-CEOs of the company while Carl Lindner Jr. remained chairman.

Lindner was a conservative icon, lobbying against Robert Mapplethorpe's 1990 exhibit at the Contemporary Arts Center here and funding the Cincinnati Hills Christian Academy.

But he was pragmatic as well, contributing more than $1 million to Democratic President Bill Clinton during Chiquita Brands' battle over European banana quotas. He was well known as one of the biggest givers in the country to both political parties.

THE GOOD LIFE

Lindner developed a taste for the good life, including a sprawling home in Indian Hill and nearly a dozen Rolls-Royce automobiles—with the trademark ''CHL'' license plate—that he drove himself well into his 80s.

He also owned a home in the exclusive Ocean Reef community of North Key Largo, Fla. There, he entertained lavishly, including hosting former President George Bush in the early 1990s.

Lindner traveled around the country in his own private jet. He dined often at exclusive restaurants like the Maisonette or the Waterfront—where he was an investor —and also became a regular at Trio in Kenwood.

Lindner received nearly every award Cincinnati has to offer, including induction into Junior Achievement's Greater Cincinnati Business Hall of Fame in 1992 and the Great Living Cincinnatian award in 1994.

He was also on the board of directors of Citizens for Decency through Law, an anti-pornography group headed by American Financial co-founder and one-time Executive Vice President Charles Keating.

Among numerous awards and honors throughout his career, Lindner was named Man of the Year of the United Jewish Appeal in 1978 and received the Friars Club Centennial Award in 1985. He was awarded an honorary doctorate by UC in 1985 and by Xavier University in 1991.

SERVICES NOT SCHEDULED YET

Lindner's family has not yet scheduled memorial or funeral services.

American Financial Group, where Lindner was chairman, said Tuesday that the family had requested memorial gifts be made to Kenwood Baptist Church.

Lindner is survived by wife Edyth, sons Carl III, Craig and Keith, 12 grandchildren and five great-grandchildren.

TRIBUTE TO DR. JULIA LINK ROBERTS

Mr. MCCONNELL. Mr. President, I rise today to recognize a fine Kentuckian and an outstanding educator, my friend Dr. Julia Link Roberts. Dr. Roberts is the Mahurin Professor of Gifted Studies at Western Kentucky University and the executive director of the Center for Gifted Studies, a leading Kentucky institution devoted to providing opportunities to gifted students for over 30 years.

Dr. Roberts's stature in her field was recognized recently when she was presented with the Acorn Award by the Kentucky Council on Postsecondary Education. She is the only professor this year from a 4-year institution to be so honored.

Dr. Roberts has been recognized for her excellence before. In 2001, she received the very first David W. Belin Advocacy Award from the National Association for Gifted Children. She was named as one of the 55 most influential people in the field of gifted education by Profiles of Influence in Gifted Education in 2004.

In addition to her work at WKU and with the Center for Gifted Studies, Dr. Roberts was the driving force behind the creation of the Carol Martin Gatton Academy of Mathematics and Science in Kentucky, an outstanding school that provides the opportunity for gifted students from across the State to spend their junior and senior years at WKU taking college-level courses. Newsweek magazine recently named the Gatton Academy one of America's top five high schools.

Thousands of Kentucky's brightest, most promising students have come closer to realizing their full potential thanks to the guidance and direction of Dr. Roberts. I have had the pleasure of meeting many of them and can truly say they are among the finest Kentucky has to offer.

I want to offer her my sincerest congratulations on the well-deserved honor of winning the Acorn Award. It is only the most recent affirmation of the great contribution she has made to the Commonwealth, her students, and the field of education. I am sure her husband, Dr. Richard Roberts, and their children and grandchildren and extended family are very proud of her and all she has achieved.

The Bowling Green Daily News recently published an article recognizing Dr. Julia L. Roberts's remarkable career in education and her most recent achievement in winning the Acorn Award. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Bowling Green Daily News, Oct. 8, 2011]

WKU'S ROBERTS HONORED WITH ACORN AWARD

(By Laurel Wilson)

A Western Kentucky University professor recently was one of two Kentucky faculty members to be honored with an Acorn Award this year.

Julia Link Roberts, Mahurin Professor of Gifted Studies at WKU, was recognized as an outstanding professor at a four-year institution in the state.

The Kentucky Council on Postsecondary Education has given out Acorn Awards since 1992, said Sue Patrick, communications director for the CPE. Each year, a faculty member is recognized from a four-year institution and a two-year institution.

In addition to Roberts, David Cooper, a professor of English and African-American history at Jefferson Community and Technical College, was also honored.

Recipients of the Acorn Award are chosen based on faculty and student recommendations, as well as self-written essays about their teaching philosophy, Patrick said.

In his letter of recommendation for Roberts, WKU President Gary Ransdell called her ''the model of an outstanding faculty member'' and ''a true champion for education, from elementary students to professional educators.''

Roberts started WKU's Center for Gifted Studies more than 30 years ago, where she is executive director and has helped generations of gifted students and their families, Ransdell said in his letter.

She was also one of the driving forces behind creating the Carol Martin Gatton Academy of Mathematics and Science in Kentucky, a program at WKU that allows high-school students to spend their junior and senior years taking classes at WKU.

The awards were presented during the 23rd annual Governor's Conference on Postsecondary Education Trusteeship, which took place Sept. 23 in Lexington and was sponsored by the CPE and Kentucky's colleges and universities.

''This is always the highlight of our conference,'' Patrick said.

The conference is a great place to showcase faculty excellence because trustees from all state universities are together in one place, she said.

Roberts and Cooper each received $5,000 and a plaque, she said.

''Our faculty members are the heart of each of our colleges and universities,'' CPE President Bob King said in a news release. ''Recognizing excellence among so many talented and dedicated teachers and scholars is a difficult, but rewarding task. We are enormously grateful to Professor Cooper and Dr. Roberts for their contributions to so many students across the commonwealth.''

Roberts said in an email that she was ''both thrilled and humbled'' to be recognized for her excellence in teaching, scholarship and service.

''I am proud to have a positive impact on young people who participate in various programs offered by the Center for Gifted Studies,'' she said. ''I am very happy to work with teachers as my graduate students and to write articles and books that encourage educators to remove the learning ceiling for children and young people who are ready to learn at advanced levels.''

RULES OF THE JOINT SELECT COMMITTEE AND DEFICIT REDUCTION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Rules of the Joint Committee on Deficit Reduction be printed in the RECORD.

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

RULES OF THE JOINT COMMITTEE ON DEFICIT REDUCTION

RULE I—IN GENERAL

1. The provisions of the Budget Control Act of 2011 (P.L. 112–25) governing the proceedings of the Joint Select Committee on Deficit Reduction are hereby incorporated by reference and nothing herein shall be construed as superseding any provision of that Act.

2. The rules of the Senate and the House of Representatives, to the extent that they are applicable to committees, including rule XXVI of the Standing Rules of the Senate and clause 2 of rule XI of the Rules of the House of Representatives for the 112th Congress, and do not conflict with the applicable provisions of the Budget Control Act, shall govern the proceedings of the Joint Select Committee.

3. If a measure or matter is publicly available in electronic form on the website maintained by the Joint Select Committee, it shall be considered to have been available to members of the Joint Select Committee for purposes of these rules.

4. In each case where authority is granted to the Co-Chairs of the joint Select Committee, such authority may only be exercised jointly by the Co-Chairs.

RULE II—MEETINGS AND HEARINGS

MEETINGS

1. The joint Select Committee shall regularly meet for the transaction of business at times and dates determined jointly by the Co-Chairs.

2. (a) The Co-Chairs shall provide an agenda to the Joint Select Committee members not less than 48 hours in advance of any such meeting.

(b) The Co-Chairs shall make the text of any measure or matter described in a meeting agenda available to the members of the joint Select Committee not less than 24 hours in. advance of any such meeting, except that no vote on such measure or matter shall occur in violation of section 401(b)(5)(D) of the Budget Control Act of 2011.

HEARINGS

3. (a) Consistent with section 401(b)(5)(1)(ii)(I) of the Budget Control Act of 2011, the Co-Chairs shall make a public announcement of the date, place, time, and subject matter of any hearing not less than seven days in advance of such hearing, unless the Co-Chairs jointly determine that there is good cause to begin such hearing at an earlier date.

(b) Each witness appearing before the Joint Select Committee shall file a written statement of testimony at least two calendar days before the appearance of the witness.

(c) The Co-Chairs shall each control up to 15 minutes each for the opening statements of Members of the Joint Committee at each hearing.

VOTING AND QUORUMS

4. Seven members of the Joint Select Committee shall constitute a quorum for purposes of voting, meeting, and holding hearings.

5. The Co-Chairs shall conduct a record vote on any motion, amendment, measure, or matter upon the request of any member of the Joint Select Committee.

6. The Co-Chairs may jointly agree to set a series of votes on any amendment or agreeing to a measure or matter, or postpone a requested record vote on such amendment, measure or matter, to occur at a time certain. Reasonable notice shall be given to members prior to resuming proceedings on any postponed question.

7. The Joint Committee may not vote on any final report, final recommendations, or a final bill unless the Congressional Budget Office estimates are available for consideration by all members of the Joint Committee at least 48 hours prior to the vote.

8. No proxy voting shall be allowed on behalf of the members of the Joint Select Committee.

RULE III—STAFFING AND RECORDS

STAFF

1. The staff of the Joint Select Committee shall be appointed as provided in sections 401(b)(4)(c)(ii) and 401(c) of the Budget Control Act of 2011.

RECORDS

2. The Joint Select Committee shall maintain a complete record of all committee action, including—

(a) in the case of a hearing or meeting transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(b) the result of each record vote taken by the Joint Select Committee, including a description of the amendment, motion, order, or other proposition, the name of each member voting for and voting against such amendment, motion, order, or other proposition, and the names of the members of the Joint Select Committee present but not voting.

3. Upon the termination of the Joint Select Committee, the records of the Joint Select Committee shall be treated as Senate records under S. Res. 474, 96th Congress as directed by the Secretary of the Senate.

RULE IV—CONTENT OF REPORT

In the report required under section 401(b)(3)(B)(i) of the Budget Control Act of 2011, the Joint Select Committee shall include—

(a) with respect to each record vote on a motion to report the Joint Select Committee's recommendations or accompanying legislative language, and on any amendment offered to the recommendations or language, the total number of votes cast for and against, and the names of members voting for and against;

(b) an estimate by the Congressional Budget Office of the budgetary effects of the legislation (in the same manner as the estimate required by section 401(b)(5)(D)(ii) of the Budget Control Act of 2011); and

(c) a statement on the deficit reduction achieved by the legislation over the period of fiscal years 2012 to 2021 (in the manner as required by section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011); and

(d) a statement by the Joint Select Committee on the possible effects of the legislation on economic growth, employment, and United States competitiveness, if practicable; and

(e) the text of any statute or part thereof that is proposed to be repealed and a comparative print of any part of the legislative language proposing to amend a statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

RULE V—PUBLIC ACCESS AND TRANSPARENCY

1. (a) The Joint Select Committee shall establish and maintain a publicly available website, and shall make its publications available in electronic form thereon. Such publications will include final Committee transcripts and hearing materials as available.

(b) Not later than 24 hours after the adoption of any amendment to the report or legislative language, the Co-Chairs shall make the text of each such amendment publicly available in electronic form on the Joint Select Committee's website.

(c) Not later than 48 hours after a record vote is completed, the information described in clause 2(b) of rule III shall be made publicly available in electronic form on the Joint Select Committee's website.

2. Each hearing and meeting of the Joint Select Committee shall be open to the public and the media unless the Joint Select Committee, in open session and a quorum being present, determines by majority vote that such hearing or meeting shall be held in closed session. No vote on the recommendations, report or legislative language of the Joint Select Committee, or amendment thereto, may be taken in closed session.

3. To the maximum extent practicable, the Joint Select Committee shall—

(a) provide audio and video coverage of each hearing or meeting for the transaction of business in a manner that allows the public to easily listen to and view the proceedings; and

(b) maintain the recordings of such coverage in a manner that is easily accessible to the public.

ADDITIONAL STATEMENTS

MAINE WOOD CONCEPTS

● Ms SNOWE. Mr. President, with nearly 17.7 million acres of forest, my home State of Maine has the key distinction of being the most heavily forested State in this great country. Trees from these plentiful forests are converted into some of the finest hardwood flooring and custom wood products in the world. Today I wish to recognize Maine Wood Concepts, a small business that utilizes Maine's bountiful resources to create quality wooden products and which recently celebrated its 40th anniversary.

Maine Wood Concepts, located in the western Maine town of New Vineyard, specializes in turning, finishing, and manufacturing a variety of custom wood products, all designed to the highest standards. With an outstanding array of products including folding rules, file cleaners, drumsticks, pepper mills, industrial pieces, file handles, and even wooden nickels, this small business certainly lives up to its motto of ''turning wood into what you need.'' As one of the last wood turning companies in the country, the firm's endurance can be attributed to its elite craftsmanship and superior quality products.

Forty years ago Wayne Fletcher and Earl E. Fletcher purchased the previously closed Percy Webber Wood Turning Mill and opened the Maine Wood Turning Mill. Now run by the second generation of the Fletcher family and known as Maine Wood Concepts, this small business has expanded to include Maine Wood Turning, American Pride Company, and the Lutz File and Tool Company. From humble beginnings of producing wooden toy parts and simple wood products, the firm now employs approximately 80 individuals and makes several complex wooden products.

Maine Wood Concepts also seeks to ensure that Maine's abundant forest is cared for through responsible production and consumption of forest products. As a certified member of the Forest Stewardship Council, Maine Wood Concepts has met strict standards for promoting forest conservation through its chain of product distribution.

Over the past 40 years, Maine Woods Concepts has continually expanded and created quality jobs for Maine residents. Their ingenuity and growth throughout the years is a tribute to the strong work ethic found in every corner of Maine. I am proud to extend my congratulations to everyone at Maine Wood Concepts on the occasion of the company's 40th anniversary and offer my best wishes for their continued success.●

TRIBUTE TO OREM MAYOR JERRY C. WASHBURN

● Mr. HATCH. Mr. President, today I wish to speak about the passing last month of Orem Mayor Jerry C. Washburn, one of Utah's finest public servants and a man who was beloved by those who had the pleasure of knowing and serving with him.

Mayor Washburn passed away September 26, 2011, after a long and courageous battle with cancer. Of Utah's many great public servants, it is difficult to find one finer than Jerry. His legacy of compassionate care and service to others will endure forever in the heads and hearts of his family, friends, and many constituents and admirers.

Jerry Washburn lived in his city of Orem for over half a century and served as its mayor for 11 years. He was elected to four terms and was the longest serving mayor in Orem's history. The reason for his political success is the same as it was for his success in all his endeavors. He was unfailingly kind and friendly to everyone he met, and he had a wonderful ability to put people at ease. He listened respectfully to all opinions and appreciated a thoughtful exchange of ideas. Mayor Washburn also was a natural leader, and he was highly respected by national, State, and local officials. He had an excellent relationship with the Orem City Council and city staff.

During his time in office, Mayor Washburn presided over Orem with a steady hand and a gentle touch. He continually worked to build others and to strengthen the community by supporting a diverse array of projects and programs. His focus as mayor was preserving and enhancing the quality of life in Orem. In this endeavor, he helped keep Orem as one of the safest cities in America and ensured that it remained ''Family City USA.'' Mayor Washburn also worked hard to support Orem's many businesses and a strong economic base.

But Jerry Washburn's service and influence were not limited to Orem. He enjoyed his association with other leaders and organizations. He served as chairman of the Utah County Transportation Planning Organization and as chairman of the Utah County Board of Health. The mayor also was a founding board member of the Utah Lake Commission, served as president of the Orem Chamber of Commerce, and was a founding member of the Commission for Economic Development in Orem. He was also a successful businessman, owning a car dealership in Orem and serving on the regional board of a Utah bank and as director of a local credit union. He was accomplished both politically and professionally.

Jerry Washburn's motive for serving was simple. He wanted to help others and the community and State that he

so dearly loved. His credo was: ''If not me, who? If not now, when?'' He never sought rewards or recognition, but his service was so stellar that it did not go unrecognized. In fact, he received the Boy Scouts Silver Beaver Award, the Arthur V. Watkins Outstanding Citizen Award, and the Brigham Young University Emeriti Alumni Award.

Jerry Washburn was also an active member of the Church and Jesus Christ of Latter-day Saints. Demonstrating his faith and commitment to God, he served his fellow church members—without financial remuneration—in a variety of leadership positions. His was a life based on an abiding love of his family, his church, and his fellow man. Perhaps that is why in the political arena—known more for discord than harmony—Jerry Washburn had few, if any, enemies and so many friends. He loved and respected people, and they loved and respected him in return.

In one of his last discussions with trusted colleague and confidant, Orem City Manager Bruce Chesnut, Mayor Washburn said, ''No matter what happens, I'm ready.'' Well, Mr. Mayor, the City of Orem, the State of Utah, and the Nation were not ready to see you go.

Our thoughts and prayers at this time are with his cherished family, including his wife, Betty, his 6 children and 19 grandchildren.

Mayor Jerry Washburn will be greatly missed, but his legacy will live on through his wife, children, grandchildren, beloved community, and in the countless lives he has blessed and touched during his remarkable service.●

TRIBUTE TO SISTERS OF CHARITY

● Ms. COLLINS. Mr. President, in 1737, Marguerite D'Youville, a young widow and mother of three, founded the Sister of Charity in Quebec, Canada. Despite her own misfortune and poverty, she devoted her life to caring for those less fortunate—the poor, the sick, and the orphaned.

Since that time, the Grey Nuns, as the sisters are known, have expanded their work of compassion throughout Canada, the United States, South America, and the Caribbean with schools, hospitals, and orphanages. St. Marguerite D'Youville, whom Pope John XXIII called the ''Mother of Universal Charity,'' was canonized in 1990, the first native-born Canadian saint.

My home State has been blessed by the works of St. Marguerite and her followers. On November 20, 1878, three Grey Nuns stepped off a train in Lewiston, ME, equipped with little more than caring hearts and determination. Within 2 weeks, they opened the first bilingual school in that largely Franco-American city, with 200 children arriving for the first day of class. Within 6 months, they opened an orphanage.

The Hospital of the Sisters of Charity they founded was often referred to as the ''Sisters' Hospital'' or the ''French Hospital,'' but the Grey Nuns welcomed all. It was the first hospital in the twin cities of Lewiston-Auburn and the first Catholic hospital in Maine. Fees for care in the hard-working mill community were low and were often paid in loaves of bread, bolts of cloth, or bushels of apples, which the sisters gladly accepted.

A major expansion of the hospital in 1902 gave Lewiston the two magnificent domes that grace the city's skyline. In 1910, the name was changed to St. Mary's General Hospital. The growth of the hospital was well underway, with the latest medical innovations and a bilingual School of Nursing.

Today, St. Mary's Health System includes a 233-bed acute care facility; a strong physician network, an independent living center, and occupational health services that reach out to businesses throughout the region. St. Mary's D'Youville Pavilion is one of the largest nursing homes in New England and a national model for elder care.

On October 24, St. Mary's General Hospital will honor the Sisters of Charity, past and present, for more than 130 years of healing for the body and the soul. I rise today to join in that tribute. Through the tender care and willing sacrifice of the Grey Nuns, the words of St. Marguerite d'Youville, ''We shall continue to love and to serve,'' still resonate today.●

FOOD DAY

● Mr. BARRASSO. Mr. President, today I wish to submit for the RECORD an article written by Ann Wittman, executive director of the Wyoming Beef Council and published October 8, 2011, in the Wyoming Livestock Journal. The article's title is ''Food Day Includes Gravy.''

As Ann correctly points out, Monday, October 24, 2011, is being billed as Food Day with events planned across the Nation. Here in Washington, DC, the National Archives will be hosting a Food Day open house in conjunction with their ''What's Cooking, Uncle Sam?'' exhibit. Of note, the open house is being supported by the U.S. Department of Agriculture and U.S. Food and Drug Administration along with the primary Food Day sponsor, the Center for Science in the Public Interest.

It is the Center for Science in the Public Interest's agenda Ann calls into question. As she writes, the group's goal is to ''encourage people around the country to sponsor or participate in activities that encourage Americans to 'eat real' and support healthy, affordable food grown in a sustainable, humane way.''

The question must be asked, who is defining what is or what is not sustainable, healthy, and humane? In the article she points out behind the innocent name of the ''Center for Science in the Public Interest'' are groups with very extreme positions such as the Humane Society of the United States, People for the Ethical Treatment of Animals, Farm Animal Rights Movement, and FBI-designated terrorist groups, including the Animal Liberation Front. These groups push radical environmental, animal rights, and vegan positions and lifestyles that have very little to do with either science or public interest.

The USDA and FDA should not align themselves with fringe groups who push ideology over science. I commend Ann for her research and wise judgment in exposing special interest masquerading as public interest.

The material follows.

FOOD DAY INCLUDES GRAVY

(By Ann Wittmann, Executive Director, Wyoming Beef Council)

When I started working at the Wyoming Beef Council more than a decade ago, I had fewer gray hairs, fewer wrinkles and enthusiasm that might have been referred to as effervescent. My ideals were grand, my trust was large and I had great faith in the public to seek and gravitate toward the truth. Don't get me wrong, my enthusiasm has not waned, anyone who works with me or in the continental vicinity of me knows that I am passionate about my work, but the direction and means of expressing my enthusiasm has become more focused over the years. It's become less like an exploding soda pop and more like simmering gravy.

Several weeks ago I read with great interest an invitation to work with an organization called Center for Science in the Public Interest (CSPI) to participate in and facilitate ''Food Day'' activities throughout Wyoming. The invite billed ''Food Day'' as a national event on Oct. 24, 2011 to ''encourage people around the country to sponsor or participate in activities that encourage Americans to 'eat real' and support healthy, affordable food grown in a sustainable, humane way.''

Had I received that offer 10 years ago, I would have been shocked to discover the true message and motive behind the effort. After all, the event was created by the Center for Science in the Public Interest, and who among us doesn't believe that science should be in the public interest? My older, wiser simmering brain prevailed, however, and held back enthusiasm pending further investigation.

Research into the event listed partner organizations as Physicians Committee for Responsible Medicine, Farm Animal Rights Movement and the notorious Humane Society of the United States. Similar to the CSPI group, these organizations have feel-good names that serve to mislead the public. Most of us are aware that the Humane Society of the United States (HSUS) is a national nonprofit organization with a $200 million budget raised under the guise of funding pet shelters, but that spends all but one percent of that budget on efforts to eliminate animal agriculture. The other two groups, Physicians Committee for Responsible Medicine (PCRM) and Farm Animals Rights Movement (FARM) may not be as familiar. PCRM, in spite of its name, has a very small number of physicians as members and has direct ties to PETA, as well as several FBI-designated terrorist groups including Animal Liberation Front (ALF) and Stop Huntingdon Animal Cruelty (SHAC). FARM is a national nonprofit organization promoting a vegan lifestyle through public education and grassroots activism to end the use of animals for food.

As cautious as I am about jumping to conclusions, less than 60 seconds into my research I began to think ''Food Day'' was not

a beef-friendly event! Sadly, other organizations that have been, and often continue to be, beef-friendly did not come to the same conclusion. Specifically, the American Dietetic Association, the American Culinary Federation and the National Association of City and County Health Officials signed on as partners to this campaign.

The five central goals of CSPI Food Day are: reduce diet-related disease by promoting safe, healthy foods; support sustainable farms and limit subsidies to big agribusiness; expand access to food and alleviate hunger; protect the environment and animals by reforming factory farms; promote health by curbing junk-food marketing to kids; and support fair conditions for food and farm workers. This campaign recommends a nearly-vegetarian diet to meet these goals.

The fourth goal of protecting the environment and animals by reforming factory farms continues to bring up false claims, such as the fat content of grain-finished beef or the greenhouse gas emissions from cattle. This alone is enough to make a simmering brain steam up and boil over. However, one of the most valuable lessons I have learned in my conversion from carbonation to stove top is to ensure that actions and reactions don't provide unintended publicity to the event or issue. After all, do these folks really need help giving their events more attention? Careful behind-the-scenes work is most often the best way to navigate these waters.

Two Wyoming events were posted on the CSPI Food Day website. The first was a mailing to Women, Infants and Children (WIC) clinics throughout the state. After discussing my concerns with a long-time beef-friendly contact at Wyoming WIC, she and I decided that sending out checkoff-funded information detailing the true story of beef production was in order. This effort is currently underway. Second, the University of Wyoming posted plans to host their own version of Food Days on Oct. 24–26 to includes a food drive and resource fair along with a harvest dinner made with locally sourced foods. UW Food Days will wrap up on Oct. 26 with a day of trayless dining and cooking demonstrations showcasing local foods. Wyoming Collegiate CattleWomen and other university contacts have been alerted and asked to ensure the events are balanced and the truth about beef production is also available.

Nationally, proactive checkoff-funded programs such as panel discussions and national town hall conversations about America's food system are taking place, seeding the environment with positive messages about agriculture. Additionally, national beef checkoff staff has been meeting with several of the afore-mentioned beef-friendly organizations and advisory board members to try and educate them about the beef industry and understand why they are supporting this campaign. State beef councils across the country are meeting with state/local chapters of the organizations on the advisory board for Food Day, as well explaining that, while on the surface Food Day appears to be an initiative to promote healthy foods versus fast-food and junk-food, it is actually a cleverly disguised event by groups opposed to modern food production practices.

Ultimately, I believe the true story of beef production and the opportunity to share the reality of the wholesomeness of our product and production methods are enthusiasm worthy and the checkoff will continue to roll along, working proactively, reactively and frequently behind the scenes, like a savory gravy on the back burner, to tell the positive story about our product.

For more information about the beef checkoff program visit mybeefcheckoff.com, wybeef.com or contact me at ann.wittmann@wyo.gov.●

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS DECLARED WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect beyond October 21, 2011.

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and cause an extreme level of violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property and interests in property that are in the United States or within the possession or control of United States persons and by depriving them of access to the U.S. market and financial system.

BARACK OBAMA.

THE WHITE HOUSE, *October 19, 2011.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3632. A communication from the Associate General Counsel, Office of the General Counsel, Department of Agriculture, transmitting, pursuant to law, (3) three reports relative to vacancies in the Department of Agriculture received in the Office of the President of the Senate on October 17, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3633. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacteriophage of Clavibacter michiganensis subspecies michiganensis; Exemption from the Requirement of a Tolerance'' (FRL No. 8891–3) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3634. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, the Board's Quarterly Report to Congress on the Status of Significant Unresolved Issues with the Department of Energy's Design and Construction Projects; to the Committee on Armed Services.

EC–3635. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Iran-Related Multilateral Sanction Regime Efforts''; to the Committee on Armed Services.

EC–3636. A communication from the Assistant General Counsel, General Law, Ethics, and Regulation, Department of the Treasury, transmitting, pursuant to law, (6) reports relative to vacancies within the Department of the Treasury, received in the Office of the President of the Senate on October 13, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3637. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to blocking the property of certain persons contributing to the conflict in Somalia that was declared in Executive Order 13536 of April 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–3638. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 on November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 1843. A bill to designate the facility of the United States Postal Service located at 489 Army Drive in Barrigada, Guam, as the ''John Pangelinan Gerber Post Office Building''.

H.R. 1975. A bill to designate the facility of the United States Postal Service located at 281 East Colorado Boulevard in Pasadena, California, as the ''First Lieutenant Oliver Goodall Post Office Building''.

H.R. 2062. A bill to designate the facility of the United States Postal Service located at 45 Meetinghouse Lane in Sagamore Beach, Massachusetts, as the ''Matthew A. Pucino Post Office''.

H.R. 2149. A bill to designate the facility of the United States Postal Service located at 4354 Pahoa Avenue in Honolulu, Hawaii, as the ''Cecil L. Heftel Post Office Building''.

S. 1412. A bill to designate the facility of the United States Postal Service located at 462 Washington Street, Woburn Massachusetts, as the ''Officer John Maguire Post Office''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*Laura A. Cordero, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S Truman Scholarship

Foundation for a term expiring December 15, 2015.

*Claude M. Steele, of New York, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2014.

*Anneila I. Sargent, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2016.

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Catharine Friend Easterly, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

*Corinne Ann Beckwith, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

*Ernest Mitchell, Jr., of California, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency, Department of Homeland Security.

*Ronald David McCray, of Texas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2012.

*Ronald David McCray, of Texas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2016.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BLUMENTHAL (for himself, Mr. CORKER, Mr. BENNET, Mr. HATCH, Mr. CASEY, Mr. ALEXANDER, and Mr. COONS):

S. 1734. A bill to provide incentives for the development of qualified infectious disease products; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COCHRAN (for himself and Mr. WICKER):

S. 1735. A bill to approve the transfer of Yellow Creek Port properties in Iuka, Mississippi; to the Committee on Environment and Public Works.

By Mr. BROWN of Massachusetts (for himself, Ms. COLLINS, and Mr. LIEBERMAN):

S. 1736. A bill to achieve cost savings through the reform of Federal acquisition practices and procedures; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BENNET (for himself and Mr. ISAKSON):

S. 1737. A bill to improve the accuracy of mortgage underwriting used by Federal mortgage agencies by ensuring that energy costs are included in the underwriting process, to reduce the amount of energy consumed by homes, to facilitate the creation of energy efficiency retrofit and construction jobs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN (for himself, Mr. CRAPO, Mr. RUBIO, Mrs. HUTCHISON, and Mr. BURR):

S. 1738. A bill to rescind the 3.8 percent tax on the investment income of the American people and to promote job creation and small businesses; to the Committee on Finance.

By Mr. FRANKEN (for himself and Ms. KLOBUCHAR):

S. 1739. A bill to provide for the use and distribution of judgment funds awarded to the Minnesota Chippewa Tribe by the United States Court of Federal Claims in Docket Numbers 19 and 188, and for other purposes; to the Committee on Indian Affairs.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. WEBB, Mr. CARPER, and Mr. COONS):

S. 1740. A bill to amend the Chesapeake Bay Initiative Act of 1998 to provide for the reauthorization of the Chesapeake Bay Gateways and Watertrails Network; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MERKLEY (for himself, Mr. CRAPO, Mr. KOHL, and Mr. LAUTENBERG):

S. Res. 299. A resolution designating October 2011 as ''National Work and Family Month''; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. WHITEHOUSE, Mr. GRASSLEY, Mr. CRAPO, Mr. CHAMBLISS, Mrs. FEINSTEIN, and Mr. THUNE):

S. Res. 300. A resolution supporting the goals and ideals of Red Ribbon Week, 2011; considered and agreed to.

ADDITIONAL COSPONSORS

S. 229

At the request of Mr. BEGICH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 229, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically-engineered fish.

S. 306

At the request of Mr. WEBB, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 390

At the request of Mr. WEBB, the name of the Senator from Massachusetts (Mr. BROWN) was withdrawn as a cosponsor of S. 390, a bill to ensure that the right of an individual to display the Service Flag on residential property not be abridged.

At the request of Mr. WEBB, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 390, supra.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 431

At the request of Mr. PRYOR, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 431, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

S. 720

At the request of Mr. THUNE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 720, a bill to repeal the CLASS program.

S. 968

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 968, a bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes.

S. 1133

At the request of Mr. WYDEN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1133, a bill to prevent the evasion of antidumping and countervailing duty orders, and for other purposes.

S. 1181

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1181, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1385

At the request of Mr. VITTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1385, a bill to terminate the $1 presidential coin program.

S. 1467

At the request of Mr. BLUNT, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1467, a bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services.

S. 1508

At the request of Mr. MENENDEZ, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. 1508, a bill to extend loan limits for programs of the Federal Housing Administration, the government-sponsored enterprises, and the Department of Veterans Affairs, and for other purposes.

S. 1512

At the request of Mr. CARDIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 1610

At the request of Mr. THUNE, his name was added as a cosponsor of S.

1610, a bill to provide additional time for the Administrator of the Environmental Protection Agency to promulgate achievable standards for cement manufacturing facilities, and for other purposes.

S. 1615

At the request of Mr. SHELBY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1615, a bill to require enhanced economic analysis and justification of regulations proposed by certain Federal banking, housing, securities, and commodity regulators, and for other purposes.

S. 1651

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1651, a bill to provide for greater transparency and honesty in the Federal budget process.

S. 1653

At the request of Ms. KLOBUCHAR, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1653, a bill to make minor modifications to the procedures relating to the issuance of visas.

S. 1676

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1676, a bill to amend the Internal Revenue Code of 1986 to provide for taxpayers making donations with their returns of income tax to the Federal Government to pay down the public debt.

S. 1692

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 1692, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, to provide full funding for the Payments in Lieu of Taxes program, and for other purposes.

S. 1704

At the request of Ms. AYOTTE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1704, a bill to amend title 10, United States Code, to modify certain authorities relating to the strategic airlift aircraft force structure of the Air Force.

S. 1718

At the request of Mr. WYDEN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1718, a bill to amend title XVIII of the Social Security Act with respect to the application of Medicare secondary payer rules for certain claims.

S. 1720

At the request of Mr. MCCAIN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1720, a bill to provide American jobs through economic growth.

S. 1723

At the request of Mr. COONS, his name was added as a cosponsor of S. 1723, a bill to provide for teacher and first responder stabilization.

At the request of Mr. MERKLEY, his name was added as a cosponsor of S. 1723, supra.

S. RES. 132

At the request of Mr. NELSON of Nebraska, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Res. 132, a resolution recognizing and honoring the zoos and aquariums of the United States.

S. RES. 291

At the request of Mr. MENENDEZ, the names of the Senator from Massachusetts (Mr. BROWN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. Res. 291, a resolution recognizing the religious and historical significance of the festival of Diwali.

AMENDMENT NO. 749

At the request of Mr. MCCAIN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of amendment No. 749 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 750

At the request of Mr. WEBB, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Massachusetts (Mr. KERRY), the Senator from Oregon (Mr. WYDEN), the Senator from Colorado (Mr. UDALL), the Senator from New York (Mrs. GILLIBRAND), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 750 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 769

At the request of Mr. VITTER, the names of the Senator from Vermont (Mr. SANDERS), the Senator from Arizona (Mr. MCCAIN), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 769 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 771

At the request of Mr. BINGAMAN, the names of the Senator from Delaware (Mr. COONS) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 771 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 781

At the request of Ms. LANDRIEU, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 781 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 812

At the request of Mr. SESSIONS, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of amendment No. 812 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 814

At the request of Mr. CRAPO, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of amendment No. 814 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 817

At the request of Mr. SCHUMER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 817 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 827

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 827 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 836

At the request of Mr. LAUTENBERG, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of amendment No. 836 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 844

At the request of Mr. HATCH, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of amendment No. 844 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 854

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 854 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 855

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 855 intended to be proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 857

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Delaware (Mr. COONS), the Senator from Massachusetts (Mr. BROWN), the Senator from Maryland (Mr. CARDIN), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Hawaii (Mr. AKAKA) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 857 proposed to H.R. 2112, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself, Mr. CRAPO, Mr. RUBIO, Mrs. HUTCHISON, and Mr. BURR):

S. 1738. A bill to rescind the 3.8 percent tax on the investment income of the American people and to promote job creation and small businesses; to the Committee on Finance.

Mr. CORNYN. Mr. President, today I am introducing the Economic Growth and Jobs Protection Act of 2011. This legislation would repeal the 3.8 percent surtax on investment income that was included in the Health Care Reconciliation Act of 2010 (P.L. 111–152, signed into law by the President last year. I am pleased that Senators CRAPO, RUBIO, HUTCHISON, and BURR are cosponsors of this legislation.

We know that taxpayers will likely face the largest tax increase in history when the 2001 and 2003 tax relief acts expire at the end of 2013. If Congress does nothing, the highest tax rate for individuals will rise from 35 percent to just under 40 percent; taxpayers in the lowest bracket will see a 50 percent tax increase, from 10 percent to 15 percent; the marriage penalty will increase; the child credit will be cut in half; and taxes on capital gains and dividends will increase. In other words, every taxpayer will pay higher taxes to Washington.

But while taxpayers may be aware of these expiring provisions, many are likely not fully aware of another unpleasant surprise that will arrive on the first day of 2013. The Health Care Reconciliation Act that was jammed through the Senate along partisan lines includes a 3.8 percent surtax on the dividends, rents, and interest earned by certain taxpayers. Enacting this permanent tax hike was a mistake then and is a mistake now.

The Institute for Research on the Economics of Taxation—a nonprofit economic policy research and educational organization recently told the Senate Finance Committee that the 3.8 percent surtax would reduce capital formation, which would lower productivity and wages and that a 3.8 percent surtax would lower GDP by about 0.9 percent and would actually result in lower revenue coming into the government's coffers.

Simply put, increasing taxes on investment income is a job killer and increases uncertainty at a time that the national unemployment is more than 9 percent. In fact, the top tax rate on capital gains will eventually be 23.8 percent as the rate bounces back to 20 percent from 15 percent in 2013. And dividends taxes would more than double to more than 43 percent.

We should not pile more taxes on the backs of working families and job creators. This will not help create jobs and will not make the tax code more pro-growth. We know the key to job creation is to grow the economy and allow small businesses to flourish, invest and create jobs.

In fact, according to the Federal Reserve Bank of Boston, we will need several years of very strong growth to reach 5 percent unemployment. For example, to reach 5 percent unemployment by 2015 the economy will need to grow 4.2 percent a year. This is just one reason that during the health care debate I offered a motion that would have directed the Senate Finance Committee to report the bill back without the 3.8 percent tax on the investment income. Although my attempt to strip out this job-killing tax fell short, I want to take this opportunity to note that six of my colleagues on the other side of the aisle supported my motion.

Not only will the Economic Growth and Jobs Protection Act of 2011 protect jobs and the investment security of taxpayers, it will also make sure that Congress restores one of the President's campaign promises. On September 12, 2008, then-candidate Obama promised the American people that, ''Everyone in America—everyone—will pay lower taxes than they would under the rates Bill Clinton had in the 1990s.'' But when combined with the President's budget proposal, this additional tax on investment will raise taxes on many Americans higher than they were under the rates President Clinton had in the 1990s.

I ask that my colleagues support this legislation that will repeal this job-killing tax on small business investment and will protect economic growth, jobs and the retirement savings of taxpayers. Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Economic Growth and Jobs Protection Act of 2011''.

SEC. 2. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION.

Subsection (a) of section 1402 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152) and the amendments made by such subsection are repealed.

NATIONAL ASSOCIATION OF MANUFACTURERS,
OCTOBER 18, 2011.

Hon. JOHN CORNYN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CORNYN: On behalf of the National Association of Manufacturers (NAM)—the nation's largest industrial trade association—thank you for your leadership in introducing ''The Economic Growth and Jobs Protection Act of 2011,'' to repeal the 3.8 percent surtax on ''investment income'' currently scheduled to go into effect beginning in 2013. The NAM strongly supports the passage of this legislation.

As you know, the Health Care and Education Reconciliation Act of 2010 (P.L. 111–152) imposes a new 3.8 percent surtax on the dividends, rents and interest income earned by certain taxpayers. This new surtax, if implemented, will discourage savings and investment. If not repealed, this surtax will come on top of increases on dividend taxes that are scheduled to accelerate from today's current rate of 15 percent to a top rate of 39.6 percent at the beginning of 2013. Combined with this surtax, dividends taxes could more than double to a total of 43.9 percent.

Manufacturers strongly support the repeal of this burdensome tax that would increase the tax on savings and investment and reduce the amount of capital business owners have available to invest in their companies. Such a tax will ultimately result in the loss of vital funds needed for business operations and job creation.

Thank you for introducing this legislation. At this time while our nation is working to emerge from recent economic challenges,

further increasing taxes on investment income is the wrong approach and simply adds to a tax system that is already anti-growth. We look forward to working with you and your staff to advance this important legislation.

Sincerely,
DOROTHY COLEMAN, *Vice President, Tax, Technology & Domestic Policy.*

By Mr. FRANKEN (for himself and Ms. KLOBUCHAR):

S. 1739. A bill to provide for the use and distribution of judgment funds awarded to the Minnesota Chippewa Tribe by the United States Court of Federal Claims in Docket Numbers 19 and 188, and for other purposes; to the Committee on Indian Affairs.

Mr. FRANKEN. Mr. President, today I am introducing the Minnesota Chippewa Tribe Judgment Fund Distribution Act with my friend and colleague from Minnesota, Senator KLOBUCHAR. This legislation will finally allow for the distribution of funds owed to the Minnesota Chippewa Tribe. Before I talk about our legislation, I want to first thank my colleague in the House, Representative PETERSON of Minnesota, for his leadership on this issue and for the tremendous work he put into crafting this bill.

It has been a long road to get to this point. The Minnesota Chippewa Tribe first filed complaints before the Indian Claims Commission in 1948. It took all the way until 1999 before their claims were settled. For over 60 years, members of the Minnesota Chippewa Tribe have been waiting for these funds. It's time to get this done.

In 1999, the United States Court of Federal Claims awarded $20 million to the Minnesota Chippewa Tribe. This money is to compensate tribal members for the improper taking and sale of land and timber under the Nelson Act of 1889. The Federal Government owes the Minnesota Chippewa Tribe this money. In fact, in 1999, the $20 million owed to the tribe was transferred to the Department of the Interior and deposited in a trust fund account, where it has been collecting one percent interest. But tribal members in my home State of Minnesota have never received a dime. That is because, before any money can go to the tribe, Congress must pass legislation detailing how to allocate the funds between the 6 bands that make up the Minnesota Chippewa Tribe.

Today, Senator KLOBUCHAR and I are introducing legislation to do just that. Our bill will provide $300 to every tribal member. While this might not seem like a lot of money, I want to remind my colleagues that Native Americans represent one of the poorest segments of Minnesota's population. On the White Earth reservation, where one in five members live under the poverty line, a check for $1,200 for a family of four would make a real difference. This is money that the 40,000 enrolled members of the Minnesota Chippewa Tribe could be using right now to put tires on their car or fix a leaking roof or buy new shoes for their children.

Our bill allocates the remaining funds equally to each of the six bands that make up the Minnesota Chippewa Tribe. That is approximately $15 million or $2.5 million per band. This funding is desperately needed. It will allow the bands to provide for the basic needs for their people by investing in economic development, health care, housing, and education.

There is one band, the Leech Lake Band of Ojibwe, that does not agree with this distribution plan. I am sympathetic to their concerns, and I sincerely hoped that a consensus agreement could have been reached that would have satisfied all those involved. But, in the end, I believe we must respect the decision of the tribe.

The bill we are introducing today reflects the distribution agreed upon by the Minnesota Chippewa Tribal Executive Committee. This is a democratic body comprised of two elected officials from each of the six bands. Under the tribal constitution, the Executive Committee is the governing body of the tribe. After years of disagreement, the Tribal Excusive Committee has agreed on an allocation formula. I deeply respect tribal sovereignty and therefore believe we must respect their decision.

I also worry that any further delay will only cause hardship for individual tribal members. The thousands of tribal members across Minnesota cannot afford to wait another decade. It is time for Congress to act to allow for the distribution of the funds owed to the Minnesota Chippewa Tribe.

I urge my colleagues to support this legislation and send it to the President's desk to be signed into law as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Minnesota Chippewa Tribe Judgment Fund Distribution Act of 2011''.

SEC. 2. FINDINGS.

Congress finds that—

(1) on January 22, 1948, the Minnesota Chippewa Tribe, representing all Chippewa bands in the State of Minnesota except the Red Lake Band, filed a claim before the Indian Claims Commission in Docket No. 19 for an accounting of all amounts received and expended pursuant to the Act of January 14, 1889 (25 Stat. 642, chapter 24) (referred to in this Act as the ''Nelson Act'');

(2) on August 2, 1951, the Minnesota Chippewa Tribe, representing all Chippewa bands in the State of Minnesota except the Red Lake Band, filed a number of claims before the Indian Claims Commission in Docket No. 188 for an accounting of the obligation of the Federal Government to each member Band of the Minnesota Chippewa Tribe under various statutes and treaties not covered by the Nelson Act;

(3) on May 17, 1999, a joint motion for findings in aid of settlement of the claims in Docket No. 19 and 188 was filed in the Court of Federal Claims;

(4) the terms of the settlement were approved by the Court of Federal Claims and final judgment in the matter was entered on May 26, 1999;

(5) on June 22, 1999, $20,000,000 was transferred to the Department of the Interior and deposited in a trust fund account established for the beneficiaries of the amounts awarded in Docket No. 19 and 188;

(6) pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), Congress must act to authorize the use or distribution of the judgment funds; and

(7) on October 1, 2009, the Minnesota Chippewa Tribal Executive Committee passed Resolution 146–09, approving a plan to distribute the judgment funds and requesting that Congress authorize the distribution of the judgment funds in the manner described by the plan.

SEC. 3. DEFINITIONS.

In this Act:

(1) BANDS.—The term ''Bands'' means—

(A) the Bois Forte Band;

(B) the Fond du Lac Band;

(C) the Grand Portage Band;

(D) the Leech Lake Band;

(E) the Mille Lacs Band; and

(F) the White Earth Band.

(2) JUDGMENT FUNDS.—The term ''judgment funds'' means the $20,000,000 awarded on May 26, 1999, to the Minnesota Chippewa Tribe by the Court of Federal Claims and transferred to the Secretary for deposit in a trust fund account established for the beneficiaries of Docket No. 19 and 188.

(3) MINNESOTA CHIPPEWA TRIBE.—The term ''Minnesota Chippewa Tribe'' means the Minnesota Chippewa Tribe, composed solely of the Bands.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. LOAN REIMBURSEMENTS TO MINNESOTA CHIPPEWA TRIBE.

(a) IN GENERAL.—The Secretary may reimburse the Minnesota Chippewa Tribe the amount that the Minnesota Chippewa Tribe contributed for attorneys' fees and litigation expenses associated with the litigation of Docket No. 19 and 188 in the Court of Federal Claims and the distribution of judgment funds, plus any interest earned on that amount as of the date of payment under this section to the Minnesota Chippewa Tribe.

(b) PROCEDURE.—

(1) IN GENERAL.—To receive a reimbursement payment under subsection (a), not later than 90 days after the date of enactment of this Act, the Minnesota Chippewa Tribe shall submit to the Secretary a written claim for the reimbursement amount described in that subsection, subject to the condition that the Minnesota Chippewa Tribe certify that the reimbursement expenses claimed have not been reimbursed to the Tribe by any other entity.

(2) PAYMENT.—If the Minnesota Chippewa Tribe submits a claim to the Secretary in accordance with paragraph (1), the Secretary shall, using the judgment funds, pay to the Minnesota Chippewa Tribe the full reimbursement amount claimed, plus interest on that amount, calculated at the rate of 6.0 percent per year, simple interest, beginning on the date on which the amounts were expended by the Tribe and ending on the date on which the amounts are reimbursed to the Tribe.

SEC. 5. DISTRIBUTION OF JUDGMENT FUNDS.

(a) MEMBERSHIP ROLLS.—Not later than 90 days after the date of enactment of this Act, the Minnesota Chippewa Tribe shall submit to the Secretary an updated membership roll for each Band of the Tribe, each of which

shall include the names of all enrolled members of that Band living on the date of enactment of this Act.

(b) DISBURSEMENT OF AVAILABLE FUNDS.—

(1) PER CAPITA ACCOUNT.—After the date on which any amounts under section 4 have been disbursed and the Secretary has received the updated membership rolls under subsection (a), the Secretary shall, from the remaining judgment funds, deposit in a per capita account established by the Secretary for each Band, an amount that is equal to $300 for each member of that Band listed on the updated membership roll.

(2) REMAINING AMOUNTS.—If, after the disbursement described in paragraph (1), any judgment funds remain undisbursed, the Secretary shall deposit in an account established by the Secretary for each Band, which shall be separate from the per capita account described in paragraph (1), all remaining amounts, divided equally among the Bands.

(c) USE OF AMOUNTS.—

(1) DISBURSEMENT OF PER CAPITA PAYMENTS.—Any amounts deposited in the per capita account of a Band described in subsection (b)(1) shall be—

(A) made available to the Band for immediate withdrawal; and

(B) used by the Band solely for the purpose of distributing 1 $300 payment to each individual member of the Band listed on the updated membership roll.

(2) TREATMENT OF DEPENDENTS.—For each minor or dependent member of the Band listed on the updated roll, the Band may—

(A) distribute the $300 payment to a parent or legal guardian of that dependent Band member; or

(B) deposit in a trust account the $300 payment of that dependent Band member for the benefit of that dependent Band member, to be distributed under the terms of the trust.

(d) UNCLAIMED PAYMENTS.—If, on the date that is 1 year after the date on which the amounts described in subsection (b)(1) are made available to a Band, any amounts remain unclaimed, those amounts shall be returned to the Secretary, who shall deposit the remaining amounts in the accounts described in subsection (b)(2) in equal shares for each Band.

(e) NO LIABILITY.—The Secretary shall not be liable for the expenditure or investment of any amounts disbursed to a Band from the accounts described in subsection (b) after those amounts are withdrawn by the Band.

SEC. 6. ADMINISTRATION.

Amounts disbursed under this Act—

(1) shall not be liable for the payment of previously contracted obligations of any recipient, as provided in section 2(a) of Public Law 98–64 (25 U.S.C. 117b(a)); and

(2) shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. WEBB, Mr. CARPER, and Mr. COONS):

S. 1740. A bill to amend the Chesapeake Bay Initiative Act of 1998 to provide for the reauthorization of the Chesapeake Bay Gateways and Watertrails Network; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, authorized under P.L. 105–312 in 1998 and reauthorized by P.L. 107–308 in 2002, the Chesapeake Bay Gateways and Watertrails Network helps several million visitors and residents find, enjoy, and learn about the special places and stories of the Chesapeake and its watershed. Today I am introducing legislation to reauthorize this successful program.

For visitors and residents, the Gateways are the ''Chesapeake connection.'' The Network members provide an experience of such high quality that their visitors will indeed connect to the Chesapeake emotionally as well as intellectually, and thus to its conservation.

The Chesapeake Bay is a national treasure. The Chesapeake ranks as the largest of America's 130 estuaries and one of the Nation's largest and longest fresh water and estuarine systems. The Atlantic Ocean delivers half the bay's 18 trillion gallons of water and the other half flows through over 150 major rivers and streams draining 64,000 square miles within 6 States and the District of Columbia. The Chesapeake watershed is among the most significant cultural, natural and historic assets of our Nation.

The Chesapeake is enormous and vastly diverse—how could you possibly experience the whole story in any one place? Better to connect and use the scores of existing public places to collaborate on presenting the many chapters and tales of the bay story. Visitors and residents go to more places for more experiences, all through a coordinated Gateways Network.

Beyond simply coordinating the Network, publishing a map and guides, and providing standard exhibits at all Gateways, the National Park Service has helped Gateways with matching grants and expertise for 200 projects with a total value of more than $12 million. This is a great deal for the bay—it helps network members tell the Chesapeake story better and inspires people to care for this National Treasure—and it is a good deal for the Park Service. In this legislation, we cap the Gateways authorization at just $2 million annually. It serves all 150+ Gateways and their 10 million visitors. No other National Park can provide such a dramatic ratio of public dollars spent to number of visitors served.

With the National Park Service's expertise and support, Gateways have made significant progress in their mission to tell the bay's stories to their millions of members and visitors, extend access to the bay and its watershed, and develop a conservation awareness and ethic. It is time to reauthorize the Chesapeake Gateways and Watertrails program. It is my hope that the Congress will act quickly to adopt this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chesapeake Bay Gateways and Watertrails Network Reauthorization Act''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking ''fiscal years'' and all that follows through the period at the end and inserting ''fiscal years 2012 through 2016.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 299—DESIGNATING OCTOBER 2011 AS ''NATIONAL WORK AND FAMILY MONTH''

Mr. MERKLEY (for himself, Mr. CRAPO, Mr KOHL, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Whereas, according to a report by WorldatWork, a nonprofit professional association with expertise in attracting, motivating, and retaining employees, the quality of workers' jobs and the supportiveness of the workplace of the workers are key predictors of the job productivity, job satisfaction, and commitment to the employer of those workers, as well as of the ability of the employer to retain those workers;

Whereas ''work-life balance'' refers to specific organizational practices, policies, and programs that are guided by a philosophy of active support for the efforts of employees to achieve success within and outside the workplace, such as caring for dependents, health and wellness, paid and unpaid time off, financial support, community involvement, and workplace culture;

Whereas numerous studies show that employers that offer effective work-life balance programs are better able to recruit more talented employees, maintain a happier, healthier, and less stressed workforce, and retain experienced employees, which produces a more productive and stable workforce with less voluntary turnover;

Whereas job flexibility often allows parents to be more involved in the lives of their children, and research demonstrates that parental involvement is associated with higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates in children;

Whereas military families have special work-family needs that often require robust policies and programs that provide flexibility to employees in unique circumstances;

Whereas studies report that family rituals, such as sitting down to dinner together and sharing activities on weekends and holidays, positively influence the health and development of children and that children who eat dinner with their families every day consume nearly a full serving more of fruits and vegetables per day than those who never eat dinner with their families or do so only occasionally; and

Whereas the month of October is an appropriate month to designate as National Work and Family Month: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2011 as ''National Work and Family Month'';

(2) recognizes the importance of work schedules that allow employees to spend time with their families to job productivity and healthy families;

(3) urges public officials, employers, employees, and the general public to work together to achieve more balance between work and family; and

(4) calls upon the people of the United States to observe National Work and Family Month with appropriate ceremonies and activities.

SENATE RESOLUTION 300—SUPPORTING THE GOALS AND IDEALS OF RED RIBBON WEEK, 2011

Ms. MURKOWSKI (for herself, Mr. WHITEHOUSE, Mr. GRASSLEY, Mr. CRAPO, Mr. CHAMBLISS, Mrs. FEINSTEIN, and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 300

Whereas the Red Ribbon Campaign was established to commemorate the service of Enrique ''Kiki'' Camarena, a special agent of the Drug Enforcement Administration for 11 years who was murdered in the line of duty in 1985 while engaged in the battle against illicit drugs;

Whereas the Red Ribbon Campaign was established by the National Family Partnership to preserve the memory of Special Agent Camarena and further the cause for which he gave his life;

Whereas the Red Ribbon Campaign has been nationally recognized since 1988 and is now the oldest and largest drug prevention program in the United States, reaching millions of young people each year during Red Ribbon Week;

Whereas the Drug Enforcement Administration, established in 1973, aggressively targets organizations involved in the growing, manufacturing, and distribution of controlled substances and has been a steadfast partner in commemorating Red Ribbon Week;

Whereas the Governors and attorneys general of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, PRIDE Youth Programs, the Drug Enforcement Administration, and hundreds of other organizations throughout the United States annually celebrate Red Ribbon Week during the period of October 23 through October 31;

Whereas the objective of Red Ribbon Week is to promote the creation of drug-free communities through drug prevention efforts, education, parental involvement, and community-wide support;

Whereas drug abuse is one of the major challenges that the United States faces in securing a safe and healthy future for families in the United States;

Whereas drug abuse and alcohol abuse contribute to domestic violence and sexual assault and place the lives of children at risk;

Whereas, between 1998 and 2008, the percentages of admissions to substance abuse treatment programs as a result of the abuse of marijuana and methamphetamines rose significantly;

Whereas drug dealers specifically target children by marketing illicit drugs that mimic the appearance and names of well-known brand-name candies and foods;

Whereas emerging drug threats and growing epidemics demand attention, with particular focus on the abuse of prescription medications, the second most abused drug by young people in the United States;

Whereas since the majority of teenagers abusing prescription drugs get the prescription drugs from family, friends, and home medicine cabinets, the Drug Enforcement Administration will host a National Take Back Day on October 29, 2011, for the public to safely dispose of unused or expired prescription medications that can lead to accidental poisoning, overdose, and abuse; and

Whereas parents, young people, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States will demonstrate their commitment to healthy, productive, and drug-free lifestyles by wearing and displaying red ribbons during the week-long celebration of Red Ribbon Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Red Ribbon Week, 2011;

(2) encourages children and teens to choose to live drug-free lives; and

(3) encourages the people of the United States—

(A) to promote the creation of drug-free communities; and

(B) to participate in drug prevention activities to show support for healthy, productive, and drug-free lifestyles.

AMENDMENTS SUBMITTED AND PROPOSED

SA 858. Mr. BINGAMAN (for himself, Mr. UDALL of New Mexico, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 859. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 860. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra.

SA 861. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 862. Mr. VITTER (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 863. Mr. MERKLEY (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 864. Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 865. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 866. Mr. CASEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 867. Mr. BINGAMAN (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 769 proposed by Mr. VITTER to the amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 868. Mr. CARDIN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 869. Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. LEAHY, Mr. CASEY, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra.

SA 870. Mr. KYL (for himself, Mr. MCCAIN, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 871. Mr. BEGICH (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 872. Mrs. GILLIBRAND (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 873. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 874. Mr. BROWN of Ohio (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 875. Mr. HATCH (for himself, Mr. INHOFE, Mr. ISAKSON, Mr. CHAMBLISS, Ms. AYOTTE, Mr. HOEVEN, Mr. SHELBY, Mr. MORAN, Mr. NELSON of Nebraska, Mr. JOHANNS, Mr. WICKER, Mr. MCCONNELL, Mr. RUBIO, Mr. RISCH, Mrs. HUTCHISON, Mr. JOHNSON of Wisconsin, Mr. ROBERTS, Mr. BLUNT, Mr. MCCAIN, Ms. COLLINS, Ms. SNOWE, and Mr. THUNE) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 876. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 877. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 878. Ms. SNOWE (for herself, Mr. BLUMENTHAL, Mr. SCHUMER, Mr. GRASSLEY, Mr. CASEY, Ms. KLOBUCHAR, Ms. COLLINS, Mr. COONS, Mr. KIRK, Mr. WYDEN, Mr. LAUTENBERG, Mr. BROWN of Ohio, Mr. SESSIONS, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 879. Mr. MERKLEY (for himself, Mr. WYDEN, Ms. CANTWELL, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra.

SA 880. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 881. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 765 submitted by Mr. DEMINT and intended to be proposed to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 882. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 883. Ms. STABENOW (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 769 proposed by Mr. VITTER to the amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 884. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 885. Mr. BEGICH (for himself, Mr. COBURN, Mr. UDALL of Colorado, Mr. BENNET, Mr. ENZI, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 886. Mr. BAUCUS (for himself, Ms. STABENOW, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 887. Mr. MERKLEY (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 888. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 889. Mr. BROWN of Massachusetts (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 890. Mr. BURR (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 891. Mr. BURR (for himself, Ms. KLOBUCHAR, and Mr. BENNET) submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 892. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 893. Ms. CANTWELL (for herself, Ms. MURKOWSKI, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 894. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2112, supra; which was ordered to lie on the table.

SA 895. Mr. RUBIO submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 858. Mr. BINGAMAN (for himself, Mr. UDALL of New Mexico, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 16 and 17, insert the following:

SEC. 1____. Notwithstanding any other provision of law, the States of New Mexico and Maine may use amounts apportioned to the States under section 104(b)(2) of title 23, United States Code, for the congestion mitigation and air quality improvement program authorized under section 149 of title 23, United States Code, to support the operation of—

(1) with respect to amounts apportioned to the State of New Mexico, commuter rail service between Belen, New Mexico and Santa Fe, New Mexico; and

(2) with respect to amounts apportioned to the State of Maine, passenger rail service between Boston, Massachusetts, and Portland, Maine.

SA 859. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 125 of title I of division C.

SA 860. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

After section 217 of title II of division B, insert the following:

SEC. 218. (a) OVERSIGHT OF DEPARTMENT OF JUSTICE PROGRAMS.—All grants awarded by the Attorney General using funds made available under this Act shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—Beginning in fiscal year 2012, and in each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct an audit of not fewer than 10 percent of all recipients of grants using funds made available under this Act to prevent waste, fraud, and abuse of funds by grantees.

(2) MANDATORY EXCLUSION.—A recipient of a grant awarded by the Attorney General using funds made available under this Act that is found to have an unresolved audit finding shall not be eligible to receive any grant funds under a grant program administered by the Attorney General during the 2 fiscal years beginning after the 6-month period described in paragraph (5).

(3) PRIORITY.—In awarding grants using funds made available under this Act, the Attorney General shall give priority to eligible entities that, during the 3 fiscal years before submitting an application for a grant, did not have an unresolved audit finding showing a violation in the terms or conditions of a Department of Justice grant program.

(4) REIMBURSEMENT.—If an entity is awarded grant funds by the Attorney General using funds made available under this Act during the 2-fiscal-year period in which the entity is barred from receiving grants under paragraph (2), the Attorney General shall—

(A) deposit an amount equal to the grant funds that were improperly awarded to the grantee into the General Fund of the Treasury; and

(B) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

(5) DEFINED TERM.—In this subsection, the term ''unresolved audit finding'' means an audit report finding, statement, or recommendation that the grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within a 6-month period beginning on the date of an initial notification of the finding or recommendation.

(6) MATCHING REQUIREMENT.—

(A) IN GENERAL.—Unless otherwise explicitly provided in authorizing legislation, no funds may be expended for grants to non-federal entities until a 25 percent non-Federal match has been secured by the grantee to carry out this subsection.

(B) CASH REQUIREMENT.—Not less than 60 percent of the matching requirement described in subparagraph (A) shall be in cash.

(C) IN-KIND CONTRIBUTIONS.—No more than 40 percent of the matching requirement described in subparagraph (A) may be in-kind contributions. In this subparagraph, the term ''in-kind contributions'' means legal or other related professional services and office space that directly relate to the purpose for which the grant was awarded.

(7) NONPROFIT ORGANIZATION REQUIREMENTS.—

(A) DEFINITION.—For purposes of this section and the grant programs described in this Act, the term ''nonprofit organization'' means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(B) PROHIBITION.—The Attorney General may not award a grant using funds made available under this Act to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of the Internal Revenue Code of 1986.

(C) DISCLOSURE.—Each nonprofit organization that is awarded a grant using funds made available under this Act and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees and key employees, shall disclose to the Attorney General, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the Attorney General shall make the information disclosed under this subsection available for public inspection.

(8) ADMINISTRATIVE EXPENSES.—Unless otherwise explicitly provided in authorizing legislation, not more than 8 percent of the amounts appropriated under this Act may be used by the Attorney General for salaries and administrative expenses of the Department of Justice.

(9) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—No amounts appropriated to the Department of Justice under title II of division B of this Act may be used by the Attorney General, or by any individual or organization awarded funds under this Act, to host or support any expenditure for conferences, unless the Deputy Attorney General or the appropriate Assistant Attorney General provides prior written authorization that the funds may be expended to host a conference.

(B) WRITTEN APPROVAL.—Written approval under subparagraph (A) may not be delegated and shall include a written estimate of all costs associated with the conference, including the cost of all food and beverages, audio/visual equipment, honoraria for speakers, and any entertainment.

(C) REPORT.—The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all conference expenditures approved and denied.

(10) PROHIBITION ON LOBBYING ACTIVITY.—

(A) IN GENERAL.—Amounts appropriated under this Act may not be utilized by any grant recipient to—

(i) lobby any representative of the Department of Justice regarding the award of grant funding; or

(ii) lobby any representative of the Federal Government or a State, local, or tribal government regarding the award of grant funding.

(B) PENALTY.—If the Attorney General determines that any recipient of a grant under this Act has violated subparagraph (A), the Attorney General shall—

(i) require the grant recipient to repay the grant in full; and

(ii) prohibit the grant recipient from receiving another grant under this Act for not less than 5 years.

(11) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, the Assistant Attorney General for the Office of Justice Programs, the Director of the Office on Violence Against Women, and the Director of the Office of Community Oriented Policing Services shall submit, to Committee on the Judiciary of the Senate, the Committee on Appropriations of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Appropriations of the House of Representatives, an annual certification that—

(A) all audits issued by the Office of the Inspector General under paragraph (1) have been completed and reviewed by the Assistant Attorney General for the Office of Justice Programs;

(B) all mandatory exclusions required under paragraph (2) have been issued;

(C) all reimbursements required under paragraph (4) have been made; and

(D) includes a list of any grant recipients excluded under paragraph (2) from the previous year.

(b) USE OF FUNDS.—The Office of the Inspector General shall conduct the audits described in subsection (a) using the funds appropriated to the Office of the Inspector General under this Act.

SA 861. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 275, between lines 12 and 13, insert the following:

SEC. 172. AMERICA'S CUP.

(a) SHORT TITLE.—This section may be cited as the ''America's Cup Act of 2011''.

(b) IN GENERAL.—Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an eligible vessel, operating only in preparation for, or in connection with, the 34th America's Cup competition, may position competing vessels and may transport individuals and equipment and supplies utilized for the staging, operations, or broadcast of the competition from and around the ports in the United States.

(c) DEFINITIONS.—In this section:

(1) 34TH AMERICA'S CUP.—The term ''34th America's Cup''—

(A) means the sailing competitions, commencing in 2011, to be held in the United States in response to the challenge to the defending team from the United States, in accordance with the terms of the America's Cup governing Deed of Gift, dated October 24, 1887; and

(B) if a United States yacht club successfully defends the America's Cup, includes additional sailing competitions conducted by America's Cup Race Management during the 1-year period beginning on the last date of such defense.

(2) AMERICA'S CUP RACE MANAGEMENT.—The term ''America's Cup Race Management'' means the entity established to provide for independent, professional, and neutral race management of the America's Cup sailing competitions.

(3) ELIGIBILITY CERTIFICATION.—The term ''Eligibility Certification'' means a certification issued under subsection (d).

(4) ELIGIBLE VESSEL.—The term ''eligible vessel'' means a competing vessel or supporting vessel of any registry that—

(A) is recognized by America's Cup Race Management as an official competing vessel, or supporting vessel of, the 34th America's Cup, as evidenced in writing to the Administrator of the Maritime Administration of the Department of Transportation;

(B) transports not more than 25 individuals, in addition to the crew;

(C) is not a ferry (as defined under section 2101(10b) of title 46, United States Code;

(D) does not transport individuals in point-to-point service for hire; and

(E) does not transport merchandise between ports in the United States.

(5) SUPPORTING VESSEL.—The term ''supporting vessel'' means a vessel that is operating in support of the 34th America's Cup by—

(A) positioning a competing vessel on the race course;

(B) transporting equipment and supplies utilized for the staging, operations, or broadcast of the competition; or

(C) transporting individuals who—

(i) have not purchased tickets or directly paid for their passage; and

(ii) who are engaged in the staging, operations, or broadcast of the competition, race team personnel, members of the media, or event sponsors.

(d) CERTIFICATION.—

(1) REQUIREMENT.—A vessel may not operate under subsection (b) unless the vessel has received an Eligibility Certification.

(2) ISSUANCE.—The Administrator of the Maritime Administration of the Department of Transportation is authorized to issue an Eligibility Certification with respect to any vessel that the Administrator determines, in his or her sole discretion, meets the requirements set forth in subsection (c)(4).

(e) ENFORCEMENT.—Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an Eligibility Certification shall be conclusive evidence to the Secretary of the Department of Homeland Security of the qualification of the vessel for which it has been issued to participate in the 34th America's Cup as a competing vessel or a supporting vessel.

(f) PENALTY.—Any vessel participating in the 34th America's Cup as a competing vessel or supporting vessel that has not received an Eligibility Certification or is not in compliance with section 12112 of title 46, United States Code, shall be subject to the applicable penalties provided in chapters 121 and 551 of title 46, United States Code.

SA 862. Mr. VITTER (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PROHIBITION OF FUNDS FOR CERTAIN FORUMS AND DISCLOSURE REQUIREMENTS.

(a) DEFINITIONS.—In this section, the terms ''agency'' and ''record'' have the meanings given under section 552(f) (1) and (2) of title 5, United States Code, respectively.

(b) PROHIBITION OF FUNDS FOR FORUMS RELATING TO CLIMATE SCIENCE.—No funds made available under this Act shall be used for any employee of an agency to participate in any electronic forum that relates to climate science, earth temperature records, or weather analysis, unless—

(1) that employee makes a separate, internal record of all actions taken and all communications produced, sent, or received by that employee relating to that forum;

(2) in the case of written records, the separate record is in the form of a duplicate copy;

(3) in the case of an audio or video conference, the separate record is in the form of a transcription or minutes;

(4) all such records described under paragraph (3) are maintained in a fashion that—

(A) identifies the date and forum for which the record was created;

(B) identifies the parties involved; and

(C) fully and accurately summarizes the entire communication; and

(5) all such records are subject to section 552 of title 5, United States Code.

(c) PROHIBITION OF FUNDS FOR CERTAIN FORUMS WITH THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE.—No funds made available under this Act may be used for any employee of an agency to participate in any password-protected electronic forum that involves the participation in a process or production of the Intergovernmental Panel on Climate Change.

(d) RECORDS OF COMMUNICATIONS WITH THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE.—

(1) RECORDS REQUIREMENT.—Any employee of an agency shall make a record of any communication with any employee, chair, author, review editor, Technical Support Unit staff or member of another nation's delegation to the Intergovernmental Panel on Climate Change, on matters relating to work or proceedings of the Intergovernmental Panel on Climate Change.

(2) FOIA.—Section 552 of title 5, United States Code, shall apply to any record described under paragraph (1).

(e) DISCLOSURE OF RECORDS BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Notwithstanding any other provision of law, including section 552 of title 5, United States Code, not later than 30 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall disclose all records relating to the National Oceanic and Atmospheric Administration FOIA request numbers: 2007–00342, 2007–00354, 2007–00355, and 2007–00364, and 2010–00199 in an unredacted form.

(f) DISCLOSURE OF RECORDS BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Notwithstanding any other provision of law, including section 552 of title 5, United States Code, not later than 30 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall disclose and publish on its website under a separate heading and page all records produced on, sent to, or made available to any employee on a password-protected website used for purposes relating to the Intergovernmental Panel on Climate Change.

SA 863. Mr. MERKLEY (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 12, strike ''3302:'' and insert ''3302: *Provided*, That not less than $12,000,000 shall be for the Office of China Compliance, and not less than $4,400,000 shall be for the China Countervailing Duty Group:''.

SA 864. Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, beginning on line 9, strike ''$441,104,000'' and all that follows through ''3302:'' on line 12, and insert ''$460,106,000, to remain available until September 30, 2013, of which $9,439,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided*, That not less than $20,000,000 shall be for the Office of China Compliance, and not less than $4,400,000 shall be for the China Countervailing Duty Group:''.

On page 191, line 20, strike ''$620,000,000'' and insert ''$640,000,000''.

SA 865. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, beginning on line 7, strike ''$46,775,000'' and all that follows through the period on line 10, and insert ''$51,251,000, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $93,000 shall be available for official reception and representation expenses: *Provided further*, That not more than $4,476,000 shall be available to investigate policies of the Government of the People's Republic of China that provide subsidies to solar producers in China, that impose restrictions on the exportation of certain rare earth metals from China, and that potentially violate international commitments by the Government of China, and to seek the elimination of those harmful policies, including through the dispute settlement procedures of the World Trade Organization.''.

SA 866. Mr. CASEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 388, between lines 14 and 15, insert the following:

SEC. 4___. (a) DEFINITION OF EARMARK.—In this section, the term ''earmark'' means—

(1) a congressionally directed spending item, as defined in clause 5(a) of rule XLIV of the rules of the Senate for the 112th Congress; or

(2) a congressional earmark, as defined in clause 9(d) of rule XXI of the rules of the House of Representatives for the 112th Congress.

(b) OBLIGATION OF FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, funds made available from the Highway Trust Fund through an earmark to carry out a highway project under title 23, United States Code, shall be obligated for the earmarked project by not later than 3 years after the date on which the earmarked funds are first made available.

(2) RETURN AND REDISTRIBUTION.—Funds described in paragraph (1) that are not obligated by the deadline specified in that paragraph shall be—

(A) released to the State transportation department of the State with jurisdiction over the original recipient of the earmark; and

(B) redistributed by the State for expeditious use for other federally approved transportation projects in the State.

SA 867. Mr. BINGAMAN (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 769 proposed by Mr. VITTER to the amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1 of the amendment, strike line 10 and insert the following: ''Act and none of the funds made available in this Act for the Food and Drug Administration shall be used to change the practices and policies of the Food and Drug Administration, in effect on October 1, 2011, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, with respect to such importation by individuals from countries other than Canada.''.

SA 868. Mr. CARDIN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, between lines 2 and 3, insert the following:

TITLE VI—NATIONAL BLUE ALERT

SEC. 601. SHORT TITLE.

This title may be cited as the ''National Blue Alert Act of 2011''.

SEC. 602. DEFINITIONS.

In this title:

(1) COORDINATOR.—The term ''Coordinator'' means the Blue Alert Coordinator of the Department of Justice designated under section 604(a).

(2) BLUE ALERT.—The term ''Blue Alert'' means information relating to the serious injury or death of a law enforcement officer in the line of duty sent through the network.

(3) BLUE ALERT PLAN.—The term ''Blue Alert plan'' means the plan of a State, unit of local government, or Federal agency participating in the network for the dissemination of information received as a Blue Alert.

(4) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' shall have the same meaning as in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(6)).

(5) NETWORK.—The term ''network'' means the Blue Alert communications network established by the Attorney General under section 603.

(6) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 603. BLUE ALERT COMMUNICATIONS NETWORK.

The Attorney General shall establish a national Blue Alert communications network within the Department of Justice to issue Blue Alerts through the initiation, facilitation, and promotion of Blue Alert plans, in coordination with States, units of local government, law enforcement agencies, and other appropriate entities.

SEC. 604. BLUE ALERT COORDINATOR; GUIDELINES.

(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an existing officer of the Department of Justice to act as the national coordinator of the Blue Alert communications network.

(b) DUTIES OF THE COORDINATOR.—The Coordinator shall—

(1) provide assistance to States and units of local government that are using Blue Alert plans;

(2) establish voluntary guidelines for States and units of local government to use in developing Blue Alert plans that will promote compatible and integrated Blue Alert plans throughout the United States, including—

(A) a list of the resources necessary to establish a Blue Alert plan;

(B) criteria for evaluating whether a situation warrants issuing a Blue Alert;

(C) guidelines to protect the privacy, dignity, independence, and autonomy of any law enforcement officer who may be the subject of a Blue Alert and the family of the law enforcement officer;

(D) guidelines that a Blue Alert should only be issued with respect to a law enforcement officer if—

(i) the law enforcement agency involved—

(I) confirms—

(aa) the death or serious injury of the law enforcement officer; or

(bb) the attack on the law enforcement officer and that there is an indication of the death or serious injury of the officer; or

(II) concludes that the law enforcement officer is missing in the line of duty;

(ii) there is an indication of serious injury to or death of the law enforcement officer;

(iii) the suspect involved has not been apprehended; and

(iv) there is sufficient descriptive information of the suspect involved and any relevant vehicle and tag numbers;

(E) guidelines—

(i) that information relating to a law enforcement officer who is seriously injured or killed in the line of duty should be provided to the National Crime Information Center database operated by the Federal Bureau of Investigation under section 534 of title 28, United States Code, and any relevant crime information repository of the State involved;

(ii) that a Blue Alert should, to the maximum extent practicable (as determined by the Coordinator in consultation with law enforcement agencies of States and units of local governments), be limited to the geographic areas most likely to facilitate the apprehension of the suspect involved or which the suspect could reasonably reach, which should not be limited to State lines;

(iii) for law enforcement agencies of States or units of local government to develop plans

to communicate information to neighboring States to provide for seamless communication of a Blue Alert; and

(iv) providing that a Blue Alert should be suspended when the suspect involved is apprehended or when the law enforcement agency involved determines that the Blue Alert is no longer effective; and

(F) guidelines for—

(i) the issuance of Blue Alerts through the network; and

(ii) the extent of the dissemination of alerts issued through the network;

(3) develop protocols for efforts to apprehend suspects that address activities during the period beginning at the time of the initial notification of a law enforcement agency that a suspect has not been apprehended and ending at the time of apprehension of a suspect or when the law enforcement agency involved determines that the Blue Alert is no longer effective, including protocols regulating—

(A) the use of public safety communications;

(B) command center operations; and

(C) incident review, evaluation, debriefing, and public information procedures;

(4) work with States to ensure appropriate regional coordination of various elements of the network;

(5) establish an advisory group to assist States, units of local government, law enforcement agencies, and other entities involved in the network with initiating, facilitating, and promoting Blue Alert plans, which shall include—

(A) to the maximum extent practicable, representation from the various geographic regions of the United States; and

(B) members who are—

(i) representatives of a law enforcement organization representing rank-and-file officers;

(ii) representatives of other law enforcement agencies and public safety communications;

(iii) broadcasters, first responders, dispatchers, and radio station personnel; and

(iv) representatives of any other individuals or organizations that the Coordinator determines are necessary to the success of the network;

(6) act as the nationwide point of contact for—

(A) the development of the network; and

(B) regional coordination of Blue Alerts through the network; and

(7) determine—

(A) what procedures and practices are in use for notifying law enforcement and the public when a law enforcement officer is killed or seriously injured in the line of duty; and

(B) which of the procedures and practices are effective and that do not require the expenditure of additional resources to implement.

(c) LIMITATIONS.—

(1) VOLUNTARY PARTICIPATION.—The guidelines established under subsection (b)(2), protocols developed under subsection (b)(3), and other programs established under subsection (b), shall not be mandatory.

(2) DISSEMINATION OF INFORMATION.—The guidelines established under subsection (b)(2) shall, to the maximum extent practicable (as determined by the Coordinator in consultation with law enforcement agencies of States and units of local government), provide that appropriate information relating to a Blue Alert is disseminated to the appropriate officials of law enforcement agencies, public health agencies, and other agencies.

(3) PRIVACY AND CIVIL LIBERTIES PROTECTIONS.—The guidelines established under subsection (b) shall—

(A) provide mechanisms that ensure that Blue Alerts comply with all applicable Federal, State, and local privacy laws and regulations; and

(B) include standards that specifically provide for the protection of the civil liberties, including the privacy, of law enforcement officers who are seriously injured or killed in the line of duty and the families of the officers.

(d) COOPERATION WITH OTHER AGENCIES.—The Coordinator shall cooperate with the Secretary of Homeland Security, the Secretary of Transportation, the Chairman of the Federal Communications Commission, and appropriate offices of the Department of Justice in carrying out activities under this title.

(e) RESTRICTIONS ON COORDINATOR.—The Coordinator may not—

(1) perform any official travel for the sole purpose of carrying out the duties of the Coordinator;

(2) lobby any officer of a State regarding the funding or implementation of a Blue Alert plan; or

(3) host a conference focused solely on the Blue Alert program that requires the expenditure of Federal funds.

(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Coordinator shall submit to Congress a report on the activities of the Coordinator and the effectiveness and status of the Blue Alert plans that are in effect or being developed.

SEC. 605. GRANT PROGRAM FOR SUPPORT OF BLUE ALERT PLANS.

Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (16), by striking ''and'' at the end;

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following:

''(17) to assist a State in the development or enhancement of programs and activities in support of a Blue Alert plan and the network (as those terms are defined in section 2 of the National Blue Alert Act of 2011), including—

''(A) developing and implementing education and training programs, and associated materials, relating to Blue Alert plans;

''(B) developing and implementing law enforcement programs, and associated equipment, relating to Blue Alert plans; and

''(C) developing and implementing new technologies to improve the communication of Blue Alerts; and.''.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

''(C)(i) Of amounts authorized to be appropriated to carry out part Q in any fiscal year, $10,000,000 is authorized to be appropriated for grants for the purposes described in section 1701(b)(17).

''(ii) Amounts appropriated pursuant to clause (i) shall remain available until expended.''.

SA 869. Mrs. GILLIBRAND (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, between lines 9 and 10, insert the following:

SEC. ___. (a) Notwithstanding any other provision of this Act—

(1) the amount provided under section 732 for the emergency conservation program for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is increased by $48,700,000; and

(2) the amount provided under section 732 for the emergency watershed protection program for expenses resulting from a major disaster designation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is increased by $61,200,000.

(b) The additional amounts provided under subsection (a)—

(1) are designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D));

(2) are subject to the same terms and conditions as any other amounts provided under section 732 for the same purposes; and

(3) shall remain available until expended.

SA 870. Mr. KYL (for himself, Mr. MCCAIN, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 117, strike line 13 and all that follows through page 118, line 2, and insert the following:

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, $1,121,041,000; of which not to exceed $20,000,000 shall be available for necessary expenses for increased deputy marshals and staff related to Southwest border enforcement until September 30, 2012; of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $20,000,000 shall remain available until expended.

CONSTRUCTION

For construction in space controlled, occupied, or utilized by the United States Marshals Service for prisoner holding and related support, $28,500,000, which shall remain available until expended; of which not less than $9,696,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling; of which $15,000,000 shall be available for detention upgrades at Federal courthouses located in the Southwest border region; and of which not less than $1,500,000 shall be available for the costs of courthouse security equipment, including electronic security devices, telephone systems, and cabling at Federal courthouses located in the Southwest border region.

OFFSET

Notwithstanding any other provision of this Act, the total amount appropriated under this Act (except for the amounts appropriated under title II of this division and title I of division C) shall be reduced on a pro rata basis by $36,500,000.

SA 871. Mr. BEGICH (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the

bill H.R. 2112, making appropriations for Agriculture, Rural Development, and Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 22 and 23, insert the following:

PATENT AND TRADEMARK OFFICE FUNDING

SEC. 114. (a) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund'';

(B) by striking ''(c)(1)'' and inserting ''(c)''; and

(C) in subsection (c)—

(i) in the first sentence—

(I) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(II) by striking ''shall be collected by and shall, subject to paragraph (3), be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended'';

(ii) by inserting after the first sentence the following: ''All fees available to the Director under section 31 of the Trademark Act of 1946 shall be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.''; and

(iii) by striking paragraphs (2) and (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

(b) USPTO REVOLVING FUND.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Fund'' means the United States Patent and Trademark Office Public Enterprise Fund established under paragraph (2);

(B) the term ''Director'' means the Director of the United States Patent and Trademark Office;

(C) the term ''Office'' means the United States Patent and Trademark Office; and

(D) the term ''Under Secretary'' means the Under Secretary of Commerce for Intellectual Property.

(2) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(3) DERIVATION OF RESOURCES.—There shall be deposited into the Fund on or after the effective date of subsection (a)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund, provided, however, that no funds collected pursuant to section 10(h) of the Leahy-Smith American Invents Act (35 U.S.C. 41 note) or section 1(a)(2) of Public Law 111–45 shall be deposited in the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(4) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(c) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (e).

(d) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(e) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(f) BUDGET.—The Director shall prepare and submit each year to the President a business-type budget in a manner, and before a date, as the President prescribes by regulation for the budget program.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Section 11 of the Leahy-Smith America Invents Act (35 U.S.C. 41 note) is amended—

(1) in subsection (h), by amending paragraph (3) to read as follows:

''(3) DEPOSIT OF FEES.—All fees paid under this subsection shall be credited to the United States Patent and Trademark Office Public Enterprise Fund, established under section 2(b)(2) of the Patent and Trademark Office Revolving Fund Act of 2011, shall remain available until expended, and may be used only for the purposes specified in section 2(b)(4) of such Act.''; and

(2) in subsection (i)—

(A) in the header, by striking ''APPROPRIATION ACCOUNT''; and

(B) by amending paragraph (1)(B) to read as follows:

''(B) DEPOSIT OF AMOUNTS.—Amounts collected pursuant to the surcharge imposed under subparagraph (A) shall be credited to the United States Patent and Trademark Office Public Enterprise Fund, established under section 2(b)(2) of the Patent and Trademark Office Revolving Fund Act of 2011, shall remain available until expended, and may be used only for the purposes specified in section 2(b)(4) of such Act.''.

SA 872. Mrs. GILLIBRAND (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, between lines 20 and 21, insert the following:

SEC. __. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out any voluntary dairy market stabilization program.

SA 873. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 22 and 23, insert the following:

SEC. 114. Section 302(a)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(B)) is amended—

(1) by inserting ''Rhode Island,'' after ''States of'';

(2) by striking ''except North Carolina,'' and inserting ''except North Carolina and Rhode Island,'';

(3) by striking ''21'' and inserting ''23''; and

(4) by striking ''13'' and inserting ''14''.

SA 874. Mr. BROWN of Ohio (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 333, line 9, strike ''$35,940,000'' and insert ''$42,500,000''.

On page 336, line 1, strike ''$199,035,000'' and insert ''$192,475,000''.

SA 875. Mr. HATCH (for himself, Mr. INHOFE, Mr. ISAKSON, Mr. CHAMBLISS, Ms. AYOTTE, Mr. HOEVEN, Mr. SHELBY, Mr. MORAN, Mr. NELSON of Nebraska, Mr. JOHANNS, Mr. WICKER, Mr. MCCONNELL, Mr. RUBIO, Mr. RISCH, Mrs. HUTCHISON, Mr. JOHNSON of Wisconsin, Mr. ROBERTS, Mr. BLUNT, Mr. MCCAIN, Ms. COLLINS, Ms. SNOWE, and Mr. THUNE) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 121 of the amendment, strike line 4 and all that follows through page 186, line 19 and insert the following:

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, not to exceed $30,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, $1,090,292,000, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by section 924(d)(2) of title 18, United States Code; and of which not to exceed $20,000,000 shall remain available until expended: *Provided*,That no funds appropriated herein or hereafter shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein or hereafter shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 478.118 or to change the definition of ''Curios or relics'' in 27 CFR 478.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: *Provided further*, That, hereafter, no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2012: *Provided further*, That, beginning in fiscal year 2012 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations: *Provided further*, That, hereafter, no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: *Provided further*, That, hereafter, no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: *Provided further*, That, hereafter, no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 835, of which 808 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $6,589,781,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent or fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: *Provided further*, That not to exceed $4,500 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $50,000,000 shall remain available for necessary operations until September 30, 2013: *Provided further*, That, of the amounts provided for contract confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note), for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses, or other custodial facilities.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $90,000,000, to remain available until expended, of which not less than $66,965,000 shall be available only for modernization, maintenance and repair, and of which not to exceed $14,000,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That none of the funds provided under this heading in this or any prior Act shall be available for the acquisition of any facility that is to be used wholly or in part for the incarceration or detention of any individual detained at Naval Station, Guantanamo Bay, Cuba, as of June 24, 2009.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,700,000 of the funds of the Federal Prison Industries, Incorporated shall be available for its administrative expenses, and for services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) (''the 1968 Act''); the Violent Crime Control and Law Enforcement

Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) (''the 1974 Act''); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) (''the 2000 Act''); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); and for related victims services, $417,663,000, to remain available until expended: *Provided*, That except as otherwise provided by law, not to exceed 3 percent of funds made available under this heading may be used for expenses related to evaluation, training, and technical assistance: *Provided further*, That of the amount provided—

(1) $194,000,000 is for grants to combat violence against women, as authorized by part T of the 1968 Act, of which, notwithstanding such part T, $10,000,000 shall be available for programs relating to children exposed to violence;

(2) $25,000,000 is for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the 1994 Act;

(3) $3,000,000 is for the National Institute of Justice for research and evaluation of violence against women and related issues addressed by grant programs of the Office on Violence Against Women;

(4) $10,000,000 is for a grant program to provide services to advocate for and respond to youth victims of domestic violence, dating violence, sexual assault, and stalking; assistance to children and youth exposed to such violence; programs to engage men and youth in preventing such violence; and assistance to middle and high school students through education and other services related to such violence: *Provided*, That unobligated balances available for the programs authorized by sections 41201, 41204, 41303 and 41305 of the 1994 Act shall be available for this program: *Provided further*, That 10 percent of the total amount available for this grant program shall be available for grants under the program authorized by section 2015 of the 1968 Act;

(5) $45,913,000 is for grants to encourage arrest policies as authorized by part U of the 1968 Act, of which $5,000,000 is for a homicide initiative;

(6) $25,000,000 is for sexual assault victims assistance, as authorized by section 41601 of the 1994 Act;

(7) $34,000,000 is for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295 of the 1994 Act;

(8) $9,000,000 is for grants to reduce violent crimes against women on campus, as authorized by section 304 of the 2005 Act;

(9) $45,000,000 is for legal assistance for victims, as authorized by section 1201 of the 2000 Act;

(10) $4,000,000 is for enhanced training and services to end violence against and abuse of women in later life, as authorized by section 40802 of the 1994 Act;

(11) $11,250,000 is for the safe havens for children program, as authorized by section 1301 of the 2000 Act;

(12) $5,000,000 is for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402 of the 2000 Act;

(13) $4,000,000 is for the court training and improvements program, as authorized by section 41002 of the 1994 Act, of which $1,000,000 is to be used for a family court initiative;

(14) $1,000,000 is for the National Resource Center on Workplace Responses to assist victims of domestic violence, as authorized by section 41501 of the 1994 Act;

(15) $1,000,000 is for analysis and research on violence against Indian women, as authorized by section 904 of the 2005 Act; and

(16) $500,000 is for the Office on Violence Against Women to establish a national clearinghouse that provides training and technical assistance on issues relating to sexual assault of American Indian and Alaska Native women.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office on Violence Against Women, $20,580,000.

OFFICE OF JUSTICE PROGRAMS

RESEARCH, EVALUATION, AND STATISTICS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act)''; the Juvenile Justice and Delinquency Prevention Act of 1974 (''the 1974 Act''); the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Justice for All Act of 2004 (Public Law 108–405); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Victims of Child Abuse Act of 1990 (Public Law 101–647); the Second Chance Act of 2007 (Public Law 110–199); the Victims of Crime Act of 1984 (Public Law 98–473); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the PROTECT Our Children Act of 2008 (Public Law 110–401); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296) (''the 2002 Act''); and other programs; $121,000,000, to remain available until expended, of which—

(1) $45,000,000 is for criminal justice statistics programs, and other activities, as authorized by part C of title I of the 1968 Act, of which $36,000,000 is for the administration and redesign of the National Crime Victimization Survey;

(2) $40,000,000 is for research, development, and evaluation programs, and other activities as authorized by part B of title I of the 1968 Act and subtitle D of title II of the 2002 Act: *Provided*, That of the amounts provided under this heading, $5,000,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the National Institute of Justice for research, testing and evaluation programs;

(3) $1,000,000 is for an evaluation clearinghouse program; and

(4) $35,000,000 is for regional information sharing activities, as authorized by part M of title I of the 1968 Act.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Justice for All Act of 2004 (Public Law 108–405); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); the NICS Improvement Amendments Act of 2007 (Public Law 110–180); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107–296) (''the 2002 Act''); the Second Chance Act of 2007 (Public Law 110–199); the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (Public Law 110–403); the Victims of Crime Act of 1984 (Public Law 98–473); the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110–416); and other programs; $1,063,498,000, to remain available until expended as follows—

(1) $395,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the 1968 Act (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of title I of the 1968 Act shall not apply for purposes of this Act); and, notwithstanding such subpart 1, to support innovative, place-based, evidence-based approaches to fighting crime and improving public safety, of which $3,000,000 is for a program to improve State and local law enforcement intelligence capabilities including antiterrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process, $4,000,000 is for a State and local assistance help desk and diagnostic center program, $5,000,000 is for a program to improve State, local and tribal probation supervision efforts and strategies, and $3,000,000 is for a Preventing Violence Against Law Enforcement Officer Resilience and Survivability Initiative (VALOR): *Provided*, That funds made available under this heading may be used at the discretion of the Assistant Attorney General for the Office of Justice Programs to train Federal law enforcement under the VALOR Officer Safety Training Initiative;

(2) $273,000,000 for the State Criminal Alien Assistance Program, as authorized by section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)): *Provided*, That no jurisdiction shall request compensation for any cost greater than the actual cost for Federal immigration and other detainees housed in State and local detention facilities;

(3) $20,000,000 for the Northern and Southwest Border Prosecutor Initiatives to reimburse State, county, parish, tribal or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys;

(4) $21,000,000 for competitive grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation);

(5) $10,500,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106–386 and for programs authorized under Public Law 109–164: *Provided*, That no less than $4,690,000 shall be for victim services grants for foreign national victims of trafficking;

(6) $35,000,000 for Drug Courts, as authorized by section 1001(25)(A) of title I of the 1968 Act;

(7) $9,000,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act, and the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008 (Public Law 110–416);

(8) $10,000,000 for grants for Residential Substance Abuse Treatment for State Prisoners, as authorized by part S of title I of the 1968 Act;

(9) $4,000,000 for the Capital Litigation Improvement Grant Program, as authorized by section 426 of Public Law 108–405;

(10) $10,000,000 for economic, high technology and Internet crime prevention grants, as authorized by section 401 of Public Law 110–403;

(11) $5,000,000 for a student loan repayment assistance program pursuant to section 952 of Public Law 110–315;

(12) $23,000,000 for activities, including sex offender management assistance, authorized by the Adam Walsh Act and the Violent Crime Control Act of 1994 (Public Law 103–322);

(13) $10,000,000 for an initiative relating to children exposed to violence;

(14) $20,000,000 for an Edward Byrne Memorial criminal justice innovation program;

(15) $24,850,000 for the matching grant program for law enforcement armor vests, as authorized by section 2501 of title I of the 1968 Act: *Provided,* That $1,500,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards for research, testing and evaluation programs;

(16) $1,000,000 for the National Sex Offender Public Web site;

(17) $10,000,000 for competitive and evidence-based programs to reduce gun crime and gang violence;

(18) $10,000,000 for grants to assist State and tribal governments as authorized by the NICS Improvement Amendments Act of 2007 (Public Law 110–180);

(19) $8,000,000 for the National Criminal History Improvement Program for grants to upgrade criminal records;

(20) $15,000,000 for Paul Coverdell Forensic Sciences Improvement Grants under part BB of title I of the 1968 Act;

(21) $131,000,000 for DNA-related and forensic programs and activities, of which—

(A) $123,000,000 is for the purposes of DNA analysis and DNA capacity enhancement as defined in the DNA Analysis Backlog Elimination Act of 2000 (the Debbie Smith DNA Backlog Grant Program), of which not less than $85,500,000 is to be used for grants to crime laboratories for purposes under 42 U.S.C. 14135, section (a); not less than $11,000,000 is to be used for the purposes of the Solving Cold Cases with DNA Grant Program; not less than $11,000,000 is to be used to audit and report on the extent of the backlog; and the remainder of funds appropriated under this paragraph may be used to support training programs specific to the needs of DNA laboratory personnel, and for programs outlined in sections 303, 304, 305 and 308 of Public Law 108–405;

(B) $4,000,000 is for the purposes described in the Kirk Bloodsworth Post-Conviction DNA Testing Program (Public Law 108–405, section 412); and

(C) $4,000,000 is for Sexual Assault Forensic Exam Program Grants as authorized by section 304 of Public Law 108–405.

(22) $2,500,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(23) $1,500,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act; and

(24) $3,000,000 for grants and technical assistance in support of the National Forum on Youth Violence Prevention:

Provided, That if a unit of local government uses any of the funds made available under this heading to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform non-administrative public sector safety service.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (''the 1974 Act''); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''); the Missing Children's Assistance Act (42 U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (''the 1990 Act''); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) (''the Adam Walsh Act''); the PROTECT Our Children Act of 2008 (Public Law 110–401); and other juvenile justice programs, $251,000,000, to remain available until expended as follows—

(1) $45,000,000 for programs authorized by section 221 of the 1974 Act, and for training and technical assistance to assist small, nonprofit organizations with the Federal grants process;

(2) $55,000,000 for youth mentoring grants;

(3) $33,000,000 for delinquency prevention, as authorized by section 505 of the 1974 Act, of which, pursuant to sections 261 and 262 thereof—

(A) $15,000,000 shall be for the Tribal Youth Program;

(B) $8,000,000 shall be for gang and youth violence education, prevention and intervention, and related activities; and

(C) $10,000,000 shall be for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, for prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(4) $20,000,000 for programs authorized by the Victims of Child Abuse Act of 1990;

(5) $30,000,000 for the Juvenile Accountability Block Grants program as authorized by part R of title I of the 1968 Act and Guam shall be considered a State;

(6) $8,000,000 for community-based violence prevention initiatives; and

(7) $60,000,000 for missing and exploited children programs, including as authorized by sections 404(b) and 405(a) of the 1974 Act: *Provided*, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: *Provided further*, That not more than 2 percent of each amount may be used for training and technical assistance: *Provided further*, That the previous two provisos shall not apply to grants and projects authorized by sections 261 and 262 of the 1974 Act.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Office of Justice Programs, $118,572,000.

PUBLIC SAFETY OFFICER BENEFITS

For payments and expenses authorized under section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, such sums as are necessary (including amounts for administrative costs, which amounts shall be paid to the ''Salaries and Expenses'' account), to remain available until expended; and $16,300,000 for payments authorized by section 1201(b) of such Act and for educational assistance authorized by section 1218 of such Act, to remain available until expended: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for such disability and education payments, the Attorney General may transfer such amounts to ''Public Safety Officer Benefits'' from available appropriations for the current fiscal year for the Department of Justice as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

COMMUNITY ORIENTED POLICING SERVICES

COMMUNITY ORIENTED POLICING SERVICES PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322); the Omnibus Crime Control and Safe Streets Act of 1968 (''the 1968 Act''); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (''the 2005 Act''), $231,500,000, to remain available until expended: *Provided*, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act. Of the amount provided:

(1) $1,500,000 is for research, testing, and evaluation programs regarding law enforcement technologies and interoperable communications, and related law enforcement and public safety equipment, which shall be transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the Community Oriented Policing Services Office;

(2) $10,000,000 is for anti-methamphetamine-related activities, which shall be transferred to the Drug Enforcement Administration upon enactment of this Act;

(3) $20,000,000 is for improving tribal law enforcement, including hiring, equipment, training, and anti-methamphetamine activities; and

(4) $200,000,000 is for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section: *Provided,* That notwithstanding subsection (g) of the 1968 Act (42 U.S.C. 3796dd), the Federal share of the costs of a project funded by such grants may not exceed 75 percent unless the Director of the Office of Community Oriented Policing Services waives, wholly or in part, the requirement of a non-Federal contribution to the costs of a project: *Provided further,* That notwithstanding 42 U.S.C. 3796dd–3(c), funding for hiring or rehiring a career law enforcement officer may not exceed $125,000, unless the Director of the Office of Community Oriented Policing Services grants a waiver from this limitation: *Provided further,* That within the amounts appropriated, $28,000,000 shall be used for the hiring and rehiring of tribal law enforcement officers: *Provided further,* That within the amounts appropriated, $10,000,000 is for community policing development activities.

SALARIES AND EXPENSES

For necessary expenses, not elsewhere specified in this title, for management and administration of programs within the Community Oriented Policing Services Office, $24,500,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of

not to exceed $50,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

SEC. 202. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 203. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 204. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 203 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 206. The Attorney General is authorized to extend through September 30, 2013, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107–296 (28 U.S.C. 599B) without limitation on the number of employees or the positions covered.

SEC. 207. Notwithstanding any other provision of law, Public Law 102–395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

SEC. 208. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 209. (a) None of the funds appropriated by this Act may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

SEC. 210. None of the funds made available under this title shall be obligated or expended for any new or enhanced information technology program having total estimated development costs in excess of $100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. The notification thresholds and procedures set forth in section 505 of this Act shall apply to deviations from the amounts designated for specific activities in this Act and accompanying statement, and to any use of deobligated balances of funds provided under this title in previous years.

SEC. 212. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and Budget Circular A–76 or any successor administrative regulation, directive, or policy for work performed by employees of the Bureau of Prisons or of Federal Prison Industries, Incorporated.

SEC. 213. Notwithstanding any other provision of law, no funds shall be available for the salary, benefits, or expenses of any United States Attorney assigned dual or additional responsibilities by the Attorney General or his designee that exempt that United States Attorney from the residency requirements of 28 U.S.C. 545.

SEC. 214. At the discretion of the Attorney General, and in addition to any amounts that otherwise may be available (or authorized to be made available) by law, with respect to funds appropriated by this Act under the headings for ''Research Evaluation and Statistics'', ''State and Local Law Enforcement Assistance'', and ''Juvenile Justice Programs''—

(1) Up to 3 percent of funds made available for grant or reimbursement programs may be used to provide training and technical assistance;

(2) Up to 3 percent of funds made available for grant or reimbursement programs under such headings, except for amounts appropriated specifically for research, evaluation, or statistical programs administered by the National Institute of Justice and the Bureau of Justice Statistics, shall be transferred to and merged with funds provided to the National Institute of Justice and the Bureau of Justice Statistics, to be used by them for research, evaluation or statistical purposes, without regard to the authorizations for such grant or reimbursement programs, and of such amounts, $1,300,000 shall be transferred to the Bureau of Prisons for Federal inmate research and evaluation purposes; and

(3) 7 percent of funds made available for grant or reimbursement programs:

(A) under the heading ''State and Local Law Enforcement Assistance''; or

(B) under the headings ''Research, Evaluation and Statistics'' and ''Juvenile Justice Programs'', to be transferred to and merged with funds made available under the heading ''State and Local Law Enforcement Assistance'', shall be available for tribal criminal justice assistance without regard to the authorizations for such grant or reimbursement programs.

SEC. 215. Notwithstanding any other provision of law, section 20109(a), in subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709(a)), shall not apply to amounts made available by this title.

SEC. 216. Section 530A of title 28, United States Code, is hereby amended by replacing ''appropriated'' with ''used from appropriations'', and by inserting ''(2),'' before ''(3)''.

SEC. 217. (a) Within 30 days of enactment of this Act, the Attorney General shall report to the Committees on Appropriations of the House of Representatives and the Senate a cost and schedule estimate for the final operating capability of the Federal Bureau of Investigation's Sentinel program, including the costs of Bureau employees engaged in development work, the costs of operating and maintaining Sentinel for 2 years after achievement of the final operating capability, and a detailed list of the functionalities included in the final operating capability compared to the functionalities included in the previous program baseline.

(b) The report described in subsection (a) shall be submitted concurrently to the Department of Justice Office of Inspector General (OIG) and, within 60 days of receiving such report, the OIG shall provide an assessment of such report to the Committees on Appropriations of the House of Representatives and the Senate.

This title may be cited as the ''Department of Justice Appropriations Act, 2012''.

TITLE III

SCIENCE

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,100 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $6,000,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For necessary expenses, not otherwise provided for, in the conduct and support of science research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $5,100,000,000, to remain available until September 30, 2013, of which up to $10,000,000 shall be available for a reimbursable agreement with the Department of Energy for the purpose of re-establishing facilities to produce fuel required for radio-isotope thermoelectric generators to enable future missions: *Provided*, That the development cost (as defined under 51 U.S.C. 30104) for the James Webb Space Telescope shall not exceed $8,000,000,000: *Provided further*, That should the individual identified under subparagraph (c)(2)(E) of section 30104 of title 51 as responsible for the James Webb Space Telescope determine that the development cost of the program is likely to exceed that limitation, the individual shall immediately notify the Administrator and the increase shall be treated as if it meets the 30 percent threshold described in subsection (f) of section 30104 of title 51.

AERONAUTICS

For necessary expenses, not otherwise provided for, in the conduct and support of aeronautics research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and

purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $501,000,000, to remain available until September 30, 2013.

SPACE TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of space research and technology development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $637,000,000, to remain available until September 30, 2013.

EXPLORATION

For necessary expenses, not otherwise provided for, in the conduct and support of exploration research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management, personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,775,000,000, to remain available until September 30, 2013: *Provided*, That not less than $1,200,000,000 shall be for the Orion multipurpose crew vehicle, not less than $1,800,000,000 shall be for the heavy lift launch vehicle system which shall have a lift capacity not less than 130 tons and which shall have an upper stage and other core elements developed simultaneously, $500,000,000 shall be for commercial spaceflight activities, and $275,000,000 shall be for exploration research and development: *Provided further*, That $192,600,000 of the funds provided for commercial spaceflight activities shall only be available after the NASA Administrator certifies to the Committees on Appropriations, in writing, that NASA has published the required notifications of NASA contract actions implementing the acquisition strategy for the heavy lift launch vehicle system identified in section 302 of Public Law 111–267 and has begun to execute relevant contract actions in support of development of the heavy lift launch vehicle system: *Provided further*, That funds made available under this heading within this Act may be transferred to ''Construction and Environmental Compliance and Restoration'' for construction activities related to the Orion multipurpose crew vehicle and the heavy lift launch vehicle system: *Provided further*, That funds so transferred shall be subject to the 5 percent but shall not be subject to the 10 percent transfer limitation described under the Administrative Provisions in this Act for the National Aeronautics and Space Administration, shall be available until September 30, 2017, and shall be treated as a reprogramming under section 505 of this Act.

SPACE OPERATIONS

For necessary expenses, not otherwise provided for, in the conduct and support of space operations research and development activities, including research, development, operations, support and services; space flight, spacecraft control and communications activities including operations, production, and services; maintenance and repair, facility planning and design; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $4,285,000,000, to remain available until September 30, 2013: *Provided*, That of the amounts provided under this heading, not more than $650,900,000 shall be for Space Shuttle operations, production, research, development, and support, not more than $2,803,500,000 shall be for International Space Station operations, production, research, development, and support, not more than $168,000,000 shall be for the 21st Century Launch Complex, and not more than $662,600,000 shall be for Space and Flight Support: *Provided further*, That funds made available under this heading for 21st Century Launch Complex may be transferred to ''Construction and Environmental Compliance and Restoration'' for construction activities only at NASA-owned facilities: *Provided further*, That funds so transferred shall not be subject to the transfer limitations described in the Administrative Provisions in this Act for the National Aeronautics and Space Administration, shall be available until September 30, 2017, and shall be treated as a reprogramming under section 505 of this Act.

EDUCATION

For necessary expenses, not otherwise provided for, in carrying out aerospace and aeronautical education research and development activities, including research, development, operations, support, and services; program management; personnel and related costs, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $138,400,000, to remain available until September 30, 2013.

CROSS AGENCY SUPPORT

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics, exploration, space operations and education research and development activities, including research, development, operations, support, and services; maintenance and repair, facility planning and design; space flight, spacecraft control, and communications activities; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed $52,500 for official reception and representation expenses; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, $3,043,073,000: *Provided*, That not less than $39,100,000 shall be available for independent verification and validation activities: *Provided further*, That contracts may be entered into under this heading in fiscal year 2012 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

CONSTRUCTION AND ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses for construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law, and environmental compliance and restoration, $422,000,000, to remain available until September 30, 2017: *Provided*, That hereafter, notwithstanding section 315 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459j), all proceeds from leases entered into under that section shall be deposited into this account and shall be available for a period of 5 years, to the extent provided in annual appropriations Acts: *Provided further*, That such proceeds shall be available for obligation for fiscal year 2012 in an amount not to exceed $3,960,000: *Provided further*, That each annual budget request shall include an annual estimate of gross receipts and collections and proposed use of all funds collected pursuant to section 315 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459j).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, $37,300,000.

ADMINISTRATIVE PROVISIONS

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn.

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Aeronautics and Space Administration in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers. Balances so transferred shall be merged with and available for the same purposes and the same time period as the appropriations to which transferred. Any transfer pursuant to this provision shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

The unexpired balances of previous accounts, for activities for which funds are provided under this Act, may be transferred to the new accounts established in this Act that provide such activity. Balances so transferred shall be merged with the funds in the newly established accounts, but shall be available under the same terms, conditions and period of time as previously appropriated.

Section 40902 of title 51, United States Code, is amended by adding at the end the following:

''(d) AVAILABILITY OF FUNDS.—The interest accruing from the National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund principal shall be available in fiscal year 2012 for the purpose of the Endeavor Science Teacher Certificate Program.''.

Section 20145(b)(1) of title 51 is amended by inserting ''(A)'' before ''A person'' and adding at the end thereof the following new subparagraph (B) as follows:

''(B) Notwithstanding subparagraph (A), the Administrator may accept in-kind consideration for leases entered into for the purpose of developing renewable energy production facilities.''.

The spending plan required by section 540 of this Act shall be provided by NASA at the theme, program, project and activity level. The spending plan, as well as any subsequent change of an amount established in that spending plan that meets the notification requirements of section 505 of this Act, shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42

U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; $5,443,000,000, to remain available until September 30, 2013, of which not to exceed $550,000,000 shall remain available until expended for polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That not less than $146,830,000 shall be available for activities authorized by section 7002(c)(2)(A)(iv) of Public Law 110–69: *Provided further*, That up to $100,000,000 of funds made available under this heading within this Act may be transferred to ''Major Research Equipment and Facilities Construction'': *Provided further*, That funds so transferred shall not be subject to the transfer limitations described in the Administrative Provisions in this Act for the National Science Foundation, and shall be available until expended only after notification of such transfer to the Committees on Appropriations.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including authorized travel, $117,055,000, to remain available until expended: *Provided*, That none of the funds may be used to reimburse the Judgment Fund.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science, mathematics and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, $829,000,000, to remain available until September 30, 2013: *Provided*, That not less than $54,890,000 shall be available until expended for activities authorized by section 7030 of Public Law 110–69.

AGENCY OPERATIONS AND AWARD MANAGEMENT

For agency operations and award management necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,900 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of the Department of Homeland Security for security guard services; $290,400,000: *Provided*, That contracts may be entered into under this heading in fiscal year 2012 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), $4,440,000: *Provided*, That not to exceed $2,100 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $14,200,000.

ADMINISTRATIVE PROVISION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Science Foundation in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers. Any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

This title may be cited as the ''Science Appropriations Act, 2012''.

TITLE IV

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $9,193,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days: *Provided further*, That none of the funds appropriated in this paragraph shall be used for any activity or expense that is not explicitly authorized by 42 U.S.C. 1975a: *Provided further*, That there shall be an Inspector General at the Commission on Civil Rights who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978, as amended: *Provided further*, That an individual appointed to the position of Inspector General of the Equal Employment Opportunity Commission (EEOC) shall, by virtue of such appointment, also hold the position of Inspector General of the Commission on Civil Rights: *Provided further*, That the Inspector General of the Commission on Civil Rights shall utilize personnel of the Office of Inspector General of EEOC in performing the duties of the Inspector General of the Commission on Civil Rights, and shall not appoint any individuals to positions within the Commission on Civil Rights: *Provided further*, That of the amounts made available in this paragraph, $800,000 shall be transferred directly to the Office of Inspector General of EEOC upon enactment of this Act for salaries and expenses necessary to carry out the duties of the Inspector General of the Commission on Civil Rights.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Non-Discrimination Act (GINA) of 2008 (Public Law 110–233), the ADA Amendments Act of 2008 (Public Law 110–325), and the Lilly Ledbetter Fair Pay Act of 2009 (Public Law 111–2), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and nonmonetary awards to private citizens, $329,837,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $1,875 from available funds: *Provided further*, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act: *Provided further*, That the Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For payments to State and local enforcement agencies for authorized services to the Commission, $29,400,000.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $1,875 for official reception and representation expenses, $80,062,000, to remain available until expended.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, $396,106,000, of which $370,506,000 is for basic field programs and required independent audits; $4,200,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; $17,000,000 is for management and grants oversight; $3,400,000 is for client self-help and information technology; and $1,000,000 is for loan repayment assistance: *Provided*, That the Legal Services Corporation may continue to provide locality pay to officers and employees at a rate no greater than that provided by the Federal Government to Washington, DC-based employees as authorized by 5 U.S.C. 5304, notwithstanding section 1005(d) of the Legal Services Corporation Act, 42 U.S.C. 2996(d): *Provided further*, That the authorities provided in section 205 of this Act shall be applicable to the Legal Services Corporation.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2011 and 2012, respectively.

Section 504 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134) is amended:

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after ''):'' the following: ''that uses Federal funds (or funds from any source with regard to paragraphs (14) and (15) in a manner'';

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, $3,025,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $46,775,000, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $93,000 shall be available for official reception and representation expenses.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 et seq.) $5,019,000, of which $500,000 shall remain available until September 30, 2013: *Provided*, That not to exceed $1,875 shall be available for official reception and representation expenses.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT

SALARIES AND EXPENSES

For necessary expenses to carry out the activities of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent, as authorized by section 541 of this Act, $1,700,000 shall be available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 505. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2012, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds that—

(1) creates or initiates a new program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(2) eliminates a program, project or activity, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by this Act, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(4) relocates an office or employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(5) reorganizes or renames offices, programs or activities, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(6) contracts out or privatizes any functions or activities presently performed by Federal employees, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(7) proposes to use funds directed for a specific activity by either the House or Senate Committee on Appropriations for a different purpose, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds;

(8) augments funds for existing programs, projects or activities in excess of $500,000 or 10 percent, whichever is less, or reduces by 10 percent funding for any program, project or activity, or numbers of personnel by 10 percent as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds; or

(9) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, projects or activities as approved by Congress, unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds in provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2012, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through the reprogramming of funds after August 1, except in extraordinary circumstances, and only after the House and Senate Committees on Appropriations are notified 30 days in advance of such reprogramming of funds.

SEC. 506. Hereafter, none of the funds made available in this or any other Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 507. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 508. The Departments of Commerce and Justice, the National Science Foundation, and the National Aeronautics and Space Administration, shall provide to the House and Senate Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 509. Any costs incurred by a department or agency funded under this Act resulting from, or to prevent, personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 510. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 511. Hereafter, none of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

SEC. 512. Notwithstanding any other provision of law, amounts deposited or available in the Fund established under 42 U.S.C. 10601 in any fiscal year in excess of $705,000,000 shall not be available for obligation until the following fiscal year.

SEC. 513. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 515. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 505 of this Act.

SEC. 516. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

(b) For fiscal year 2012 and thereafter, the Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following

that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes, or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 517. (a) The Inspectors General of the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, the National Science Foundation, and the Legal Services Corporation shall conduct audits, pursuant to the Inspector General Act (5 U.S.C. App.), of grants or contracts for which funds are appropriated by this Act, and shall submit reports to Congress on the progress of such audits, which may include preliminary findings and a description of areas of particular interest, within 180 days after initiating such an audit and every 180 days thereafter until any such audit is completed.

(b) Within 60 days after the date on which an audit described in subsection (a) by an Inspector General is completed, the Secretary, Attorney General, Administrator, Director, or President, as appropriate, shall make the results of the audit available to the public on the Internet website maintained by the Department, Administration, Foundation, or Corporation, respectively. The results shall be made available in redacted form to exclude—

(1) any matter described in section 552(b) of title 5, United States Code; and

(2) sensitive personal information for any individual, the public access to which could be used to commit identity theft or for other inappropriate or unlawful purposes.

(c) A grant or contract funded by amounts appropriated by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(d) Any person awarded a grant or contract funded by amounts appropriated by this Act shall submit a statement to the Secretary of Commerce, the Attorney General, the Administrator, Director, or President, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest in the person awarded the grant or contract.

(e) The provisions of the preceding subsections of this section shall take effect 30 days after the date on which the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Ethics, determines that a uniform set of rules and requirements, substantially similar to the requirements in such subsections, consistently apply under the executive branch ethics program to all Federal departments, agencies, and entities.

SEC. 518. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

SEC. 519. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 520. (a) Notwithstanding any other provision of law or treaty, hereafter, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding $500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or temporary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

SEC. 521. Notwithstanding any other provision of law, hereafter, no department, agency, or instrumentality of the

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SA 876. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, line 2, strike ''1974.'' and insert the following: ''1974: *Provided further*, That none of the funds made available by this act shall be used to support a loan or grant for any proposed service territory in which broadband service with a combined speed of 3 Mbps (upstream and downstream) is offered by an incumbent service provider to more than 25 percent of households in such service territory, in the aggregate: *Provided further*, That none of the funds shall be used to support a loan or a grant for any proposed service territory for an upgrade of broadband plant when there is more than 1 incumbent service provider and not less than 1 of the incumbent service providers is offering service with a combined speed of 3 Mbps (upstream and downstream).''.

SA 877. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, line 2, strike ''1974.'' and insert the following: ''1974: *Provided further*, That none of the funds made available by this Act shall be used to support any loan or grant for any proposed service territory in which not less than 25 percent of the households in the proposed service territory in the aggregate are offered broadband service by not less than 2 incumbent service providers.''.

SA 878. Ms. SNOWE (for herself, Mr. BLUMENTHAL, Mr. SCHUMER, Mr. GRASSLEY, Mr. CASEY, Ms. KLOBUCHAR, Ms. COLLINS, Mr. COONS, Mr. KIRK, Mr. WYDEN, Mr. LAUTENBERG, Mr. BROWN, of Ohio, Mr. SESSIONS, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, after line 24, add the following:

SEC. 218. REPORT ON COMBATING SYNTHETIC DRUGS.

(a) IN GENERAL.—Using amounts made available under this Act, and not later than 90 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy, in coordination with the Attorney General, shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report detailing the strategy of the Federal Government for partnering with local law enforcement agencies to target the spread of synthetic drugs, including methylenedioxypyrovalerone and mephedrone.

(b) CONTENTS.—The report submitted under subsection (a) shall include the strategy of the Federal Government for—

(1) conducting public awareness campaigns and partnering with local law enforcement officials, hospitals, and schools to educate parents and young people about the dangers of abusing synthetic drugs;

(2) addressing the rampant abuse and ease of access of synthetic drugs in rural communities, where such problems can multiply quickly while attention is placed on larger population centers;

(3) using the High Intensity Drug Trafficking Areas program to provide additional assistance to law enforcement agencies operating in areas experiencing high levels of synthetic drug trafficking;

(4) improving coordination with U.S. Customs and Border Protection to seize shipments of synthetic drugs;

(5) developing and distributing test kits so that local law enforcement agencies can better identify dangerous individuals under the influence of synthetic drugs in the field; and

(6) using the authority under section 203 of the Controlled Substances Act (21 U.S.C. 813), to pursue law enforcement actions against the distribution of synthetic drugs.

SA 879. Mr. MERKLEY (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; as follows:

On page 264, between lines 9 and 10, insert the following:

SEC. 153. BUYING GOODS PRODUCED IN THE UNITED STATES.

(a) COMPLIANCE.—None of the funds made available under this title to carry out parts A and B of subtitle V of title 49, United States Code, may be expended by any entity unless the entity agrees that such expenditures will comply with the requirements under this section.

(b) PREFERENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation may not obligate any funds appropriated under this title to carry out parts A and B of subtitle V of title 49, United States Code, unless all the steel, iron, and manufactured products used in the project are produced in the United States.

(2) WAIVER.—The Secretary of Transportation may waive the application of paragraph (1) in circumstances in which the Secretary determines that—

(A) such application would be inconsistent with the public interest;

(B) such materials and products produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or

(C) inclusion of domestic material would increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—For purposes of this subsection (b)(2)(C), labor costs involved in final assembly shall not be included in calculating the cost of components.

(d) MANUFACTURING PLAN.—The Secretary of Transportation shall prepare, in conjunction the Secretary of Commerce, a manufacturing plan that—

(1) promotes the production of products in the United States that are the subject of waivers granted under subsection (b)(2)(B);

(2) addresses how such products may be produced in a sufficient and reasonably available amount, and in a satisfactory quality, in the United States; and

(3) addresses the creation of a public database for the waivers granted under subsection (b)(2)(B).

(e) WAIVER NOTICE AND COMMENT.—If the Secretary of Transportation determines that a waiver of subsection (b)(1) is warranted, the Secretary, before the date on which such determination takes effect, shall—

(1) post the waiver request and a detailed written justification of the need for such waiver on the Department of Transportation's public website;

(2) publish a detailed written justification of the need for such waiver in the Federal Register; and

(3) provide notice of such determination and an opportunity for public comment for a reasonable period of time not to exceed 15 days.

(f) STATE REQUIREMENTS.—The Secretary of Transportation may not impose any limitation on amounts made available under this title to carry out parts A and B of subtitle V of title 49, United States Code, which—

(1) restricts a State from imposing requirements that are more stringent than the requirements under this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries, in projects carried out with such assistance; or

(2) prohibits any recipient of such amounts from complying with State requirements authorized under paragraph (1).

(g) CERTIFICATION.—The Secretary of Transportation may authorize a manufacturer or supplier of steel, iron, or manufactured goods to correct, after bid opening, any certification of noncompliance or failure to properly complete the certification (except for failure to sign the certification) under this section if such manufacturer or supplier attests, under penalty of perjury, and establishes, by a preponderance of the evidence, that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error.

(h) REVIEW.—Any entity adversely affected by an action by the Department of Transportation under this section is entitled to seek judicial review of such action in accordance with section 702 of title 5, United States Code.

(i) MINIMUM COST.—The requirements under this section shall only apply to contracts for which the costs exceed $100,000.

(j) INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

(k) FRAUDULENT USE OF ''MADE IN AMERICA'' LABEL.—An entity is ineligible to receive a contract or subcontract made with amounts appropriated under this title to carry out parts A and B of subtitle V of title 49, United States Code, if a court or department, agency, or instrumentality of the Government determines that the person intentionally—

(1) affixed a ''Made in America'' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this section applies, but were not produced in the United States; or

(2) represented that goods described in paragraph (1) were produced in the United States.

SA 880. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, between lines 2 and 3, insert the following:

SEC. 542. The amount appropriated to the Office of the United States Trade Representative under the heading ''SALARIES AND EXPENSES'' under the heading ''OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE'' in title IV of this division and available for the Office of the Special Textile Negotiator shall instead be available for the Office of the General Counsel.

SA 881. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 765 submitted by Mr. DEMINT and intended to be proposed to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ____. The amount appropriated to the Office of the United States Trade Representative under the heading ''SALARIES AND EXPENSES'' under the heading ''OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE'' in title IV of division B and available for the Office of the Special Textile Negotiator shall instead be available for the Office of the General Counsel.

SA 882. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

After section 217 of title II of division B, insert the following:

SEC. 218. None of the funds appropriated or otherwise made available under this Act may be used to enforce subsection (d)(3) or subsection (g)(3) of section 922 of title 18, United States Code, based on the use of marijuana legally under State law by an individual.

SA 883. Ms. STABENOW (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 769 proposed by Mr. VITTER to the amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1 of the amendment, strike line 10 and insert the following: ''Act: *Provided*, That the prescription drug may not be (1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or (2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262). None of the funds made available in this Act for the Food and Drug Administration shall be used to change the practices and policies of the Food and Drug Administration, in effect on October 1, 2011, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, with respect to such importation by individuals from countries other than Canada.''.

SA 884. Mr. VITTER submitted an amendment intended to be proposed by

him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

After section 217 of title II of division B, insert the following:

SEC. 218. (a) AUDIT OF DNA AND RAPE KIT BACKLOG GRANTS.—The Comptroller General of the United States shall conduct a study of any grants awarded for the purpose of preventing or reducing DNA and rape kit backlogs by the Department of Justice using amounts made available under this Act, and any such grants made during the preceding 4 fiscal years, to determine whether the grant funds are being used to the maximum extent to—

(1) reduce and prevent DNA and rape kit backlogs; and

(2) increase the capacity of State and local laboratories in analyzing DNA and rape kits.

(b) CONTENTS.—The study required under subsection (a) shall—

(1) include an analysis of what proportion of grant dollars, annually, are provided to—

(A) State and local laboratories;

(B) non-government entities; and

(C) the National Institute of Justice program office;

(2) detail the methodology used to distribute grant dollars, particularly through the discretionary authority of the National Institute of Justice; and

(3) include an analysis of how the National Institute of Justice inventories and compiles grant data and results, including—

(A) a breakdown of the amount of funds provided to non-government DNA laboratories on an annual basis; and

(B) a description of the contribution of the National Institute of Justice towards increasing capacity and reducing backlogs for government DNA laboratories.

SA 885. Mr. BEGICH (for himself, Mr. COBURN, Mr. UDALL of Colorado, Mr. BENNET, Mr. ENZI, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 22 and 23, insert the following:

PATENT AND TRADEMARK OFFICE FUNDING

SEC. 114. (a) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund'';

(B) by striking ''(c)(1)'' and inserting ''(c)''; and

(C) in subsection (c)—

(i) in the first sentence—

(I) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(II) by striking ''shall be collected by and shall, subject to paragraph (3), be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended'';

(ii) by inserting after the first sentence the following: ''All fees available to the Director under section 31 of the Trademark Act of 1946 shall be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.''; and

(iii) by striking paragraphs (2) and (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

(b) USPTO REVOLVING FUND.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Fund'' means the United States Patent and Trademark Office Public Enterprise Fund established under paragraph (2);

(B) the term ''Director'' means the Director of the United States Patent and Trademark Office;

(C) the term ''Office'' means the United States Patent and Trademark Office; and

(D) the term ''Under Secretary'' means the Under Secretary of Commerce for Intellectual Property.

(2) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(3) DERIVATION OF RESOURCES.—There shall be deposited into the Fund on or after the effective date of subsection (a)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(4) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(c) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (e).

(d) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(e) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(f) BUDGET.—The Director shall prepare and submit each year to the President a business-type budget in a manner, and before a date, as the President prescribes by regulation for the budget program.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Section 11 of the Leahy-Smith America Invents Act (35 U.S.C. 41 note) is amended—

(1) in subsection (h), by amending paragraph (3) to read as follows:

''(3) DEPOSIT OF FEES.—All fees paid under this subsection shall be credited to the United States Patent and Trademark Office Public Enterprise Fund, established under section 2(b)(2) of the Patent and Trademark Office Revolving Fund Act of 2011, shall remain available until expended, and may be used only for the purposes specified in section 2(b)(4) of such Act.''; and

(2) in subsection (i)—

(A) in the header, by striking ''APPROPRIATION ACCOUNT''; and

(B) by amending paragraph (1)(B) to read as follows:

''(B) DEPOSIT OF AMOUNTS.—Amounts collected pursuant to the surcharge imposed under subparagraph (A) shall be credited to the United States Patent and Trademark Office Public Enterprise Fund, established under section 2(b)(2) of the Patent and Trademark Office Revolving Fund Act of 2011, shall remain available until expended, and may be used only for the purposes specified in section 2(b)(4) of such Act.''.

SA 886. Mr. BAUCUS (for himself, Ms. STABENOW, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, between lines 2 and 3, insert the following:

SEC. 542. (a) The matter under the heading ''SALARIES AND EXPENSES'' under the heading ''OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE'' in title IV of this division is amended—

(1) by striking ''$46,775,000'' and inserting ''$51,251,000''; and

(2) by striking the period at the end and inserting '': *Provided*, That $4,476,000 shall be available for, among other activities, developing opportunities for small businesses to access the markets of foreign countries and enforcing trade agreements to which the United States is a party.''.

(b) The matter under the heading ''SALARIES AND EXPENSES'' under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' in title I of this division is amended by striking ''$45,568,000'' and inserting ''$41,092,000''.

SA 887. Mr. MERKLEY (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, after line 7, add the following:

SEC. ___. Owners of properties supported by the Secretary other than under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), for which an event causing the cessation of rental assistance or affordability restrictions has resulted or will result in eligibility for tenant protection vouchers under section 8(o) or enhanced vouchers under section 8(t) of such Act, shall be eligible for, subject to requirements established by the Secretary, including tenant consultation procedures, and in lieu of issuance or continuation of such vouchers, conversion of assistance available for such vouchers to assistance under section 8(o)(13) of such Act, except that, only with respect to such conversions, the Secretary may alter or waive the provisions of subsections 8(o)(13)(B), (C), and (D) and, for enhanced voucher being converted, of subsection 8(o)(13)(H).

SA 888. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 22 and 23, insert the following:

SEC. 114. None of the funds made available by this Act may be used for coastal and marine spatial planning (as defined by Executive Order 13547 (33 U.S.C. 857-19 note; relating to stewardship of the ocean, coasts, and Great Lakes)) for a single State region if the Governor of the State within such region provides written objection to such planning.

SA 889. Mr. BROWN of Massachusetts (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 105, between lines 12 and 13, insert the following:

(b)(1) Fees deposited in the Fisheries Enforcement Asset Forfeiture Fund may be used without further annual appropriation to conduct the audits required by paragraph (2).

(2) For each of the fiscal years 2012, 2013, and 2014, the Secretary or the Secretary of the Treasury shall—

(A) prepare an annual audit plan for the Fisheries Enforcement Asset Forfeiture Fund;

(B) submit each such audit plan to the Inspector General of the Department of Commerce or the Inspector General of the Department of the Treasury, as appropriate;

(C) carry out the audit; and

(D) submit the final audit results to the Inspector General of the Department of Commerce or the Inspector General of the Department of the Treasury, as appropriate, upon completion.

SA 890. Mr. BURR (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, line 17, strike the period and insert the following: '': *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that discloses, with respect to all drugs, devices, and biological products approved, cleared, or licensed under the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act during calendar year 2011, including such drugs, devices, and biological products so approved, cleared, or licensed using funds made available under this Act: (1) the average number of calendar days that elapsed from the date that drug applications (including any supplements) were submitted to such Secretary under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) until the date that the drugs were approved under such section 505; (2) the average number of calendar days that elapsed from the date that applications for device clearance (including any supplements) under section 510(k) of such Act (21 U.S.C. 360(k)) or for premarket approval (including any supplements) under section 515 of such Act (21 U.S.C. 360e) were submitted to such Secretary until the date that the devices were cleared under such section 510(k) or approved under such section 515; and (3) the average number of calendar days that elapsed from the date that biological license applications (including any supplements) were submitted to such Secretary under section 351 of the Public Health Service Act (42 U.S.C. 262) until the date that the biological products were licensed under such section 351.''.

SA 891. Mr. BURR (for himself, Ms. KLOBUCHAR, and Mr. BENNET) submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VII of division A, insert the following:

SEC. ___. MANAGEMENT AND INNOVATION REVIEW.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Commissioner of Food and Drugs, shall enter into a contract with an eligible entity to carry out the activities described in subsection (c).

(b) ELIGIBLE ENTITY.—To be eligible to enter into a contract with the Secretary under subsection (a), an entity shall—

(1) be an entity with experience in evaluating the management and operating structure of large organizations; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) ACTIVITIES.—The entity with which the Secretary enters into the contract under subsection (a) shall, pursuant to such contract, conduct an extensive review of the management and regulatory processes at the Center for Devices and Radiological Health of the Food and Drug Administration to ensure any actions carried out by such Center take into consideration the potential impacts on innovation with respect to medical devices and other products regulated by such Center.

(d) REPORT.—Not later than 1 year after the date that the Secretary enters into the contract with the eligible entity under subsection (a), such entity shall submit to Congress and the Secretary a report that describes the findings and recommendations of such entity based on the review conducted under subsection (c).

(e) FUNDING.—To carry out this section, the Secretary shall use funds otherwise made available under this division for the operations of the Office of the Commissioner of Food and Drugs.

SA 892. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 7, insert ''or that the closing or relocation would result in cost savings'' after ''delivery''.

SA 893. Ms. CANTWELL (for herself, Ms. MURKOWSKI, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 22 and 23, insert the following:

SEC. 114. (a) SHORT TITLE.—This section may be cited as the ''Emergency Response, Research, and Management: Stopping the Spread of the Infectious Salmon Anemia Virus Act''.

(b) FINDINGS.—Congress finds the following:

(1) Salmon are a keystone species, sustaining more than 180 other species in freshwater and marine ecosystems.

(2) Salmon are a central part of the culture, economy, and environment of Western North America.

(3) Economic activities relating to salmon generate billions of dollars of economic activity and provide tens of thousands of jobs.

(4) Infectious salmon anemia poses a risk to wild and hatchery salmon populations and therefore threatens—

(A) commercial, tribal, and recreational salmon fishery jobs;

(B) ecosystems which rely on healthy salmonid populations; and

(C) ecosystem based processes which rely on healthy salmon populations.

(c) RESEARCH.—

(1) RESEARCH COORDINATION.—The National Aquatic Animal Health Task Force shall coordinate research, monitoring, and reporting efforts of infectious salmon anemia in the waterways of Alaska, Washington, Oregon, California, and Idaho.

(2) RESEARCH OBJECTIVES.—The Task Force shall establish infectious salmon anemia research objectives to assess—

(A) the prevalence of infectious salmon anemia in both wild and aquaculture salmonid populations throughout Alaska, Washington, Oregon, California, and Idaho;

(B) genetic susceptibility by population and species;

(C) susceptibility of populations to infectious salmon anemia from geographic and oceanographic factors;

(D) potential transmission pathways between infectious Canadian sockeye and uninfected salmonid populations in United States waters;

(E) management strategies to rapidly respond to potential infectious salmon anemia outbreaks in both wild and aquaculture populations, including securing the water supplies at conservation hatcheries to protect hatchery fish from exposure to the infectious salmon anemia virus present in incoming surface water;

(F) potential economic impacts of infectious salmon anemia;

(G) any role foreign salmon farms may have in spreading the disease to wild populations;

(H) the identity of any potential Federal, State, tribal, and international research partners; and

(I) other infectious salmon anemia research priorities, as determined by the Task Force.

(3) RESEARCH COLLABORATION.—The Task Force shall—

(A) collaborate with the Government of Canada and Federal, State, and tribal governments to acquire baseline data and to carry out the research objectives described in paragraph (2); and

(B) collaborate for such purposes with the Department of Fish and Wildlife of Washington and the Department of Fish and Game of Alaska.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the National Aquatic Animal Health Task Force shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report of the findings of the research objectives described in subsection (c)(2).

SA 894. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 128 of division C.

SA 895. Mr. RUBIO submitted an amendment intended to be proposed to amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

SEC. _____. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

NOTICES OF INTENT TO OBJECT TO PROCEEDING

I, Senator ORRIN HATCH, intend to object to proceeding to the nomination of William J. Boarman to be Public Printer at the Government Printing Office, dated October 19, 2011.

I, Senator JOHNNY ISAKSON, intend to object to proceeding to the nomination of William J. Boarman to be Public Printer at the Government Printing Office, dated October 19, 2011.

NOTICES OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XVI for the purpose of proposing and considering amendment No. 773 to H.R. 2112.

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XVI for the purpose of proposing and considering amendment No. 774 to H.R. 2112.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE SCIENCE, AND TRANSPORTATION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 19, 2011, at 2:30 p.m., in room 253 of the Russell Senate Office Building. The Committee will hold a hearing entitled, ''Concussions and the Marketing of Sports Equipment.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on October 19, 2011, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE SUBCOMMITTEE ON SUPERFUND, TOXICS, AND ENVIRONMENTAL HEALTH

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Subcommittee on Superfund, Toxics, and Environmental Health be authorized to meet during the session of the Senate on October 19, 2011, at 10 a.m. in Dirksen 406 to conduct a joint hearing entitled, ''Oversight Hearing on the Brownfields Program—Cleaning Up and Rebuilding Communities.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on October 19, 2011, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 19, 2011, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Department of Homeland Security.''

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

COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 19, 2011, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on October 19, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON SECURITIES, INSURANCE, AND INVESTMENT

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Securities, Insurance, and Investment, be authorized to meet during the session of the Senate on October 19, 2011, at 9:30 a.m. to conduct a hearing entitled ''Market Microstructure: Examination of Exchange-Traded Funds (ETFS).''

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

PRIVILEGES OF THE FLOOR

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that Peter Wisner, a detailee from the Treasury Department, be given the privilege of the floor during the consideration of H.R. 2112.

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

Mr. CARDIN. Mr. President, I ask unanimous consent that privileges of the floor be granted to the following member of the staff of the Senator from Oregon, Elizabeth Heintzman, during the pendency of the pending business.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that a time to be determined by the majority leader in consultation with the Republican leader, the Senate proceed to executive session to consider Calendar No. 410; that there be 4 hours of debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to vote, without intervening action or debate, on Calendar No. 410, and that the nomination be subject to a 60-vote threshold; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

INCREASING RATES OF VETERANS COMPENSATION

Mr. REID. I ask unanimous consent that the Senate proceed to Calendar No. 125.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The bill (S. 894) to amend title 38, United States Code, to provide for an increase, effective December 1, 2011, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

There being no objection, the Senate proceeded to the bill.

Mr. REID. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements related to this matter be printed in the RECORD.

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

The bill (S. 894) was ordered to be read a third time, was read the third time, and passed, as follows:

S. 894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 2011''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2011, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2011, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2011, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

(e) PUBLICATION OF ADJUSTED RATES.—The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b), as increased under subsection (a), not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2012.

NATIONAL WORK AND FAMILY MONTH

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 299.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 299) designating October 2011 as ''National Work and Family Month.''

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

Mr. REID. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 299

Whereas, according to a report by WorldatWork, a nonprofit professional association with expertise in attracting, motivating, and retaining employees, the quality of workers' jobs and the supportiveness of the workplace of the workers are key predictors of the job productivity, job satisfaction, and commitment to the employer of those workers, as well as of the ability of the employer to retain those workers;

Whereas ''work-life balance'' refers to specific organizational practices, policies, and programs that are guided by a philosophy of active support for the efforts of employees to achieve success within and outside the workplace, such as caring for dependents, health and wellness, paid and unpaid time off, financial support, community involvement, and workplace culture;

Whereas numerous studies show that employers that offer effective work-life balance programs are better able to recruit more talented employees, maintain a happier, healthier, and less stressed workforce, and retain experienced employees, which produces a more productive and stable workforce with less voluntary turnover;

Whereas job flexibility often allows parents to be more involved in the lives of their children, and research demonstrates that parental involvement is associated with higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates in children;

Whereas military families have special work-family needs that often require robust policies and programs that provide flexibility to employees in unique circumstances;

Whereas studies report that family rituals, such as sitting down to dinner together and sharing activities on weekends and holidays, positively influence the health and development of children and that children who eat dinner with their families every day consume nearly a full serving more of fruits and vegetables per day than those who never eat dinner with their families or do so only occasionally; and

Whereas the month of October is an appropriate month to designate as National Work and Family Month: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2011 as ''National Work and Family Month'';

(2) recognizes the importance of work schedules that allow employees to spend time with their families to job productivity and healthy families;

(3) urges public officials, employers, employees, and the general public to work together to achieve more balance between work and family; and

(4) calls upon the people of the United States to observe National Work and Family Month with appropriate ceremonies and activities.

RED RIBBON WEEK

Mr. REID. I ask unanimous consent the Senate proceed to consideration of S. Res. 300.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 300) supporting the goals and ideals of Red Ribbon Week, 2011.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the resolution be agreed, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 300) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 300

Whereas the Red Ribbon Campaign was established to commemorate the service of Enrique ''Kiki'' Camarena, a special agent of the Drug Enforcement Administration for 11 years who was murdered in the line of duty in 1985 while engaged in the battle against illicit drugs;

Whereas the Red Ribbon Campaign was established by the National Family Partnership to preserve the memory of Special Agent Camarena and further the cause for which he gave his life;

Whereas the Red Ribbon Campaign has been nationally recognized since 1988 and is now the oldest and largest drug prevention program in the United States, reaching millions of young people each year during Red Ribbon Week;

Whereas the Drug Enforcement Administration, established in 1973, aggressively targets organizations involved in the growing, manufacturing, and distribution of controlled substances and has been a steadfast partner in commemorating Red Ribbon Week;

Whereas the Governors and attorneys general of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, PRIDE Youth Programs, the Drug Enforcement Administration, and hundreds of other organizations throughout the United States annually celebrate Red Ribbon Week during the period of October 23 through October 31;

Whereas the objective of Red Ribbon Week is to promote the creation of drug-free communities through drug prevention efforts, education, parental involvement, and community-wide support;

Whereas drug abuse is one of the major challenges that the United States faces in securing a safe and healthy future for families in the United States;

Whereas drug abuse and alcohol abuse contribute to domestic violence and sexual assault and place the lives of children at risk;

Whereas, between 1998 and 2008, the percentages of admissions to substance abuse treatment programs as a result of the abuse of marijuana and methamphetamines rose significantly;

Whereas drug dealers specifically target children by marketing illicit drugs that mimic the appearance and names of well-known brand-name candies and foods;

Whereas emerging drug threats and growing epidemics demand attention, with particular focus on the abuse of prescription medications, the second most abused drug by young people in the United States;

Whereas since the majority of teenagers abusing prescription drugs get the prescription drugs from family, friends, and home medicine cabinets, the Drug Enforcement Administration will host a National Take Back Day on October 29, 2011, for the public to safely dispose of unused or expired prescription medications that can lead to accidental poisoning, overdose, and abuse; and

Whereas parents, young people, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States will demonstrate their commitment to healthy, productive, and drug-free lifestyles by wearing and displaying red ribbons during the week-long celebration of Red Ribbon Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Red Ribbon Week, 2011;

(2) encourages children and teens to choose to live drug-free lives; and

(3) encourages the people of the United States—

(A) to promote the creation of drug-free communities; and

(B) to participate in drug prevention activities to show support for healthy, productive, and drug-free lifestyles.

ORDERS FOR THURSDAY, OCTOBER 20, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., tomorrow, Thursday, October 20. I would note there is a unique reason we are coming in late tomorrow. I would like to come in very early, but Senator HARKIN and Senator ENZI are working very hard in the Labor Committee, Labor and Education Committee, to come up with a rewrite of Leave No Child Behind. They have worked very hard.

There are 140 amendments pending. More than 70 of them have been offered by one Senator and that Senator has objected to the committee meeting so it is a little hard when you file all those amendments to have them all considered when they object to the committee meeting. Under the rules of the Senate, you have a right to object if the meeting takes more than 2 hours after the Senate comes into session. Anyway, that is where we are. I think it is absolutely hard to comprehend how anyone could rationally do that, but that is what we have.

I would add, because of that, the committee is meeting very early so they can continue 2 hours after we come in. Anyway, we are coming in at 10 o'clock tomorrow morning.

I ask unanimous consent that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of H.R. 2112, the Agriculture, CJS, and Transportation appropriations bill, until 12 p.m., and that at 12 p.m. the Senate proceed to executive session to consider Calendar No. 78, with 2 minutes of debate equally divided and controlled in the usual form prior to a vote on the confirmation of the nomination, and all other provisions of the previous order remain in effect; further, that when the Senate resumes legislative session, the Senate resume consideration of H.R. 2112, and the Senate proceed to vote in relation to the Vitter amendment No. 769, as modified, and the Webb amendment, No. 750; and that at 2 p.m. the Senate proceed to vote in relation to the Merkley amendment No. 879, as modified; the Brown of Ohio amendment No. 874, as modified; the Moran amendment No. 815; and the Grassley amendment No. 860; with all other provisions of the previous order remaining in effect.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. REID. Mr. President, there will be three rollcall votes about noon tomorrow, four rollcall votes at approximately 2 p.m. We expect additional rollcall votes tomorrow in relation to the Appropriations bill. We are going to do our utmost to complete that bill tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that it adjourn under the previous order.

There being no objection, the Senate, at 9:29 p.m., adjourned until Thursday, October 20, 2011, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 2011:

THE JUDICIARY

MARK RAYMOND HORNAK, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

ROBERT DAVID MARIANI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

ROBERT N. SCOLA, JR., OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.