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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

THURSDAY, OCTOBER 20, 2011

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal Lord God, your infinite greatness compels us to give You praise. Today we ask that You would help our Senators to reach their full ethical stature by deepening their sense of the stewardship of all that they have and are by the power of Your spirit within them.

Lord, our challenging times demand such ethical and moral fitness so that problems can be solved with the collaborative and courageous spirit. Like streams of flowing water through our common days, You continue to refresh us with Your merciful goodness. Make us worthy of Your generosity as we strive daily to please and honor You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 20, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. DURBIN. Following leader remarks, the Senate will resume consideration of H.R. 2112, the Agriculture, CJS, and Transportation appropriations bill. At noon there will be three rollcall votes. The first vote will be on the confirmation of Heather Higginbottom to be Deputy Director of OMB. The second vote will be in relation to the Vitter amendment. The third vote will be in relation to the Webb amendment.

The filing deadline for first-degree amendments to the substitute amendment and H.R. 2112 is 1 p.m. today. There will be another series of up to four rollcall votes at approximately 2 p.m. in relation to additional amendments to the bill. Further rollcall votes are expected during today's session in order to complete action on the bill.

We also hope to vote on the confirmation of the nomination of John Bryson to be Commerce Secretary as well today. Additionally, cloture was filed on the motions to proceed to S. 1723 and S. 1726. If no agreement is reached, these cloture votes will occur on Friday.

RECOGNITION OF THE MINORITY LEADER

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

JOB CREATION

Mr. MCCONNELL. Mr. President, as we all know, the No. 1 issue on the minds of most Americans is jobs, and I think it is pretty clear both parties are focused on that issue right now.

I also think it is safe to say the two parties have a fundamentally different take on the solution. For Democrats, the solution, apparently, is to increase the number of people who work for the government. My good friend, the majority leader, made this pretty clear yesterday when he said the private sector ''is doing just fine'' and that the President's latest stimulus is focused on government jobs instead.

Republicans take a different view. We recognize that government has an

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

important role to play. We recognize the need for commonsense regulations to ensure the safety of our citizens and the preservation of our resources. But it has become increasingly clear to many Americans that Democrats in Washington have lost all sense of balance when it comes to both the size and the scope of the Federal Government in Washington.

Based on the letters I get and the people I meet, there is a growing sense out there that government regulations are simply and completely out of control and that this is one of the main reasons we are in this jobs crisis. There is a growing sense the reason for this is that lawmakers and bureaucrats in Washington have completely lost touch—completely and totally lost touch—with the struggles folks outside the beltway are going through.

I saw yesterday that the Washington, DC, area now has the highest median income in the country. Washington, DC, the Nation's Capital, has the highest median income in the country. I have no doubt many of these people do good work, but the point is they are weathering this economic downturn pretty well. Not only are they making big salaries relative to the private sector, they are also holding on to their jobs. The unemployment rate for the country as a whole is 9.1 percent. For government workers it is about half that—4.7 percent.

With all due respect to my friends on the other side, it is the private sector that has been begging for mercy. It is the private sector that is being crushed by regulators in Washington. I don't think the solution to the crisis is to make the Federal Government even bigger.

When it comes to jobs, the primary role of government is to create an environment in which Americans and American businesses can grow and flourish without the heavy hand of government on their backs. We shouldn't be making it harder for people to do business and to prosper. We should be making it easier. Yet everywhere I go, from Silicon Valley to Kentucky coal mines, I hear the same thing: Get Washington off our backs. They are killing us with all these impossible demands. It is not the commonsense regulations they complain about; it is all the new burdensome, duplicative and, in some cases, impossible to comply with regulations. I have small business owners in Kentucky writing me to say they can barely get by as it is, and the EPA is harassing them with paperwork and threatening them with fines.

I mentioned a paper company the other day in Ohio that is shutting down because the EPA demanded they upgrade their boilers with a technology that doesn't even exist yet.

I know my Democratic colleagues hear these same complaints because they literally cut across party lines. One story I saw this week featured a Democratic mayor in Massachusetts telling Washington to back off.

Here is a woman who went to the President's inauguration, an Obama supporter, stood in the cold to witness it with her kids. And now she says she is losing her faith in government because the overzealous enforcement of brutal new fishing regulations is destroying jobs and forcing smaller players out of the business altogether.

Democrats hear stories such as this too, and their solution is that we should hire even more people who wake up every morning thinking about yet new ways to regulate private industry until they cry uncle. Our view is that we should actually listen to what people are asking us to do and to help them out, give them a break. It is time for government to help private sector job creators instead of looking for ways to punish them.

What we are doing is we are asking the Democrats to work with us on ways to help the private sector grow, because the fact is we are not going to get this economy going again by growing the government. It is the private sector that is ultimately going to drive this recovery.

Look, if big government were the key to economic growth, then countries such as Greece would be booming right now. If big government were the key to economic growth, Greece would be booming.

What we need to do is to focus on helping the private sector grow. I know the Democratic plan is to focus on their government jobs bill instead, to punish private sector job creators with yet another tax to subsidize even more temporary government jobs at the State level. But what I am saying is, let's put the government stimulus bills aside for a change and do something for the small business men and women in this country who are begging for mercy from their own government, right here in Washington.

There is a lot we can do. As I noted yesterday, the House has already passed three pieces of legislation this year alone, one as recently as last week, that would send an entirely different message to businesses. Every one of these bills to roll back excessive regulations by bureaucrats here in Washington got solid bipartisan support in the House of Representatives.

Last night, Senate Republicans also moved ahead on legislation that private contractors who do work for Federal, State, and local governments have been asking us to enact as a way to protect jobs. At a time when so many businesses are struggling to stay afloat—to literally stay afloat—the government shouldn't burden them even more by taking money out of businesses that they could use to invest and hire.

The best thing about this proposal is not only is it bipartisan, it is also part of the President's bill. So here is another example of something we could do for job creators that we know will actually be signed into law. And there is no reason I can think of that this legislation shouldn't get 100 votes in the Senate—a proposal supported by the President of the United States, passed with a large bipartisan majority in the House. Why don't we pass it? It is in the President's own bill, for goodness sake.

The White House said yesterday that every part of the President's bill is equally important. If that is true, let's pass this measure. This legislation should get unanimous support. So let's vote on this and the other bipartisan jobs legislation I have mentioned and then send them to the President for an actual signature, making a law instead of making a point.

It is time we showed people who are struggling out there that we are on their side, because right now I know a lot of them are having serious doubts. It is time we do something serious about jobs. The proposal I offered last night, with the support of my Republican colleagues, supported by the President of the United States, passed by a bipartisan majority in the House, would be a good step in the right direction.

LISA WOLSKI

Mr. MCCONNELL. Mr. President, the Senate Republican team is losing a key player today as we say goodbye to Lisa Wolski, chief of staff to the Republican whip, Senator KYL.

Lisa has been a greatly valued adviser to me as well and to my entire team. We have always valued her intelligence, good strategic sense, and her sound judgment. She has worked extremely hard to make sure we always knew where the votes were, which is very important in this line of work. And, most of all, we appreciate very much the fact that she has done all this with great team spirit.

I want to thank Lisa for her hard work, for me and for the entire Republican team, and we wish her all the best in her future endeavors.

HONORING OUR ARMED FORCES

SPC BRANDON S. MULLINS

Mr. MCCONNELL. Mr. President, it is with sadness that I come to the floor today to commemorate a brave Kentuckian who lost his life in service to his country.

U.S. Army SPC Brandon S. Mullins of Owensboro, KY, was killed on August 25, 2011, in Kandahar Province, Afghanistan, when insurgents attacked his vehicle with an improvised explosive device. He was 21 years old.

For his heroic service, Specialist Mullins received several awards, medals, and decorations, including the Bronze Star Medal, the Purple Heart, the Army Good Conduct Medal, the National Defense Service Medal, the Afghanistan Campaign Medal with Bronze Service Star, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the NATO Medal, and the Combat Infantryman Badge.

Brandon Mullins inherited a proud military tradition. He was the third generation in his family to wear the Nation's uniform. His father Thomas was a military police officer, and as a child Brandon and his brother Shaun used to love to play with his dad's old MP mementoes. They also loved to play on a World War II-era tank that was on display in a park near Brandon's childhood home.

As a kid, Brandon loved sports. Hockey was his favorite. He and his family enjoyed going to Nashville Predators games, but Brandon's favorite team was the Detroit Red Wings.

Brandon also played hockey in high school and was the MVP of his league. He thrived under pressure. One time, Brandon's team found itself in a shootout situation for victory in a high-stakes playoff game. Brandon asked his coach to put him in as the goalie. He wanted a chance to step up in a clutch moment for his teammates and, sure enough, his team won the game.

Brandon also enjoyed being outdoors. He was a hunter, a fisherman, and a hiker. His family described him as fearless when it came to physical challenges. He started rollerblading at the age of 4. He is remembered as high spirited, generous, and very popular.

Brandon's family was certainly not surprised when Brandon grew up and enlisted in the military. ''He wanted the tough job,'' his mother Catherine said. ''He wanted to fight. He was competitive.''

Brandon's brother Shaun had enlisted before him, and so in February 2010 Brandon enlisted in the Army. He deployed to Afghanistan in May of 2011 with Company C, 3rd Battalion, 21st Infantry Regiment, 1st Stryker Brigade Combat Team, 25th Infantry Division, based out of Fort Wainright, AK. Once again, he thrived under pressure, this time in the demanding task of fighting for our country.

''Brandon matured very quickly,'' his father Thomas said.

From the time he entered basic training . . . you could see a big change in his life. He was headed in the right direction with his life.

Brandon loved being in the Army, and would send letters back home about how cool basic training was. Brandon's fellow soldiers quickly took to the new recruit from Owensboro.

''I can honestly say I've never met anyone like Mullins,'' said SSG Matthew Mills, Brandon's squad leader.

SPC Deroderick Jackson, another one of Brandon's fellow soldiers, said this:

He was just a big help to me. Every time he saw I had a hard time, he made me smile and told me to get it together. On a mission with the Afghan National Army, I was real tired and they were going real fast and [Brandon] said, ''You've got this, brother!''

Another fellow soldier, COL Todd R. Wood, recalls that Brandon:

. . . was best described as the epitome of selfless service—he took on details others did not want, he did not complain, he just did it, and usually with a smile. He carried the heaviest loads and helped out everyone he could. He was always concerned about others first.

Brandon's fellow soldiers also recall he had a fun side. ''I remember he was really goofy,'' said Private First Class Adam Baldridge.

One time I remember we got in trouble and we were getting smoked until we almost had a tear rolling down our cheeks. He just turned and looked at me and said, ''Just remember, they can't smoke rocks.''

We are thinking of Brandon's loved ones today, as I recount his story for my colleagues in the Senate, including his parents Thomas and Catherine Mullins, his brother PFC Shaun Erik Mullins, his sister Bethany Rose Mullins, and many other beloved family members and friends.

This past September 11 was the tenth anniversary of the brutal terrorist attacks that ushered in a new era of military readiness and resolve for America. On that day, the Mullins family held a memorial service for Brandon. More than 800 people came to show their respects.

The funeral procession, led by 576 motorcycles, traveled from Good Shepherd Church to Owensboro Memorial Gardens at a slow, somber place—taking 1 hour to drive 11 miles.

On that day, CPT Sean J. Allred of the 3rd Battalion, 21st Infantry Regiment, wrote Thomas and Catherine Mullins a letter.

I hope that through writing this letter you may know how your son lived as a warrior and will continue to live in our hearts and in our victories.

Know that your son was a brother to all men in his Platoon and all who knew him . . . Brandon was a credit to you and how you raised him. I am forever indebted to him and will honor his memory in future actions.

Captain Allred's sentiments are shared by this Senate. Our Nation can never repay the debt owed to Specialist Mullins or the sacrifice he made that weighs so heavily on his family. But we can honor his service and ensure that he will never be forgotten by his country. It is thanks to heroes such as SPC Brandon S. Mullins that America enjoys the freedoms we do today.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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.

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

Vitter modified 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 $1,000,000.

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

Ayotte amendment No. 753 (to amendment No. 738), to prohibit the use of funds for the prosecution of enemy combatants in article III courts of the United States.

Crapo amendment No. 814 (to amendment No. 738), to provide for the orderly implementation of the provisions of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Merkley amendment No. 879 (to amendment No. 738), 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.

Moran amendment No. 815 (to amendment No. 738), to improve the bill.

Bingaman modified amendment No. 771 (to amendment No. 738), 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.

Blunt (for Grassley) amendment No. 860 (to amendment No. 738), to ensure accountability in Federal grant programs administered by the Department of Justice.

Menendez amendment No. 857 (to amendment No. 738), to extend loan limits for programs of the government-sponsored enterprises, the Federal Housing Administration, and the Veterans Affairs' Administration.

Lee motion to recommit.

Sessions amendment No. 810 (to amendment No. 783), to prohibit the use of funds to allow categorical eligibility for the supplemental nutrition assistance program.

Blunt (for DeMint) amendment No. 763 (to amendment No. 738), 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.

Blunt (for DeMint) amendment No. 764 (to amendment No. 738), to eliminate a certain increase in funding.

Lautenberg amendment No. 836 (to amendment No. 738), 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.

Gillibrand amendment No. 869 (to amendment No. 738), to increase funding for the emergency conservation program and the emergency watershed protection program.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BLUNT. I thank my colleagues for bringing amendments to the floor on the Agriculture bill and also on the other two bills we are dealing with, Transportation and Housing and Urban Development, and Commerce-Justice-State.

We have had a vigorous debate over the past few days. We will have further votes today, and I think we will have further amendments today. We look forward to our colleagues continuing to come to the floor to debate these amendments. I hope we can continue working together to produce a bipartisan piece of legislation that becomes the first appropriations bill, as such, that we hopefully will be able to complete with the House.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Gillibrand amendment is the pending amendment.

Mr. DURBIN. To H.R. 2112?

The ACTING PRESIDENT pro tempore. To H.R. 2112.

Mr. DURBIN. If there are no Members on the floor to offer amendments to speak to those amendments, I ask unanimous consent to speak as in morning business.

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

WALL STREET REFORM

Mr. DURBIN. Mr. President, our colleagues on the other side of the aisle have an interesting grasp of history. How else can you explain their choice of this week to push for the repeal of the most significant Wall Street reform since the Great Depression? For those who need a reminder, it was 24 years ago this week, October 19, 1987, that the Dow Jones Industrial Average suffered the largest 1-day percentage drop in history. It was known as Black Monday. The Dow Jones lost 508 points that day, more than 22 percent of its value, $500 million in wealth destroyed in 1 day. It took the Dow Jones Average 2 years to recover from Black Monday. Financial markets had not experienced such a disastrous decline since the stock market crash of 1929 that set off the Great Depression.

Most of us thought we would never again see such an event. Then came the financial crisis of 2008. In between time, I might mention, there was a savings and loan crisis. But then came the 2008 financial crisis. And 3 years after the near collapse of AIG set off the 2008 financial crisis, big banks and big Wall Street investment firms are once again extremely profitable. Most of the banks reported their earnings this week, and the biggest names made the biggest profits ever.

Wall Street CEOs are still pulling down salaries and bonuses worth tens of millions of dollars a year, hundreds of times more than the average worker's income. Most Americans are still struggling. The financial crisis of 2008 wiped out millions of jobs.

I recall the month President Obama was sworn in as President. I stood there on that cold January day, and as he took his hand from the Bible, I realized we had lost 750,000 jobs the month he took office. And, unfortunately, it preceded him and continued for some time. There are now 24 million Americans unemployed or underemployed. Millions have lost their homes. Millions more are in danger of joining them.

Nearly one in every four mortgages in America is now underwater, which means that the owners owe more on the mortgage than the value of the home. In the last 4 years, many Americans have seen their home values plummet by nearly one-third since 2007, and their retirement savings cut in half. We are paying a heavy price for the perfidy of Wall Street.

Solid, well-run companies across America, many in business for decades, have been shaken to the core and cannot find credit to either continue in business, expand their business, or hire new employees. What do our Republican friends offer as a solution? They want to repeal—repeal—the reforms that Congress passed to reduce the reckless risk taking and deception on Wall Street. They want to repeal Wall Street reform.

They want to repeal the Sarbanes-Oxley reform that was put in place after the debacle of the Enron Corporation. They are offering the same mistaken policies of the last decade. They want us to repeat the same mistakes that led us to a near meltdown of the global economy.

This effort to repeal Wall Street reform is part of a larger Republican campaign to prevent government from passing and enforcing reasonable rules that protect our environment and safeguard America's food supply, pharmaceuticals, and consumer products. Cut taxes on millionaires and billionaires and get rid of government regulation, they argue, and the economy will make a dramatic return. That is what they believe.

But if that were true, the last administration would have been the most prosperous in history. Those were the hallmarks of the George W. Bush administration: wage two wars but do not pay for them, but cut taxes on the wealthy and try to diminish regulation, when it came to oversight on the largest corporations, banks and financial institutions.

Instead, the George W. Bush administration produced ''the worst jobs record on record.'' Those are not my words. This is a quote from the Wall Street Journal. They said: The Bush years produced the worst jobs record on record. And they followed the same playbook that the Republicans now offer as their idea for revitalizing the economy.

During the Bush administration, we saw the largest tax cut in our Nation's history with nearly all the benefits going to those at the top. It was the first time any President in the history of the United States cut taxes in the middle of a war. That is counterintuitive. A war is an added expense to government. Cutting revenue to government at that point invites deficits, which President Bush saw during his term—his 8 years.

The debt of the United States doubled during President George W. Bush's term in office. Regulatory agencies were underfunded, overwhelmed, and they were represented many times by people who had no interest in their mission. In the financial services industry, many Federal agencies turned a blind eye to activities that led to the global financial meltdown.

The Securities and Exchange Commission under the Bush administration allowed America's largest financial institutions to self-regulate, police themselves. The Federal Reserve declined to use its power to regulate subprime mortgages, which led to the terrible housing crisis which we still face today. The Comptroller of the Currency used that power to preempt State consumer laws on subprime mortgages, exactly the opposite of what they should have done.

Under the previous administration, unregulated mortgage brokers sold reckless loans, including infamous liar loans and ninja loans. Those are the no-income, no-asset loans. Major financial institutions packaged the bad loans as securities, which they then sold as investments. Credit agencies blessed those toxic assets with AAA ratings, while being paid by the very companies that were selling the loans. The fix was on.

Insurance companies such as AIG insured toxic assets against loss, turning junk into gold. Investors all over the world then bought those assets, sowing the seeds for the economic crisis we still suffer from today. It was a daisy chain of deregulation and disaster. And what do we hear from the Republican side of the aisle? Let's go back to those thrilling days of yesteryear. Let's repeal Wall Street reform. Let's let Wall Street, like 10,000 flowers, bloom and we will get back into a strong economy.

America knows better. We have seen this movie. We know how it ended in 2007, and we do not want to see it again. This was not the first time. In the 1980s, savings and loans were deregulated, made reckless investments, and eventually had to be bailed out by

taxpayers to the tune of $130 billion. And $130 billion is bad enough. It was almost $800 billion for the TARP bailout of the big banks under the Bush administration.

The Dodd-Frank Wall Street reform bill requires institutions that sell nonstandard mortgages to keep at least 5 percent of those mortgages on their books, reducing the risk that they will try to pass toxic assets off as solid investments. Under the new rules, banks have to make sure that borrowers can repay the loans. Lenders are forbidden from steering into expensive loans borrowers who cannot qualify for more affordable mortgages.

A new Consumer Financial Protection Bureau will look out for the interests of consumers and prohibit the sale of abusive mortgages and other risky and destructive financial products. I cannot think of another agency of government, not one, that the Republicans hate more than the Consumer Financial Protection Bureau. I want to tell you, I am proud that I introduced the first bill on this issue, working with Elizabeth Warren, a Harvard law professor. We put together a bill. I credit Senator Dodd and Congressman FRANK for rewriting provisions and including it in Wall Street reform.

I think it is about time we had one agency, just one in our Federal Government, that is designed to look out for and help consumers and families across America, to save them from the tricks and traps that are thrown at them which they could not possibly understand when they look at the fine print of their mortgage agreements and their credit card agreements and things that even lawyers struggle to understand.

This one agency, one single agency, with the limited power given to it and the limited resources given to it, is the target—it is ground zero for the Republican attack. They do not want to have even one agency of government focusing on protecting America's consumers. The new Wall Street reforms tackle the dangers of too big to fail. We saw what happened there—almost $800 billion in bailout funds to the biggest banks in America. They, of course, had made some stupid decisions, greedy decisions, selfish decisions. We paid for it. Everybody paid for it, with savings that were lost and pension plans diminished. And then, when they were about to fail, in came the previous administration and said we have to save them or there will be a global meltdown.

I was persuaded. I didn't want to see a global meltdown. We gave some $800 billion to these big banks. Did they send us a note of ''thank you''? Yes. They sent us a note of ''thank you'' and put it on the back of the most recent bonuses they gave to their officers. They were giving officers bonuses after the bank virtually fails and they have to rely on hard-working taxpayers to bail them out. That was the ultimate irony, but it is the reality of what we faced when we passed Wall Street reform.

When Enron collapsed in 2002, shareholders lost between $11 billion and $16 billion, employees lost $2.1 billion in pension plans, 5,600 jobs were destroyed, and Enron's top executives, whose recklessness and greed destroyed the company, received $1.4 billion in compensation.

In 2007, after watching its stock value fall from $300 billion to $6 billion in 2 years, Citigroup pushed its CEO, Chuck Prince, out the door—and, incidentally, they gave him a $38 million severance package.

In late 2008, with the financial system on the verge of collapse, 17 troubled banks that had just accepted billions of dollars in taxpayer assistance doled out more than $2 billion in bonuses and other payments to their highest earners.

Dodd-Frank, the Wall Street reform bill, reduces the incentive for CEOs to place short-term gains above the long-term health of their companies by increasing transparency and giving shareholders a say over executive compensation. It is another way that the new Wall Street reforms can restore stability and integrity to our markets and sustainable growth to our economy.

Economists still debate the causes of Black Monday 4 years ago, but no one who looks honestly at our recent past can seriously debate what happens when you take the financial cops off the beat and let Wall Street and the big banks regulate themselves. Those who are calling for repeal of Wall Street reform are basically saying we are going to give free rein to Wall Street to make their own rules again. If they are successful, I predict—be prepared—it is coming at us again. Wall Street will overdo it, and their greed and excess will eventually cost average families and taxpayers who have no fault in the process.

We cannot afford to repeat these mistakes—mistakes that almost crashed the global economy. If our Republican colleagues want to join us in creating good, middle-class jobs for Americans, they can help us pass the American Jobs Act.

Let me say a word about that. I know the majority leader will give Republicans a chance to vote on one section of that today. Hopefully, they will join us. It is a section that takes part of the President's jobs act—some $35 billion—and uses it to hire those who would otherwise be laid off if they are teachers, firefighters, and policemen.

Two-thirds of the school districts in Illinois have been laying off teachers. That is not good for the teachers, obviously, and it is not good for the students either. We are trying to make sure we save these jobs and give our students a good education across America in these difficult times.

When it comes to firefighters, we had a rally over in the Russell Caucus Room. A number of firefighters were there. They are asking, of course, for a helping hand to save their jobs in this tough economy.

I didn't know it at the time of the rally, but Tuesday night in Moline, IL, the city council looked at their tough budget and decided to lay off 12 firefighters who are responsible for ambulance service in Moline, IL. The fire chief, Ron Miller, said that he could not in good conscience continue to be fire chief if they are going to take 12 of his firefighters away, that it was not safe for the people of Moline. He resigned. It was an act of principle. It is an indication of how desperate people have become.

The amendment we will have today as part of the President's jobs package will give us a chance, on a competitive basis, to fill many of these jobs for firefighters, policemen, and teachers. I hope some of my Republican colleagues will join us in this effort.

How do we pay for it, incidentally? There is a tax. Let's put it right on the table. It is a tax of one-half of 1 percent on the incomes of people making over $1 million a year. So the first million dollars is not subject to it; the next dollar is. It is one-half of 1 percent. The money that is brought in from that will spare hundreds of thousands of teachers, firefighters, and policemen from being laid off. I don't think it is too much to ask for the people who are wealthy and comfortable in America to share in the sacrifice with every other American family who sacrifices every day in this tough economy. We will vote on it, and I hope we get bipartisan support.

In the meantime, let's not repeal Wall Street reform. We learned a bitter lesson 24 years ago and just 4 years ago as well. Let's not repeat that bad history.

I yield the floor. 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.

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

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

Ms. MIKULSKI. Mr. President, I compliment all Senators in the way they have worked cooperatively and expeditiously in moving these three very important appropriations bills forward. Every Senator who has had an amendment has worked with us constructively either to modify it or to comply with what the leadership wanted to do.

I compliment all the managers for their work in moving the bills forward. I think it shows that we can govern ourselves.

This is the first time in a couple of years that we are actually following the regular order on due deliberations of our appropriations bills. It is very important that we do this to meet our fiscal responsibility of funding annual appropriations; that is, actually putting money in the Federal checkbook.

We have followed the regular order by each subcommittee holding rigorous hearings, doing due diligence in terms of oversight, and being quiet guardians of the purse. If anybody has watched us over the last couple of days, we have moved expeditiously. The debate has had such rigor, civility, we have learned from each other, and we have modified amendments back and forth. I think this is so positive and so constructive.

I hope we can conclude deliberations on these three appropriations bills today. Again, Senators need to have their say. Better they have their say than have their day and we show we can govern in a manner that is civil, that has intellectual rigor and due diligence in terms of oversight but also looking at how we protect vital American interests.

The three bills we have today are agriculture, which is so important to the American economy—this is a jobs bill. It is also a food and drug safety bill. At the same time, there is transportation and housing.

People talk about an infrastructure bank. We don't know what we are going to do or how we are going to pay for it, but right here, today, we have transportation pending that will go to every State on a formula basis, and then to some very important special needs identified by Senators in this process, to really then create jobs and meet the kinds of needs our respective States have, to build and repair highways, bridges, and have mass transit to get people to work.

At the same time, housing is absolutely crucial to our economy. The Federal Government does own and operate housing. It is called public housing. The ranking member on the Transportation-HUD bill speaks eloquently about that. Maine is well known for its compassionate way of dealing with people in need, whether it is the elderly, the handicapped, or the poor. But it is also how we can work with local government in the Community Development Block Grant Program, where local people make local decisions on how best to invest Federal funds to have a multiplier effect in economic and community development. We don't only want to build housing, we want to build community and at the same time build jobs. This is fantastic.

Then there is my own bill, the Commerce-Justice-Science bill, which I have worked on in such a cooperative way with the Senator from Texas, KAY BAILEY HUTCHISON.

We also have the Commerce Committee. The Commerce Committee is supposed to be about American business, and we have put in money for the Trade Representative to make sure we not only import—we want to make sure we just don't export jobs but we export products made in America by Americans, helping the American economy.

We also have the Patent Office. We have just reformed the process. If we want to out-innovate, we have to protect our intellectual property. There are those who would rather steal our ideas than invent their own. We have to have it where if you invent it, you get to keep it and profit from it.

The National Institute of Standards works with the private sector—a Federal agency to create the standards necessary so that products can go beyond the prototype and then be sold in America, but because there are certified standards they can be sold around the world.

Then we have the Justice Department. Aren't we proud of our Federal law enforcement? Sure, BATF had a big spill and cinders with the Fast and Furious Program. But look at the FBI, look at the DEA, and look at how they are intercepting everything from terrorists to organized crime to child molesters. And let's hear it for the Marshals Service, which is often overlooked and undervalued. They are out there every day protecting people who work in the courthouses and also serving the warrants and keeping an eye on sexual predators.

Then our subcommittee is one of the real engines of innovation through its work at the National Space Agency and at the National Science Foundation, doing the kinds of basic research the private sector can't do but will value in order to invest again in those new products that will create new jobs in America.

We like our bills. Again, we have done oversight to deal with how to be more frugal. We want people to work on that as the day moves on. I wanted to give everybody the lay of the land.

For those Senators who want to improve our bill by the regular order of the amendment process, we encourage them to come to the floor now to offer them and speak out. We want them to have their say and to have their day.

AMENDMENT NO. 750

Mr. President, while we are waiting for those Senators to come, I wish to comment on an amendment offered by our colleague from Virginia, Senator WEBB.

Senator WEBB has been a longstanding advocate that our people in this country be well served by the justice system. He has become increasingly concerned about the way the justice system works and feels it needs a comprehensive review. He has recommended the establishment of a national justice commission to do a review of Federal, State, and local Federal criminal justice systems, which will make a final report recommending changes in policy and practices to both prevent, deter, and reduce crime and violence and also to reduce recidivism and do it in a cost-effective way.

I want my colleagues to know I am an enthusiastic supporter of the Webb criminal justice commission. It is just a patchwork now. At times, because we so load up in the bottom end after a crime is committed, we need to look at prevention and intervention and also other things, such as alternative sentencing.

I wish to acknowledge the validity of the issue raised by our colleague from Virginia. We have a very high incarceration rate in this country.

More than 2.3 million Americans are in prison. Another 5 million are on probation or parole. Correction costs continue to grow and we have to tighten our belt. The problem is definitely evident in my bill. For Federal prisons alone, we had to include another $300 million to safely guard the Nation's growing Federal prison population, and that does not include those in State prisons and local jails. This subcommittee has an obligation to fund Federal prisons, but this increase did consume a significant part of our allocation at the expense of other DOJ agencies.

Why is this happening? Is it partly because of Americans being more violent, there are more criminals, or are we getting better at catching them and prosecuting them? You know what, the answer could be yes, but we don't know. Is it that our mandatory sentencing—a good intention—has now had unintended consequences; that people who are first offenders could be in alternative sentencing and doing something else?

We are spending a lot on prisons, and so I support Senator WEBB's effort to create a blue-ribbon national commission to do an 18-month, top-to-bottom review, examining costs and practices and policies for prevention, intervention, prosecution, and imprisonment, looking at which programs work and which can be improved. I hope it will end in concrete, wide-ranging reforms.

I support the amendment and look forward to voting for it and then to working on a constructive way to take a look at what his recommendations are. I understand the Senator from Virginia is retiring. Along with his incredible service in terms of the national security of our country, this will be one of his more lasting legacies. I hope we adopt the Webb amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 769

Ms. MIKULSKI. Mr. President, I do want to comment on the Vitter amendment and then be able to have the Senator from New Hampshire speak.

But before the leader leaves, I want to express my condolences to the Mullins family for what happened. It is a little hard to get back into talking about amendments and debating issues when you hear such a poignant and wrenching story.

I am glad the Senator from Louisiana is on the floor, because I know we will be debating his amendment.

I want to make a comment about the Vitter amendment No. 769, as modified. I oppose the amendment. I appreciate the intent of the Senator from Louisiana to make lower cost drugs available to the American people, but we

have many flashing lights about this and I bring this from knowledge of being both on the Intelligence Committee and also in working with the FBI through our CJS in both the classified and unclassified setting.

The amendment allows individuals to import FDA-approved drugs from Canada. It sounds great. But we don't know if the drug was made in Canada, and we don't know if it is coming from a regulated Canadian Web site.

We are concerned because of organized crime involvement and now counterfeit drugs—lethal, lethal, lethal drugs—could come into our country and have dire and devastating effects.

We could talk about how to have pharmaceutical FDA-approved drugs available to our people at less cost. Ironically, this is coming from a national health system. I am not going to get into ObamaCare and all that, but I do want to speak as someone who knows a lot about international organized crime.

What I want our colleagues to know is where there is compelling, compassionate human need, there is greed. Where there is greed, there are scams, schemes, and in many cases they have lethal consequences. What the Vitter amendment does—first of all, it does not give the FDA additional resources to combat counterfeit medicine, it just makes an allowable use.

I don't know where we are going to get the money. If our colleague, Senator KOHL, were here, he would speak about the money. I wish to speak about the safety.

There are rogue Canadian pharmacy Web sites, and the consequence of that is we do not know what is coming. One of the things we do know is, we have examples of awful things that have happened. Do many of you remember when Coumadin came into this country? That is a blood thinner. It was illegally produced and did not meet FDA standards and resulted in people dying because they hemorrhaged out because of a counterfeit drug. They bled to death taking something they thought was safe.

There is Tamiflu that came into our country, but it was not Tamiflu; it was talcum powder. A person might want to swallow talcum powder. It might give them indigestion. But I tell you there are other things that can have more dire circumstances—birth control pills made out of rice flour. There is a complete list, and I encourage my colleagues, go to the FDA, find out what they have experienced in this. Go to the FBI, find out what they have done to try to intercept this. Go to our customs and border people. They have heartburn trying to prevent heartache from those things that could come illegally into our country.

We do have to deal with the cost of prescription drugs. We did deal with it in subsequent legislation in which we have closed the doughnut hole. I compliment the Senator from Louisiana for wanting to do that and all who modified it. But do not make a good intention have a horrible, lethal, unintended consequence.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Senator from New Hampshire is recognized.

AMENDMENT NO. 753

Ms. AYOTTE. Mr. President, I rise to discuss my amendment, No. 753. This amendment would prohibit the use of funds for fiscal year 2012 for the prosecution of enemy combatants in article III courts. Specifically, it applies to members of al-Qaida or affiliated entities who are also participants in the course of planning or carrying out attacks against the United States.

I heard yesterday many of my colleagues from the other side of the aisle, for whom I have great respect, come to the floor to oppose my amendment. I would like to address the issues they have raised and start with this. I think their arguments miss the point. We are at war with these terrorist enemy combatants, members of al-Qaida who are planning or who have planned attacks against the United States of America. In what other conflict has the default or preferred position been to try these individuals in the civilian court systems of the United States?

The primary focus when we capture an enemy combatant needs to be on gathering intelligence to protect the people of this country and our allies. I have great respect for our civilian court system. I have tried many cases. I have both defended criminals in that system, and I have prosecuted criminals in that system. Our civilian court system was not set up to gather intelligence. It was set up to have a fair prosecution of individuals who commit crimes in our country. When people rob a liquor store, the police arrest them, they question them, but the primary purpose is to find out who is accountable for the crime and then within that system to hold them accountable. The primary purpose of that system is not to gather intelligence and to make sure, within that system, we gather as much intelligence as possible of every single connection that individual has, to ensure we are preventing future attacks on our country. That has to be our primary purpose when we are trying to protect the American people.

Those who want to—and this administration wants to—use the civilian court system as the default system, they are undermining, in my view, our ability to obtain valuable intelligence because intelligence does not just come, often, with the brief interview that may happen in a criminal case, sometimes it takes months to gather the type of intelligence we need to protect Americans.

That is why, under the law of war, we allow people to be held in military custody, so we can protect the American people. But also in time, as we develop information, we can go back to those individuals 6 months later and say we just learned from another individual your connection with al-Qaida, your connection with an attack on the United States of America, and gather further information to protect our country. Our civilian court system is not set up to do that because, under this administration, when we treat an enemy of our country, an enemy combatant, under the civilian court system, they are entitled to certain rights, such as the Miranda rights guaranteed under the fifth amendment of our Constitution.

They are, of course, told: You have the right to remain silent; you have a right to have a lawyer. These are rights they would not be read if they were taken into military custody, where they are not required to be read.

That is a fundamental difference that is very important for the American people to think about. When we capture a terrorist, we need to know what else they were planning and what they might attempt to do to our country or our allies. If we capture them and make the decision to treat them in our civilian court system, once we hold them in custody for a certain period in our civilian court system, under our fifth amendment to the Constitution, we have to tell them they have the right to remain silent. Here we are telling terrorists they have the right to remain silent. It does not fit to have a system where we are treating terrorists that way. It undermines our ability to gather information that will protect our country.

I have heard many of my colleagues, including the distinguished Senator from California yesterday, argue that military commissions are not effective in holding terrorists accountable. I have heard cited time and time again the number of convictions in article III courts compared to the number of convictions in military commissions. This is an argument that, in my view, is very misleading because one of the first steps this administration took when the President came into office was to suspend military commissions. To criticize the low number of military commission convictions when the President suspended military commissions for over two years strikes me as disingenuous—if I were making that argument in law school, I think I would have flunked my classes.

The reality is, to say our military commissions are not sufficient is actually very unfair to the military commission system. I find it astounding that somehow that would be cited as a reason not to treat enemy combatants, who are enemies of our country in the first instance, in military custody so we can gather the maximum amount of information from them, and that may take a period of time to do so, a period of time that is not built into our civilian court system because they are also guaranteed rights such as speedy presentment. That does not fit when we need periods of time to gather information to protect our country.

The distinguished Senator from California also raised the case of Mr.

Moussaoui. Our court system is, rightly so, an open system for people to see. In that system, I would give defense counsel all the information I had about a case so they could adequately defend their client. When we are dealing with a case involving the prosecution of enemy combatants, much of the information is very sensitive. It can be sensitive to our national security if it is released. It could be sensitive if the individual being prosecuted gets that information to other people. We saw that, for example, in the Moussaoui case, when he was prosecuted in an article III court where sensitive material was inadvertently leaked.

We also, of course, saw in that case victims of 9/11 having to subject themselves to being mocked by him in our open court system.

Finally, I was astonished yesterday when I heard the argument from the esteemed Senator from California that if someone commits a terrorist act on our soil, they should be exclusively tried in article III courts. She cited Mr. Brennan, who is one of the President's National Security Advisers, in saying we should be using article III courts as an exclusive way to treat individuals who have actually come to our soil to attack our country. To me, that does not make sense.

If a person is a terrorist, a member of al-Qaida, who actually has planned an attack on our country and actually comes to our country to attack us, they are going to be given greater rights because they will be given their Miranda rights, told they have the right to remain silent, they will be automatically treated in our civilian court system and we will have to give them speedy presentment and many of the rights that, rightly so, are included in our article III court system. So what are we saying to terrorists? We are actually going to give them greater rights if they come and attack us here. In my view, unfortunately, it sends the wrong message. I think it is welcoming people to the United States of America, when the message should be, clearly, we are at war with them, we are going to treat them in our military system because they are an enemy of our country, and we are going to make sure we gather the most information from them and their colleagues to protect Americans and our allies from future attacks.

We need look no further than the case of Osama bin Laden for the proof that the process of obtaining information from terrorists is frequently long and difficult, but I shudder to think what would have happen if the detainees from whom we gleaned information that led us to bin Laden were instead read their Miranda rights, remained silent, we brought them here, we had to give them speedy presentment rights. I do not think it is a stretch to say bin Laden might still be at large.

We have to put the priority on protecting Americans by gathering information. We are at war. We have a fundamental duty to protect the American people from the threat of future terrorist attacks. To me, that is the all-consuming priority, more important than extending constitutional rights to foreign terrorists—not American citizens—who are at war with us. I urge my colleagues to oppose civilian trials for this category of the most dangerous individuals with whom we are at war.

Finally, I wish to address one point which was actually quite surprising to me yesterday as well. The distinguished senior Senator from California said these individuals should not be treated as enemy combatants in military commissions is because, she said, it 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. And she cited that, saying: Our allies are very reluctant to give us evidence in a process where they don't feel the rule of law is present.

Well, first of all, military commissions are historically part of our system. They are consistent with the Geneva Convention and the rule of law.

Secondly, the notion that we would allow our allies to dictate where we would try enemies of our country just seems absurd in terms of what policy we are going to take as the United States of America.

It doesn't make sense to me. Here we have a situation where this administration is taking out—and I agree with them on this, and I commend them for this—terrorists around the world, members of al-Qaida, enemy combatants who threaten our country. We are killing them. Yet the same administration is saying this same category of individuals—that we shouldn't detain them in military custody, we shouldn't try them by military commissions, and that seems internally inconsistent.

It also seems inconsistent that while we have our allies participating with us in attacks against enemy combatants around the world, that they would not transfer detained enemy combatants to the U.S. for fear that we will put them in military custody. It just does not make sense.

I would urge my colleagues to support my amendment. We shouldn't further criminalize this war. We remain at war with terrorists who want to kill Americans. I brought forward this amendment because I firmly believe our priority has to be to gather intelligence and not to provide them Miranda rights and not to undermine, in my view, our military commission system but to treat enemy combatants for who they are—enemies of our country—and make sure we protect Americans.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Virginia.

AMENDMENT NO. 750

Mr. WEBB. I would like to spend some time today addressing the amendment I have introduced, which is pending—it will be voted on later this morning or early this afternoon—which would establish a national commission to address the issue of criminal justice in our country.

I would like to begin by thanking the senior Senator from Maryland for her comments earlier this morning and her strong support of this legislation. I also wish to thank the majority leader and, I believe, a majority of our Democratic caucus who cosponsored this legislation in the last session.

This is a bill that was put together over a period of 4½ years. It is not so much politics as it is leadership in terms of how we address the issue of criminal justice in the United States. We had the support last year, we continue to have the support, I believe, and the cosponsorship on the Republican side of Senator GRAHAM. Last year, Senator HATCH and Senator SNOWE also cosponsored this legislation. It passed the House in the same form we are introducing it today by voice vote, with the cosponsorship of LAMAR SMITH, who is now the chairman of the House Judiciary Committee. It was voted out of the Senate Judiciary Committee last year.

This is a very important moment in terms of how we are going to resolve a lot of the pending issues with respect to law enforcement in this country.

I wish to start off by saying that my motivation in getting involved in this issue stems first from the time I spent as an officer in the U.S. Marine Corps, where one of the strongest leadership principles that was ingrained in every marine was that in order for a system to function, it has to be firm but also fair, and also from my time as a journalist preceding the time I have spent here in the Senate.

It is the product of 4½ years of work, outreach, and listening. We have listened to more than 100 organizations from across the country, across the philosophical spectrum. We have listened to our colleagues on the other side. We have adapted the legislation to ensure that this is balanced politically, so we can set politics aside and get into the complex issue of how we resolve the broken points in our criminal justice system.

Our criminal justice system is broken in many areas. We have some strong work in local areas, with people trying to help fix these problems, but we need a national commission in order to take a look at the criminal justice system from point of apprehension all the way to reentry into society of people who have been incarcerated. We have not had this overarching national look since 1965.

What are the two boundaries that affected my approach to this? I would like to lay them out very quickly.

The first is that we have entered a period from the 1980s forward where we have tended to overincarcerate for a lot of nonviolent crimes. This is a chart that goes from 1925 to today. Beginning in the 1980s, our incarceration

system skyrocketed to the point where there are now 2.38 million people in prison in the United States. Seven million people are involved in the criminal justice system on one level or another of supervision from our authorities.

The second is that Americans don't feel any safer for all of this incarceration and for the approach that it has taken. Survey after survey from the last decade indicates that the average American community feels more threatened this year than it did last year. Two-thirds of Americans believe crime is more prevalent today than it was a year ago.

This is a leadership question. How do we fix it? Whom do we go to in order to find the answers so we can have the kind of advice that is very difficult to obtain in a holistic way so that Congress can move forward and the country can move forward and solve this problem?

This legislation is paid for. It is sunsetted at 18 months—very similar to the legislation Senator MCCASKILL and I put together going after the problems in wartime contracting, which now, after a 2-year sunset period, has reported out very important improvements in looking at a system in Iraq and Afghanistan that resulted in $30 billion to $60 billion of fraud, waste, and abuse. We put a commission together, we brought in good minds to help us solve the problem, they came in with recommendations, and we are going to fix that problem as best it can be fixed.

It is balanced philosophically and politically. I would ask my colleagues when the last time was that we had law enforcement lining up with people who were generally believed to be on the other side philosophically—the ACLU, NAACP, et cetera—all coming together and saying the same thing. This needs a national commission. This needs to be fixed.

In terms of law enforcement, we have the strong support of the International Association of Chiefs of Police, the National Sheriffs' Association, the Fraternal Order of Police, the Major Cities Chiefs Association, the National Narcotics Officers' Association, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the National Criminal Justice Association.

There are a few quotes in terms of supporting this legislation that I would ask my colleagues from both sides to consider.

Chief Michael Carroll, president of the International Association of Chiefs of Police, said:

> For more than 20 years, the IACP has advocated for the creation of a commission that would follow in the footsteps of the 1965 Presidential Commission on Law Enforcement . . . The IACP believes that it is imperative that the National Criminal Justice Commission Act be approved in a timely fashion. For far too long our Nation's law enforcement and criminal justice system has lacked a strategic plan that will guide and integrate public safety and homeland security.

Chuck Canterbury, the national president for the Fraternal Order of Police:

> Law enforcement has changed a great deal in the last few decades. We believe establishing a national commission . . . will only help law enforcement officers do their jobs more effectively, more efficiently, and more safely.

Sheriff B.J. Roberts, president of the National Sheriffs' Association:

> . . . make the creation of a national commission all the more necessary to ensure law enforcement . . . has the tools and knowledge necessary to adapt to the continually evolving justice system. The NSA commends . . . this work on this critical issue. We look forward to supporting you to pass this bill.

Criminal justice experts from across the philosophical spectrum:

Chuck Colson, founder of the Prison Fellowship:

> I write from the perspective of a conservative who has always been comfortable as a reformer . . . I don't believe this is an ideological issue at all, but one on which people of good will, conservative and liberal alike, could join forces to make prisons more effective, humane and successful.

Brian Walsh, the Heritage Foundation:

> Reform experts who are serious about criminal justice reform should . . . reach out to elected officials on both sides of the aisle.

Mark Mauer, executive director of the Sentencing Project:

> A new approach to crime prevention is necessary and the time for reform is upon us. The commission created by this legislation would establish an organized and proactive approach to studying and advancing programs and policies that promote public safety, while overhauling those practices that are found to be fundamentally flawed . . . We strongly urge passage of the National Criminal Justice Act.

Professor Charles Ogletree, Harvard Law School:

> The comprehensive, timely and important bill . . . will go a long way toward addressing some of the severe inequities in the criminal justice system. This effort should be pursued with great vigor to ensure that we not only hold offenders accountable, but that we implement criminal justice policies that are sensible, fair, increase public safety and make judicious use of our State and Federal resources.

I am grateful that this legislation has been offered as an amendment on this appropriations measure. Again, it is paid for. It is sunsetted. It is balanced philosophically and politically. We listened very carefully to our colleagues from the other side of the aisle to incorporate their suggestions as this legislation moved forward. It passed the House last year, and I earnestly hope people from both sides of the aisle will support this legislation when it comes to a vote later today.

I yield the floor.

The PRESIDING OFFICER. The junior Senator from Louisiana.

AMENDMENT NO. 769

Mr. VITTER. Mr. President, I rise in strong support of Vitter amendment No. 769, which we will be voting on a little after noon in the next block of votes. I want to encourage all of my colleagues, Democrats and Republicans, to come together in a strong bipartisan way in favor of this amendment. It is a bipartisan amendment, and I thank Senators SANDERS, MCCAIN, STABENOW, and BINGAMAN for being coauthors of it, along with me.

The amendment is very simple. It would give all Americans another avenue to get safe, cheaper prescription drugs by allowing the reimportation of prescription drugs for personal use from Canada only. Again, it is very modest and very restricted. We are just talking about Canada. We are just talking about, of course, FDA-approved prescription drugs. We are just talking about small quantities for personal use, not big quantities, not wholesalers, not folks in that business. We are specifically excluding biologics. We are specifically excluding things listed on the controlled dangerous substances schedule. So it is a very modest, straightforward, limited amendment, but it would still be real in terms of the relief it would give Americans, particularly seniors, who are so often under the crunch—another opportunity for safe, cheaper prescription drugs.

In its form as I have described, this is nearly identical to a bipartisan Vitter amendment that was passed in the last Senate. It passed on a strong bipartisan vote, and I thank Members who voted for that.

This problem, again, is real. It hits millions of Americans. It hits seniors particularly hard.

Let's just take three very common prescription drugs.

Nexium. In the United States, it is about $635 for a certain amount. In Canada, that same volume of the drug is $386. For Lipitor, the price difference on average is $572 in the United States versus $378 in Canada; Plavix, $644 in the United States, $434 in Canada—huge price differences of 39 and 34 and 33 percent. That cost crunch is what all too often causes seniors to have to make horrible choices between prescription drugs they need for their health or other necessities such as food and utilities. Let's give those Americans real relief, and we can in this simple, straightforward amendment.

Let me say two things in closing. First, there have been safety concerns brought up about the amendment. We have real safety concerns about counterfeit drugs in general, but I do not believe—and I would not offer this amendment if I did believe—this amendment expands those vulnerabilities or concerns at all. As an example, the distinguished Senator from Maryland brought up several cases documented in the press in the last few years, and those are serious cases of counterfeit drugs, but none of them have anything to do with reimportation; none of them have anything to do with Canada; none of them have anything to do with small quantities of drugs for personal use. They are other unrelated safety concerns. This amendment would not expand those vulnerabilities.

Finally, this vote is about the amendment I have described, but I think it is also about the intersection of money and power and politics in Washington. President Obama often decries that intersection of big money and big power in Washington, and I agree with him. But I think the single biggest example of that sort of money run amok in Washington—buying power and influencing politics in the last few years—has been big Pharma dealing with the White House, specifically visiting the White House over and over during the development of ObamaCare and in the end supporting ObamaCare. And, oh, by the way, in the end the President no longer supports reimportation, which he had consistently up to that point. I decry that sort of intersection of money and politics. If my colleagues do as well, they will support this amendment. If my colleagues disapprove of that sort of action by PhRMA and that interaction of big money and power politics, my colleagues will support this amendment too. I urge strong bipartisan support.

Again, I thank my colleagues from both parties for coauthoring and supporting this amendment.

With that, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Maryland.

AMENDMENT NO. 772 WITHDRAWN

Ms. MIKULSKI. Mr. President, I know my colleague wishes to speak, but I have a matter to dispose of. I ask unanimous consent that the Murray amendment No. 772 be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Ms. MIKULSKI. Thank you very much.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 750

Mrs. HUTCHISON. Mr. President, I rise to speak against the Webb amendment to the bill. Senator WEBB from Virginia spoke earlier about the purpose of this legislation. I believe if we had the time to work on this amendment we could accommodate the Senator's proposed goals for the commission. However, this has not gone through the Judiciary Committee. It is an authorization of a commission—it is called the National Criminal Justice Commission—which is purporting to look at the entire criminal justice system—Federal, State, and local.

This is an overreach of gigantic proportions. It is certainly within the purview of Congress to do a national commission to look at the Federal criminal justice system, but to go into State and local governments and purport to examine the criminal justice systems of our States and local governments is far beyond the reach of Congress, and it is certainly not a priority we should meet in appropriations bills when we are already in a deficit and debt crisis in this country.

I ask unanimous consent that a letter from the National District Attorneys Association and a letter from the National Association of Police Organizations be printed in the RECORD.

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

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA.

PLEASE OPPOSE S.A. 750, THE NATIONAL CRIMINAL JUSTICE COMMISSION ACT OF 2011

I'm writing you today on behalf of the National District Attorneys Association (NDAA), the oldest and largest organization representing over 39,000 of America's state and local prosecutors, to voice our strong opposition towards an amendment to be offered today by Senator Jim Webb (D–VA) to the FY 12 Commerce, Justice and Science Appropriations bill which would authorize and fund the National Criminal Justice Commission Act of 2011.

The amendment to be offered is S.A. 750, which was first introduced by Senator Jim Webb during the 111th Congress. The amendment would establish a Federal Commission to undertake a comprehensive examination of all aspects of America's criminal justice system—federal, state and local—and offer those findings to Congress and the Executive Branch.

While NDAA believes that a comprehensive examination of America's criminal justice systems could be useful, we believe that S.A. 750 in its current form is flawed in many different ways:

1. NDAA has major concerns with the formulation and composition of the National Criminal Justice Commission. The 14-member Commission would be selected largely by the current President (5 members), with other members selected by Congressional leadership from both the Majority and Minority parties. NDAA feels that the larger number of Presidential selections would skew the panel to favor one political ideology over another. Additionally, while guidelines on areas of expertise (for example, ''law enforcement'', ''prisoner reentry'' and ''civil liberties'') in order to be considered to serve on the Commission are contained in S. 306, specific representation from criminal justice practitioners such as District Attorneys, State and local prosecutors, Attorneys General, Chiefs of Police, Judges, Drug Court Professionals, Sheriffs, Police Officers or any other law enforcement practitioner to serve on the Commission would not be mandated.

2. Simply put, NDAA feels that an analysis of America's federal, state and local criminal justice systems cannot be completed in an 18-month period. The 18-month timeframe was selected largely based on the President Lyndon Johnson's Commission on Law Enforcement and Administration of Justice in 1965. Over the past 45 years, the size and complexities of America's criminal justice system has grown by leaps and bounds and NDAA feels an 18-month window isn't near enough time to complete such a study.

3. NDAA believes that the federal government should never be in the business of auditing state and local criminal justice systems.

4. During these times of fiscal crisis in America, the Commission would require $5 million in new spending to complete its work over the next two fiscal years. Senator Webb's amendment would offset this new spending through the Department of Justice's Office of Justice Program's Administrative Account, which has already received close to a 50% reduction in funding since FY 2010. In addition, many state and local criminal justice programs funded by OJP have been gutted or eliminated over the past few fiscal cycles, including NDAA's National Advocacy Center for State and Local Prosecutor Training and the John R. Justice Loan Repayment Program for Prosecutors and Public Defenders—just two of the hundreds of programs which desperately need funding to provide services for America's communities now instead of funding a 14-member Commission to write a study. It would be fiscally irresponsible to fund such a study while current budget cuts are hitting America's communities hard.

It is our hope that you oppose this amendment as it is considered on the Senate floor. If you have any questions or concerns, please feel free to contact me at your earliest convenience.

Thank you for all you do for America's state and local prosecutors.

Sincerely,

SCOTT BURNS,
Executive Director.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Alexandria, VA, October 18, 2011.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.
Hon. CHUCK GRASSLEY,
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: On behalf of the National Association of Police Organizations (NAPO), representing 241,000 rank-and-file officers from across the United States, I write to you to ask you to oppose The National Criminal Justice Commission Act of 2011 (S.A. 750).

During the 111th Congress, NAPO did support the original version of Senator Jim Webb's Crime Commission Bill (S. 714). However, over time the bill morphed into a different piece of legislation which NAPO could no longer support. The current proposal mirrors the later language of the 111th Congress, causing great concern to NAPO's members.

These concerns, which we share with other law enforcement groups such as the NDAA, include concern over the composition and qualifications of the proposed commission; the unrealistic timeframes called for in the legislation, and the appropriation of funds for the commission at the expense of other, proven, Justice Department programs.

Rank-and-file officers are the most visible and immediate providers of government service and protection for Americans. It is in the best interest of our entire nation to ensure they have the support they need to succeed. We strongly oppose the National Criminal Justice Commission being added as an amendment. If you should have any questions or wish to discuss this further, please feel free to contact me, or NAPO's Director of Government Affairs, Rachel Hedge, at (703) 549–0775.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

Mrs. HUTCHISON. Mr. President, the letter from the District Attorneys Association looks at an earlier version of the bill which had a $14 million pricetag and the pricetag on this amendment is $5 million. So with that caveat I submit the letter, because the points the District Attorneys Association makes are very valid except for that one error of the amount of money.

However, let's talk about the $5 million. Is it the priority of the Justice Department to have a national commission that purports to go into State and local governments and look at their criminal justice systems at a

time such as this? They are taking the $5 million from the Department of Justice's Office of Justice Programs administrative account. That is the account that administers the following grant programs, all of which I will not read, but they include: the National Center for Missing and Exploited Children, Byrne-JAG grants, the National Sex Offender Registry, the Bulletproof Vest grants, the National Stalker Database, and it goes on and on.

So the Senator from Virginia wants to take $5 million from the administrators of this account and put it into looking into the criminal justice systems of our 50 States and whatever local governments they would choose to look at. The Senate position is already $118 million for that account, which is $64 million below the fiscal year 2011 levels. The House has put $79 million in this account. We would be taking away $5 million more for us to go to conference with to do an overreach against States rights in order to fund a commission that is going to look into programs, and take away from the fund grants that are so important to so many of our State and local governments, not to mention the people of our country.

Let's talk about the budgetary decisions of the States; for instance, New York and Vermont or the State of Virginia or Texas or Alabama. How are we going to look at the criminal justice systems with this national commission and say, Oh, we think the priority for New York State and its prison system or its number of district attorneys should meet the Federal standard? Would that be the same standard for the State of Vermont? This is such an overreach, and it is not a priority in these tight budgetary times, in my opinion.

The budgetary decisions of our State and local governments and the criminal justice systems should be done at that level. If there is a massive problem, there will be lawsuits about it. There would be a lawsuit against the Texas prison system. There was one, and it changed the way the Texas prison systems were even built and how much space there was in the cells. If there is a problem, there is a remedy. But we don't need a national commission to come in and tell the State and local governments they have a problem and rearrange the budgetary priorities of those States and local governments.

The GAO looked at this bill as a freestanding bill and they said the definition of ''criminal justice system'' is way too broad. A report on the Federal criminal justice system could be valuable to Congress, which I submit I would agree with. Maybe that would be important. But to be effective, the GAO said, such a report should be narrowly targeted on specific features of the Federal criminal justice system such as law enforcement, courts, detention facilities, number of prosecutors, whether there is a victims rights advocate—they can look at a lot of different things, but they should narrow the scope if they are going to be effective. If Congress is to responsibly and wisely use our taxpayer dollars in these economic times, I think it is essential that we narrow the scope.

Let me mention something that is also mentioned in the District Attorneys Association's letter, which is something that caught my eye when I read this amendment. The 14-member commission is on its face 7 members appointed by Republicans and 7 members appointed by Democrats. So we have a 14-member commission. On its face, seven from each party would pass muster for bipartisan. However, it has the President of the United States appointing two of the Republican members. If we want a commission that is seven and seven, wouldn't it be more fair or pass the test of bipartisanship if Republicans appoint the Republicans and the Democrats appoint the Democrats? This commission would essentially be nine to five, not seven and seven.

I don't know that we have partisan issues in criminal justice. In some areas we probably do but, in the prioritizing of the budget, probably not. Probably there are political differences in our priorities for the criminal justice system, so if we are going to have a fair commission that purports to have a seven-seven makeup, let's make it seven-seven.

The reason we have a rule in this Senate that says we can't authorize on appropriations bills is because we have authorization committees that have hearings, that mark up legislation, that make the necessary changes to accommodate the needs of the majority and the minority and assure that something has at least been vetted. This bill has not been authorized. This comprehensive amendment appointing this national commission to study the criminal justice systems of the Federal, State, and local governments needs a lot of work. I wish to reach out to Senator WEBB to work with him to assure that it is a Federal commission looking at the Federal criminal justice system, and perhaps find out what his priorities are for his commission to study, and let's focus on those as the GAO said would be necessary. I would not take the $5 million from the accounts administering the very important grant programs to our State and local governments and to the people who are affected by missing and exploited children, to assure that the State Criminal Alien Assistance program, SCAAP, which helps our border counties in the States that are on the border, accommodate the incarceration of illegal alien criminals. In my State of Texas, the counties on the border don't have the money to incarcerate the prisoners who are illegal aliens and who are Federal responsibility. The administrators of these programs, such as the Mentally Ill Offender Grants, the Cybercrime Economic Program, the Coverdell Forensic Improvement grants, the Adam Walsh Act—we shouldn't be cutting the accounts that administer those programs. That would not be my choice if I had had the ability to work with the Senator from Virginia to accommodate his needs, as an authorization committee would.

This should not be in this bill. If we are going to have a 14-member commission—that is 7 Republicans and 7 Democrats—let's have a fair appointment of those 7 members on each side. To say the President of the United States would appoint two of the Republicans and that is an even distribution, it does not pass the test of what appears to be the fairness in the appointment of the commission.

So I oppose this amendment, and I would like to work with Senator WEBB to have a national criminal justice commission that would focus on the national criminal justice system. We do not need to overreach into State and local governments. We do not need to set the priorities for the budgets of States and local governments. We do not have the capacity to do it. I will guarantee, with 14 members, they are not going to represent 50 States and the needs of the States that are small and the States that have large urban areas and the cities that are dealing with these crimes.

We are into vast overreach with this amendment, and it is not the priority, I believe, right now to take $5 million from the National Center for Missing and Exploited Children and Byrne grants that are so important to our State and local governments and the border prosecution funding and the SCAAP funding.

It has not been vetted as we require in the Senate. Unfortunately, the agreement that was made between the majority and minority leaders last night said no points of order would be able to be launched against this amendment. I would have raised a point of order because it is authorizing on an appropriations bill. The reason is, it has not been vetted by the Judiciary Committee, which ought to have taken up this bill and corrected the problems in it before it came to be full blown in an appropriations bill.

I will reiterate that I will work with Senator WEBB. I will work on a national commission that studies the national criminal justice system. If we can pinpoint it carefully to the needs he is trying to meet, I will be happy to work with him on that. I will be happy to work with him on the appointment of the commission. If it is supposed to be seven and seven, let's make it seven and seven, not nine and five.

I hope he will withdraw this amendment. I hope the Senate can defeat it, if he does not. Most certainly, if we go to conference with this amendment on this bill, I will do everything in my power to eliminate it, unless it is changed significantly to meet the needs of our country to assure a fair Federal system. We do not need to get into the State and local government

budgetary priorities in this appropriations bill.

I yield the floor.

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. KERRY. 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. KERRY. Mr. President, we are where in the legislative process now?

The PRESIDING OFFICER. Legislative session.

HIGGINBOTTOM NOMINATION

Mr. KERRY. Mr. President, I wish to say a few words, if I may, about the nominee whom we are about to vote on.

I strongly support the nomination of Heather Higginbottom to be the Deputy Director of the Office of Management and Budget.

It has been more than 12 years since Heather first came to work for me in the Senate as a senior legislative assistant, and later she became my legislative director and top policy aide. In all those years on the Hill, I want to assure my colleagues who are thinking about this position that she stood out not just for her policy knowledge and her understanding of the budget and the legislative process but for her ability to work across the aisle.

I know a lot of colleagues are anxious to confirm people who come not with partisan intent but with the ability to try to get things done in Washington. Believe me, Heather has that ability.

She worked with me and developed my proposal a number of years ago for a constitutional line-item veto—a proposal which now has many bipartisan supporters in the Senate. I also saw firsthand her instinct to put aside ideology and to go after waste, to push for tough-minded budget reforms, all of which protected the taxpayers' interests. She worked with me through seven budget cycles, and I am pleased to say, as many Members remember, we balanced the budget back in those years. So I think she comes with an experience of understanding what the tough choices are that can help to improve our fiscal situation now.

I came to know somebody who worked diligently and looked at the budget with a critical eye. When Jack Lew announced Heather's nomination, he said she was known for her ''dedication to sound public policy that makes a difference in people's lives.''

Health care, technology, poverty, education, infrastructure—for every single one of these priorities, she will look at them to determine whether the current policies are working, whether there are ways we could do things more effectively, and whether the American taxpayer is getting what they deserve in return for their investment. For all those efforts, I think Jack Lew could not have chosen a stronger or more competent Deputy.

For all of those efforts, I think Jack Lew could not have chosen a stronger or a more competent deputy. I hope my colleagues will support her nomination.

EXECUTIVE SESSION

NOMINATION OF HEATHER A. HIGGINBOTTOM TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Heather A. Higginbottom, of the District of Columbia, to be Deputy Director of the Office of Management and Budget.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled in the usual form.

Mr. KERRY. Mr. President, I reserve my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I reserve the time we have.

Mr. KERRY. It is my understanding that under the order, this is the time for the debate. Is that correct?

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. KERRY. If the time is not about to be used, it will be tallied?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. I suggest we yield it back mutually or someone speaks.

Ms. COLLINS. Mr. President, Senator SESSIONS is on his way to the floor. He does have reservations about the nominee. I think it would be courteous, since we know he is on his way, to delay just for a couple of moments so he could make his comments.

The PRESIDING OFFICER. Is there objection to Senator COLLINS' request?

Mr. KERRY. I am always in favor of extending courtesies. I think it is important to do that. But I would just reserve, if I can, therefore, that we might wait until the Senator is here and have those 2 minutes used at that time.

I will suggest the absence of a quorum until the Senator is here, at which time we will have 2 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

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

The bill clerk proceeded to call the roll.

Mr. KERRY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CONRAD. Mr. President, we are now considering the nomination of Heather Higginbottom to be Deputy Director of the Office of Management and Budget. We need to confirm this nominee.

The Deputy Director position has been vacant for 19 months. The Senate received Ms. Higginbottom's nomination papers in January, and she was reported favorably out of both the Budget and Government Affairs Committees in the spring.

Ms. Higginbottom is fully qualified for this position. She served as Deputy Assistant to the President and Deputy Director of the Domestic Policy Council at the White House. She also previously served as legislative director for Senator KERRY. So she brings with her a broad knowledge of Federal policy and the operations of the government.

It is important to note that Ms. Higginbottom was personally selected by Director Lew as the individual he wants as his Deputy. His selection of Ms. Higginbottom speaks volumes about her ability and the respect she has attained from her colleagues in the administration. Director Lew needs to have the Deputy Director of his choice working with him at OMB.

I know some have questioned this nominee's qualifications. They are wrong to do so. Ms. Higginbottom is absolutely qualified for this job, and she is as qualified as other individuals who served in this position during Republican administrations.

I hope the Senate joins me in voting to confirm this nominee.

Ms. CANTWELL. Mr. President, as we consider the nomination of Heather Higginbottom to be Deputy Director of OMB, I would like to bring to the attention of my colleagues my concern for how OMB and the Coast Guard have been conducting business.

The Arctic is opening at an alarming rate, which creates new requirements for the U.S. Coast Guard and the Navy. Multiple Presidential directives call for Arctic presence to meet national security and homeland security needs; to facilitate safe, secure, and reliable navigation; to protect maritime commerce, and to protect the environment as resource development increases.

Polar icebreakers are critical to meet our national needs in the Arctic. According to a recent independent study, the Coast Guard and the Navy need six heavy-duty icebreakers and four medium icebreakers. This is not a political document; it is a study of the national security and commercial viability of the United States. It is not a surprise to this Senator that any third party, any independent judgment maker, or anyone paying attention as the Chinese, and the Russians, oil companies, even pirates actively stake claims in the Arctic, that the United States needs to be prepared to engage to protect its interests there.

In the Coast Guard Reauthorization Act of 2010, we required the Coast

Guard to complete a comparative business case analysis to determine how we can revitalize icebreaking fleet while maximizing taxpayer dollars. This study was due on October 15, and today I have come to the floor because the law is being ignored. The Coast Guard and OMB have failed to deliver this report that I remind you was required by law to be delivered to Congress days ago.

Even more distressing to me is that the Coast Guard is moving forward with decommissioning one of only two of our Nation's heavy duty icebreakers. We think this is unwise, and it is exactly why the Congress required a study of such an action. Surely the administration isn't simply choosing to flout the law by moving forward before this cost-benefit analysis has been completed or reviewed by Congress.

So I know Heather Higginbottom is probably keenly interested in the debate going on here today, and I hope that if she is listening and if she is confirmed as the Deputy Director of OMB, she will take this leadership opportunity to transform the way OMB does its business. It is time for OMB to stop holding up congressionally directed reports. I know there are a lot of smart people over at OMB, and they may not always like the people and their representatives questioning their judgment. However, even OMB must follow the law, and in this case they must deliver the business case analysis to Congress immediately. Some of the folks over at OMB may not agree with the Congress that polar icebreaker assets should be a priority. And while everyone is entitled to their opinion, even if it illustrates a complete lack of understanding of our national security needs, in our system of government Congress makes the laws, and at least this Senator expects them to be followed.

Mr. KERRY. With the consent of the other side, all time will be yielded back.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Heather A. Higginbottom, of the District of Columbia, to be Deputy Director of the Office of Management and Budget?

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 171 Ex.]

YEAS—64

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

NAYS—36

Ayotte	DeMint	Lugar
Barrasso	Enzi	McCain
Blunt	Grassley	McConnell
Boozman	Hatch	Paul
Brown (MA)	Heller	Risch
Burr	Hoeven	Roberts
Chambliss	Hutchison	Rubio
Coats	Inhofe	Sessions
Coburn	Isakson	Shelby
Cochran	Johnson (WI)	Thune
Cornyn	Kirk	Vitter
Crapo	Lee	Wicker

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

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

AMENDMENT NO. 769

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, prior to a vote in relation to the amendment, as modified, by the Senator from Louisiana, Mr. VITTER.

Who yields time? The Senator from Louisiana.

Mr. VITTER. Mr. President, this amendment is bipartisan. I thank the bipartisan coauthors. The amendment would allow the reimportation of small, personal use quantities of safe FDA-approved prescription drugs from Canada only. It is a very modest amendment. It is for personal use only, not large quantities, no wholesalers, Canada only, no biologics, and no controlled dangerous substances. It is essentially identical to an amendment we passed on a bipartisan basis in the last Senate.

I urge a strong vote in favor of this.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I oppose this amendment. First, it is a budget buster. To enforce this will take enormous amounts of resources. You cannot be sure that that drug coming from Canada is not a counterfeit, lethal death drug. You don't have any enforcement procedures in here, you don't have the money to enforce it, and we have a history of phony drugs coming into rogue Web sites through counterfeit countries.

If you want a drug that has been made in a country that we view as predators toward the United States, when you take your Coumadin, when you want your wife to take her breast cancer drug, when your daughter is going to take that birth control bill, then you want the Vitter amendment. But if you want safety, then defeat the amendment.

Ms. SNOWE. Mr. President, today I wish to support Senator VITTER's amendment regarding drug importation from Canada. Senator VITTER has been a tremendous partner and tireless advocate in supporting the comprehensive drug importation legislation Senator STABENOW and I introduced earlier this year—the Pharmaceutical Market Access and Drug Safety Act—which now has 20 additional cosponsors.

The time for enactment of comprehensive drug importation legislation is certainly long overdue—and the critical necessity for this legislation is actually greater . . . not less, particularly for those struggling in this economic environment. Over the past decade, among working age adults—only those with Medicare coverage saw any improvement in their ability to fill their prescriptions. All others saw a rise in their inability to obtain needed medications. Among the uninsured more than 1 in 3 individuals went without a required prescription—and in those with chronic disease that number doubles.

At the same time, according to AARP, over the last 5 years, the retail prices for the most popular brand-name drugs increased 41.5 percent, while the consumer price index rose 13.3 percent. So despite manufacturer assistance programs—despite the increased use of generics—the high and escalating cost of brand-name drugs is directly impacting the health of millions. Americans have learned that other countries use the very same medications which we do, made in the very same plants, yet pay considerably less.

I look forward to working with my colleagues, as well as the FDA, on opportunities to advance comprehensive drug importation legislation in the months ahead. Not only does my legislation expand access to imported drugs in countries with comparable levels of regulation and oversight, but it also establishes a higher level of safety than exists today for prescription drugs sold domestically—including employing anticounterfeiting technologies and drug pedigrees to ensure the integrity of medications. In fact, it was the first to provide FDA with the resources to improve its inspection of foreign drug plants, many of which today produce medications marketed here by U.S. firms which consumers assume to be ''domestic''. CBO estimates the Federal Government alone would save $19.4 billion, so the savings from drug importation are undeniable and I hope that the Joint Select Committee on Deficit Reduction strongly considers this option.

Until that time, Senator VITTER's legislation, which allows for personal

use drug importation from Canada, represents a good first step. Without question, the price discrepancies between the United States and Canada are significant. For example, this week the average U.S. price for a 90-day supply of Nexium is $524.97 compared to $386.67 in Canada. Another drug, Plavix, costs $565.97 in the United States versus $434.65 in Canada for a 90-day supply. Lipitor costs $463.97 in the United States compared to $378.23 in Canada for a 90-day supply.

Today our constituents—who pay for research, who subsidize industry advertising, marketing, and investment—deserve access to competition and more affordable prices. Senator VITTER's amendment has achieved strong bipartisan support in the past, and I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—45

Begich	Grassley	Pryor
Bingaman	Heller	Reed
Blumenthal	Johnson (SD)	Rockefeller
Boozman	Klobuchar	Sanders
Boxer	Kohl	Sessions
Brown (OH)	Leahy	Shaheen
Cardin	Lee	Shelby
Casey	Levin	Snowe
Coburn	McCain	Stabenow
Collins	McCaskill	Tester
Conrad	Merkley	Thune
Corker	Murkowski	Udall (NM)
DeMint	Nelson (NE)	Vitter
Feinstein	Nelson (FL)	Whitehouse
Franken	Paul	Wyden

NAYS—55

Akaka	Gillibrand	Manchin
Alexander	Graham	McConnell
Ayotte	Hagan	Menendez
Barrasso	Harkin	Mikulski
Baucus	Hatch	Moran
Bennet	Hoeven	Murray
Blunt	Hutchison	Portman
Brown (MA)	Inhofe	Reid
Burr	Inouye	Risch
Cantwell	Isakson	Roberts
Carper	Johanns	Rubio
Chambliss	Johnson (WI)	Schumer
Coats	Kerry	Toomey
Cochran	Kirk	Udall (CO)
Coons	Kyl	Warner
Cornyn	Landrieu	Webb
Crapo	Lautenberg	Wicker
Durbin	Lieberman	
Enzi	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 55. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 750

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 750, as modified, offered by the Senator from Virginia, Mr. WEBB.

Who yields time?

The Senator from Virginia.

Mr. WEBB. Mr. President, this bill is the result of 4½ years of work and outreach and listening to the other side, incorporating recommendations from across the political spectrum. It is paid for. It is sunsetted at 18 months. It is balanced philosophically and politically. Contrary to some of the comments that were made, this does provide for equal participation from both parties.

It has been endorsed by more than 70 national organizations, including almost all of the law enforcement organizations in America: International Association of Chiefs of Police, National Sheriffs Association, Fraternal Order of Police, National Association of Counties, National League of Cities, U.S. Conference of Mayors.

It is time for us is to move forward to get the comprehensive advice from the best minds in America in terms of how to fix our broken criminal justice system.

I urge a ''yes'' vote, and I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have talked with Senator WEBB. Some of what he wants to do is probably fine, but we are absolutely ignoring the U.S. Constitution if we do this. We have no role, unless we are violating human rights or the U.S. Constitution, to involve ourselves in the criminal court justice system or penal system in my State or any other State.

The Association of District Attorneys is against this. There are a lot of times interest groups are for something, but we have no business deciding from a central committee in Washington whether Oklahoma is meeting the requirements of its constitution rather than the U.S. Constitution.

I would urge a ''no'' vote against this, and that we honor our Constitution.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is there time remaining on our side?

The PRESIDING OFFICER. There is 9 seconds.

Mrs. HUTCHISON. Mr. President, this is the most massive encroachment on States rights I have seen in this body. It is $5 million on a priority we should not have.

I will work with the Senator from Virginia to pare it down so a Federal commission will look at the Federal system.

Mr. WEBB. Mr. President, I ask the time.

The PRESIDING OFFICER. There is 7 seconds.

Mr. WEBB. This is not an encroachment. I wouldn't support an encroachment. It actually convenes the best minds to give recommendations.

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

The question is on agreeing to the amendment, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—57

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

NAYS—43

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

The PRESIDING OFFICER (Mr. MANCHIN). On this vote, the yeas are 57, the nays are 43. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Arizona.

Mr. KYL. Mr. President, would it be in order for me to speak as in morning business for up to 5 minutes at this point?

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

(The remarks of Mr. KYL are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask the Chair to please inform me when I have spoken 10 minutes. For other people who want to speak, I don't think I will speak that long.

The PRESIDING OFFICER. The Chair will do so.

AMENDMENT NO. 860

Mr. GRASSLEY. My amendment No. 860 is a good government amendment for which I hope we can get broad support. There are special interests in Washington making the rounds opposing this amendment. These groups have argued this amendment will unduly burden the Justice Department, take away grant money for worthy causes or erroneously ban grantees from future funds. These special interests are trying to protect their income streams of

Federal grants and don't want somebody looking over their shoulder to make sure they are spending taxpayer dollars wisely.

This amendment is a response to the lack of oversight, accountability, and responsibility for how American taxpayer dollars are spent by grant recipients. It is a response to my work in the Judiciary Committee, uncovering fraud, misappropriation of funds, offshore bank accounts by nonprofit organizations.

Can you understand that? Nonprofit organizations in America have offshore bank accounts, and many other shenanigans are occurring in grant programs administered by the Justice Department.

To fix this, my amendment includes an accountability and fraud prevention package for grants administered by the Department of Justice. I am glad to report the National Taxpayers Union, an independent nonpartisan advocate for taxpayers, supports the amendment.

For the last decade the inspector general has continuously labeled grant management at the Department of Justice a top management and performance challenge. That is from the inspector general. Despite the large sums of money the Department provides the grantees, the inspector general has repeatedly found inadequate controls on spending, inadequate oversight, and a general failure to ensure that taxpayer dollars are spent by grantees in accordance with the programs.

Each year, the inspector general audits only a small fraction of grants awarded by the Department. In fact, last year the inspector general audited 21 grant recipients. Keep the figure 21 in mind. The inspector general questioned more than one-quarter of all the taxpayer dollars these grantees received. These questioned costs occurred on a random selection of grantees and represent less than 1 percent of the total grant recipients. So we only audit—go over 1 percent, but of that 1 percent, 25 percent of them were found to have a waste of taxpayers' money or not proper accounting.

Perhaps the most concerning part of these audits is that they are randomly selected. If the inspector general's random selection of grantees universally uncovers unauthorized errors, then we can see why we have a much larger problem. If the findings of the audit from 2011 were extrapolated through all the grants, that would mean nearly $500 million in questionable costs annually.

My amendment requires the inspector general to audit 10 percent of the grants. It also requires the Attorney General to ban grantees for 2 years if they are found to have serious problems that have gone unremedied for longer than 6 months after the inspector general makes a negative finding. By requiring this remedy within 6 months, it ensures there is enough time to fix inadvertent mistakes but also ensures that truly bad actors are taken off the government rolls.

My amendment also requires the AG to reimburse the Federal Treasury from the Justice Department budget if funds are given to an excluded entity and then requires the Department to recoup lost grant money from those grantees. It also includes a limitation on conference spending at the Department. Just a few weeks ago, the inspector general issued an audit on conference spending at the Department.

We all heard about this audit, which revealed $16 muffins, the $32 Cracker Jack snacks, $5 cans of cola, the beef wellington appetizers, and other abuse of the money of the taxpayers by the Justice Department. What we have not heard is how, by this administration, spending at the Justice Department increased from $47 million in fiscal year 2008 to 1 year later $73 million and now 2 years later $91 million. Despite the biggest Federal deficit in history, the Justice Department, under this administration, has doubled spending on conferences in just 2 years. This is unacceptable, and it is why my amendment requires the Deputy Attorney General to sign off on all conference spending.

My amendment would prohibit the Attorney General from providing any grant to a nonprofit charity that holds money in offshore bank accounts for the purpose of evading Federal taxes. If it is nonprofit, one would think they would be using their money for nonprofit purposes.

This provision was the result of an investigation I conducted into the Boys and Girls Club of America, the national umbrella organization for thousands of local clubs. In response to my inquiry, the Boys and Girls Club of America admitted that, despite closing hundreds of clubs nationwide, it held nearly $222 million in investment, of which $54 million was in offshore investments and another $54 million in partnerships. When asked why this money was held offshore, I was told it was held to '' . . . avoid issues with unrelated Business Income Tax generated by hedge funds that use leverage.''

I support the mission of the Boys and Girls Clubs, truly I do. It is true nothing they did was illegal. However, given our current fiscal crisis, I cannot support Federal tax dollars being awarded as grants to those who hold millions of dollars offshore—I should say tens of millions of dollars offshore.

Finally, I will note that my amendment includes a 25-percent matching requirement for grantees, as I heard the special interest lobbyists have been calling and sending panicked messages to many Members in the Senate opposing the matching requirement, arguing it would shut off Federal money to many grantees.

This provision mirrors one recently included at a Judiciary Committee markup supported by all Judiciary Committee Democrats and some Republicans. Matching requirements are often required by grant programs that virtually all members have supported. The Government Accountability Office even reported in a 2006 report on grant management that to strengthen grant management, Congress should ''ensure mechanisms are of sufficient value'' when implementing grants. This is GAO speak for including a matching requirement so grantees are financially involved, not simply spending Federal taxpayer dollars.

That said, I wanted to modify my amendment and strike this provision. However, I understand people on the other side of the aisle objected to that request so it would be easier to defeat my amendment. Remember, this is an amendment Republicans and Democrats accepted in the Judiciary Committee. This is big money at stake with Federal grants. Talk about special interests, the special interests have spoken. Those who oppose my amendment oppose holding grantees accountable for how they spend taxpayer dollars. Those who oppose my amendment are supporting giving nonprofit charities with money in offshore bank accounts taxpayer dollars. It will be interesting to see who opposes this provision, especially given the fact that everyone should oppose giving taxpayer dollars to those who hold money offshore.

My amendment is a commonsense way to ensure that taxpayer dollars are protected. It is something we should have done long ago. I encourage all my colleagues to join me and send a signal that waste, fraud, and abuse of taxpayer dollars has no place in a Federal grant programs at the Department of Justice. That would include all of them but particularly to organizations that hold money offshore to avoid taxes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 879, AS MODIFIED

Mr. MERKLEY. Mr. President, when our American government spends money on infrastructure, core infrastructure, we should look first to American companies and American workers. But this doesn't always happen. In fact, recently, there was a bid proposal in Alaska to build a bridge with America's taxpayer money and a Chinese company employing Chinese steel outbid the American company using American steel. This was a big surprise in that normally there is a framework that helps ensure American companies and American workers are able to do the infrastructure projects we are funding with our taxpayer dollars so we are creating jobs here at home.

It turns out there is a loophole; whereas, this basic framework covers highways, it covers commuting rail, it covers passenger rail but doesn't apply to freight rail. This was a freight bridge on tracks that do not also have passenger trains on them. I don't know how many tracks in America only have freight and not passenger, but when everything got sorted out through the appeal process, that is what it came down to.

This afternoon, we will have a simple amendment that makes this piece of

the infrastructure more consistent with the rest of the infrastructure world. The industrial might of this Nation was built on American railroads made from American steel. We often say: Wow, there is a loophole you can drive a freight train through. In this case, you actually can drive a freight train through the loophole. That is what we need to fix.

At a time when Americans everywhere are searching for jobs, we should be supporting American companies that employ and hire Americans, use American steel when American taxpayer dollars are employed.

In the framework for infrastructure, there are some exceptions. Those exceptions in this amendment are exactly the same exceptions that are provided in the rest of the infrastructure picture; that is, the Secretary of Transportation can waive this requirement for U.S.-produced steel, iron, and manufactured products if the application is inconsistent with the public interest. That is a pretty broad ground on which the Secretary can make a determination; more specifically, if the materials and products are not available in sufficient quantity or quality from the American manufacturer or if the inclusion of the domestic material would increase the cost of the project by my more than 25 percent. This is a small change that fills in or eliminates a loophole you can drive a freight train through.

The bottom line is this: If we don't build things in America, we will not have a middle class in America. Our taxpayer dollars should go to create good, living-wage jobs for our workers here at home in these core infrastructure projects, not to create jobs in China.

I urge my colleagues to support this amendment.

I note 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 Illinois.

Mr. KIRK. 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. KIRK. I ask unanimous consent to speak as in morning business for 3 minutes.

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

LIBYA

Mr. KIRK. Mr. President, we all saw the news, yet to be confirmed, that General Qadhafi is dead. This is a victory for our men and women in uniform, for the United States, for the administration, but, most importantly, for the people of Libya.

Senators MCCAIN, GRAHAM, RUBIO, and I had the privilege 20 days ago of traveling to Tripoli. I was quite surprised at what I saw. Considering other war zones, Tripoli did not appear to be one of them. The rebels took the capital largely intact. Only the Qadhafi compound was blown away. There was anti-Qadhafi graffiti—obviously spontaneous—everywhere, and some of the most popular people in the city were U.S. citizens.

While many people in Libya do not fully know the position of Senator MCCAIN, they knew he was an American leader. Throughout our visit, they came out to thank him for the aircraft they saw overhead that they felt equalized the battle between them and their government, between the professional army of Muammar Qadhafi, the people of Misrata, the people of Tripoli, and the people of Benghazi.

We have the makings of a very pro-U.S. ally. Millions of Libyans right now are very thankful for the United States. They feel the aircraft overhead that equalized this battle were almost all American. In reality, many of those aircraft were British and French from our NATO allies. But because of that pro-American feeling, the new government there is likely to be overwhelmingly pro-American.

As we look to a now-secure post-Qadhafi environment, we have to make several points.

First, when we were there, leaders were obviously afraid that as long as he lived, Qadhafi could make a comeback. That now no longer looks possible at all.

Second, to head off Islamists who may try to form a party, Prime Minister Jibril wanted to call for early elections. We should help him call early elections because right now the rebel TNC government is overwhelmingly popular and would be elected.

Next, we have to unify military authority with the new rebel government. We were briefed that there are 28 separate militias in Tripoli. We should unify military command under them to make sure any sectarian violence does not break out with the victory that has come at hand.

Libya is a unique country that does not need foreign assistance from the United States. We have seized 34 billion of their dollars and over $100 billion in a seized account worldwide. They need assistance. They need medical backup, training for their army, support for their elections, but they can pay for it.

One thing they asked of us that we should provide is a hospital ship. USNS Comfort should be allowed to go to Libya to care for those who were wounded in this battle. We were told 25,000 citizens of Libya died in this revolution and 60,000 were wounded. The United States should help care for them, and the Libyan Government should reimburse us for that effort.

When we look to the future, we also have a couple of key challenges. We were briefed that Qadhafi's chemical weapons stockpile was secure, and I think it is, but we need to keep it that way. We were also briefed that the arsenals of Libya were looted, including thousands of handheld surface-to-air missiles. It should be a top priority of the United States to buy or gain custody of those missiles again before they become a threat to civil aircraft around the world.

In the end, as I said, this is a victory for the administration, for the men and women of the U.S. military, but especially for the people of Libya. If we take the steps I just outlined—security for the chemical weapons arsenal, recovery of the surface-to-air missiles, support for early elections, and medical care with the provision of a U.S. hospital ship—I think we will lock in the winning of a new, very pro-U.S. ally in the Middle East.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President. I rise to speak on amendment No. 874, my amendment on housing discrimination. My understanding is, when we assemble for a series of votes at 2 o'clock, this vote will be voice voted, and I particularly appreciate the work of Senator COLLINS, the ranking minority member of the subcommittee, and chairwoman PATTY MURRAY for her work and Senator SANDERS for his support and cosponsorship.

Housing discrimination, as we know, prevents hard-working families from buying homes in the neighborhood of their choosing. Housing discrimination not only violates Federal law, it is a barrier to economic mobility. It is a morally wrong practice with real-world implications.

A study by the Miami Valley Fair Housing Coalition, located in Dayton, OH, found that foreclosed properties in predominately African-American neighborhoods in that city are kept in significantly worse condition than foreclosed properties in White neighborhoods. That is bad for local property values, and it is bad for local governments that rely on property tax revenues because we know what that does for home prices.

That is why the Department of Housing and Urban Development instituted the Fair Housing Initiatives Program, so-called FHIP. FHIP invests in the private fair housing organizations that help enforce antidiscrimination laws.

My amendment would put FHIP funding on equal footing with the House legislation, increasing it to near its fiscal year 2011 level—exactly what the House did.

This is about maintaining level funding so fair housing organizations will not be forced to lay off hundreds of employees across the country.

This amendment is effective. Fair housing organizations investigated 65 percent of the Nation's complaints of housing discrimination—nearly twice as many as all government agencies combined.

This amendment is efficient. It saves money by streamlining the claims investigation process.

My amendment is fully paid for, transferring money from HUD's Working Capital Fund.

Discrimination should never be tolerated. Especially in these challenging economic times, it would be particularly devastating to cut fair housing programs any further.

I again thank Senator MURRAY and Senator COLLINS, the top two members—one in each party—of the Transportation, Housing, and Urban Development Subcommittee. I thank Senator SANDERS for cosponsoring this amendment.

I urge a ''yes'' vote from my colleagues when this amendment comes forward for a voice vote in a few minutes.

Mr. President, I ask unanimous consent that the 60-affirmative vote requirement under the previous order for the Brown amendment No. 874, as modified, be vitiated.

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

The Senator from Utah.

Mr. HATCH. Mr. President, on behalf of myself and 32 cosponsors—both Republicans and Democrats—I ask unanimous consent that the current matter be set aside and amendment No. 875 be called up and made pending.

Mr. KOHL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, I understand there is an agreement regarding the disposition of amendments already in place, but I believe this amendment deserves consideration and a vote.

It is a noncontroversial matter, as far as I am concerned. It would simply make permanent 10 separate appropriations riders relating to firearms. The House CJS bill did the same thing, but these changes have been taken out of the Senate substitute amendment.

Each of these riders has been in place for a long time—some more than 30 years. These clarifying provisions have been enacted year after year to preserve the rights of law-abiding gun owners and prevent encroachments on the part of the executive branch.

It does not need to be a yearly exercise. There is widespread support for each of these provisions contained in my amendment. Once again, they have never been the subject of any significant controversy. My amendment would simply make them permanent so we do not have to bring them up all the time.

This amendment would likely pass with more than 60 or 70 votes. I hope the leadership and the managers on the other side of the aisle will not simply accede to the wishes of a minority of Senators who are hostile to second amendment rights by preventing a vote on this amendment.

I ask again for unanimous consent to set aside the pending matter and call up amendment No. 875.

The PRESIDING OFFICER. Is there objection?

Mr. KOHL. Mr. President, I object. We have a good number of amendments already pending, and we have a list of amendments already in order to be made pending. Until we are able to dispense or dispose of some of these pending amendments, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, I hope to be able to work with my colleagues on the other side. This should not be a difficult exercise. It is just a smart thing to do. Once again, I am certain this amendment would have the support of a broad majority, a bipartisan majority, of my colleagues.

If the other side wants to prevent a vote—keeping in mind that the vast majority of the American people support these provisions—I hope they will be able to explain it to their constituents. I hope there will be a reconsideration of this amendment and that we can get it up and get this matter solved once and for all. I understand the distinguished Senator has to object, and I feel very disappointed in that, but sooner or later we are going to vote on this amendment, one way or the other.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 860

Mr. LEAHY. Mr. President, I rise in my capacity as chair of the Judiciary Committee to say I oppose amendment No. 860. It is a one-size-fits-all approach. It would have catastrophic consequences to the Justice Department and on the important work the Justice Department does in supporting local law enforcement, crime victims, and justice across the country.

I have worked with my good friend from Iowa, Senator GRASSLEY, on many issues. We have been able to, in a bipartisan way, develop accountability measures to ensure that particular grants administered by the Department of Justice operate efficiently and effectively. That is particularly important at a time of budget austerity. We have done it in specific contexts when those measures make a lot of sense.

For example, in the course of our negotiations of a bipartisan version of the Trafficking Victims Protection Reauthorization Act, we worked out specific proposals. Nonetheless, six of the eight Republicans on the Judiciary Committee opposed this bill.

But one size does not fit all. Measures that make sense in one program cannot willy-nilly be applied to others without careful consideration of the consequences to the programs and, to the intended beneficiaries in local law enforcement, and crime victims.

A one-size-fits-all measure actually might harm rather than help important functions at the Department of Justice.

For example, this amendment would prevent grants to the Boys and Girls Clubs of America. I know some have criticized some aspects of the Boys and Girls Clubs, and I would be happy to work with any Senator to work out these issues. But the Boys and Girls Clubs of America do great work.

I remember one police chief in my State, when asked if I could help him get a couple more police officers to help out because of crime problems, said: No. Get me a Boys and Girls Club. Get me a place for young people to go.

I know in Vermont they do a great deal, as they do in most States. If there are reforms that should be made, let's do them, but not just cut out the funding in a one-size-fits-all way at a time when we are doing everything possible to give young people a different goal than going out into a life where they might do things none of us would agree with.

This amendment would greatly restrict the Department of Justice's ability to spend funds for salaries of its own people. Is that going to lead to huge cuts in prosecutors and agents? Are we going to be imposing a salary cap on top of the one the President has already imposed? Are we going to be losing some of our best people? Are we going to be unable to develop experienced law enforcement officers or prosecutors?

I know, in law enforcement and prosecution, we value experience. We do not want to go for the lowest common denominator. We want people who are experienced.

Again, a willy-nilly amendment does not help.

The amendment includes a grant-matching requirement. But in some programs, grant matching is not a good idea. Let me tell you about one, legislation that former Senator Ben Nighthorse Campbell and I put together. It has worked very well. It is the Leahy Bulletproof Vest Partnership Grant Program for local jurisdictions. We have, in some local jurisdictions, the ability to waive matching provisions.

We have seen a rise in the number of assaults and murders of police officers across this country. Many officers' lives have been saved because they have had bulletproof vests under the Leahy program. They would have died otherwise. But they are in small departments, in small departments in States that could not afford the $500 or $600 per bulletproof vest. Yet we expect these police officers to be out at 3 o'clock in the morning, usually with no backup. But if they are in a small, rural park in West Virginia or Vermont or all these other States, they do not have any backup. They are out there alone. We ought to give them the kind of protection they need.

I want our police officers in rural communities who do not have the budgeting of a big city department to have this kind of protection. So if we put a matching requirement by fiat—again, one-size-fits-all—we have a lot of rural police departments that are going to be badly hurt.

What about crime victims? Crime victims have already suffered great loss. Are we going to say: We can help you out, but pony up some money. Pony up a matching requirement, and then we will come in and help you. We are going to spend a fortune on the guy

we lock up who committed a crime. We will spend $30,000, $35,000 a year on that person. We are not going to ask for any matching money from the criminal. But we are going to say to the victim: We can help you, but, sorry—I know you lost all this money; I know you have been beaten, you have been bruised, you have been injured—you have to come up with some money before we can help you. The guy who did it, we will take care of him. We will pay for that. But we cannot help you.

No, no, no, no, no, no, no. I was a prosecutor for 8 years. I know how these victims suffer. They are usually the forgotten person in the criminal justice system. The headlines are: So and so was arrested. They are marched off. We are going to prosecute them. That is good. They should be. I prosecuted a lot of those people. But the victim is the one forgotten. Victims and others most in need of assistance are those least likely to be able to provide matching funds. Rural communities, small nonprofit providers, tribes, and States that are facing their own problems should not have another funding mandate put on them from Washington.

The new matching requirement and other requirements in this amendment would impose new burdens on all money going to State and local law enforcement through the COPS Program and many of the Byrne-JAG programs. It would prevent many police departments from hiring and keeping the officers they need. That is why the National District Attorneys Association and the National Association of Police Organizations have expressed their opposition to this amendment.

At one time, I had the honor of serving as vice president of the National District Attorneys Association. They care. They care about law enforcement. They care about prosecutors. They care about victims. We ought to listen to them.

It also would burden grants awarded through the Debbie Smith Act to reduce backlogs in testing rape kits. There are rapists who go free because we do not have the money to test the rape kits. Tell that to a victim. Tell that to the victim: We do not have the money to go get the person who did this. I am not going to vote in a way that I am going to be telling that victim: We cannot help you. We cannot test that rape kit.

The Debbie Smith grant program has received bipartisan support. It helps to ensure that rape victims will not have to continue to live in fear because somebody said: It is going to take a few months to test this because we do not have the money. By the way, lock your door. He might come back.

I am not going to vote for that.

The matching requirement would be devastating to the National Center for Missing and Exploited Children, which works hard every day to keep our children safe from those who would do them harm. It is hard to think of any work more important than protecting our children from the evils of abuse and exploitation, but this amendment would make that work much harder because the National Center receives Justice Department grants, but it does not have matching funds.

Time is running out. I could tell some stories. I could tell some stories about what happens to these children who are exploited and abused, and it would have everybody in tears. It did me when I saw them as a prosecutor, and it does every day when I read these reports as chairman of the Senate Judiciary Committee.

My God, if we can go and try to protect people around the world, let's protect our children here at home.

I agree with Senator GRASSLEY that we need rigorous accountability measures. Of course, we should. We do this in our hearings every week in the Judiciary Committee. GAO does it. The inspector general does it. But do not do a one-size-fits-all that is going to say to our victims, that is going to say to rape victims, that is going to say to exploited children or that is going to say to our police officers, who are told to go out there without a bulletproof vest but to defend you and me in the middle of the night: Sorry, sorry, sorry. The wealthiest Nation on Earth cannot help you.

No; I oppose this amendment.

I yield the floor.

AMENDMENT NO. 879, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 879 offered by the Senator from Oregon, Mr. MERKLEY.

Mr. MERKLEY. Mr. President, I have a modification at the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is 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) CONSISTENCY WITH 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. LEAHY. Mr. President, I yield back all time.

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

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

The PRESIDING OFFICER (Mr. SANDERS). Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—55

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

NAYS—44

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

NOT VOTING—1

Lautenberg

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 44. Under the previous order requiring 60 votes for the adoption of the amendment, the amendment is rejected.

AMENDMENT NO. 874, AS MODIFIED, TO AMENDMENT NO. 738

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes of debate equally divided prior to a vote in relation to amendment No. 874, as modified, offered by the Senator from Ohio.

The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I call up amendment No. 874.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. BROWN), for himself and Mr. SANDERS, proposes an amendment numbered 874, as modified, to amendment No. 738.

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

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

(Purpose: To increase amounts made available to carry out section 561 of the Housing and Community Development Act of 1987, and to provide an offset)

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''.

On page 333, line 8, strike ''$64,287,000'' and insert ''$70,847,000''.

Mr. BROWN of Ohio. Mr. President, housing discrimination not only violates our laws, it is a barrier to economic mobility. This amendment would put FHIP funding on equal footing with the House legislation. It is about maintaining level funding so that fair housing organizations won't be forced to lay off hundreds of employees across the country. The amendment is effective. Fair housing organizations investigated 65 percent of the Nation's complaints—nearly twice as many as all other government agencies combined. It is efficient and saves money by streamlining the claims process.

My amendment is paid for by transferring funds from HUD's working capital fund. I thank the chair and ranking member, Senators MURRAY and COLLINS, for supporting this amendment, and Senator SANDERS for cosponsoring it.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. KOHL. I yield back our time.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 874) was agreed to.

AMENDMENT NO. 815

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 815, offered by the Senator from Kansas, Mr. MORAN. Who yields time?

Mr. KOHL. Mr. President, we yield back our time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. MORAN. Mr. President, the pending business before the Senate is an amendment I offered yesterday, Moran No. 815. There has been agreement that it will be accepted on voice vote, and I appreciate the leadership of Chairman KOHL and Ranking Member BLUNT.

I yield the remaining time, and I yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 815) was agreed to.

AMENDMENT NO. 860

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 860 offered by the Senator from Iowa, Mr. GRASSLEY.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is a good-government amendment, and it goes after the Justice Department grant management program because the inspector general has had grant management at the top of his 10 major management challenges. The inspector general says that management of grants at the Justice Department is abominable, so this amendment is trying to take care of what the inspector general has said is needed to be done for a long period of time. Grant recipients would be held to basic principles of accountability. There are only a handful of grants audited each year, but out of that handful 25 percent talk about mismanagement, fraud, and things of that nature.

A vote against my amendment would be a vote to allow fraud, waste, and abuse of taxpayer-funded grant programs. A vote against my amendment would allow nonprofit charities to continue to hold money in offshore bank accounts for tax purposes and still receive Federal grants. I have a letter in my office that justifies $54 million in offshore accounts.

I hope my colleagues will vote for this good-government amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have worked with my good friend from Iowa on accountability measures and will continue to do so but not for this amendment.

This is a one-size-fits-all. There is a reason the National District Attorneys Association and a reason the National Association of Police Organizations oppose it. This would make it impossible for small, rural communities to get bulletproof vests under the Leahy-Campbell bulletproof vest program. This would make it impossible for some of the small departments to have the money to pay for rape kits, so they would have to tell the rape victim: Sorry, we can't go after the person who raped you, even though they might come back, because we don't have the money. We don't have the money to test this rape kit.

This is a one-size-fits-all that is going to hurt law enforcement. It is going to hurt victims. We will pay the price of the person we lock up, but we won't do anything to help the victim? I oppose it.

Mr. GRASSLEY. It is supported by the National Taxpayers Union.

Mr. LEAHY. I stand with the prosecutors and the police who oppose it.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the Grassley amendment No. 860.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—46

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

NAYS—54

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

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Oklahoma.

AMENDMENTS NOS. 794 THROUGH 797, 799 THROUGH 801, AND 833, TO AMENDMENT NO. 738

Mr. COBURN. Mr. President, I ask unanimous consent to call up the following amendments en bloc, displacing the amendment that is present, but considering each one of them individually: amendments Nos. 794 through 797, amendments Nos. 799 through 801, and amendment No. 833.

The PRESIDING OFFICER. Without objection, the amendments are pending en bloc.

The amendments are as follows:

AMENDMENT NO. 794

(Purpose: To provide taxpayers with an annual report disclosing the cost of, performance by, and areas for improvements for Government programs, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. (a) Each fiscal year, for purposes of the report required by subsection (b), the head of each agency shall—

(1) identify and describe every program administered by the agency;

(2) for each such program—

(A) determine the total administrative expenses of the program;

(B) determine the expenditures for services for the program;

(C) estimate the number of clients served by the program and beneficiaries who received assistance under the program (if applicable); and

(D) estimate—

(i) the number of full-time employees who administer the program; and

(ii) the number of full-time equivalents (whose salary is paid in part or full by the Federal Government through a grant, contract, subaward of a grant or contract, cooperative agreement, or other form of financial award or assistance) who assist in administering the program; and

(3) identify programs within the Federal Government (whether inside or outside the agency) with duplicative or overlapping missions, services, and allowable uses of funds.

(b) With respect to the requirements of subsections (a)(1) and (a)(2)(B), the head of an agency may use the same information provided in the catalog of domestic and international assistance programs in the case of any program that is a domestic or international assistance program.

(c) Not later than February 1 of each fiscal year, the head of each agency shall publish on the official public website of the agency a report containing the following:

(1) The information required under subsection (a) with respect to the preceding fiscal year.

(2) The latest performance reviews (including the program performance reports required under section 1116 of title 31, United States Code) of each program of the agency identified under subsection (a)(1), including performance indicators, performance goals, output measures, and other specific metrics used to review the program and how the program performed on each.

(3) For each program that makes payments, the latest improper payment rate of the program and the total estimated amount of improper payments, including fraudulent payments and overpayments.

(4) The total amount of unspent and unobligated program funds held by the agency and grant recipients (not including individuals) stated as an amount—

(A) held as of the beginning of the fiscal year in which the report is submitted; and

(B) held for five fiscal years or more.

(5) Such recommendations as the head of the agency considers appropriate—

(A) to consolidate programs that are duplicative or overlapping;

(B) to eliminate waste and inefficiency; and

(C) to terminate lower priority, outdated, and unnecessary programs and initiatives.

(d) In this section:

(1) The term ''administrative costs'' has the meaning as determined by the Director of the Office of Management and Budget under section 504(b)(2) of Public Law 111–85 (31 U.S.C. 1105 note), except the term shall also include, for purposes of that section and this section, with respect to an agency—

(A) costs incurred by the agency as well as costs incurred by grantees, subgrantees, and other recipients of funds from a grant program or other program administered by the agency; and

(B) expenses related to personnel salaries and benefits, property management, travel, program management, promotion, reviews and audits, case management, and communication about, promotion of, and outreach for programs and program activities administered by the agency.

(2) The term ''services'' has the meaning provided by the Director of the Office of Management and Budget and shall be limited to only activities, assistance, and aid that provide a direct benefit to a recipient, such as the provision of medical care, assistance for housing or tuition, or financial support (including grants and loans).

(3) The term ''agency'' has the same meaning given that term in section 551(1) of title 5, United States Code, except that the term also includes offices in the legislative branch other than the Government Accountability Office.

(4) The terms ''performance indicator'', ''performance goal'', ''output measure'', and ''program activity'' have the meanings provided by section 1115 of title 31, United States Code.

(5) The term ''program'' has the meaning provided by the Director of the Office of Management and Budget and shall include, with respect to an agency, any organized set of activities directed toward a common purpose or goal undertaken by the agency that includes services, projects, processes, or financial or other forms of assistance, including grants, contracts, cooperative agreements, compacts loans, leases, technical support, consultation, or other guidance.

(e)(1)(A) Section 6101 of title 31, United States Code, is amended by adding at the end the following:

''(7) The term 'international assistance' has the meaning provided by the Director of the Office of Management and Budget and shall include, with respect to an agency, assistance including grants, contracts, compacts, loans, leases, and other financial and technical support to—

''(A) foreign nations;

''(B) international organizations;

''(C) services provided by programs administered by any agency outside of the territory of the United States; and

''(D) services funded by any agency provided in foreign nations or outside of the territory of the United States by non-governmental organizations and entities.

''(8) The term 'assistance program' means each of the following:

''(A) A domestic assistance program.

''(B) An international assistance program.''.

(B)(i) Section 6102 of title 31, Untied States Code, is amended—

(I) in subsection (a), in the matter preceding paragraph (1), by striking ''domestic'' both places it appears; and

(II) in subsection (b), by striking ''domestic''.

(ii) Section 6104 of title 31, United States Code, is amended—

(I) in subsections (a) and (b), by inserting ''and international assistance'' after ''domestic assistance'' each place it appears; and

(II) in the section heading, by inserting ''**and international**'' after ''**domestic**''.

(f) Section 6104(b) of title 31, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(4) the information required in paragraphs (1) through (4) of section 419(a) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012;

''(5) the budget function or functions applicable to each assistance program contained in the catalog;

''(6) with respect to each assistance program in the catalog, an electronic link to the annual report required under section 419(b) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012, by the agency that carries out the assistance program; and

''(7) the authorization and appropriation amount provided by law for each assistance program in the catalog in the current fiscal year, and a notation if the program is not authorized in the current year, has not been authorized in law, or does not receive a specific line item appropriation.''.

(g) Section 6104 of title 31, United States Code, is further amended by adding at the end the following new subsection:

''(e) COMPLIANCE.—On the website of the catalog of Federal domestic and international assistance information, the Administrator shall provide the following:

''(1) CONTACT INFORMATION.—The title and contact information for the person in each agency responsible for the implementation, compliance, and quality of the data in the catalog.

''(2) REPORT.—An annual report compiled by the Administrator of domestic assistance programs, international assistance programs, and agencies with respect to which the requirements of this chapter are not met.''.

(h) Section 6103 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(d) BULK DOWNLOADS.—The information in the catalog of domestic and international assistance under section 6104 of this title shall be available on a regular basis through bulk downloads from the website of the catalog.''.

(i) Section 6101(2) of title 31, United States Code, is amended by inserting before the period at the end the following: ''except such term also includes offices in the legislative branch other than the Government Accountability Office''.

(j)(1) Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe regulations to implement this section.

(2) This section shall be implemented beginning with the first full fiscal year occurring after the date of the enactment of this Act.

AMENDMENT NO. 795

(Purpose: To collect more than $500,000,000 from deadbeat developers for failed, botched, and abandoned projects)

At the appropriate place, insert the following:

SEC. ____. The Secretary of Housing and Urban Development—

(1) shall cancel any funding obligated for a construction or renovation project for which the Department of Housing and Urban Development committed to provide $50,000 or more that—

(A) commenced before the date that is 5 years before the date of enactment of this Act;

(B) is not complete;

(C) did not draw funds against a Department of Housing and Urban Development account during the 18-month period ending on the date of enactment of this Act;

(D) on the date of enactment of this Act, is vacant and has not been sold or leased; or

(E) has not drawn funds against a Department of Housing and Urban Development account, if, on the date of enactment of this Act, funds have been obligated for the project for more than 1 year;

(2) may not provide any funding on or after the date of enactment of this Act for a project described in paragraph (1); and

(3) shall transfer any funds deobligated under paragraph (1) or made available to carry out a project described in paragraph (1) to the general fund of the Treasury and are hereby rescinded.

AMENDMENT NO. 796

(Purpose: To end lending schemes that force taxpayers to repay the loans of delinquent developers and bailout failed or poorly planned local projects)

At the appropriate place, insert the following:

SEC. ____. A person or entity that receives a Federal loan using amounts made available under division A, division B, or division C of this Act may not repay the loan using a Federal grant or other award funded with amounts made available under division A, division B, or division C of this Act; Provided further, a grant or other award funded with amounts made available under division A, division B, or division C of this Act may not be used to repay a Federal loan.

AMENDMENT NO. 797

(Purpose: To delay or cancel new construction, purchasing, leasing, and renovation of Federal buildings and office space)

At the appropriate place, insert the following:

SEC. ____. (a) Except as provided in subsection (b), none of the funds made available by this Act or an amendment made by this Act may be used to pay for renovation projects that have not commenced as of the date of enactment of this Act (including renovation projects for which plans have been created, but for which physical renovation has not begun) to any Federal building or office space in existence on the date of enactment of this Act, or for the purchase, execution of a leasing agreement, or construction of any Federal building or office space that has not commenced as of the date of enactment of this Act (including construction or purchase or lease agreements for which plans have been established, but for which physical construction has not begun or an agreement has not been executed).

(b) Subsection (a) shall not apply to the renovation of, purchase of, leasing agreement for, or construction of (including renovation, construction, or purchase or leasing agreements for which plans have been established, but for which physical renovation or construction has not begun or an agreement has not been executed) any Federal building or office space needed to address a safety or national security issue.

AMENDMENT NO. 799

(Purpose: To prohibit the use of funds to carry out the Rural Energy for America Program)

At the appropriate place insert the following:

SEC. _____. None of the funds made available under this Act may be used to carry out the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107): Provided further, any funds appropriated by this Act for this purpose are hereby rescinded.

AMENDMENT NO. 800

(Purpose: To reduce funding for the Rural Development Agency)

At the appropriate place, insert the following:

SEC. __. Notwithstanding any other provision of this Act, the total amount of funds made available under this title to the Rural Development Agency are reduced by $1,000,000,000, to be applied proportionally to each budget activity, activity group, and subactivity group and each program, project, and activity of the Rural Development Agency carried out under this title.

AMENDMENT NO. 801

(Purpose: To eliminate funding for the Small Community Air Service Development Program)

On page 226, strike lines 1 through 5, and insert ''and not less than $29,250,000 shall be for Airport Technology Research: Provided further, no funds made available under this Act may be used to carry out the Small Community Air Service Development Program.''

AMENDMENT NO. 833

(Purpose: To end the outdated direct payment program and to begin restoring the farm safety net as a true risk management tool)

At the appropriate place, insert the following:

SEC. __. None of the funds made available by this Act may be used by the Secretary of Agriculture to provide direct payments under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 753

Mr. LEVIN. Mr. President, I am going to speak now against the pending amendment of Senator AYOTTE, which would prohibit the prosecution of terrorists in Federal courts.

We need all available tools against terrorists, including the possibility of prosecution in Federal courts or before military commissions. While there is no doubt we have made use of military commissions in the course of previous wars, we have never enacted legislation closing the Federal courts to the prosecution of our enemies. We have always left it up to the executive branch to determine which tool best suits an individual case.

Indeed, both the Bush administration and the Obama administration have repeatedly used the Federal courts to bring terrorists to justice. For example, the Bush administration successfully used the Federal courts to prosecute Richard Reid, the so-called shoe bomber, in October of 2002. The Bush administration used the Federal courts to successfully prosecute Ahmed Omar Abu, who was convicted and sentenced to 30 years in 2005. The Bush administration used the Federal courts to prosecute and sentence Zacarias Moussaoui, the so-called twentieth hijacker, convicted in 2006, and sentenced to life in prison for his role in the 9/11 attacks.

The Obama administration successfully used the Federal courts when they prosecuted Najibulla Zazi in 2009 for his role in the New York subway bombing plot; when they prosecuted Faisal Shahzad in 2010 in connection with the Times Square bombing; and when they prosecuted Umar Farouk Abdulmutallab, the so-called underwear bomber, in 2011 in connection with the attempted Christmas Day bombing in Detroit.

If the Ayotte amendment had been law, these successful court prosecutions would have been thrown into doubt. In fact, prosecution might not have been possible in any forum, because if a court determined that a military commission lacked jurisdiction and if the Ayotte amendment precluded jurisdiction of a Federal court, there couldn't be prosecution in any forum whatsoever.

That could have actually been the outcome in the case of Ahmed Warsame, an accused member of the terrorist group al-Shabaab. He was indicted in Federal court earlier this

year on charges of providing material support to al-Shabaab and al-Qaida in the Arabian Peninsula. In the Warsame case, our national security and legal teams determined that the Federal courts provided the best forum in which to prosecute Warsame for his alleged crimes.

This decision was reached for two reasons:

One, Warsame is alleged to have violated a number of Federal statutes, including sections of the criminal code prohibiting trafficking in explosives, use of dangerous weapons, acts of international terrorism, providing material support to foreign terrorist organizations, and receiving military type training from foreign terrorist organizations. Only the Federal courts have jurisdiction to try violations of those sections. Those offenses are not listed as crimes under the Military Commissions Act.

There is a second reason why it was decided that Warsame was best prosecuted in a Federal court, which could not happen under the amendment of Senator AYOTTE. Warsame appears to have engaged in acts of terrorism and material support to terrorism, both of which are crimes under the Military Commissions Act, but—and this is the problem—only if they are committed ''in the context of and associated with hostilities'' against the United States.

The administration concluded it would have been difficult to prove beyond a reasonable doubt before a military commission that Warsame met those jurisdictional thresholds. As a result, if the Ayotte amendment were law, it might be impossible for the United States to prosecute Warsame in any forum.

Our Federal prosecutors have a proven track record of prosecuting terrorists in Federal courts. Two years ago, the Justice Department informed us that there were 208 inmates in Federal prisons who had been sentenced for crimes relating to international terrorism, and an additional 139 inmates who had been sentenced for crimes related to domestic terrorism. Those were crimes which were prosecuted in Federal courts.

By contrast, only four enemy combatants have been convicted by military commissions since 9/11, two of them, by the way, as a result of plea agreements, sending them to Australia and to Canada.

Critics of the decision to try Warsame in Federal court apparently would prefer that he be tried before a military commission even though he might be less likely to be convicted there due to the jurisdictional issues.

The most appropriate forum for trial should be determined, as it was in Warsame, on the basis of the nature of the offense, the nature of the evidence, and the likelihood of successful prosecution. The executive branch officials who make these determinations are more likely to reach a sound conclusion after weighing those factors than would be the result of a one-size-fits-all legislative restriction that we would impose under the Ayotte amendment.

Yesterday afternoon we received a letter from the Secretary of Defense and the Attorney General expressing their ''strong opposition'' to the Ayotte amendment. The letter states as follows:

Whether a given case should be tried in an Article III court or before a military commission is a decision that should be based on the facts and circumstances of the case and the overall national security interests of the United States. It is a decision best left in the hands of experienced national security professionals.

The letter continues:

If we are to safeguard the American people, we must be in a position to employ every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives. By depriving us of one of our most potent weapons in the fight against terrorism, the amendment would make it more likely that terrorists would escape justice and innocent lives would be put at risk.

I ask unanimous consent that the text of the letter be printed in the CONGRESSIONAL RECORD immediately following my remarks.

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

(See exhibit 1)

Mr. LEVIN. This issue, as the Presiding Officer may recall, came up in the Armed Services Committee during our markup of the Defense Authorization Act. Our bill expressly allows the transfer of detainees for trial by a court or competent tribunal having lawful jurisdiction. The amendment of Senator AYOTTE to delete that authority was defeated in the Armed Services Committee by a vote of 19 to 7.

The bottom line is that Congress has never before attempted to prevent the prosecution of terrorists in Federal court. We should not do so now. We should continue to use military commissions in cases where they are the best place for prosecution and for trial. We should not foreclose prosecution and trial in Federal courts.

EXHIBIT 1

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR LEADER REID AND LEADER MCCONNELL: We write to express our strong opposition to the Ayotte amendment to H.R. 2112, which would severely curtail the ability of the Executive branch to prosecute alleged terrorists in Federal court.

The amendment represents an extreme and unprecedented encroachment on the authority of the Executive Branch to determine when and where to prosecute terrorist suspects. Whether a given case should be tried in an Article III court or before a military commission is a decision that should be based on the facts and circumstances of the case and the overall national security interests of the United States. It is a decision best left in the hands of experienced national security professionals.

If we are to safeguard the American people, we must be in a position to employ every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives. By depriving us of one of our most potent weapons in the fight against terrorism, the amendment would make it more likely that terrorists will escape justice and innocent lives will be put at risk.

LEON E. PANETTA,
Secretary of Defense.
ERIC H. HOLDER, JR.,
Attorney General.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Madam President, I rise to speak today as in morning business for about 5 minutes.

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

WITHHOLDING TAX RELIEF ACT

Mr. BROWN of Massachusetts. Madam President, I rise to speak in strong support of a bill we will be voting on, I hope, later today, S. 1726, the Withholding Tax Relief Act of 2011, which has over 30 cosponsors. You are one of them, Madam President, and there are many others. It is based on legislation I have introduced on three separate occasions which currently has almost one-third of the entire Senate cosponsoring it. As I said, I brought it up before, and I am glad it will finally be getting a vote.

This is exactly the type of bipartisan jobs bill that the American people are yearning for and that we should be focusing on, and I am glad we are finally able to bring the repeal of this job-killing tax provision to the floor for a serious vote. This is a jobs bill, plain and simple. I don't know how else you can phrase it.

Section 3402(t) of the Tax Code will require, beginning in January of 2013, Federal, State and local governments to withhold 3 percent of nearly all contract payments made to private companies, as well as Medicare payments, construction payments, and certain loan payments. This is an arbitrary tax that is extremely expensive to implement and punishes the many for the bad acts of the few. What is more, this tax absolutely promises to kill jobs at a time when we absolutely cannot afford to kill any jobs.

The Government Withholding Relief Coalition, a coalition of more than 100 members—I have a sheaf here of 4 pages of groups: American Bankers Association, Americans for Tax Reform, National Association of Manufacturers, wholesalers, National League of Cities, chambers of commerce—4 pages of groups and entities, over 100 members, a cross-section of America. They have estimated that a combined 5-year total cost to the States and the Federal Government in implementing this legislation could be as high as $75 billion. The Department of Defense alone has estimated this provision could cost the DOD around $17 billion.

I know Chairman LEVIN, who spoke before me—we are wrestling with trying to reinstate I think $20 to $25 billion from what the appropriations folks cut. That is real money.

Here is the catch: It is estimated to bring in only around $8 billion during that same period. I am not sure about you, Madam President, but you have the cost of approximately $75 billion, the cost to the States and the Federal Government of implementing the legislation, and then the DOD is $17 billion, and yet we are only going to get $8 billion in return? I do not know how else to say it except that only on Capitol Hill does something such as that make sense, where we are spending more than we are actually going to be getting.

Unfortunately, there are many other reasons this provision should be repealed as soon as possible. At a time when the State and local governments are under extreme financial stress, why would we want to force another unfunded, costly mandate on them to recover minimal funds for the Federal Treasury? It makes no sense. As I said before, only in Washington does spending $2 in order to recoup $1 make any sense.

I am encouraged by many of the cosponsors. As I said, it is a bipartisan group. At what point do you see Senator FRANKEN and Senator PAUL on the same bill together and everybody in between as well?

I am concerned, as are many others, that businesses that contract with the government will simply pass on the costs of this provision to the government in the form of higher bids on projects. I am also concerned about the effects on small businesses as well. Senator SNOWE, the ranking member of the Small Business Committee, on which I serve, and my follow cosponsor on my original bill, recognized early on with me that this provision has destructive consequences for small businesses. Everybody here knows it.

At what point do we put politics aside and just agree to pass something that is so simple? This provision makes absolutely no sense. As you know, it will restrict cashflow and discourage small businesses from participating in Federal contracting.

Members of the construction industry are equally worried. As you know, that is an industry which has been devastated. They are equally concerned that it will tax away all their anticipated profit on government projects, thus diminishing competition and further raising costs to the government.

There is a reason it has been delayed over and over since 2005. Everyone knows it can never go into effect because it will place an extraordinary cost burden on the Federal Government and State and local governments as well. We cannot afford to shoulder that burden right now; everyone agrees.

Once again, the 30 cosponsors of the original bill represent a diverse crosssection.

The President proposed its delay in his most recent jobs package.

I said before, why don't we work on that which we can all agree? Why don't we just take up the measures in a bipartisan, bicameral manner and get them out the door? I understand the House is working on this. We are doing it now. It is a small piece, a small step, but let's get it right out the door. There is no reason we should not be able to do it.

Last week, I had an opportunity to speak before the Small Business Committee with Secretary Geithner, who issued the provision's latest delay in May, about the importance of fully repealing this provision.

This repeal is one of those rare opportunities we have around here where everyone can be on the same team. It is very similar to when we passed the Arlington Cemetery bill, with your leadership, Madam President. In the midst of all the problems we had last year, the legislative bodies of both branches came together and passed the Arlington Cemetery bill. I look at this as a similar provision where we can actually do something in a bipartisan, bicameral manner and get it passed.

I urge my colleagues to rise above partisan politics and support this truly bipartisan legislation. As I said before, we are Americans first. We are Americans first. To me, that means it should not matter whether this is a Republican bill or a Democratic bill. It matters that it is a bill that is going to help small businesses and Americans who are fighting on a daily basis just to make ends meet.

We have a great opportunity today to move forward on a piece of jobs legislation and pass this portion of the bill that is, in fact, supported by the President and scheduled, as I said, to be taken up in the House next week.

I offer my complete support for the bill and appreciate the leader for bringing it to the floor for a vote.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

(The remarks of Mr. HOEVEN pertaining to the introduction of S. 1751 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BLUNT. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BLUNT. Madam President, yesterday, around 5:30 or so, we had all kinds of Members who suddenly wanted to come over and talk about their amendments. Now is an opportunity to talk about these three appropriations bills. The floor is open. There are a number of pending amendments. Hopefully, Members will come over and offer amendments or talk about the amendments they have offered. We want to move through this legislation as quickly as we can but, actually, no quicker than we need to. There is plenty of time. If Members want to talk about this bill, if they want to support the bill or oppose the bill or maybe more likely right now come and talk about the significant number of pending amendments, this is a good time to do that.

I suppose the other thing I could and should talk about that I know the Chair would be happy with would be the great Cardinals victory last night. Even the cushions in the back of the Chamber seem to be a little brighter red today than they normally are. So maybe the Texans need to come and talk about their amendments and talk about the Rangers. But I will say that the Cardinals team, from the last week or so of August until right now, has been one of the true miracles of baseball history—going from 10½ games to even qualifying to be the wildcard in the playoffs and almost every game from that moment on having the sense that this is the intensity of the final game of the season.

All Cardinals fans are proud. There is quite a bit of red on today here on the Senate floor.

There is another Cardinals game tonight, and I wouldn't mind watching some of it. My best chance of doing that is if Members will come over here and talk about their pending amendments now and defend those amendments.

It seems to me as though this week the Senate has been working as the Senate should work—bringing appropriations bills to the floor, debating those bills, letting Members propose amendments—and hopefully we will continue with these bills: the Agriculture, Rural Development, and Food and Drug Administration bill Senator KOHL and I brought to the floor; the Transportation, and Housing and Urban Development bill; the Commerce-State-Justice bill—I think it may be Commerce-Justice now. So we have a lot of topics. We don't want to let this appropriations process go to one huge bill that nobody understands, nobody has time to read, and nobody has time to debate. So hopefully, with all of these pending amendments, we will have some discussion. We have had a number of votes already today, but a number of Members have things they would like to see discussed and voted on, and hopefully we will begin to see more of that happen.

With that, it does appear we don't have a quorum yet or other Members to speak, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Madam 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. Madam President, I wish to echo the comments of my colleague from Missouri. I too invite Senators to come down. We are showing that we can govern. We have our appropriations bills here, and we have already disposed of 8 amendments—actually, I think we have disposed of more than 8 by now—but we have 22 amendments pending. If Members have an amendment, come and speak to it. If a Member has reviewed these 22 and opposes them, have your day, have your say, because that is what the Senate is—due diligence, due deliberation.

What we don't want is everybody—exactly as the Senator from Missouri said, who is the ranking member on Agriculture—coming at 5:30 or 6 or 7 o'clock and wanting to speak. I know the leadership on both sides of the aisle would like to move expeditiously and even, if possible, finish this bill tonight. I think we have agreed we are willing to work through the evening to dispose of amendments, but Senators have to speak on their amendments.

So, again, on my side of the aisle, I would really encourage Members, if they have an amendment, to come and speak to it. Regardless of the side of the aisle a Member is on, if a person opposes an amendment, come and speak on it as well.

Some of these are quite controversial. Again, we invite this due deliberation.

Everybody has worked hard. We have done a lot in appropriations. We have ended earmarks—a topic I know is of special interest to many of our colleagues. We have made significant cuts this year as a result of the continuing resolution and other agreements. But at the same time, the subcommittees have worked hard to follow the mission of what we are trying to do in this country: have a more frugal government.

I know in my bill we have paid particular attention on how to curb waste, and I will be speak about that shortly. But, again, I invite my colleagues to come to the floor.

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

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

THE CALENDAR

Ms. MIKULSKI. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 206 through 210 en bloc, which are all post office-naming bills—in other words, naming post offices, if they remain open, after distinguished Americans.

There being no objection, the Senate proceeded to consider the bills en bloc.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any related statements be printed in the RECORD.

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

OFFICER JOHN MAGUIRE POST OFFICE

The bill (S. 1412) to designate the facility of the United States Postal Service located at 462 Washington Street, Woburn, Massachusetts, as the ''Officer John Maguire Post Office,'' ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICER JOHN MAGUIRE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 462 Washington Street, Woburn, Massachusetts, shall be known and designated as the ''Officer John Maguire Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Officer John Maguire Post Office''.

JOHN PANGELINAN GERBER POST OFFICE BUILDING

The bill (H.R. 1843) 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,'' ordered to a third reading, was read the third time, and passed.

FIRST LIEUTENANT OLIVER GOODALL POST OFFICE BUILDING

The bill (H.R. 1975) 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,'' ordered to a third reading, was read the third time, and passed.

MATTHEW A. PUCINO POST OFFICE

The bill (H.R. 2062) 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,'' which was ordered to a third reading, was read the third time, and passed.

CECIL L. HEFTEL POST OFFICE BUILDING

The bill (H.R. 2149) 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,'' ordered to a third reading, was read the third time, and passed.

Ms. MIKULSKI. 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. THUNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

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

Mr. THUNE. Madam President, I ask unanimous consent that I be allowed to speak as in morning business.

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

WITHHOLDING TAX RELIEF ACT

Mr. THUNE. Madam President, I rise in support of S. 1726, the Withholding Tax Relief Act of 2011. I know we are currently debating several appropriations bills which we hope to be concluded sometime later today. But in that process, my expectation is that we are going to get an opportunity to vote on a couple of amendments that deal with the real issue I think that is on the minds of most Americans today, that is, jobs and the economy.

The bill I referenced, S. 1726, is identical to the measure that was introduced earlier this year by Senators SCOTT BROWN and OLYMPIA SNOWE and of which I and 28 of my colleagues on both sides of the aisle are cosponsors. Given that we may get a chance to vote on this legislation, perhaps in the form of an amendment to the bill that we are currently on later today, I want to say a few words as to why I believe this represents the right approach to spurring our economy.

I think there is a right approach and there is a wrong approach to getting people back to work in this country and getting the economy growing and expanding again. American businesses need access to capital. They need to be able to deploy their existing capital as efficiently and effectively as possible.

If we do not act, come January 1, 2013, 3 percent of contracts between private businesses and Federal, State, and local governments will be withheld. This means that dollars that could be reinvested by businesses in new equipment or new employees will instead be used essentially to give the IRS an interest-free loan.

The Joint Committee on Taxation estimates that permanently eliminating

this burdensome withholding requirement will allow taxpayers to keep an additional $11.2 billion over the next 10 years. While 3 percent of a contract may not seem like a large amount, consider that for many businesses 3 percent could be their entire profit margin. In effect, the withholding requirement—if we allow it to take effect—will result in a large transfer of funds from local economies all across this country to the Internal Revenue Service.

Imposing this new wealth transfer makes absolutely no sense while our economy remains very fragile. The good news is that there is broad bipartisan support for repealing the 3-percent withholding requirement. The Obama administration's Office of Management and Budget last month released the President's jobs plan entitled ''Living Within Our Means and Investing in the Future.'' On page 8 of this document it reads: ''The President's plan calls for the Congress to remove burdensome withholding requirements that keep capital out of the hands of job creators.'' I could not agree more. Unfortunately, the details of the President's plan, as introduced by Majority Leader REID only provides a 1-year delay in implementation of the withholding provision.

American businesses need more than a 1-year delay. They need certainty. This is the reason that a long list of businesses and trade job groups support this legislation. In fact, the documents prepared last week by the House Ways and Means Committee lists 170 businesses and groups supporting repeal of the 3-percent withholding requirement. This diverse list includes groups such as the American Farm Bureau, the American Bankers Association, the Associated Builders and Contractors, the American Gas Association, the American Ambulance Association, to name a few.

It should be no surprise that this bill also enjoys broad bipartisan support. The House version of the bill, likely to be voted on next week, has 269 cosponsors, 62 of whom are Democrats. In the Senate bill, there are a number of both Republican and Democratic cosponsors.

The bill is fully offset by rescinding unobligated discretionary funds. This is the same offset we voted on in February when Senator STABENOW proposed it to pay for repeal of the 1099 reporting requirement. That vote passed by 81 to 17, with 34 Democrats voting aye.

To summarize, we have a bill before us we will soon vote on that will allow businesses to keep more of their own funds rather than sending them in advance to the IRS, that has broad bipartisan support, that is fully offset using an offset that is supported by a majority of both Republicans and Democrats in this Chamber. So why would we not want to enact this legislation as soon as possible?

I would note that this approach stands in stark contrast to the ministimulus bill that is being proposed by the majority leader. The Reid bill goes in exactly the opposite direction. It would raise taxes on the private sector to pay for new spending on the public sector. Let's think about that for a minute. We all agree that the private sector creates the vast majority of jobs in this country. And since the beginning of the recession, there has been a decline of 5.4 percent of private sector jobs, or 6.2 million jobs lost. However, during that period, government jobs at all levels declined by less than 2 percent and Federal Government jobs increased by over 2 percent, or by 63,000 jobs.

So the Federal Government is getting larger at the same time the private economy is shedding jobs.

While we all want to find ways to help public sector employees, let me suggest that we need to do it without imposing new burdens on the private sector at a time when we should be focused on finding ways to promote private sector job creation.

The Withholding Tax Relief Act will do just that. This measure will promote job creation by allowing businesses to keep more of their capital, and it will send a message that Washington understands that promoting the private sector is the key to reviving our economy, not another government bailout.

Only 8 days ago, we voted in favor of the three pending free-trade agreements, votes that garnered broad bipartisan support, which we all agreed will stimulate the economy and grow jobs in this country. During my remarks as part of that debate on those agreements, I noted that we were setting a precedent I hoped would be able to continue in the coming weeks. I noted that instead of considering divisive and controversial measures, such as the President's new surtax on small businesses and job creators, we should be considering legislation that helps our economy and can actually become law because it has strong bipartisan support.

That was true of implementing legislation for the three free-trade agreements that the President will sign into law tomorrow, and it is true in the Withholding Tax Relief Act of 2011.

Let's take this opportunity to demonstrate that when we are willing to work together, we can enact legislation that will help spur economic activity and create jobs in the private sector economy. We can do this without new taxes and without new burdensome regulations. We can accomplish this simply by getting the government out of the way of American entrepreneurs. Let's help Americans in a free and open society do what they do best: take risks, create business opportunities, and grow our economy.

We don't need yet another stimulus bill, heavy with government spending; we need a little common sense. Passing the Withholding Tax Relief Act is a good place to start.

When these votes come up later today, I hope my colleagues on both sides will recognize the importance of stimulating and spurring economic activity in the private sector, giving our entrepreneurs in this country incentives to create jobs by keeping the tax and regulatory burdens low and move away from this notion and idea that the way to get the economy growing again is to spend more government money, come up with yet another stimulus plan, which we know doesn't work. We have seen that picture before. We know many of these same types of ideas were tried and they have failed.

Unemployment today is still over 9 percent. When the first stimulus bill was passed, the contention at the time was this would keep unemployment under 8 percent. Well, the opposite has happened. More people are unemployed since the stimulus bill passed. There are over 1.5 million more unemployed Americans than when it passed. We should recognize that those are not the correct for our economy. It is to get our entrepreneurs, our small businesses back out there investing their capital, buying new equipment, and creating jobs for American workers.

The way to do that is to make it less costly, cheaper, and easier for them to create jobs rather than harder. What has been happening in Washington lately is making it harder, not easier, because of the uncertainty created by tax policy and regulatory policy. Putting in place another withholding tax, having that to plan for, knowing that will take effect come 2013, and now layered on top of those other things—you have the new health care mandates, and many small businesses are saying they are not going to hire people until they know with greater certainty what the impact of the health care reform bill will be on them and their employees.

This is a clear winner, something that enjoys broad bipartisan support. The way it is paid for enjoys broad bipartisan support. I hope we will pass it and defeat what is the ill-conceived approach proposed by the majority leader, which is to try to put a tax on job creators, the people who are out there and have the capital to put people back to work, and to invest in more government spending, more government programs, all of which have proven that they don't work. Let's do what works and use a little common sense and get the American people working again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, as we continue to debate the three fiscal year 2012 appropriations bills, I want to take a moment to congratulate the managers of these individual measures, and to urge my colleagues to continue in the current bipartisan spirit as we seek to move additional bills in the coming weeks. Building on the progress we have made this week would make it

less likely that we will be forced to resort to an omnibus or year-long continuing resolution down the road.

The bills we are considering are both bipartisan and fiscally responsible. Senators KOHL and BLUNT worked together to produce an Agriculture bill that is $2.2 billion below the President's request and $141 million below the fiscal year 2011 enacted level. Senator MIKULSKI and Senator HUTCHISON have managed a Commerce-Justice-Science bill that is $5 billion below the President's request and $631 million below the fiscal year 2012 enacted level. Senator MURRAY and Senator COLLINS have crafted a Transportation, Housing bill that is $677 million below the President's request and $117 million below last year's level.

As noted by the leadership of the respective subcommittees, all three of these measures were approved by the full committee with overwhelming bipartisan support. These measures reflect the austere fiscal environment we face. They are consistent with the framework established by the Budget Control Act, which establishes a discretionary spending level that is $7 billion below last year's level.

All of these bills present difficult choices. These bills are focused on a number of basic priorities: job creation, public safety, nutrition, housing, and transportation. Yet, despite the importance of these initiatives to the lives of every American, many worthy programs were either reduced or eliminated to meet our austere limits.

Some have argued that our national debt demands even further cuts in these vital areas. However, every credible nonpartisan analysis has concluded that any real solution to our fiscal problems lies with reforming mandatory programs and raising additional revenues, not cutting investments in roads, bridges, and public safety any further. But to date, the entire focus on deficit reduction has been on discretionary spending. Those who advocate further cuts must look elsewhere, even if it is more politically painful to do so. It is my firm belief that another round of ill-advised cuts to discretionary spending will quite simply put our Nation's security and economic future at risk.

In addition to the managers of these three bills, I thank the leaders on both sides of the aisle for their support in bringing these measures to the floor this week. As the House has not acted on the Commerce-Justice-Science or Transportation appropriations bills, the package we consider today is a creative bipartisan solution that enables all Senators an opportunity to offer amendments.

As always, the closer we get to regular order, the better our final legislative product will be. It is important that the Senate have an opportunity to debate these three measures and to focus on the matters that are germane to the bill.

When we complete action on this bill, there will be seven outstanding committee-reported Senate appropriations bills. It is my hope and my intention to move forward with additional appropriations measures when the Senate returns in November and demonstrate to the American people that Congress is able to complete its work in a responsible manner.

Once again, I commend the chairmen and the ranking members and their staffs for their fine work on this measure.

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

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

Mr. SESSIONS. Madam President, I want to take a minute to say I am pleased that one of my amendments to eliminate the categorical eligibility for food stamps concept has been called up.

I also look forward to calling up an amendment that's been referred to as the Medco amendment, which has real strong bipartisan support. It was an amendment that many people felt they needed to vote against when the patent bill came forward because they believed the bill would then be required to go back to the House. So, it failed on a 51-to-47 vote.

But I am confident that there is an overwhelming number who would prefer to vote for this amendment now, if we can get it accepted. It would not take a long time for us to consider it. I think it's an issue our members are familiar with. So I want to share my thoughts that it is very important to me, and I think perhaps it might have a majority vote on both sides of the aisle.

Basically, my amendment would say we want to prohibit the PTO from using any funds to implement a provision of the patent reform bill that would have the effect of deciding an ongoing civil litigation that is on appeal now to the court of appeals. The merits of the matter are being argued. I believe it is the kind of matter that clearly should be allowed to stand in the courts. But this law firm that apparently failed to follow the statute of limitations—and the courts ruled in their favor—is seeking to have the Congress overrule or shortcut the appellate process in this matter.

I wanted to say I look forward to debating the question of categorical eligibility for food stamps, where if you are approved for a number of other Federal programs, you don't have to make a formal application to qualify for food stamps. CBO has indicated that it could save as much as $10 billion over 10 years if that hole in the program is closed.

And I would note that food stamps are the fastest growing major item in the budget by far. There is nothing close to it. It has doubled in the last 3 years. It has gone from $20 billion to $80 billion in the last 4 years, a 400-percent increase. One in seven people are now receiving food stamps. Originally, it was 1 in 50 when the program started. Nobody wants to deny people food, but the program has not been looked at. We have not looked under the hood. I believe in this one reform that says if you want to get thousands of dollars in food benefits from the government, you ought to at least fill out a form and qualify according to the standards the Food and Nutrition Service sets. That is basically all it would do. Some of the programs, if you qualify for them, are now automatically accepting food stamp recipients. They have a lower qualification than food stamps do. For example, one person won the lottery and that was counted as an asset to the person rather than income to the person. He called and said: Do I still get food stamps, since I won a $2 million lottery? They said: Yes, the money you received is an asset, and we don't count assets under this other mechanism. But they should count assets under the Food Stamp Program.

I thank the Chair, and I thank the Senator from Delaware, who is moving the bill and allowing me to share these thoughts. I do hope we can get agreement and move forward on the Medco amendment, along with the categorical food stamp amendment.

Ms. MIKULSKI. I would say to my colleague from Alabama, I am the Senator from Maryland.

Mr. SESSIONS. Excuse me.

Ms. MIKULSKI. But Delaware is next door, and we share the Chesapeake Bay and a whole lot of chicken farms, so that is OK.

I want to advise the Senator that his amendment 810 is pending, and I believe the leadership is negotiating on which group of amendments will be voted on in the next phase, which we hope we will be able to announce shortly.

The amendment which the Senator has on the Patent Office, is not a pending amendment. Again, that would be subject to leadership on both sides of the aisle determining what would be called up. So I suggest he stay in touch with the Republican leader, Senator MCCONNELL, and his floor staff, as they are talking with Senator REID. But the Senator's amendment 810 is pending and I know he debated it yesterday and I know our colleague from Michigan, Senator STABENOW, chair of the Agriculture Committee, commented on that.

I would just say to the Senator, because I believe him to be a compassionate conservative—a phrase we once used a decade ago—maybe not filing papers is one thing, but we do have 9 percent unemployment. Gosh, in my State, we are seeing people come to food banks who used to donate to the food banks. We are seeing an increase of people who have been laid off who either have no job or have taken now

part-time jobs. So one of the reasons the food stamp population is increasing is because of unemployment. Unemployment is increasing.

I look forward to working with the Senator on a bipartisan jobs bill, but we also want the Senator to be able to speak to his amendment; and, hopefully, because it is pending, it will be included in the voting.

Mr. SESSIONS. I thank the Chair. She is correct. She has allowed the food stamp amendment to be pending, and I am talking with staff on this side and the Senator from Maryland is not objecting at this point to that amendment. So I hope that will happen.

I just wished to emphasize that there are a number of Members who feel very strongly that this is a matter we have an opportunity now to fix; that is, we shouldn't be moving forward to intervene in an ongoing lawsuit. Under our rules, there is a way to get a special relief act, if somehow there is a miscarriage of justice that occurs in our American system—an individual special relief act. But it has certain procedures, and one of the key prerequisites of that is that your litigation must be exhausted. Then, if the courts can't give you relief, we might consider it under certain procedures.

So this litigation is ongoing, and that is why I am hopeful we can fix it.

Ms. MIKULSKI. Are we still talking about food stamps?

Mr. SESSIONS. No, I am talking——

Ms. MIKULSKI. I kind of got lost here.

Mr. SESSIONS. No, the Medco amendment. It was voted on in the House twice, and on the second vote the amendment passed by a narrow margin. Our Members did not want to amend the House bill, even though many opposed that particular amendment. So this would give us an opportunity to vote on it, and it would be germane.

Ms. MIKULSKI. I remember that very well. I remember it was enormously controversial. It was significantly confusing, and there was much to be said on both sides. I believe somebody missed a filing deadline by 24 hours.

Mr. SESSIONS. I think that is basically correct.

Ms. MIKULSKI. You were the Chair of the Judiciary Committee, so you are well versed on the patent issues. Why don't we turn it over to the leadership and see how it turns out.

Mr. SESSIONS. Fair enough. I just wanted, for the record, to indicate I was urging our leadership to make this matter pending.

I thank the Senator.

Ms. MIKULSKI. We will turn it over to that higher power.

I suggest 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 Maine.

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

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

Ms. COLLINS. Madam President, at some point during consideration of the Transportation, Housing and Urban Development, and related agencies appropriations bill, I expect there may be a motion to recommit the bill to the Appropriations Committee. Therefore, I want to take this opportunity, as we are attempting to work out amendments and proceed to some additional votes, to give my colleagues some basic facts about our bill.

First of all, our appropriations bill took one of the largest percentage cuts to spending of any of the appropriations bills for fiscal year 2011. It is important to understand that our bill is nearly $13 billion below fiscal year 2010 enacted levels. This funding level represents a reduction of nearly one-fifth in just 2 years. When disaster funding is not included, our bill total is $55 billion. That is $117 million below fiscal year 2011.

So I want to point out that this bill is a fiscally responsible bill. It is a bill that required a lot of tough choices. It is a bill that does not fund some programs to the level I would have liked to have seen them funded, but it recognizes the reality of a $14.9 trillion Federal debt that is growing every day. Therefore, we have had to make tough choices. We cannot have the luxury of fully funding every program, even those programs that are very beneficial.

In the other cases, we put tough new restrictions on programs where we felt the taxpayers have not been getting their money's worth, and that includes some programs run by public housing authorities and the HOME Program, about which the Washington Post did an expose'. So we have worked carefully and closely with the inspector general of the Department of Housing and Urban Development to make sure there are new anti-fraud provisions and restrictions.

It is also important to understand that the $117 million difference from fiscal year 2011 does not take into account the $3.9 billion in one-time rescissions taken in fiscal year 2011 that were not available in fiscal year 2012. So when you compare the appropriations for programs spending, not including the offsets, our bill's appropriations are actually $1.1 billion below the fiscal year 2011 enacted levels.

I have just given a great deal of different numbers, but my point is the same; that is, this is a fiscally responsible bill, it is a constrained bill. Our subcommittee's allocation was cut quite severely; thus, it was a real challenge, but it is a challenge we have to meet in these very difficult budget times. We don't have the luxury of fully funding even very worthwhile programs.

It has been a great pleasure to work with my colleague, Senator MURRAY, to produce a bipartisan bill, and that is what we have done. But, again, our Transportation-HUD bill took one of the largest percentage cuts in spending of any of the appropriations bills that will be brought before this body.

Finally, I am very pleased we are bringing the appropriations bills to the Senate floor. None of us, in my opinion, want to see the problems we have had in the past couple of years where we have ended up at the end of the calendar year with a huge omnibus bill stacked on our desks, no one completely sure of every provision that is in the bill. That is a terrible way to legislate. It is much more responsible to bring the appropriations bills before the full Senate after they have had their careful consideration by the Appropriations Committee. We have extensive hearings and we have markups at both the subcommittee and the full committee level, but then the full Senate should have a chance to work its will on these bills.

I am pleased we have been considering these bills all week. We have had several amendments offered by Members on both side of the aisle, and we have had constructive debate. As my colleague from Maryland has pointed out, it has been a respectful, civil debate, and that is what the people of this country deserve.

I hope this is going to set a precedent where we will bring every single one of the appropriations bills before this body so that Members can work their will. It is the right way to legislate, and it avoids the spectacle of our having a multiple thousands of pages omnibus bill, which does not serve the people of this country well.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the quorum call be rescinded, and I ask to speak as if in morning business.

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

TEACHERS AND FIRST RESPONDERS BACK TO WORK ACT

Ms. KLOBUCHAR. Mr. President, I rise today to speak in support of the Teachers and First Responders Back to Work Act.

Rarely is our economy discussed without mention of the more than 14 million Americans who are currently out of work and searching for jobs, but this statistic is really only the beginning of the story.

Two years after the recession officially ended or at least was at a place of stability, unemployment remains stubbornly high at 9.1 percent. When you factor those who are working part time because they can't find a full-time job and those who have stopped working altogether, that number

quickly climbs. In my home State, it is 2 points better, at 6.9 percent, but there are still too many people out of work.

It is my firm belief that the role of Congress is to promote the interests of the American people, and the American people have said loud and clear that we need to focus on initiatives that are about jobs, private sector jobs, jobs that pay people so they can support their families, jobs that strengthen our economy.

At a time when enormous budget shortfalls plague our States, many States have been forced to make tough choices, including cutting the jobs of those individuals on our front lines, law enforcement and educators.

In Minnesota, we have seen more than our fair share of crises in recent years, but we have also seen the value of effective emergency response. We all witnessed the critical work of public safety personnel during the minutes and hours following the 2007 bridge collapse in Minneapolis. That was just a few blocks from my house. During that emergency, the Minnesota first responders reacted swiftly and effectively, and they were aided by a strong local public safety network. What we saw that day was a true show of American heroism, a window into the courage, skill, and selflessness first responders practice day in and day out. They did not run away from this major bridge collapse—an eight-lane highway in the middle of the Mississippi River—they ran toward it. They dove in and out of that water, rescuing people from dozens of cars in that water. Thanks to their selfless efforts, while we lost too many lives, literally hundreds were saved because of that work. These men and women dedicate their lives to protecting our families, supporting our children, and serving the public. They perform critical jobs in our communities, jobs we cannot afford to lose.

I saw it again in Wadena, MN, a smaller town than Minneapolis, up in northern Minnesota. They had a tornado there that literally flattened a mile of their town. I was standing there in complete wreckage, a big high school where the bleachers were a block away, where there was nothing left of a public swimming pool. But not one person died in that town even though this was in a completely residential neighborhood. Do you know why? They got their siren out early. The teenage lifeguard at that pool, which had a dozen kids, got their parents there within 10 or 15 minutes, and she got the remaining kids in the basement across the street.

When I visited that town a few days later, I hugged a man whose entire agricultural business had been flattened. He saved his employees in a safe. He had always joked that since he didn't have a basement, they could go in the safe. That is what I remember.

What I remember most is the mayor and the sheriff and how people—despite being blocked from their houses, having their houses completely flattened, losing everything they owned in the world, all they could do was hug those public officials and cry because they knew the planning they had put in place and the acts of the sheriff and the police and the emergency system had saved their lives. That is first responders at their best. That is public servants at their best.

That is why we need to pass the Teachers and First Responders Back to Work Act, which would support the hiring, rehiring, and retention of career law enforcement officers and first responders. I know State and local budget cuts have forced thousands of police officers and firefighters off the beat. This bill provides $5 billion to keep police and firefighters on the job by creating or saving thousands of first responder jobs across the Nation through competitive grants to State and local governments.

The Teachers and First Responders Back to Work Act also saves or creates jobs through critical investments in education. A good education should be the basic right of every child. I know you know that in Maryland, Mr. President, as I know it in Minnesota. It is one of the very best investments we can make in our future as a nation.

My mom taught second grade until she was 70 years old. She had 30 second graders in her public school class. We lost her last summer, but what I will never forget is all of those students, who are now grown up, who came to the visitation, came to the funeral, and told me all those stories.

I always knew my mom had dressed up as a monarch butterfly when they had the unit on metamorphosis. She would wear a butterfly outfit, and she would hold a sign that said ''To Mexico or bust.'' What I did not know was that she would go to that local grocery store, Cub Foods, and shop. When I first heard that story, I thought that was pretty funny and something that she would do. But what I finally realized was why she went to that store. Because I met the parents of this young man who had taken her class in the second grade. He had some pretty difficult disabilities. He went on and graduated from high school, and his job was to bag groceries at that store. She would go back every year to see that kid in her butterfly outfit so that he would remember that class. That is a public servant. That is what teaching is all about. It is something bigger than yourself.

Given the enormous budget shortfalls across the Nation, States and local school districts have been forced to cut back on education programs and services, often laying off needed teachers and other critical staff or raising additional revenue to cover the shortfall. As a result, two-thirds of States were forced to slash funding for K–12 education programs and services and are now providing less per-student funding than they did in 2008, and 17 States have slashed funding by at least 10 percent since 2008. In my State alone, since 2008 we have lost 1,200 education jobs.

Cuts such as these hurt our children, but they hurt our communities too. We have to compete on an international stage. We are going up against countries that are actually upping their education funding, countries that are making sure their kids are learning incredibly difficult concepts in science and math and technology. We are not going to be able to accomplish that if they don't have schools they can learn in that work, if they don't have teachers with the expertise who can teach them these difficult ideas. That is why we need to pass the Teachers and First Responders Back to Work Act, which would offset projected layoffs, providing for nearly 400,000 education jobs and offering a much needed jolt to State economies.

It would also provide funding to support State and local efforts to retain, hire, and rehire early childhood, elementary, and secondary school teachers. It is a time when we recognize that educating our children is a shared responsibility.

Americans overwhelmingly support funding for teacher and first responder jobs. One poll showed that 75 percent of Americans support providing funds to hire police officers, teachers, and fire fighters.

But passing this bill is not right to do just because it is popular. It is right to do because it will have a positive impact on our children. As we know, we pay for this bill, and we pay for this bill in a way that shares the responsibility with those who can afford it the most.

This bill will move our economy forward without adding to the Federal deficit. With our economy struggling and 14 million Americans still out of work, the people in my State want Congress to put the politics aside and come together to move our economy forward and ensure that our communities stay strong and that our children remain safe. That is what they want.

It is time to step up and show some leadership. I believe we need to bring this debt down. I am one who believes we need to bring it down by $4 trillion in 10 years, and I believe there is a way to do it with a balanced approach that doesn't do it on the backs of these kids in school and that doesn't do it on the backs of our people who need protective services, who need our police, who need our firefighters. What would we have done when that 35W bridge collapsed if there had not been firefighters and police officers there ready to dive in and save people? What would we have done if there had not been emergency workers ready to take them in after they were injured? What would we have done in Medina if we did not have a proper public siren system in place? Hundreds of people would have been killed. What would we have done for that kid I talked about with disabilities if my mom had not been his teacher and cared about him and went back to visit him again and again?

These are people who devote their lives to public service, and we have to show America that Washington is not broken; that, instead, we are willing to put the politics aside, we are willing to do something smart on the debt and bring it down to the place where we need to bring it, but we are going to do it with a balanced approach.

I urge my colleagues to vote for this important legislation. It is the decent and right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 859

Mr. PORTMAN. Mr. President, I rise in support of amendment No. 859, which is a germane amendment to the underlying bill. It is one I introduced that would restore fairness, encourage competition, and prevent many States around the country from seeing cost increases in the price of guardrails. This amendment specifically addresses the Transportation bill we are talking about and addresses one of the new provisions in the bill this year that is a mandate that I think is not appropriate.

A lot of States have infrastructure challenges right now, and the last thing we should be doing here in the Congress is making it more difficult for States to pay for their infrastructure with the limited transportation dollars they have. With the fiscal crisis we have, we have to make sure now more than ever that States have the flexibility to meet the requirements from the Federal Government.

At a time when unemployment is over 9 percent and we have over 14 million Americans out of work, we should be doing everything we can to protect jobs. This amendment would hurt jobs, and this amendment I am offering would give States more flexibility to help keep some jobs.

There are countless miles of guardrails in our country, and many of those are manufactured in my home State of Ohio. Those manufacturers galvanize the guardrails to prevent corrosion, and they have two options on the process they use to galvanize the metal as well as two options with regard to the thickness of the zinc they use in the galvanization process.

In terms of the galvanization process, the first method is called continuous galvanization, where a company treats the flat steel with zinc and then fabricates the guardrail afterward. The second method is called batch galvanization, where the company dips the final product in a zinc bath after they have completed the fabrication.

In addition, there are two types of zinc thickness options for the guardrail. Type 1 requires a thinner coat of zinc, and type 2 requires a thicker coat of zinc, which increases the life of the guardrail. A lot of States around the country, including Ohio, require type 2, which is the thicker kind of zinc, for all of their guardrails, and that is due to the harsher conditions that cause metal to erode more quickly. However, Ohio is one of those States that, although they require type 2, allow for continuous galvanization or the batch galvanization process—either one.

It was a great surprise to me to read the legislation before us. The underlying bill says the States are prohibited from using any kind of guardrail unless it is type 2, plus it is produced through this batch galvanization process. So it is a mandate. Again, it has never been in this legislation before. It says it has to be type 2, meaning the thicker type zinc, and has to be applied using a particular process, so it is micromanaging the process.

The life of a guardrail, as you can imagine, is entirely dependent on the thickness of the zinc but also on the environment into which it is placed.

There are 15 States that still approve type 1. These States have less extreme environments where corrosion occurs more slowly, and the extra thickness of zinc is not needed. Without this amendment, they would be forced to buy a more expensive product that they don't want and don't need. By the way, those States are Mississippi, Virginia, Delaware, Oklahoma, Missouri, Kansas, Nebraska, Iowa, New Jersey, Colorado, Utah, Texas, California, Montana, and Wyoming.

The U.S. Department of Transportation has weighed in on this issue. They have said:

> Requiring all galvanized steel to meet type 2 could add unnecessary expense for many States where the added thickness of galvanization is not needed. We know that type 1 galvanizing will protect guardrail components in many locations for the typical 20-year life design. The extra cost of type 2 galvanizing may be unwarranted.

That is the U.S. Department of Transportation.

The Ohio Department of Transportation has said that while they only use type 2 materials, ''ODOT does not have a preference as to how galvanizing occurs.'' They do not have a preference for a particular species of guardrail, as both have been found to have very similar properties to one another. They would prefer that their flexibility to use both kinds remains intact. That is the Ohio Department of Transportation. They don't want to be told they can't use the process many of them use now, which is continuous galvanization.

The primary manufacturer of continuous galvanization guardrails is Gregory Industries, located in Canton, OH. It was founded in 1896. It is a privately owned company currently run by the fourth and fifth generations of the Gregory family. These guardrails make up about 75 percent of the Gregorys' business, and about 99 percent of the guardrails they make are made through this continuous galvanization process that would be prohibited under the legislation. In addition, about 30 percent of their sales come from type 1 guardrails, which would be prohibited under the legislation. So the language as it stands would be devastating for this one company and put 125 jobs in their Canton, OH, facility at risk.

By the way, the guardrails they produce are approved by the American Association of State Highway and Transportation Officials in a document called the M–180 that dictates what is acceptable and what is not.

The type of products the current language would prohibit, by the way, have been in use in all 50 States in the country, and the continuous process for galvanizing guardrails that would be prohibited has been around for 50 years.

The bottom line is that we should not give this Ohio company or any company an advantage. We should allow competition to determine this and let the States determine it. Why come up with a new mandate that micromanages this process at a time when we are all trying to save dollars and use them more efficiently? So this amendment seeks to strike the language that would limit the flexibility of States and place additional costs in cases where it does make sense to use type 1 or it does make sense to use this continuous galvanization.

I urge the Senate take a commonsense approach, and I urge all of my colleagues to support this legislation. I know my colleague may have some thoughts on this, but, in summary, I would ask through this amendment to strike the language that would limit the flexibilities of States and encourage support of amendment No. 859.

Mr. KOHL. I object to amendment No. 859 presented by my colleague from Ohio, the guardrail amendment. However, I wish to inform him that we are trying to work out our differences so we can move forward. For the moment I object to the amendment.

The PRESIDING OFFICER. The Chair is advised that it is not currently pending.

Mr. PORTMAN. I ask unanimous consent that the pending amendment be set aside, and I call up my amendment No. 859.

The PRESIDING OFFICER. Is there objection?

Mr. KOHL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PORTMAN. I thank my colleague for his comments and look forward to working with him. Again, it is a simple amendment. It is a jobs amendment. It is perfectly germane to the bill. It is exactly the type of amendment that I think should not be blocked through this process.

I thank my colleague from Wisconsin.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll of the Senate.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Republican leader is recognized.

Mr. MCCONNELL. I ask unanimous consent that the junior Senator from New Hampshire and I be allowed to engage in a colloquy.

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

AMENDMENT NO. 753

Mr. MCCONNELL. Mr. President, I thank my good friend from New Hampshire for the issue she has raised with regard to the proper way to treat enemy combatants. Her amendment, which we have been discussing off and on here on the floor today, has prompted predications of doom and gloom from our friends on the other side of the aisle, and a lot of very excited rhetoric.

To be clear, I would ask my friend from New Hampshire: Is it not true that the amendment she has offered does not apply to everyone—absolutely everyone—who might be generally labeled a terrorist?

Ms. AYOTTE. I thank our distinguished Republican leader, the senior Senator from Kentucky, for that question. That is correct. My amendment only applies to members of al-Qaida and associated forces who are engaged in an armed conflict against our troops and coalition forces and who are planning or are carrying out an attack against our country or our coalition partners. It does not apply to everyone who might be termed a terrorist, and it does not apply to U.S. citizens who are members of al-Qaida.

Mr. MCCONNELL. I ask my friend further, has the Congress authorized use of military force against al-Qaida and associated forces?

Ms. AYOTTE. I would answer, yes, it has. My amendment only pertains to enemy combatants against whom Congress has declared we are in an armed conflict. And because we are in an armed conflict with al-Qaida and associated forces, the Congress has authorized the use of military force to combat them, and that is why it is called the authorization for the use of military force.

Mr. MCCONNELL. I cannot recall a time when Congress has declared we are in an armed conflict, has authorized the use of military force against the enemy in that conflict, and yet the executive branch has a bias against using the military for interrogation and, if need be, a trial of these enemy forces. Can the Senator from New Hampshire recall such an occasion?

Ms. AYOTTE. No, I cannot.

Mr. MCCONNELL. Two days ago the President's top lawyer at the Pentagon defended the administration's decision for use of lethal force against an American citizen who was a member of al-Qaida. In doing so, he noted that using lethal force in such a case is perfectly appropriate because that person was an enemy combatant. Specifically, he said: Those who are part of the congressionally declared enemy do not have immunity if they are U.S. citizens.

Does it not strike my friend from New Hampshire as inconsistent for the administration to authorize lethal force against a member of al-Qaida even if he is a U.S. citizen because he is part of an enemy force as declared by the Congress but, on the other hand, not to trust the military to try by military commission members of the same enemy force who are foreign nationals?

Ms. AYOTTE. It certainly strikes me as very inconsistent. It is especially odd given that the military commissions were enacted by Congress at the suggestion of our Supreme Court. They were passed on a bipartisan basis and were refined by the Obama administration to its liking. Yet the administration refuses to fully use them as they were intended.

Mr. MCCONNELL. The amendment of the Senator from New Hampshire to this appropriations bill makes clear that in the war on terror we remain at war with al-Qaida and associated groups, that these forces remain intent on killing Americans, and that in prosecuting this war, a higher priority should be placed on capturing enemy combatants, interrogating them for additional intelligence value and thereby targeting other terrorists. That is the purpose, as I understand it, of the amendment of the Senator from New Hampshire. In military custody, our national security professionals would have a choice of prosecuting enemy combatants in a military commission, detaining them under the law of war, and periodically questioning them for intelligence as new information is developed without them being all lawyered up.

Ms. AYOTTE. Yes, and yesterday some of our colleagues came to the floor to argue that my amendment would limit the choices available to our Commander-in-Chief in prosecuting terrorists.

I would ask the Republican leader the following: In January of 2009, did President Obama, when he first came into office, issue Executive orders ending the Central Intelligence Agency's detention program, ending the CIA's option for using enhanced interrogation techniques, ordering the closure of the secure detention facility in Guantanamo Bay, Cuba, prior to any study being done concerning how to dispose of the population of enemy combatants there—we now know that 27 percent of them are back in theater—and suspending military commissions?

Mr. MCCONNELL. Well, of course, the Senator from New Hampshire is entirely correct. President Obama has unilaterally restricted the tools available to him for combating terrorism, including by ordering the closing of Guantanamo Bay prior to having any plan for dealing with the population of the Yemeni detainees who are almost certain to return to the fight if they are released from Guantanamo Bay.

It seems that once the President shut down the ability of the CIA to detain enemy combatants and refused to transfer further detainees from Guantanamo Bay, that many of us were waiting for the obvious test case to come along in which a terrorist was captured outside Iraq or Afghanistan and needed to be interrogated and detained.

I know the Senator from New Hampshire is a member of the Armed Services Committee. Does she recall the case of Mr. Warsame, the Somali terrorist captured at sea?

Ms. AYOTTE. I do, and the Republican leader is correct that this test case shows that in capturing rather than killing terrorists, we can gain valuable intelligence. Instead of sending Warsame to Guantanamo, though, he was held and interrogated at sea for approximately 2 months. Then law enforcement officials were brought in to read Warsame his rights.

I wish to take a minute to address arguments that were made on the floor earlier by Senator LEVIN from Michigan, the chairman of the Armed Services Committee. He claimed that if my amendment were to pass, Mr. Warsame would escape justice because we wouldn't be able to prove that he was, in fact, planning an attack against the United States. I wish to point out that if that were the case, my amendment would not apply because my amendment applies to members of al-Qaida or affiliated groups who are also planning or have carried out an attack against the United States, so he would be able to be held fully accountable in the civilian court system.

I wanted to correct that because I think that leaves a misimpression that Mr. Warsame would not be or could not be held accountable under our law.

The second problem with the analysis of the Senator from Michigan is that it ignores what is going on here. The reason the United States had to take the unusual steps of holding Warsame at sea on a Navy ship and then flying him to the United States over the Fourth of July weekend is because of the administration's refusal to use the top-rate detention facility at Guantanamo Bay, Cuba, that we have there for long-term military detention. Because it refuses to use this valuable asset for new captures, the administration has gone to great lengths to treat these enemy combatants who are captured on an ad hoc basis instead of placing them in a long-term detention facility, which places an artificial time period on when we can interrogate these individuals and how long they will be available to gather information to protect Americans.

As the Republican leader has noted, the President's top lawyer at the Pentagon observed that members of al-Qaida are enemy combatants and that Congress has passed an authorization for the use of military force to treat them as such. We need to do that on a consistent basis and use the military

assets we have. We should not have an ad hoc, haphazard approach to treating enemy combatants. We should not Mirandize enemy combatants who are our military captures and then hold them on makeshift prison barges as if we were in the 19th century because the administration refuses to use Guantanamo Bay and then import them into the United States so they can be detained in our civilian court system, tried in our civilian courts, with the possibility that they could be released into the United States if they are acquitted or given a modest sentence, as nearly happened with Ahmed Ghailani.

Now is the time to keep the pressure on al-Qaida, whether in the tribal areas of Pakistan or in Yemen. Our law enforcement officials have done a tremendous job in contributing to the counterterrorism fight. But we cannot, for the first time in the history of this country, take the view of the Attorney General, which is that our civilian court system is the most effective weapon in our conflict with al-Qaida, because that is simply not the case.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I wish to thank the Senator from New Hampshire on behalf of the leader. She has brought to the floor an outstanding amendment that needs to be addressed because this is an issue that is certainly on a lot of people's minds, as to why we would be using our judicial system for enemy combatants. She has articulated it so well, as the former attorney general of New Hampshire, and we appreciate so much that she has brought this amendment. It is going to get a lot of support from the American people as well as Members of the Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we have worked very hard to move through this first tranche of appropriations bills we have. Progress is being made but not nearly enough progress. I am going to move in just a minute to the Bryson nomination. But I want everyone within the sound of my voice to understand this cannot go on forever. People sometimes are unreasonable. We cannot have votes on all these amendments that have been called up. I hope everyone understands there has to be some give-and-take here, and we need to move through this. They need to be cooperative with the staffs, because when this matter regarding the Secretary of Commerce nomination is finished, we are going to have to make a decision as to whether we can continue working on this appropriations bill.

This was a noble experiment. I am part of it. I want it to work very much, but it can't work without the cooperation of all Senators.

I say to everyone listening, this is the way it has always been. I was a member of the Appropriations Committee the first day I came to the Senate, and I managed many appropriations bills on the Senate floor. For every one of them, we had more amendments than we had time to vote on them. That is where we are today. But the only way we can finish them is to work through these amendments. We hope we can do that; otherwise, we will have a cloture vote either tonight or tomorrow to determine whether we want to finish these appropriations bills—all extremely important—Commerce-State-Justice, Agriculture, and, of course, the Transportation bill. It would be good for us to be able to get this done.

I heard Senator COLLINS, the Senator from Maine, speak about this a little earlier today, and she did an extremely good job of explaining why it is important we do this.

EXECUTIVE SESSION

NOMINATION OF JOHN EDGAR BRYSON TO BE SECRETARY OF COMMERCE

Mr. REID. Under the previous order, I move to executive session to call up Calendar No. 410, the nomination of John Bryson, to be Commerce Secretary.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of John Edgar Bryson, of California, to be Secretary of Commerce.

Mr. REID. Mr. President, there are 4 hours under the order previously entered. We are hoping all this time will not have to be used. I ask unanimous consent that 20 minutes remain, equally divided between the two leaders or their designees, regardless of any time consumed in quorum calls throughout the presentations made on this matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I wish to congratulate my friend, the chairman of the Committee on Commerce, Science, and Transportation, and the Senator from Texas, KAY BAILEY HUTCHISON. They both worked very hard in a fair way to move forward on this. It has been good for the Senate. When we confirm this nomination, it will be good for the country.

I don't think we will use all this time. I hope we can vote on this matter anywhere between 6:30 and 7:30 tonight, hopefully closer to 6:30.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise in strong support of John Bryson of California, whom President Obama has nominated to be his Secretary of Commerce.

Mr. Bryson's nomination comes at a very critical time for our country and for our economy. No one disputes the Secretary of Commerce is an important part of the President's economic team. That person is now missing in the Commerce Department. Commerce has to do with jobs. There is nobody there. That dictates that we have a leader with strong, real-world experience. This position has been vacant since Ambassador Locke left for China in late July. It is stunning to think, with what the country is going through, we don't have a Cabinet Secretary who can attend to manufacturing and other kinds of jobs and job-related efforts that he will do. But because of the insistence of the minority—and I had no objection to this—we were unable to move this nomination until the trade agreements were finished. The trade agreements had to come forward and passed, that was done, and then it was OK to proceed to the Bryson nomination.

The Commerce, Science, and Transportation Committee confirmed Mr. Bryson by a voice vote. I recall no objections at all. Mr. Bryson will be an excellent Secretary of Commerce, and America is entitled to have a Secretary of Commerce on the job. Mr. Bryson possesses a rare combination of actual real-life business experience and a very broad intellect. As an executive, he has proven himself to be a talented executive and has shown his dedication to public service. He cares about public service. He has had to wait a long time to get this job, and he has been in and out of public service.

My colleagues should appreciate that Mr. Bryson's confirmation comes at an important crossroads for the country and for the Commerce Department itself. The challenges obviously are very important: high unemployment, a slow economic recovery. The Secretary of Commerce plays a major role in promoting jobs and our economy. But to do that, he has to be in place and on the job. If confirmed, as I believe he deserves to be, he will have to face these deep challenges and looks forward to so doing.

But I believe Mr. Bryson's experience provides him with the capacity to help restore jobs in manufacturing in America as the Secretary of Commerce. I have long fought for a stronger manufacturing sector in this country. Anybody from West Virginia would be crazy to do otherwise. Manufacturing has been hit hard all over the country during this past decade, losing one-third of its workforce, and the government's response has been piecemeal.

This needs to change. If the next decade is as bad for manufacturing jobs as the previous one, we are going to have very little left to work with of the manufacturing sector if we are trying to save it. This has grave national security implications and could cripple our ability to outinnovate and outcompete other countries. That is already happening.

In the Commerce Committee, we held three hearings on this issue this year; that is manufacturing, and we also included a field hearing, which happened

to be in West Virginia—total coincidence—on exporting products made in America.

Mr. Bryson knows that if confirmed, I intend to work with him to make manufacturing a high priority in our job-creation agenda.

A word on NOAA and NIST. Mr. Bryson will also bring his leadership to help NOAA innovate its essential services to help all Americans, from daily weather forecasts to fisheries management, and from coastal restoration to supporting marine commerce, and on and on. NOAA's products and services support economic vitality and affect more than one-third of America's gross domestic product.

Americans in many States across the Nation have suffered record-breaking weather disasters in 2011, and much of the gulf continues to recover from the worst oil spill in our history.

Mr. Bryson's business-minded leadership is valuable now more than ever to help NOAA continue to improve its important services and keep pace with scientific innovation.

The Department of Commerce also houses the National Institute of Standards and Technology, NIST—an extraordinary place. I think we have had a couple of Nobel laureates out of NIST in the last year. NIST is critical to U.S. innovation and economic competitiveness through its measurement science, standards, and technological development. NIST plays a critical role bringing together industry, government, and universities to advance everything from manufacturing to cybersecurity to forensic science standards. Mr. Bryson's own experience in both the public sector and private sector will serve him well as he and his department tackle such national challenges.

In closing, Mr. Bryson is eminently qualified to be Secretary of Commerce and to lead this important Cabinet Department during a time in which the American people are looking for innovative solutions to improve our economy and create jobs. And we need all the good people we can get.

I urge my colleagues to quickly support Mr. Bryson's confirmation so he can begin his important work toward that end.

Mr. President, I yield to my distinguished friend from the State of Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the Chair and I thank the chairman of the Commerce Committee, the Senator from West Virginia.

I strongly support the nomination of John Bryson to serve as Secretary of Commerce. I think he is an exceptional choice by the President, and I am absolutely confident, having served with many Commerce Secretaries through the years, that he is going to be one of our best. I think he is the right person at this moment in time to be taking the helm at the Department of Commerce. It is a critical, defining moment in many ways for our economy. The challenges are well known by everybody here in the Senate, and the decisions we make or fail to make on new energy sources, on infrastructure, technology, research—all of the items the Senator from West Virginia mentioned—all of those are going to play a critical part in defining the United States leadership role in the global economy.

The experience of John Bryson in the private sector has won him broad support in the business community.

Mr. President, I ask unanimous consent that a letter from former Secretaries of Commerce serving both Republican and Democratic administrations alike be printed in the RECORD.

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

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate,
Washington, DC.

OCTOBER 20, 2011.

DEAR MAJORITY LEADER REID, REPUBLICAN LEADER MCCONNELL AND MEMBERS OF THE UNITED STATES SENATE: We are writing as former Commerce Secretaries—who have served both Republican and Democratic Administrations—to urge you to confirm John Bryson as Secretary of Commerce.

At a time when the nation is focused on strengthening the economic recovery and job creation, American businesses and workers need a Commerce Secretary working for them.

For almost 18 years, as CEO of Edison International, John was a widely respected business leader. He successfully led Edison through crisis; he made tough decisions, and he created jobs. Importantly, John understands the challenges facing U.S. companies and what they need to prosper so that they can create jobs.

John has served on the Board of Directors for a number of U.S. companies—including Boeing and Disney—and has provided counsel to many entrepreneurs in their early stage businesses. This is the type of experience we need in President Obama's cabinet.

We know what it takes to do this job and its importance to the nation's economy. In these challenging economic times, John Bryson has the experience that will help move our country forward and provide an important perspective in the President's Cabinet.

We strongly support him and ask you to support his confirmation.

Sincerely,

CARLOS GUTIERREZ,
Former Commerce Secretary, 2005–2009.
NORMAN MINETA,
Former Commerce Secretary, 2000–2001.
BARBARA HACKMAN FRANKLIN,
Former Commerce Secretary, 1992–1993.
DONALD EVANS,
Former Commerce Secretary, 2001–2005.
MICKEY KANTOR,
Former Commerce Secretary, 1996–1997.
PETER PETERSON,
Former Commerce Secretary, 1972–1973.

Mr. KERRY. I would say to the Presiding Officer, this is a letter written to Senator REID and Senator MCCONNELL from Carlos Gutierrez, Norman Mineta, Barbara Franklin, Don Evans, Mickey Kantor, Pete Peterson, all former Commerce Secretaries, all of whom are strongly supportive of this nomination.

In addition, I ask unanimous consent that a letter to Senator REID from the president and CEO of the U.S. Hispanic Chamber of Commerce be printed in the RECORD.

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

UNITED STATES HISPANIC CHAMBER OF COMMERCE,
October 18, 2011.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR REID: On behalf of the United States Hispanic Chamber of Commerce (USHCC), which advocates on behalf of nearly 3 million Hispanic-owned businesses through our network of 200 local chambers throughout the nation, I am writing to register our wholehearted support for President Obama's nomination of John Bryson to serve as our next Secretary of the United States Department of Commerce.

As our next Commerce Secretary, Mr. Bryson will bring a wealth of experience from the private sector. As a former CEO, he understands the challenges that American companies, both large and small, are facing in this economy and he will be a strong business advocate in the Cabinet. As the President and CEO of Edison International for 18 years until he retired in 2008, Mr. Bryson led the company through the electricity crisis of 2000–2001, a period which marked California's most turbulent era in the power sector. His stewardship proved that he is a sound business leader, who can make tough decisions. Edison International endured the crisis and remains a strong company today, largely due to his efforts. During these difficult economic times, we need people who have demonstrated their ability to lead during crisis, those who can find viable solutions to our nation's financial challenges.

As a former CEO and board member for non-profit organizations, as well as Fortune 100 companies such as Disney and Boeing, Mr. Bryson is aware of the challenges facing our businesses and entrepreneurs. With small business as the backbone of our economy, it is important that the new Secretary intimately understand the challenges and opportunities faced by our community. We are confident that Mr. Bryson's background will enable him to approach this post with our priorities in mind. For his proven record as a business and civic leader, the USHCC urges a swift confirmation of Mr. John Bryson as the next Secretary of Commerce.

Sincerely,

JAVIER PALOMAREZ,
President & CEO.

Mr. KERRY. Mr. President, let me say, very quickly, that John Bryson brings to this role the special qualities of somebody who has served as the chairman and CEO of one of the Nation's largest utility companies for almost 20 years, being the chairman and CEO of Edison International. He has been a board member for nonprofit organizations as well as for major corporations in our country: Boeing, Disney, some of the great success stories of our country.

He has extensive experience working on international issues through his work at Edison International and as chair of the Pacific Council on International Policy. I am convinced that if he is confirmed as Secretary of Commerce today, he is going to focus on increasing American exports, and he will be a superb ambassador, helping American companies that are looking to expand across the globe. This is a person who has already proven his ability to be able to deal with people in other countries, with other companies, and I am confident about his ability to perform this task.

His previous experience has exposed him to the importance of innovation and technology at a vital time for the information economy. His Department is now leading the administration in its efforts on issues ranging from privacy to spectrum reform. I am confident he is the right person to help make that process work.

I also know his work on competitiveness means he will be at the forefront of helping to lead our country to, in fact, invest in the skills of our workers, the infrastructure of the Nation, and retain and bring the brightest people in the world to this task.

Finally, I want to close saying, in my conversations with whom I hope to be Secretary Bryson, we raised an issue that is of critical importance to us in Massachusetts. Because of Federal regulations limiting fishing in our waters, a lot of our fishermen have been put out of business or pushed to the brink, and there is a great frustration that exists between the fishing community in our region and the Federal Government.

When I met with John Bryson, he exhibited an understanding of the importance of that issue and a willingness to come to Massachusetts and help us resolve this current situation. We are, frankly, here waiting for his confirmation, months after those conversations took place, and his talents could have been put to use in so much of the challenge we face in this Nation.

I hope my colleagues will join in an overwhelming vote of support for this outstanding, capable nominee, who I think is the right person for this time.

The PRESIDING OFFICER. The senior Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield time to the senior Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank Senator ROCKEFELLER very much.

Mr. President, I believe John Bryson is well suited for this important role, particularly at a time when our economy is fragile and job creation is not occurring fast enough.

He has a lot of experience. Senator KERRY just pointed this out. He has run a multibillion-dollar company, he has been a strong advocate for business, he is ready to advance a jobs agenda—and all of that makes him a perfect fit for Commerce Secretary.

I first got to know John when he served for 18 years as CEO of Edison International, one of the 200 largest corporations in the United States, with more than 20,000 employees. Edison International is the parent company of Southern California Edison, which provides power to 14 million Californians and nearly 300,000 businesses.

As my colleagues may recall, in 2000 and 2001, California was gripped by an energy crisis that resulted in rolling blackouts that left millions of Californians in the dark. The period marked the most turbulent era ever for the California power sector. Price caps, manipulation, rolling blackouts, deregulation, and Enron became the focus of our attention.

During that difficult time, John's company was under siege. I watched closely as he successfully fended off financial disaster, even as other California utilities were swept into bankruptcy. I met and spoke with John often during that energy crisis and remember well his intelligence and pragmatism, as utilities, State officials, and Washington worked our way through the crisis.

Some say that a crisis serves as the best test of a person's character. If that is so, John Bryson is a man of exceptional character. In my observation, he worked hard to hear from the people of California, his shareholders, and the many businesses that relied on a stable power grid. After emerging from the crisis, from 2003 to 2007, John turned Edison around completely. The firm was No. 1 among investor-owned utility companies for returning value to its shareholders. I believe he will carry this same thoughtful, sensible leadership style with him to the Commerce Department.

In addition to his time at Edison, he has served as director, chairman, or adviser for a wide array of companies, schools, and nonprofit organizations, including many institutions with deep roots in my home State of California, such as the Walt Disney Company, BrightSource Energy, Boeing, and the asset manager KKR; the California Business Roundtable, the Public Policy Institute of California, and the University of Southern California's Keck School of Medicine; the Council on Foreign Relations, Stanford University, the California Institute of Technology, and the California Endowment.

I am also proud to note that John and I share the same alma mater—Stanford—where John earned his undergraduate degree. Later he attended Yale Law School before returning to California.

John Bryson's experience paints a picture of a leader who focuses on the practical and the achievable. I believe, if confirmed, he will support measures that meet those criteria.

At this time in our economic history, our No. 1 priority as a government must be to grow the economy and get people back to work. I know my Senate colleagues agree. In my view, John Bryson's combination of pragmatism, experience in the boardroom, and understanding of the public sector will make him an outstanding Commerce Secretary. I expect he will be a powerful voice inside the administration and a partner with the business community to grow our economy and open international markets for American manufacturers.

I make these remarks on behalf of my colleague Senator BOXER as well. We have a California candidate for Secretary of Commerce. We are the largest State in the Union. We have 12.1 percent. We need job generation. So I trust that John Bryson is going to provide this, and provide it as expeditiously as is humanly possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I listened to the statements made by my colleagues, and I have come to a different conclusion. I think this nominee is actually the wrong person at the worst time. At a time when the unemployment rate is 9.1 percent, when 14 million Americans are looking for work, I would think the President would want to respond appropriately and nominate someone to lead the Commerce Department whose record was consistent with the mission outlined for the Commerce Department. That mission is to promote job creation, to promote economic growth, to promote sustainable development, and improve standards of living for all Americans. So I would think the President would want to nominate someone who has a record of robust job creation.

Instead, the President has nominated someone whose political advocacy is, in my opinion, detached from the financial hardships facing tens of millions of Americans today.

Most Americans recognize that cap and trade—or, as I call it, cap and tax—is job killing. It is a job-killing energy tax. Yet this nominee has repeatedly advocated for cap-and-trade legislation. He even called the Waxman-Markey legislation a moderate but acceptable bill. There are colleagues on the other side of the aisle who support that legislation. I do not. I view it as a tax. The nominee even went so far as to say the legislation was good precisely because it was a good way to hide—to hide—a carbon tax. But is that the role of the Secretary of Commerce: to hide taxes on American businesses, on American families, to make American businesses less competitive, to make it more expensive for them to hire new workers?

Mr. BARRASSO. I want to find ways to make it easier and cheaper for the private sector to create jobs, not for ways to hide taxes and make it more expensive and harder for the private sector to create jobs.

Finally, I wish to point out what happened during the confirmation hearing

before the Senate Commerce Committee. The chairman of the committee, who is here on the floor, questioned Mr. Bryson about coal. Coal is important to the chairman's State, and it is very important in my State, a big part of our economy. He asked for straight, direct answers, which the chairman did not receive, to the point that he actually invited the nominee to visit with him privately in his office to discuss the issue.

So I come here today to say, we need a Commerce Secretary who is committed to making American businesses more innovative at home and more competitive abroad—more innovative at home, more competitive abroad. We need someone who will address the problems of high unemployment, slow economic growth, and rising consumer costs aggressively and dispassionately. In my opinion, John Bryson is not that person. Therefore, I will not support nor will I vote for his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, today, very shortly, we will vote on President Obama's nominee to be the Secretary of the Department of Commerce, Mr. John Bryson. This is the most senior position in the Department, which is tasked with promoting business, creating jobs, and spurring economic growth. While this has always been important, it is very appropriate now, with the unemployment rate at 9.1 percent.

The administration has talked about job creation and the need for regulatory reform. But respectfully, I have not seen regulatory reform yet a priority on the President's agenda. You might not find a pricetag for regulation, but there is no question that businesses know when they are overregulated. It stifles their ability to create jobs. This year alone regulations are projected to cost U.S. taxpayers $2.8 trillion, and new regulations imposed by the administration in 2011 would cost over $60 billion. So during the confirmation process, when Mr. Bryson was before our committee, I asked him about his view on overregulation. He stated that he would be a voice in the administration for simplifying regulations and eliminating those where the cost of regulation exceed the benefits.

I believe his business background qualifies him to address that issue. It would give him the experience to be helpful in bringing back the regulations that are stifling the growth of business and therefore the job creation in our country.

I also appreciated that Mr. Bryson said in the confirmation hearing that the National Labor Relations Board was wrong in trying to keep Boeing from choosing where it would manufacture its products. On the corporate tax rate, the United States currently has the second highest corporate tax rate in the world, behind Japan, which has said it will lower its rate, ultimately leaving the United States with the dubious distinction of having the highest corporate tax rate in the world. Lowering the U.S. corporate tax rate should be a substantial part of any tax reform, and although that tax policy is beyond the Commerce Secretary's responsibility, I did ask Mr. Bryson whether he believed our corporate tax rate was too high and would he be a voice for lowering it. He said he would. I thought that was a very important statement for him to make, and important for the Secretary of Commerce to commit to doing.

We have now passed the free-trade agreements that held up consideration of his nomination. If confirmed, I expect Mr. Bryson to take advantage of the agreements and work to assist our businesses with the efforts to reach out and expand new markets with these new free-trade agreements. Mr. Bryson made statements before the Commerce Committee supporting cap-and-trade legislation because he felt that the electric utility industry—he was the chairman of a major corporation in that industry—needed regulatory certainty. That was his reason for coming out for cap and trade. I disagreed with him on that. I agree with many of my colleagues that that is not the right approach for America. We should not have cap and trade, as some have called it, cap and tax. But Mr. Bryson again said that he had no interest in pursuing that kind of legislation if he is confirmed as Secretary of Commerce.

I would point out that Mr. Bryson has the support of the U.S. Chamber of Commerce, the Hispanic Chamber of Commerce, and the National Association of Manufacturers. They will be major constituents he will represent in trying to build business for our country. He is also supported by six former Secretaries of Commerce, including Secretaries that served in the administrations of George W. Bush, George H. W. Bush, and Richard Nixon.

In summary, I believe the President should be given deference in selecting the members of his Cabinet unless there are serious issues against the nominee. I have voted against a few of the nominees of some of the Presidents while I have been in the Senate, but I do it rarely and very carefully, because I think that elections have consequences. I believe the President has the right to make his decisions.

I do not believe there are issues that rise to that level in the case of John Bryson. He does have a business background. He is well regarded by many colleagues who have called me on his behalf, who have been with him in the business world. I do not see any issue that would cause me not to vote for his nomination. I will support his nomination. I will work alongside him to be a voice for job creation in our country. I hope he is confirmed. I think he will be confirmed. I would hope he would then work with other Members of Congress who want to help him be an effective voice for business and investment in America and create the jobs that will get this unemployment rate back down and get people back to work.

I do not have people on my side yet who are going to speak, but there are two others who wish to speak. I will put us in a quorum call until they get to the floor and then that will probably allow us to yield back. I will ask my colleagues, any who are listening, if they wish to speak on behalf of or against Mr. Bryson to please come to the floor now so we might be able to know that everyone has been satisfied and we will be able to take this to a vote. I do think Mr. Bryson has waited very patiently for a very long time to have this come to a conclusion. I hope we can do that on as quick a basis as we can, giving everybody the ability to talk if they so choose.

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

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

Mr. MCCAIN. Mr. President, I thank the distinguished chairman and the ranking member of the Commerce Committee for their hard work on this nomination and their continued great work in the Commerce Committee, on which I once had the great honor of serving.

I rise today to support the nomination of Mr. John Bryson to be the 37th Secretary of the Department of Commerce. As I mentioned, during my time in the Senate I had the great honor of serving on the Commerce, Science and Transportation Committee, one of the most important committees in the Senate, in my view. It is a wonderful and broadening experience to be a member of that committee.

I think what we are discussing today is important; that is, whether Mr. Bryson should be confirmed by Members of my side of the aisle, because we may not agree with some of his views and some of his philosophies and statements in the past.

I want to be clear. If I were President of the United States, I would probably not have nominated Mr. Bryson, even though I am confident he is a fine man. We just have different views on issues. I think we all ought to appreciate the fact that elections do have consequences. When a President is elected, we have an important role to play of advice and consent. But we also have a role to play in understanding that the American people have spoken and elected a President of the United States and placed on him the responsibility of the Presidency. The best way he can carry out those responsibilities in the most efficient fashion is to have members of his team around him, people in whom he has trust and confidence. Mr. Bryson clearly has the trust and confidence of the President.

There are times when all of us have opposed a nominee for an office that requires the advice and consent of the Senate. But those occasions should be rare. Those occasions should be when, in the judgment of a Senator, that individual is not fit to serve. That is a big difference between whether you think that individual should serve or not. In other words, the President's right, in my view, to have a team around him so that he can best serve the country is a very important consideration, without losing or in any way diminishing our responsibility of advice and consent.

Mr. Bryson has held a number of positions in business and in other walks of life that are impressive. He may not have made statements or done things that we particularly agree with, but I don't think you can question Mr. Bryson's credentials and background to fulfill the job of Secretary of Commerce. That should be the criteria, in my view.

Everybody is entitled to their opinions as to their role as a Senator regarding advice and consent. I don't try to tell any other Senator their role. But I think that the Senate, during most of its existence, will find the President has been given the benefit of appointing individuals to positions of authority and responsibility because the President has earned that right. So it has to be an overriding reason to vote to reject a nominee.

By the way, I point out that, in this particular case, because of inaction on the trade agreements, a group of us sent a letter to the majority leader saying we would withhold support for the current nominee until the free-trade agreements were passed. The free-trade agreements were passed.

I urge my colleagues to look at Mr. Bryson's background and not whether you agree with his statements or philosophy, but whether he is truly qualified. I believe he is qualified to serve.

I will also mention to my colleagues on this side of the aisle that some day, sooner or later—and I hope sooner rather than later—we will have a Republican President who will be nominating individuals to serve on his team or her team. Then I hope my colleagues on the other side of the aisle will also observe sort of what has been traditional in the Senate, which is that you give a President certain latitude to pick the members of his team who he thinks will help him serve this Nation through difficult times with the utmost efficiency and loyalty.

I thank both Senator ROCKEFELLER and Senator HUTCHISON for their work on this important and, in my view, all too controversial nomination. I urge my colleagues to vote in support of the nomination of John Bryson to be the 37th Secretary of the Department of Commerce.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished senior Senator from Arizona. I want to say that he was chairman of the Commerce Committee and did a fine job. I am so appreciative that he put a perspective on the role of advice and consent in the Senate, because there are times when all of us have said the issues regarding a certain nomination are so great that they would not allow us to vote for confirmation. But that is not the case here. I do think Senator MCCAIN made the eloquent statement that Mr. Bryson might not be his choice, but that is not the question before us. He is qualified for this job. He has the business background we need. We certainly need a Secretary of Commerce to be able to help our businesses grow and create jobs, and elections do have consequences.

I thank the Senator from Arizona for taking the time to come and make that part of the record complete. I am pleased we are having this kind of discourse. I think the record will be complete, and I believe that when our colleagues think about the importance of the President having his nominee for this job, and the qualifications that Mr. Bryson has, even if you disagree on issues—which I certainly do, Senator MCCAIN does, and Senator BARRASSO does, and we are going to disagree on issues; that happens every day. But does it rise to the level of voting against this nomination? That is the question we have to answer. I thought Senator MCCAIN answered it very well.

I yield the floor and 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.

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

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

Ms. KLOBUCHAR. Mr. President, I am here today to talk on behalf of Commerce Secretary nominee John Bryson. Mr. Bryson testified before our Commerce Committee. I was impressed by his background and by his ability to answer the questions and by his understanding of business. I think everyone knows we are facing difficult economic times in this country and we need someone in that job that understands business.

Mr. Bryson has strong and broad support within the business community, and his nomination has been endorsed by such groups as the U.S. Chamber of Commerce, the Business Roundtable, and the National Association of Manufacturers. Six former Commerce Secretaries, from the George W. Bush, Bill Clinton, George H.W. Bush, and Nixon administrations, have also joined in strongly supporting his confirmation.

Mr. Bryson, as we know, was reported favorably to the entire Senate by the Commerce Committee. But let's look at what some of the groups have said about Mr. Bryson. The Business Roundtable says:

> John Bryson is a proven, well-respected executive who will bring his private sector experience to the Commerce Department's broad portfolio.

The National Association of Manufacturers says Bryson has ''a strong business background . . . which gives him the advantage of having exposure to the difficult issues manufacturers face in today's global marketplace.''

The President and CEO of the National Association of Manufacturers, Jay Timmons, said:

> Mr. Bryson has a strong business background and serves on the board of many manufacturing companies, which gives him the advantage of having exposure to the difficult issues manufacturers face in today's global marketplace.

I believe the way we get out of this downturn is manufacturing, it is making things in America again, it is inventing stuff, and it is exporting to the world. These business groups know that Mr. Bryson understands their issues.

The Chamber of Commerce says Bryson has ''extensive knowledge of the private sector and years of experience successfully running a major company.''

From Edison International we hear that Bryson was ''a visionary leader of Edison International, and we know that he will bring that same leadership to the Department of Commerce.''

Boeing says this:

> John Bryson's global business experience and strong leadership skills are a great match for the position of Secretary of Commerce.

The Acting President pro tempore serves on the Commerce Committee, as I do. I head the Subcommittee on Competitive Innovation and Export Promotion, and I have seen firsthand the need to make sure the Commerce Committee is thinking every single day—as the Commerce Department should—about how we get more jobs in this country, how we make sure we are working with business as partners, how we make sure we get through the red-tape, and that we put forward a competitive agenda for this country. That is why I am supporting Mr. Bryson for Commerce Secretary.

Mr. INOUYE. Mr. President, I rise today to support the nomination of Mr. John Bryson to be the Secretary of Commerce. The Secretary of Commerce plays a key role in overseeing a department that is responsible for spurring innovation, supporting small business, and providing our Nation with operational scientific information. In tough economic times we need strong leadership in this key cabinet position in order to ensure that our Nation's needs in these areas are met.

To that end, Mr. Bryson brings with him a strong record of business leadership and a sense of the importance of resource stewardship, a rare combination that I believe will serve him extremely well. Unfortunately, there are those who believe that his past association with certain environmental groups

or his eminently sensible support for a solution to our reliance on fossil fuels, should disqualify him from this post. I would suggest that these naysayers consider that Mr. Bryson has been endorsed by the Business Roundtable, the National Association of Manufacturers, and the U.S. Chamber of Commerce. The support shown by these groups ought to demonstrate the nominee's commitment to growing American business and the American economy. I also suggest we should not fear a nominee who has shown a willingness to explore novel solutions to grappling with our dependence on foreign oil and the larger issue of climate change. Both of these issues are likely to be among the most important and, potentially, the most disrupting problems that we leave to our children and grandchildren. No one in this Chamber will deny that we must reduce our dependence on fossil fuels, which are a finite resource whether found here or abroad, and no one in this Chamber should deny that the climate is changing. To do so is to deny that which is in front of our eyes and history does not look kindly on those who ignore the obvious. We should therefore embrace those such as Mr. Bryson who have shown a willingness to work with the business community in seeking a solution to these issues.

In sum, I believe Mr. Bryson can provide the leadership we need at the Department of Commerce and I ask my colleagues to join me in supporting and confirming Mr. Bryson's nomination.

Mr. UDALL of New Mexico. Mr. President, I rise today in support of the nomination of John Bryson to be Secretary of Commerce.

The Department of Commerce includes a diverse collection of agencies that work on everything from predicting the weather to issuing patents.

But the Department's over-arching mission is to promote job creation and economic growth. Today, that mission is more important than ever.

With the national unemployment rate hovering around 9 percent, we should have a Secretary of Commerce in place who can lead the Department in meeting its important mission.

After considering his nomination in the Senate Commerce Committee, I believe Mr. Bryson is well qualified to be Secretary of Commerce.

Bryson knows something about job creation from his experience as a business leader in the energy sector. He also served on the boards of well-known companies such as Boeing and the Walt Disney Company.

Those experiences will help Bryson meet the challenges of leading the Department of Commerce.

I know firsthand some of the good work that the Department of Commerce has done to help businesses in my home State through the Economic Development Administration, EDA, manufacturing extension partnership, MEP, and trade adjustment for firms initiatives.

I have visited small businesses that received assistance from these Department of Commerce agencies and know how vital such support can be for entrepreneurs who want to grow their business or maybe export for the first time.

The Department of Commerce already faces enough challenges to meet its vital mission. Delaying Mr. Bryson's nomination any further would only add to those challenges at a time when we can ill afford it.

I urge my Senate colleagues to support his nomination.

I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from California.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mrs. BOXER. Madam President, I rise in support of John Bryson of California, President Obama's nominee to be Secretary of Commerce.

Mr. Bryson will bring a wealth of experience in both the private sector and the public sector to this very important job of Commerce Secretary. Lord knows, we are in a recession and we are fighting hard to get out of it. We need a Commerce Secretary, and we need someone who understands the private sector and the public sector and we have that in John Bryson.

In the 1970s and 1980s, he served as the chairman of the California Water Resources Board and as the chairman of the California Public Utilities Commission. There, he helped California navigate droughts, oil shortages, and other crises during a critical period in my State's history.

For more than 20 years, Mr. Bryson has utilized his talents in the private sector, first as chairman and CEO of Southern California Edison, and later as chairman and CEO of Edison International.

Mr. Bryson has also served on the boards of many companies, both large and small, and he will bring to the job of Commerce Secretary a unique expertise on what it takes for businesses to grow and expand.

Mr. Bryson's top priority is job creation. As Commerce Secretary, he will be working closely with the President to meet the goal of doubling our Nation's exports by 2015 and creating hundreds of thousands of new jobs right here in the United States. He will be working with the private sector to drive innovation and economic growth, and he will be working to make the United States a leader in the clean energy economy.

At Edison International, Mr. Bryson helped California become a hub for clean energy development and clean energy jobs by making investments in those renewable technologies. He understands new clean energy technologies will create millions of jobs here at home and that the Nation that rises to this challenge will lead the world because the whole world is looking for these kinds of technologies.

I think Mr. Bryson comes to us with varied experiences which will serve us well and will serve President Obama well. Mr. Bryson's nomination has been applauded by all sides of the political spectrum, from environmentalists to business interests.

Tom Donohue of the Chamber of Commerce praised Mr. Bryson's ''extensive knowledge of the private sector and years of experience successfully running a major company.''

The Business Roundtable called Mr. Bryson ''a proven, well-respected executive who will bring his private sector experience to the Commerce Department's broad portfolio that includes technology, trade, intellectual property and exports, which will be crucial to expanding our economy and creating jobs.''

The Natural Resources Defense Council, which Mr. Bryson helped found in the 1970s, called him:

> . . . a visionary leader in promoting a clean environment and a strong economy. He has compiled an exemplary record in public service and in business that underscores the strong linkage between economic and environmental progress.

I ask unanimous consent to have printed in the RECORD an editorial from the Los Angeles Times, titled ''Commerce Department nominee deserves the job.''

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

[From latimes.com, Jun. 21, 2011]

COMMERCE DEPARTMENT NOMINEE DESERVES THE JOB

John Bryson's nomination to be President Obama's next secretary of Commerce has been met with the predictable combination of delusion and obstructionism that characterizes the modern confirmation process. Some Senate Republicans vow to hold him hostage to the passage of several long-sought free-trade agreements; others insist they will reject him based on his presumed politics, which they wish were more like theirs. None has advanced an argument worthy of defeating this nomination, and though sensible people will withhold a final judgment until after Bryson is questioned, his credentials are encouraging, as are the endorsements of those who know him.

Bryson is a familiar figure in Los Angeles. A longtime chairman and chief executive of Southern California Edison and Edison International, he is a pillar of the region's business community, admired by the Chamber of Commerce and his fellow executives. He also was a founder of the Natural Resources Defense Council, where his work earned him respect and appreciation from California's environmental movement. He's been president of the California Public Utilities Commission and even served as a director of Boeing,

dipping his toe into the nation's military-industrial complex. He is thus the rare nominee to present himself to Congress with endorsements from the Chamber, military suppliers and the nation's leading environmental organizations.

Within a rational political universe, that would entitle Bryson to confirmation by acclamation. But zealots are suspicious. His critics question his support for regulation to address climate change and see his NRDC leadership (more than three decades ago) as evidence that he's a ''job killer'' and an ''environmental extremist'' rather than a job promoter as the Commerce secretary traditionally is. Never mind that Bryson's record is one of both serious business development and responsible environmental stewardship.

Then there's the issue of the free-trade agreements. Yes, Obama has moved too slowly to forward the South Korea, Colombia and Panama trade pacts that will create jobs and expand the reach of American business. And yes, Obama's labor allies are principally to blame for obstructing those pacts. But those objections are irrelevant to Bryson's nomination and shouldn't be used as an excuse to hold it up.

Many Republicans undoubtedly would prefer a nominee who championed drilling as the answer to America's energy needs or who countenanced their anti-scientific challenge to global warming. They have their chance: Elect Sarah Palin. In the meantime, Obama deserves a Cabinet secretary of impeccable credentials and broad support. Bryson has a chance to prove that he's all of that at the hearings that begin Tuesday. Republicans owe him the opportunity.

Mrs. BOXER. Mr. President, Mr. Bryson's unique background will serve him well as he works with President Obama, the Senate, and the House to create jobs. I applaud our President for choosing such a well-qualified, experienced individual to be Commerce Secretary, and I want to thank Chairman ROCKEFELLER and Ranking Member HUTCHISON for working together so we could get to this vote today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. INHOFE. First, let me thank my good friend, the Senator from California, Mrs. BOXER, for speaking because I asked her to do it. A lot of people are surprised on how well we get along.

The committee she chairs is called the Environment and Public Works Committee and I am the ranking member. When Republicans were in the majority, I was the chairman. I look forward to being chairman again, but that is another conversation for another day.

But the reason I wanted to speak is, because we do. A lot of people are surprised to see this. We get along very well. Right now, we are doing everything we possibly can to get a highway reauthorization bill. She prides herself on being a very proud liberal and I pride myself on being a very proud conservative. Yet we both know that one of our primary functions here is to do something about infrastructure.

I have often been ranked as the most conservative member of this body, the Senate. I often have said I may be conservative, but I am a big spender in two areas: national defense and infrastructure. That is what we are supposed to be doing.

Right now, we have the most deplorable problem in the condition of our roads and highways and bridges. My State of Oklahoma goes back and forth being dead last or next to the last behind Missouri as having the worst conditions of our bridges.

We had a lady not too long ago in my State of Oklahoma, in Oklahoma City, the mother of two small children, who was driving under one of the big interstate bridges and a block of concrete fell off and it killed her. She was the mother of two small children. We have people dying every day on the highways because of the condition of the highways. For that, I applaud Senator BOXER for joining me to put together this coalition.

I don't want to say anything that would be improper at this time, but it is my expectation—not just hope but expectation—that we are going to be able to come up with a highway reauthorization bill, and it is going to be one that is at least holding the current spending level.

If we are to have to go back to the level of the proceeds of the highway trust fund, that would be about 34 percent less than what we are spending today. I defy any one of my fellow Senators from all the 50 States to tell me one State that isn't having just as serious a problem as my State of Oklahoma is having.

I think that it is important we recognize there are some things the government is supposed to be doing and some things that bring us all together. Again, that is what is going to happen.

I can remember back, the last reauthorization bill we had was 2005. At that time, I was the chairman of the committee. We all worked together. We came up with a $284.6 billion, 5-year bill. Yet as robust as that was, that did very little more than just maintain what we have today—no new bridges, all these new things we need to have.

I think a lot of the people who are my good friends, and primarily over in the House, who came under the banner of the tea parties and all that, they recognize, yes, they can be a conservative. But when they got home, they said: Wait a minute. We want to not be spending on these big things, but we weren't talking about transportation. So we have to single out transportation for my friends to recognize there is a place we need be spending more money, not less money.

So I look forward to that, and I hope we will have an announcement to make, as one of the most liberal and one of the most conservative members joining and coming up with a highway reauthorization bill. There is not unanimity in what it will look like, other than the spending level should remain where it is today and it should be something that is going to address these problems.

There will be a lot of sacrifices along the way. I know that when we mark up a bill there are going to be a lot of things in it that I don't like and that Senator BOXER doesn't like and we are going to have to give up some of these things.

I have made it very clear that back in the early days, when I was actually serving in the other body, we always had surpluses in the highway trust fund and we were able to take care of these needs. Then, as typical as politicians are this way, they see a pot of money and they want in on it. So we had all these groups, and a lot of them were environmental groups that wanted to have their own agenda attached to it. We are going to have to get serious and make this a highway bill.

By the way, this would also be certainly the biggest jobs bill we have had during this administration, since this administration has done a lousy job of providing jobs.

But having said that—and I said that because I want to draw a contrast. We are about to consider and vote on the President's nominee, John Bryson, to be Secretary of Commerce. He is President Obama's choice, and there is a clear indication he has no indication of backing down on his job-killing war on affordable energy.

But I have to say this. With John Bryson, this isn't Van Jones we are talking about. This is a guy who is a nice guy, and we have a lot of mutual friends. I have been contacted by people who are friends of mine who are friends of his, and clearly he is a person who is well received in terms of being a good person. But he is dead wrong on the issues that will provide jobs for America.

At a time when unemployment is sky high, President Obama chooses the founder—and I will characterize it differently than my friend from California did—of one of the most radical, leftwing, extreme environmentalist groups, the National Resources Defense Council. It is a leftwing organization which, in the name of global warming, seeks to cut off access to our natural resources and increase drastically the price of electricity and gasoline across America.

We know this is true, because we know that if they would merely develop the resources we have today in the United States of America, we wouldn't have to be dependent upon the Middle East for one barrel of oil, and we wouldn't have to worry about our supply of gas and coal, because as I will explain in just a minute and document, we have the largest recoverable resources in coal gas and oil of any country in the world.

Mr. Bryson once called the Waxman-Markey cap-and-trade bill moderate. This particular cap-and-trade bill was probably the most liberal of all the cap-and-trade bills that were there.

By the way, I have to say this one thing. I understand I am the last speaker tonight. What do all the speakers who are in favor of this have in

common? They are all supporting cap and trade, with the exception of Senator HUTCHISON, and she is retiring. But stop and think about it: BOXER, FEINSTEIN, ROCKEFELLER, KERRY, MCCAIN, they are all strong supporters of cap and trade. That is what I am going to talk about tonight because I know where John Bryson is on cap and trade.

He told some students at the University of California Berkeley last year that ''cap-and-trade has the advantage politically at sort-of hiding the fact that you have a major tax.''

To me, the fact that they are supporting something that is a major tax increase on the American people is bad enough. But when they say one of the good things about cap and trade is you can hide the fact that it is a major tax increase—and we know now what this would cost. Cap and trade is cap and trade. It doesn't make any difference if it was back during the Kyoto days. It doesn't make any difference if it was in any of the bills that were passed. Still, the analysis is that the cost of a cap-and-trade bill would be between $300 billion and $400 billion a year.

Again, this is legislation that would cost the taxpayers $300 billion to $400 billion a year and destroy hundreds of thousands of jobs and hurt families and workers by raising the price of gasoline and electricity. Yet the nominee for Secretary of Commerce believes that was a moderate bill, the Waxman-Markey bill.

The Secretary of Commerce should have a record of promoting, not stifling, economic growth. John Bryson's career shows he has a clear record of the latter, and it makes no sense to have the Secretary of Commerce who is against commerce.

I am not the only one who thinks so. Let me just share. An editorial in the Wall Street Journal states:

> President Obama nominated John Bryson to head the Commerce Department on Tuesday, praising the Californian as a business leader who understands what it takes to innovate, to create jobs, and to persevere through tough times. That's one way of describing someone with a talent of scoring government subsidies.

We keep hearing—and I think they hit the nail on the head there and they answered the question. People say: This man has been very successful for 18 years. He ran one of the major utilities out in California, and one of the interesting things about it is this utility out there is not one that is using coal; it is using renewables. Obviously, as the Wall Street Journal pointed out: If they have the very heavy expenses and they raise the price of energy, it doesn't hurt the utilities. They pass it on. They pass it on to the consumers who ultimately have to pay for it.

Quoting the Washington Examiner:

> But there is another side of Bryson, one that fits squarely in the tradition of radical Obama appointees like green jobs czar Van Jones, a self-proclaimed Marxist; Medicare head Donald Berwick, who swoons over Britain's socialized National Health Service; and National Labor Relations Board member Craig Becker, the former labor lawyer who never met a union power grab he couldn't back.

Here is Investors Business Daily:

> The nominee for commerce secretary founded an anti-energy group and believes in redistribution of wealth to help poorer nations. At this rate, we will be one of them. If personnel is policy, there can be no better choice to help implement President Obama's anti-growth energy policy and redistribution of wealth plans than his choice to be the next Secretary of Commerce, John Bryson.

Again, that is the Investors Business Daily.

The ACU came out and said: ''Putting John Bryson in charge of the Commerce Department is the dictionary definition of putting the fox in charge of the hen house.''

That is exactly what it is, and that is one reason I would prefer we not have this vote tonight. I would like to have all of us go back for this 1-week recess and let the people know this is about to be voted on, and I think that is one reason they are going to be doing it tonight.

By the way, I am not critical of the leadership, certainly not the Democratic or Republican leadership. In fact, I went to them and said: As long as you give me a 60-vote threshold, I would waive going through all the loops of filibustering and having cloture votes and all that. So I appreciate that. But my intent was to wait, and I still would ask formally if they would change this UC under which we are operating and allow this vote to take place when we come back from this 1-week recess.

The choice of Bryson is also part of President Obama's green energy jobs push. In fact, the President said he specifically nominated—listen to this—he specifically nominated Bryson because he is a ''fierce proponent of alternative energy.'' But with more than 9 percent unemployment and the complete collapse of the solar company Solyndra, the President's green agenda is clearly not creating jobs. In the end, Solyndra is more than just a bankrupt company, it is a metaphor for the failure of Obama's war on fossil fuel jobs.

I have already called for hearings in the Senate on Solyndra and I hope it will not be long before they occur.

President Obama has received the message loudly and clearly that his global warming green agenda no longer sells, but that doesn't mean he has given up trying to implement it. Bryson is just one figure in Obama's green team. He follows in the footsteps of Carol Browner and Anthony Van Jones, who also supported increasing taxes on America's energy, as well as Energy Secretary Steven Chu. You remember Stephen Chu, the President's Energy Secretary, who said, ''[s]omehow we have to figure out how to boost the price of gasoline to the levels of gasoline in Europe.'' That is about $8 a gallon.

It is the intention of this administration to raise gas prices, to either force them into some other type of energy or to stop people from having the freedom of driving as we have always had in this country. That was Energy Secretary Steven Chu who said we have to bring our price of gasoline at the pumps up to that of Europe.

Then we have also Alan Krueger. His nomination by President Obama to be the Chairman of the Council of Economic Advisers is yet another example. During his time at the Department of Treasury under President Obama, Mr. Krueger made clear his opposition to the development of traditional domestic energy. He even went so far as to say ''the administration believes it is no longer sufficient to address our Nation's energy needs by finding more fossil fuels. . . .''

I am still quoting Alan Kreuger. This is when he was in the Treasury Department. He is the nominee now for the Chairman of the Council of Economic Advisers, the advisory council. He even went so far as to say:

> The administration's goal is to have resources invested in ways which yield the highest social return.

That is the current nominee to be Chairman of the Council of Economic Advisers for the President. He doesn't need that advice, he is already doing it.

The Congressional Research Service reports America has the largest recoverable resources of oil, gas, and coal in the world. The Obama administration's failure to appreciate this fact is one of the many reasons why they are not making progress in creating jobs and improving our economy.

This is a key here. When this discovery was made, the Congressional Research Service—nobody has denied this. That was less than a year ago when they said America has the largest recoverable resources of oil, gas, and coal in the world. That means we could be totally self-sufficient. All we have to do is develop our own resources.

I defy anyone on this floor to tell me there is any other country that does not develop its own resources. We are the only one. So we have 83 percent of our non-shore public lands off limits. We have these huge reserves out there but we cannot go after them.

Then there is Rebecca Wodder, who President Obama has chosen to be the Assistant Secretary for the Fish and Wildlife Department. That would be for the Department of Interior. As CEO of American Rivers, which works actively to shut down energy production in the United States, she—Rebecca Wodder—is a strong advocate for the Federal regulation of hydraulic fracturing, a process which is efficiently and effectively regulated by States.

This is interesting. It was not long ago that President Obama was lauding the virtues of natural gas, and at the end of his speech he said we have to do something about hydraulic fracturing. Hydraulic fracturing started in my State of Oklahoma in 1948. I can't quantify the hundreds of thousands of wells that have been hydraulically

fractured, but it has been in the hundreds of thousands—maybe 1.5 million. I have heard that figure. With the exception of one well back in 1986, where somebody actually went into an aquifer, there has not been one documented case in over a million hydraulic fractured wells where it has contaminated groundwater. Yet they are using that, knowing full well if you kill hydraulic fracturing you kill all the oil and gas in tight formations because you cannot get it without that.

The selection of Ms. Wodder is a clear departure from her predecessor, Tom Strickland, who in testimony before the EPW Committee, our committee, said we should actively and aggressively develop our energy resources. Unfortunately, Ms. Wodder's support for regulation and advancement suggested she would do the opposite, which exposes the reality of President Obama's agenda of increasing energy prices and destroying jobs.

These nominations—of course we are talking tonight about another nomination of a person who is a good guy and all that, but John Bryson, to be in a position to follow all the rest of these who are doing everything they can to kill fossil fuels, and when you kill fossil fuels, we know, and the President admitted, it would cause the price of electricity in America to skyrocket.

These nominations are not surprising when you remember that President Obama said himself that he wants electricity rates to skyrocket. As he told the San Francisco Chronicle in 2008, ''If somebody wants to build a coal-fired plant they can. It's just that it will bankrupt them. . . .''

That is what the Obama EPA regulations intend to do.

The EPA is moving forward with an unprecedented number of rules for coal-fired plants and industrial boilers that have now become known as the infamous train wreck for the incredible harm they will do to our economy. They are set to destroy hundreds of thousands of jobs and significantly raise energy prices for families, businesses, and farmers—basically anyone who drives a car or flips a switch.

The President himself has now publicly acknowledged this. When we stopped the Agency from tightening the national ambient air quality standards for ozone, his statement couldn't be more clear: The EPA rules create regulatory burdens and uncertainty.

Just last week, EPA also pulled back on its plan to tighten regulation on farm dust, undoubtedly due to bipartisan concern that it would cause great harm to our farmers.

I have given the speech on the floor, and I am not going to repeat it tonight, about what all the regulations this President is trying to put forth will cost, in terms of his maximum achievable control technology. He has the refinery MACT, he has the boiler MACT, he has the farm dust MACT. These are the things he is trying to do where the technology is not even there.

I found out something the other day in Broken Arrow, OK. I can't recall the name of the company now. They make platforms for hydraulic fracturing. I don't know if the Senator from California has ever seen one of these platforms. I have seen a lot of them. They make a lot of them in Oklahoma. This young man who is the president of this company showed me these platforms. These platforms are about—you could put maybe four of them in this Chamber, that is how big they are.

On these platforms, to do hydraulic fracturing, they have a great big diesel engine. This diesel engine is necessary to do hydraulic fracturing of oil wells. They came out with a regulation the other day I didn't even know about. They said, after a certain date—exactly where it was, in the next couple of months—that you would not be able to use the diesel engine on your platform that does hydraulic fracturing unless it is a tier 4 diesel engine.

Here is the problem. They don't make them. They are on the drawing board. They are making them but they are not on market yet. So they are shutting down the people who are building the platforms to do hydraulic fracturing through regulations.

Every day we run into new regulations. I can remember on the farm dust regulation, I had a news conference in the State of Oklahoma. In Oklahoma we went back—I had people coming out from Washington, DC, who had never been west of the Mississippi. We went down southwest in the town of Altus, OK. I said in my news conference, when the cameras were rolling: This President is trying to do something to regulate farm dust. Let me explain something to you. If you look down here, that brown stuff down there, that is called dirt. If you look at that round green thing down there, that is cotton. Put your finger in the air, that is called wind. Are there any questions?

What I am saying is they all realized there is no technology to regulate farm dust. Yet they are trying to do it. Right now the major farm organizations such as American Farm Bureau, they are the ones who are saying that is the No. 1 concern right now, what they are trying to do to shut down farms in America. The EPA continues to push regulations to harm the economy, the Cross-Air State Pollution Rule, the so-called utility MACT—rules that are poised to destroy jobs.

Let's not forget the economic ramifications of global warming.

But before we leave the utility MACT, we have right now utilities that are notifying coal producers, saying if this goes through we are not going to be able to honor our contracts to buy coal from you. That is how serious it is. We are talking about hundreds of thousands of employees.

Let's go to the big one now, the economic ramifications of global warming, regulations imposed by Obama which cost American consumers between $300 and $400 billion a year. The reason I want to mention this is because there have been attempts since the Kyoto treaty—of course we didn't ratify the Kyoto treaty for a good reason, and that is it would cause extreme economic harm to the United States of America. It would only affect the developed nations such as the United States and some of the European nations, but not the developing nations. It would not have any effect of reducing CO_2 if you wanted to reduce CO_2.

Ever since the 1990s there have been about seven or eight different bills to try, here in the United States, to do away with—impose some kind of cap and trade. But they were not able to do it because the people in this body will not vote for it. In this body, right now you could not get maybe 25, maybe 30 votes. It would take 60 votes to pass it. You could not get more than 30 votes on a cap-and-trade bill.

The President realized this. He realized with all the jobs that would be lost and the cost of this, the fact it would impose a tax of around $300 to $400 billion a year on the American people. I remember back in 1993, that was during the Clinton-Gore years, I remember when they came out with their big tax increase. I will never forget it because I was serving at that time in the other body. They were raising marginal rates, raising capital gains taxes, raising all the taxes, retirement—all of it. The cost of that was some $30 billion a year. I remember coming down to the floor of the House of Representatives, saying: We cannot afford $30 billion a year.

This tax would be 10 times that, between $300 billion and $400 billion a year. That is what they are trying to do.

When the President realized that he was not able to pass this legislatively, he decided through regulations he was going to pass his own cap and trade.

I have to say this. There are people out there who still believe—not very many—somehow we are having catastrophic global warming and it is due to anthropogenic gases or CO_2 emissions.

I remember. I am very fond of Lisa Jackson, who is the EPA Administrator appointed by President Obama, because I asked her this question. I said: If we were to pass any of these cap-and-trade bills, would this reduce worldwide CO_2 emissions?

She said: No, because it would only affect the United States of America. This is not where the problem is. If it is a problem, that problem is in Mexico, in China, in India, in places that do not have any kind of restrictions. So that is what it is. He is trying to impose that tax.

I know people get worn out when they hear talk about billions or $1 trillion. I am not as smart as most of these guys around here so I do it a little differently. I keep track of the number of families in my State of Oklahoma who file an income tax return. Then I do my math. If we were to

pass cap and trade, or if he is able to do it through regulations—which are sponsored, by the way, by John Bryson, the nominee we are talking about—if he were to do it, it would increase the taxes by between $300 and $400 billion a year. Now do your math with the number of people who file a tax return in the State of Oklahoma. It would be approximately $3,000 a family. What do you get for it? You get nothing by their own admission because it would not reduce the worldwide emissions.

What this President fails to realize is that affordable, reliable energy is the lifeblood of a healthy economy and the foundation of our global competitiveness. Instead, he continues to favor the radical environmental agenda ahead of turning around our economy and putting Americans back to work.

On the other hand, in my State of Oklahoma, oil and gas development has led to a tremendous economic boost in the creation of good-paying jobs. Right now in my State of Oklahoma—there is a 9.2-percent unemployment rate nationwide. In my State of Oklahoma, it is 5.5 percent—I am sorry, it is about 5.5 percent or 5.2 percent. That is about half of the national average. It is due by and large to the fact that we have this growth and people are in the energy business.

So we can continue going down the path of President Obama's job-killing agenda or we can start to develop our Nation's vast natural resources, which are the key to the Nation's recovery. That is jobs. That is cheap gas at the pumps. We certainly have plenty of them.

The CRS report I mentioned shows that America's combined recoverable natural gas, oil, and coal endowment is the largest on Earth. In fact, our recoverable resources are far greater than those of Saudi Arabia, China, and Canada combined.

We have 163 billion barrels of recoverable oil in the United States of America. That is enough to maintain our current levels of production as the world's third largest producer and replace our imports from the Persian Gulf for more than 50 years. In other words, on oil alone, if we just developed what we have here, it would take care of our needs—what we know is down there—for 50 years.

We could say the same thing for natural gas. At the current consumption, America's future supply of natural gas is 2,000 trillion cubic feet, and at today's rate of use, that is enough to run the United States of America for 90 years. Just imagine that. The only problem is that our politicians will not let us develop our own resources.

Finally, the report I referred to, which is a fairly recent report, also reveals that America is No. 1 in coal reserves, with more than 28 percent of the world's coal. That is a real solution to the energy security and the key to economic prosperity.

John Bryson, if he were to become Secretary and the vote would take place, energy development and economic growth in Oklahoma and across the Nation could be in jeopardy, and that is why I am doing everything I can to tell the truth to the American people.

It has been said to me by Democrats and Republicans alike that their phones have been ringing off the hook by people who serve on boards with John Bryson. And I said from the very beginning that he is a good person, but he is of the philosophy that he is an outspoken proponent of cap-and-trade, and that is what we can't afford.

I know there is a lot of pressure put on Members of this body. I wonder where all of the conservatives are tonight. I appreciate Senator BARRASSO coming here and talking, as I am talking, and telling the truth about the problem we have. Sometime, someplace, we have to draw the line. I named all of these appointments the President has made, the nominations he has made. We have to draw the line, and I think this is a good place to do it.

I recognize there is going to be a lot of pressure on conservatives to kind of sit this one out, but I want them to keep in mind that this is the No. 1 concern of most of the conservative groups right now. I read the editorials that were out there. Everybody knows. Our eyes are open. This is not a vote where later on you say: Oh, I wish I had known that; I would have voted no. This is your chance to do it.

Have I had calls from people on boards? Yes, I have. They have all said: He is a good friend of ours, and I don't want to weigh in.

One of them was kind of interesting. He called up and went through this whole thing, and then after he told me how great John Bryson was, he said: Have you got that down? I called. You have written that down.

Yes, that is right.

Well, just ignore everything I said.

We know the phone calls come in. These are important people. There are leaders out there, and I love them all. I love John Bryson, but we are going to have to draw the line.

If you want to have an advocate for the largest tax increase in the history of America; that is, a tax increase that is called cap and trade, then this is the nominee for the Secretary of Commerce who is committed to cap and trade in America.

I wish we were not going to take this vote until the end of the recess because I would love to have people go home and try to answer questions from people who are out there in the real world as to why is it that someone is not standing up for us to develop our own natural resources, our own energy, and reduce the price of electricity, reduce the price of gas, and think about us for a change. That is what is going to happen.

I think right now, by rushing this vote before people have time to realize it, that very likely it is going to pass. I don't want anyone to say they were not informed because I am informing you right now.

I thank Senator BARRASSO for joining me.

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

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

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

Mrs. HUTCHISON. Mr. President, every one who has asked for speaking time on my side has spoken, and I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I yield back all time on our side, and I ask for the yeas and nays.

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

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John Edgar Bryson, of California, to be Secretary of Commerce?

The clerk will call the roll.

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 176 Ex.]

YEAS—74

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

NAYS—26

Barrasso	Grassley	Paul
Blunt	Hatch	Risch
Boozman	Heller	Roberts
Burr	Hoeven	Rubio
Coburn	Inhofe	Sessions
Cornyn	Johnson (WI)	Shelby
Crapo	Kyl	Vitter
DeMint	Lee	Wicker
Enzi	McConnell	

The ACTING PRESIDENT pro tempore.

The nomination was confirmed. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. 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

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

Mr. REID. Mr. President, we have a consent request we are working on. We hope to have people sign off on that. If they do not, one or many are going to have to object to it. We have spent enough time on this that we need to move forward.

We know we have a number of votes already scheduled. Senator MCCONNELL has something pending. I do too. We know we are going to have to vote on that, but that is the least of our worries. We have to work through this appropriations stuff. So people who have concerns, bring them to David Schiappa or Gary Myrick because otherwise I might come here and offer a consent request. Either we are going to move this bill forward or move off this bill.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, for my colleagues who are here, I wish to explain the reason for an amendment which I have filed, No. 912, along with the cosponsors, my colleagues Senator MCCAIN and Senator CORNYN from Texas, an amendment which seeks to add some money for the U.S. Marshals Service. I wish to explain why we think this is a good idea, but first to say that in speaking with Leader REID, we are trying with our staff and the majority staff to see if we can work out the appropriate pay-fors for this in an appropriate amount of money that would assist the U.S. Marshals Service. Hopefully we can work something out. I am just trying to explain the basis for this at this time.

As you know, we have done a lot of work on the borders to try to secure them, and that has required us to add money for the U.S. Border Patrol and several other accounts in the Department of Homeland Security. We have added money for the Department of Justice. We need new judges, courtrooms, prosecutors, defenders. It has taken a lot of money to secure the border with all of the different aspects that are involved.

The one area we have not kept up with is the U.S. Marshals Service. All of us know the U.S. Marshals Service. It is a great organization. These people do tremendous work. But sometimes we forget them. And what we have learned here is that while we have an increased ability to apprehend illegal immigrants and to try them in court, and even jail space to hold them, the group that does the holding and the transporting and the keeping of the judges and the courtrooms safe during the process, the U.S. Marshals Service, has not had funding to keep up with this. As a result, they are way low in terms of both personnel and also some facilities that need to be upgraded to accept the much larger numbers of illegal immigrants and other prisoners who are in their custody.

To give you one illustration, when prisoners are brought to a courthouse, obviously there are huge security measures that have to be followed to ensure that jurors, judges, the public at large, witnesses, and so on, are not in jeopardy because of the existence of the prisoners. So they are generally brought in vehicles, appropriately accompanied, to secure facilities in the court building and then at the appropriate time brought to the courtroom, and all in the custody of the marshals, and with appropriate security for all.

However, because of these increased numbers, what we found is, by way of example, they bring the prisoners from the holding facility, the prison, the jail, wherever it might be. They literally have to disembark in a public parking lot where jurors are parking to come up to be involved in cases, where the public at large, where witnesses, where victims and families, judges and lawyers are coming to park to go to the courthouse, and go up the elevators and so on right with these same people. That is not a secure situation.

In most situations the marshals have the ability to take their prisoners directly to a secure port, a place in the courthouse where they can immediately put them into custody in a secure locked-down facility. Construction of some court buildings need to keep up with this demand, and it requires some money, in this case, about $16 million. I know this is a small matter in the overall budget that we are talking about. But for the Marshals Service to do its job, this is important for them.

They need additional personnel. The cost of that far exceeds $10 million. But that is what we thought we would try to ask for in this amendment to at least bring the Marshals Service up to a level where they can accommodate the new numbers of prisoners.

In our amendment, $20 million is provided for additional deputy marshals and security-related support staff to assist in overall Southwest border enforcement. We have narrowed this down to the five judicial districts on the border that have—well, in fact, these districts have about half—49.7 percent, to be exact, of all the prisoners nationwide brought into the custody of the Marshals Service are brought in by way of those five Southwest border judicial districts. And about half of those in the Marshals' custody along the Southwest border are or were held for immigration-related offenses.

So this is the need that we are trying to satisfy with this amendment. The Marshals Service employs only about 80 percent of what they need in terms of Marshals and support staff in these court facilities. A recent Department of Justice hiring freeze has prevented the Marshals Service from reaching even 90 percent of its personnel needs along the Southwest borders. To reach 100 percent of staffing would require $43 million, to hire an additional 162 deputy marshals and 71 support staff.

We all know the constraints we are all operating under here, so we cut that back to simply try to reach 90 percent of their requirement for hiring needs. And that, as I said, would require just about $20 million for these hiring purposes.

On the construction side of it, the amendment provides for $16.5 million for these detention upgrades at the Federal courthouses located in this border region. Of the $16.5 million, $1.5 million would specifically be allocated for courthouse security equipment. I have told you a little bit about the problem with the security at the courthouses. Some of this would obviously be used for construction of a port that would allow these vehicles to unload detainees and prisoners right next to cellblock doors and so on. I described that.

But this is the least we can do, both to protect the public and to assist the Marshals Service. There has been some dichotomy of views, shall I say, expressed by the Department of Justice and Department of Homeland Security about whether they have what they need to secure the border. We have heard the Secretary of Homeland Security say, we have all we need. But we also know that the Secretary has said, we have to prioritize our detention policy, for example, because we do not have the facilities and the money we need to detain and deport all of the people who are deportable, so we have to focus on the most serious crimes, the felons primarily, who are now the top target for deportation.

Obviously if you have to prioritize, we would agree with that prioritization. But what that means is that they do not have enough money to do all that they are trying to do. So on the one hand, it is kind of distressing that the Department says we have all we need and, on the other hand, we do not have enough, so we have to prioritize what we do.

What we are trying to do in this appropriations bill is to attack the one part of the problem that we can in this bill, and that is to help the U.S. Marshals. As I said, I do not think there is

one of us here that would not be supportive of that. I want to avoid the situation where, God forbid, someone is at a courthouse or entering the courthouse or whatever and innocent people are harmed because we did not have the appropriate security. That is what we are trying to provide in this amendment.

As I said, this is cosponsored by my colleagues Senator MCCAIN and Senator CORNYN. Obviously the three of us are very aware of the problem that we have in our judicial districts on the border. So I reiterate, I appreciate the offer of the majority leader to make majority staff available to see if there is some way that with my staff we can work out some appropriate amount of money, with the appropriate pay-fors. I hope I will be able to announce that a little bit later on. I will not take any more of my colleagues' time right now.

But if anyone has questions about this and wishes to talk to us about it, since I am hoping that we will have something to support a little bit later on this evening, I would appreciate them either contacting me or Senator CORNYN or Senator MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. TESTER. Parliamentary inquiry: Has Pastore time expired?

The ACTING PRESIDENT pro tempore. The Pastore time has expired.

Mr. TESTER. Mr. President, I rise today to speak about the priorities facing Montana and this Nation, creating jobs, responsibly cutting our spending, cutting the deficit, rebuilding our economy. I appreciate the proposal that will be put forth I think later this evening to attempt to create jobs. When that proposal gets to the floor, I will vote to have the debate on S. 1723, because only then will I be able to offer my amendments to that bill, because as it is written, I cannot support that bill.

Having debate will allow us an opportunity to amend it so that it will guarantee jobs in Montana and across America. The perspective I bring to the table is a little different than most. I am someone who lives in, works in, represents a rural State. My responsibility is to make sure every decision I make works for not only Montana but the entire country.

I expect full accountability for every penny of taxpayer dollars we spend. I expect that when you invest in something, you get what you pay for. A lot of folks know I am a farmer, but many do not know I am also a former schoolteacher. I used to teach elementary music at Big Sandy Elementary, in Big Sandy, MT. I fully understand the importance of making sure all of our Nation's teachers have the resources they need to do their job, to lead our most important resource, our children.

As a teacher, I also know that when rural schools are asked to compete with urban schools for Federal funding, rural schools often get left behind. The same goes for emergency responders. Their service sometimes is—even as volunteers, it is very important to rural States such as Montana, whether it is firefighters, police officers, EMTs, they are on the clock whenever they are needed.

In Montana, as everywhere else, firefighters are respected for their courage and their hard work for doing whatever is expected of them to save property and save lives. But when Montana's rural fire departments and rural police departments have to compete for Federal funding, guess who often gets the short end of the stick. That is right, it is the emergency responders in rural States such as Montana, the folks who often do not have the professional grant writers to help them secure the basic equipment that they need to do their jobs safely.

That brings me to my proposal. I want to state again, as 1723 is written, I cannot support it. I am not convinced it will create the jobs it must create. And $30 billion in this bill is meant to go to States to boost education, to hire teachers. Yes, investing in education is a powerful short-term and long-term way to create jobs. But as written, this bill fails to give taxpayers any guarantee that their money would actually be used to hire teachers and invest in our schools.

The fact is, this money could be used to supplant funds instead of supplement funds. A State would get loads of money with little guidance that they spend the money on teachers. But we all know what happens. A lot of smart folks who work in State budget offices can find their way around guidance, because money is pretty darn easy to move from one budget account to another. In other words, there is no guarantee that this bill will create the jobs.

Montana is one of two States that has a budget surplus right now. We have been living within our means. There are other States such as Kansas that are considering broad-based tax cuts. That is fine. Kansas can do that if it wants. But I am not convinced that we should be writing checks to States so they can cut taxes. Montanans should not be paying for tax cuts for people in our States, nor should we be giving precious taxpayer money for States to build up their rainy day fund.

I am all for individual States making smart choices with their own money. But giving them Federal money and hoping they will use it for education and teachers, well, that is not good enough. With that kind of money, we need a guarantee. If the motion to proceed is adopted, I plan to offer two amendments to address my concerns. One will address the $5 billion in this bill meant to provide aid to the Nation's first responders. My amendment is a simple one. It requires that 20 percent of the competitive grant funding goes specifically for rural communities. That is only fair because rural communities make up 20 percent of our Nation.

The other amendment puts sideboards on the remainder of the money in this bill, to guarantee that it will be used in a way that it is supposed to be used, to create jobs in education, to invest in our kids. My amendment will prohibit States from pulling their own State money out of education programs when they take this Federal money. How? By putting the money into Part B of the Individual with Disabilities Education Act, IDEA, otherwise known locally as special education.

When I traveled around Montana after the passage of the Recovery Act in 2009, school administrators told me the money that made it to the ground was very much appreciated, but that special education was their top priority. IDEA funding is still one of the biggest unfunded mandates the Federal Government has on local school districts.

When it was first enacted, the Federal Government promised to pay 40 percent of the cost of this important law. Today, we pay less than half of that promise. This amendment will help bridge that gap somewhat. Special education funding is not only a top priority for the folks in Montana, it also guarantees that the funding gets to the local level.

It also guarantees that its funding gets to the local level. If the money in this bill is supposed to be for teachers, then let's make sure it ends up there. This amendment is a good way to do just that.

I ask unanimous consent that these two amendments be printed in the RECORD.

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

(Purpose: To require a portion of grants be awarded to entities in rural areas)

At the end of section 203, add ''The Attorney General and Secretary of Homeland Security shall award not less than 20 percent of the total amount awarded by the Attorney General and the Secretary, respectively, using amounts made available under this section to entities that are located in areas that are not designated by the Bureau of the Census as urbanized areas.''.

(Purpose: To allot funds for special education and related services)

Strike the title heading for title I and all that follows through the section heading for section 111 and insert the following:

TITLE I—SPECIAL EDUCATION STABILIZATION

SEC. 101. PURPOSE.

The purpose of this title is to provide funds to States for special education and related services for the 2011–2012 school year.

SEC. 102. DEFINITION.

In this title, the term ''State'' has the meaning given the term in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

SEC. 103. STATE ALLOTMENT.

(a) ALLOTMENT.—For each fiscal year, the Secretary shall allot to each eligible State an amount bearing the same relationship to the amount of funds appropriated under section 106 for that fiscal year, as the amount that State receives under part B of the Individuals with Disabilities Education Act (20

U.S.C. 1411 et seq.) for that fiscal year bears to the total amount all such States receive under that part for that fiscal year.

(b) GRANTS.—From the funds allotted under subsection (a), the Secretary shall make a grant to the Governor of each eligible State.

(c) ELIGIBLE STATE.—To be eligible to receive an allotment and grant under this section, a State shall submit and obtain approval of an application under section 104.

SEC. 104. STATE APPLICATION.

The Governor of a State desiring to receive a grant under this title shall submit an application to the Secretary within 30 days after the date of enactment of this Act, in such manner, and containing such information, as the Secretary may reasonably require.

SEC. 105. USE OF FUNDS.

A State that receives a grant under this title shall use the funds made available under the grant in the same manner, and subject to the same requirements, as funds allotted to the State under part B of the Individuals with Disabilities Education Act.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Mr. TESTER. I would like to talk about one other thing that is missing from the bill, and that is a reauthorization of the Secure Rural Schools Program and the Payment-in-Lieu of Taxes Program, otherwise know as PILT.

These two programs will do more to ensure that thousands of teachers stay on the job than anything else we can do around here. Here is the kicker: In the middle of this partisan debate, Secure Rural Schools and PILT are bipartisan programs.

Under the leadership of Senators BINGAMAN, MURKOWSKI, BAUCUS, CRAPO, WYDEN, and RISCH, we have a bill that can pass right now—today.

It would keep 4,000 teachers on the job at a cost of $3.5 billion over the next 5 years. That is small potatoes compared to the $35 billion in the bill that is before us today.

It is a very reasonable bill. But because it is so reasonable, nobody wants to see it appear in the middle of such a partisan debate. Once again, too many folks in Washington are looking for ways to point fingers.

Quite frankly, I don't have as many fingers as most folks around here, so I would rather use mine to solve some problems. Only after this final bill is amended to guarantee job certainty will it be able to earn my vote.

In order to amend it, I am going to vote for the motion to proceed. My vote is a vote for a debate we ought to have. It is an important one, so we can truly create jobs and focus on rebuilding our economy.

I look forward to that debate.

With that, I yield to my friend from West Virginia.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I thank the Senator from Montana for speaking on behalf of the rural States. It is clear our Nation is facing two grave economic threats: a job crisis and a debt spiral. As much as some people may wish, we cannot ignore one threat over the other. For the sake of our Nation's economic future, we must work together, Democrats and Republicans, and try to find a commonsense solution that protects and creates jobs but does so without adding to our growing deficit and debt.

In a more sensible legislative process, we would be able to sit down and work out compromises that make sense. It is what legislators throughout the Nation's history have done.

Unfortunately, looking at where things stand now, it is clear the legislative process in Washington has gotten so dysfunctional that it doesn't make much sense at all.

I came here to try to fix things, not to make excuses. I sure didn't come here to play the blame game. I have never fixed a thing by blaming someone else. As I have said many times before, it is time for all of us who have been given the great privilege to serve to focus on what is right for the next generation, not worry about the next election.

It is why—as frustrating as this legislative process can be—I will not lose hope that we can make this legislation better.

With respect to the current Teachers and First Responders Back to Work Act, there is no doubt about the fact that our teachers and first responders have a critical role in our Nation. From the classroom where teachers educate our children to the streets where first responders put their lives on the line to keep our communities and Nation safe, these great Americans are so important to the future of this Nation.

They and the American people deserve better than a temporary 1-year legislative proposal that does nothing to fix the long-term fiscal problems that led so many States to lay off thousands of teachers and first responders in the first place.

What will we do next year when States come back again asking for more Federal money? Will we give out more money and go further in debt? Will we borrow more money? What will we do?

As it stands, without any changes, this bill will not solve the fiscal problem that will come once the aid ends. But this bill is not hopeless. It can be made better. I know it.

In my State of West Virginia, we didn't have major layoffs of teachers or first responders during this brutal recession. As difficult as it was, we balanced our budget based on our values and priorities. We made difficult decisions, but we kept our teachers in the classroom and our firefighters protecting our citizens.

Make no mistake, we cut back our spending, but we did so responsibly. We spent where it was needed—on our priorities.

That is the commonsense approach that works in West Virginia because that is how people run their lives. It is how they operate their small businesses, and it is how we should run this country.

We make budget choices based on what is important in our State, to our family, to our business, and to our country.

In West Virginia, this simple, commonsense approach paid off. Every year I was Governor, we ended the fiscal year with a surplus. Every year for the past 3 years, West Virginia has seen its credit rating upgraded.

But now, because of the impact of this recession and the fact that other States did not make the difficult decisions years ago, the taxpayers of West Virginia are being expected to foot this bill for other States.

I believe there is a better way. I believe there is a better way where we can balance the fiscal constraints that States face with the need to protect these vital jobs.

I believe there is a better way we can balance the need to keep teachers and firefighters working, while not asking West Virginia taxpayers—or any taxpayer in any State—to pay for more than is necessary.

That is why I am offering a commonsense amendment that would transform this $35 billion in funding to keep teachers and first responders working into a loan program instead of a grant.

The loan program would allow any State to borrow at very low—or no—interest the money they need to keep teachers and firefighters employed and pay it back over time, when this recession basically ends.

I don't know of any State that wouldn't put their teachers and firefighters as one of the highest priorities and budget that first.

So this loan program would ensure that States are making the decisions on how much money they actually need and not the Federal Government's willingness to put us further into debt by giving away more money.

It would also ensure that States make smarter and more responsible decisions about what they can and cannot afford to do.

Such a loan program would help protect these jobs and would protect the fiscal future of States when they get in trouble. In short, it just makes common sense.

I encourage my Republican and Democratic colleagues to embrace this commonsense amendment. I encourage them to help me make it even better.

I hope they will support this cloture motion, not because they support the bill as it stands but because they believe in what this legislation could be if we all put politics aside and work to make it better.

If we can get past a filibuster, I hope the amendment process will be a testament to the great legislative moments this body has seen in the past.

As I have been assured by my leadership, this bill, if it gets to the floor, will have an open amendment process that will give us all an opportunity to make this legislation better. It is the

reason why I will vote for this motion to move on with debate.

To my Republican and Democratic friends who may not support this bill as it stands, I respectfully ask them to seize this opportunity to work together to make this bill better.

Trust me, I share many of their concerns. To be clear, if we cannot and do not adopt this commonsense approach that stops throwing money at the problems we have in this country, I will join them and vote against it.

This country is looking to us to do what is right. It is not about this vote or this bill. It is about the fact that so many Americans have lost confidence in this great body. They have lost confidence in the process that they see as broken and incapable of working. They have lost confidence in a legislative process that has become so political it doesn't matter what we do, it just seems all we care about is scoring political points to be used in the next election.

It is a fact that some folks in this town are so busy trying to make the other side look bad that they don't realize they are making us all look bad.

I don't believe for one minute that anybody in this Chamber—Democratic or Republican—is rooting for our economy to fail or jobs to be lost. We just all have different ideas. While we should question each other's ideas and policies, we should never question each other's convictions.

Shame on us if the blame game is the best thing we can do. We are better than that. I came here to fix things, not to play politics. It is time for us to stop with the bickering and remember one thing: We may be members of different political parties, but we are all party to this great Nation. We are all Americans.

As difficult as it may seem, America and the future of the American people are more important than politics or an election.

I ask again, let's work together on commonsense, bipartisan ideas to get this country on a responsible financial path that will strengthen the economy and create jobs.

Let's work together on making America's future brighter—not just for us but for the next generation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. TESTER. Mr. President, will the Senator from West Virginia yield for a question?

Mr. MANCHIN. Yes.

Mr. TESTER. Mr. President, I say to Senator MANCHIN that I think everybody in this body wants to have real job creation. They want to see this unemployment rate go down. I think most everybody realizes that if we cannot get the unemployment rate to go down, the chances of paying off our debt and getting the budget under control will be severely diminished. The Senator has offered some potential amendments to S. 1723, as I have—assuming we get cloture on this bill. In a previous life, the Senator from West Virginia was a Governor. When I was in the State legislature, oftentimes, money came to us from the Federal Government, and we very much appreciated it. But we took an administrative cost right off the top, as a natural procedure—anywhere from 3 to a much higher percentage rate than that. Is that something they did in West Virginia? How would the Senator's amendment impact things such as administrative costs and will you be able to get more of your money to the ground out of these dollars?

Mr. MANCHIN. Mr. President, I say to my friend that the way the system is set up and the bill, we are able to use this money where possible. An example of where money was used prior—we had two rounds of stimulus funding. This is our third. It was for a very worthy cause. For my State and your State, which didn't have the layoff of teachers or have the cutbacks in education, they would short that into their budget proposal, so when the Governor made his proposal, that money would backfill. That is how it was used. We only created 33 new jobs that first round, but that was $217 million.

The bottom line is—that is why I said we need a loan program. If spending money will fix our problems in America, we have no problems. We have to do it wisely. The Senator's amendments are appreciated, and I hope to support them.

Mr. TESTER. I thank the Chair.

Mr. MANCHIN. Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

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

(Purpose: To establish a Federal loan program to carry out the activities provided under the Act)

At the end of the bill, add the following:

TITLE IV—FEDERAL LOAN PROGRAM

SEC. 401. FEDERAL LOAN PROGRAM.

(a) IN GENERAL.—Notwithstanding any provision of title I or title II, the President, acting through the appropriate Secretary, shall ensure that any funds provided under this Act shall be used to award loans to States and localities to carry out the activities described in the appropriate title.

(b) AMOUNT.—The amount of a loan authorized under subsection (a) shall be based—

(1) under title I, on the allocations determined for a State under title I; and

(2) under title II, on the grant programs cited under such title.

(c) REPAYMENT.—A State or locality shall not be eligible for further assistance under this section during any period in which the State or locality is in arrears with respect to a required repayment of a loan under this section.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BLUNT. Mr. President, I wish to talk about a bill that I believe and hope——

Mr. DURBIN. Mr. President, before my colleague begins, I ask unanimous consent to be recognized after Senator BLUNT.

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

Mr. BLUNT. Mr. President, the bill I hope we get to tonight is part of the President's jobs package. It would repeal an action taken by the Congress a few years ago that I think has proven to be a harmful decision on the part of the Federal Government.

This would repeal the 3-percent withholding tax, which has a dramatic impact on anybody who does business with the government. That includes local governments and State governments and anyone who contracts with the government—and the government basically pays 97 percent of the bill.

The President, rightly, pointed out that one of the things we can do to get more money in the economy—and in many cases, simply to create profit where profit is not there otherwise—there are government projects for many businesses, and the profit margin is less than 3 percent on big projects. There is only so much work one can do to stay in business. If a person is not making money, they cannot stay in the business of doing what they are doing. So for those large projects that have a huge overall number, often the profit doesn't even equal the 3-percent withholding, and businesses have determined they cannot do that. Obviously, it impacts the bidding process for Federal work.

The tax revenue generated by this mandate is thought to be only around $200 million a year, and that $200 million left in the economy, left in the bidding process, left in the granting process could make a real difference. The only thing this job-killing tax increase does is delay recovery and stop us from getting on with the business of making American private sector job creation a reality.

The repeal is strongly supported by dozens of groups, including the Farm Bureau, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Federation of Independent Business, the National League of Cities, the Corn Growers Association, the Associated General Contractors, the American Trucking Association, Associated Builders and Contractors, and the Federation of American Hospitals.

Think about that group, and the fact that you have the Federation of American Hospitals, the National League of Cities, and the Corn Growers Association. This must be a government policy that has broad impact on lots of different segments of the economy. It is not all that unusual to see the National Manufacturers Association or the Chamber of Commerce or the National Federation of Independent Business on a list supporting a bill. But when they are on the list with the other people I mentioned, plus the truckers and the Associated Builders and Contractors, something must be happening.

And why have all of these groups come together and said let's support

this part of that package? Medicare payments to hospitals and individual physicians will be affected when this goes into effect in January of 2013. Medicare payments to individuals and hospitals will have 3 percent withholding. This causes a lot of cashflow problems for both the physician and for the hospital.

Farm payments. Even loan deficiency payments, beginning January 1, 2013. You get 97 percent of the partial solution to the problem you already have.

Grants for for-profit companies, regardless of whether they are State or Federal, will have 3 percent withheld. Grants, by their definition, are allocated to an entity for a specific purpose, such as research. And if you have a research budget that is grant dependent, what happens if you get 97 percent of the budget? Do you get 97 percent of the solution or does that mean you never get to the full solution? What if the grant is for a facility of some kind or a delivery of a service? What happens when you can only deliver 97 percent of that? And again, back to these big construction projects, where 3 percent withholding may be more than the profit.

This is one of the pieces of the President's jobs bill that I and others wish to see become a reality so that people could look out a year from now and not have to begin to plan on what happens when you only get 97 percent of what you expected it would cost to complete a job or to complete a project.

I believe we are going to be able to vote on this later this evening. I think we are going to have that opportunity, and I urge my colleagues to vote on it. I think it is one of those things, if we actually let it occur in the first of January 2013, people would wonder: Why couldn't they figure out during the interim period of time when this was passed and was going to go into effect that no matter what the intention was this will not work? In a bipartisan way, we should step forward and clarify this problem before it becomes a real problem with real consequences and, in fact, probably already having an impact on bidding, on requesting grants, and on other things. People are probably already beginning to think about what happens if this project is agreed to or approved or our bid is accepted for work that would be done beyond 2012.

I see my friend from Illinois is not here, and until he gets back, seeing no one else on the floor, 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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. Mr. President, there are two amendments that are likely to be called this evening, and I want to address them briefly because I believe both these amendments should be carefully scrutinized.

One amendment is by Senator AYOTTE of New Hampshire. What she would do in her amendment is restrict the authority of the President of the United States to refer suspected terrorists to our criminal justice system to be investigated, prosecuted, and tried. She would make it mandatory those terrorists—particularly associated with al-Qaida—would be tried before military commissions and tribunals.

I listened as she and Senator MCCONNELL came to the floor to explain their point of view. It is an interesting point of view, that we are at war with al-Qaida and, therefore, any trials of suspected terrorists associated with them should be before a military tribunal. Unfortunately, the logic of their argument falls flat when you look at reality. Here is the reality.

Since September 11, 10 years ago, President Bush and President Obama have faced time and time again allegations that individuals are suspected terrorists. Each President—Bush and Obama—has had to consult with the Secretary of Defense, the Attorney General, and other leaders in their administration to determine the appropriate place to investigate and try these cases.

Here is the record. Since 9/11, the Department of Justice advises us that on as many as 300 separate occasions—300—these suspected terrorists have been taken to the article III criminal courts of America and successfully tried and prosecuted. In that same period of time, exactly three suspected terrorists have been sent to military commissions and tribunals.

For the Senator from New Hampshire to now argue that all cases have to go to military commissions is to ignore the obvious. The President, as our Commander in Chief, with the premier responsibility to keep America safe, should decide the best place to try those who are accused. This has been a recurring theme on the Republican side—to take the terrorist cases out of our criminal courts. In fact, almost on a weekly basis Senator MCCONNELL has come to the floor making this argument.

The argument goes something like this: Do you mean to tell me we are going to take a suspected terrorist in and read them their Miranda rights; that they have the right to remain silent? You know what is going to happen. They will lawyer up and shut up and we won't get the information we need to keep America safe. That is why, he has argued time and time again, we shouldn't allow the FBI to be involved and we shouldn't refer these cases to article III criminal courts. And that is why Senator AYOTTE is offering her amendment this evening.

The fact is that argument isn't borne out by the facts. Look what happened 2 weeks ago. Remember the underwear bomber—the somewhat crazed individual—maybe crazed—who got on an airplane and was apprehended over Detroit with the argument that his clothing was on fire, and when they apprehended him and took him in, the FBI asked him questions? He answered questions for some period of time and at that point stopped talking.

The scenario at that point would have ended, according to Senator MCCONNELL. He lawyered up and shut up. But it didn't end.

The FBI continued the investigation. They went overseas and brought this man's mother and father to the United States and they sat down and talked to him. After they talked to him, he said he would cooperate fully with the FBI. He talked for day after day after day, telling them all the information about al-Qaida. Then his case was referred to a criminal court in Detroit, and 2 weeks ago he pled guilty.

If you follow the logic that has been given to us by Senator AYOTTE and Senator MCCONNELL, this never would have happened. The fact is, it did. The FBI did its job, the Department of Justice did its job. The man was prosecuted in our criminal courts; he pled guilty; he is likely to be sentenced in January to life in prison. It is because the President had the authority, as Commander in Chief, to pick the forum to try the individual. He picked the most effective forum, and when he did, we ended up in a situation where this man pled guilty and is going to be sentenced. It isn't an isolated case. In fact, it is the overwhelming likelihood that when a person is suspected of terrorism, they are more likely to be successfully prosecuted in one of our article III courts.

I note today that the chairman of the Armed Services Committee, Senator LEVIN of Michigan, pointed out on the Senate floor that when Senator AYOTTE raised this issue in the Armed Services Committee markup on the Defense authorization bill, her amendment was defeated on a bipartisan rollcall. Six Republicans voted against her, including Senator MCCAIN, the ranking member of the Armed Services Committee, and Senator GRAHAM, the only military lawyer serving in the Senate. But the amendment will still come to the floor.

I urge my colleagues, whatever they think of President Obama—and I respect him very much. Whatever they think of him, do not tie the hands of any President when it comes to picking the proper forum to try a terrorist. If the proper forum is a military commission and tribunal, I will back the President. If the proper forum is an article III criminal court, let's proceed that way as well.

The evidence overwhelmingly tells us that going through our criminal court system, terrorists pay a price—a heavy price—with up to 300 convictions since 9/11 and more than 100 convicted since President Obama took office. Let's respect the President's authority. Let's do the best thing to secure our Nation.

Let's not let the Senate presume to know exactly where every suspected terrorist defendant is to be tried.

Mr. President, there is also another amendment that is likely to be considered this evening, and that I wish to speak to. Senator STABENOW of Michigan, as chairman of the Senate Agricultural Committee, has a special responsibility when it comes to nutrition programs and especially the program known as the Supplemental Nutrition Assistance Program, the SNAP program, which is known to most Americans as the Food Stamp Program.

Senator SESSIONS has introduced an amendment that would eliminate the use of what is known as categorical eligibility for people to qualify for the SNAP program. Forty States use it. What they basically say is if you are eligible for some other programs, then we believe, in establishing that eligibility, you are also eligible for the SNAP program. It turns out that only 1 percent of SNAP households have net incomes over 100 percent of the Federal poverty level. The Federal poverty level, incidentally, is $22,350 per family of four. So when these people are judged to be part of a program, such as Temporary Assistance for Needy Families, TANF, LIHEAP, Low Income Heating and Energy Assistance Program, and the Social Security disability benefit program, they are eligible then for the SNAP program, the Food Stamp Program.

The Senator from Alabama, Senator SESSIONS, would change that. What he would add to it is a new redtape requirement that these people, who are by and large some of the poorest people in America, will now have to go through another bureaucratic process and fill out another application. I don't think that is necessary, and I am urging my colleagues not to support Senator SESSIONS' amendment.

He recently said on the floor something I want to point out. He said: No program in our government has surged out of control more dramatically than food stamps. Then he went on to say: We need people working with jobs, not receiving food stamps.

I will readily concede to the Senator from Alabama that the number of hungry Americans has increased. It is not only evident in the Food Stamp Program; it is evident at the food pantries, at the breakfast and lunch and dinner feeding programs that are available across Illinois and across America. I have been there and I have watched who comes through the door, and I want to tell you it is a heartbreak for them and for me to watch. Many of these people have never in their lives asked for anything, and now they have no choice. And many, to the surprise, I think, of many Senators, are actually working. But they make so little money that they have to go in and ask for help.

I agree, we need to put Americans back to work in good-paying jobs. The Senator from Alabama and others will have the chance to vote for part of President Obama's jobs program this evening. The fact is, 14 million Americans are currently unemployed, another 10 million underemployed, and these feeding programs are essential for them to keep their families together.

The Senator from Alabama points out one example to give a reason why we need to change the law across America. He talks about a case where someone actually won the lottery and then went on to get food stamps. That case got a lot of media attention, but the fact is it was highly unusual. If the Senator from Alabama wants to ensure that people who win the lottery and a windfall of income are not eligible for SNAP, I will be glad to work with him. Let's get that job done. But this amendment is not that legislation. That single, highly unusual situation doesn't merit kicking people who are out of work or in a low-income job out of a program that feeds their families. To impose that new obligation, new paperwork, new redtape obligation on families who are struggling because one person abused the system I think goes too far.

SNAP, in fact, has one of the lowest error rates of all Federal programs. The U.S. Department of Agriculture data shows us that over 98 percent of those receiving SNAP benefits are eligible, and over 95 percent of payments are accurate. The system has good quality controls, and I will work with the Senator from Alabama and any other Senator to make them even better.

The problem isn't food stamps in America. The problem is hunger in America. Let's address the hunger problem and put people back to work. We will have less demand for food stamps and food pantries.

I think what we face in this country is serious. I know it is in my State. In Senator SESSIONS' home State of Alabama, 17.3 percent of residents live in poverty and the same percent live in households that have food insecurity. Sadly, children are disproportionately impacted with hunger. In Senator SESSIONS' home State, it is over one out of four kids who is in a situation with food deficiencies. And 873,174 people in Alabama rely on food stamps, the SNAP program. Are we going to make their life more difficult because one person who won the lottery abused the system? I think that goes too far.

I hope we can work together to make this a better program. For those who are angry about food stamps or angry about food pantries, direct your anger toward hunger, toward unemployment. That is what is driving up the numbers in this system. We can work together to make it a better system. But the approach being suggested by the Senator from Alabama will just add redtape, paperwork, and unnecessary hardship to a lot of people who are already struggling.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the distinguished assistant majority leader for his comments. And I will disagree, but I think we could agree, because my proposal is not to cut off anybody who ought to receive food stamps. My proposal wouldn't cut off any benefits to anybody who deserves food stamps. My proposal would not cut off anybody who qualifies for food stamps. It would say that just because you complied with the requirement for TANF or you complied with the requirement for LIHEAP or you sought assistance for some family planning issue, that those don't automatically qualify you. I don't think it is too much to ask someone who would be given thousands of dollars over a period of time in food stamps to fill out a form. That form would say what your income is and what your assets are. And if you have substantial assets that are higher than the food stamp law allows, you should not get it.

So I don't believe this proposal does anything but help tighten up the act. I don't believe it is too much to ask that somebody fill out a form to demonstrate they are qualified before they receive free money from the U.S. Government for the purchase of food, and certainly I would emphasize that dramatically.

I don't think the Senator disagrees that any program in the U.S. Government of any real size has surged faster than this program has. It has gone up, since 2010, $20 billion. In 2009 or so, unemployment hit 9.8 percent. It is now 9.1. It is too high, and people need food stamps and they should get them. And perhaps there are more people out there who qualify even than in 2009, or whenever our unemployment hit almost 10 percent. Maybe there are more people today. I don't know. But I don't think there are huge numbers more. You go from $59 billion to $79 billion, that is about a 38- or 40-percent increase in 2 years in this program. One of the reasons is we have made people automatically eligible.

So if you are eligible for any of these programs, you have received any assistance, you may not have even filled out a form that has anything like the same qualifications that the Food Stamp Act requires, you are automatically, categorically, qualified.

The Congressional Budget Office says if this change in the law that happened recently were to be eliminated, it would save $10 billion over 10 years. It would not reduce food stamps; it would just reduce a little bit the growth in food stamps. The $10 billion over 10 years represents $1 billion a year in the first year. It would be less than that, according to the score we have seen. But let's say in the first year that this program reduced spending by $1 billion, that is $1 billion out of the proposed $79 billion. So we are expecting to spend $79 billion this year, and we would only

spend $78 billion. But that adds up over time. And food stamps need to be looked at across the board much more carefully, because we don't have that many more people who are in poverty today than we have had. But we have many more people receiving food stamps.

I would stress that this year's increase in food stamps by another 14 percent is not an acceptable figure, because we know that there are problems within the program.

AMENDMENT NO. 753

Mr. President, I wish to say one thing briefly about Senator AYOTTE's proposal on terrorism prosecution. As a Federal prosecutor for almost 15 years, I truly believe she is correct on this issue. It is something we have been debating in Congress for a long time. Congress has made clear its view about it.

I would simply say this. The Presiding Officer is a former Attorney General. But if you make the presumption that an individual who is arrested is to be tried in article III courts, even though they are an enemy combatant against the United States, against the laws of war, an unlawful enemy combatant, those individuals should be treated as warriors and they should be treated as enemies of the country, and they should be arrested and detained, and presumptively in military custody. This is the tradition of the United States from its founding. This is worldwide accepted law. And I do believe we need to understand the reason this is important.

An individual who is arrested attacking the United States and who is going to be tried in a Federal court must be given Miranda warnings before they are interrogated, must be provided a lawyer, must be promptly taken before a U.S. magistrate, must be provided discovery in the government's case, and must have a public hearing. You don't do that for people who are at war with you.

Mr. MCCONNELL. Would the Senator yield for a question?

Mr. SESSIONS. I would yield.

Mr. MCCONNELL. I have heard it argued on the floor here in connection with this issue that somehow because the Christmas Day bomber pleaded guilty in an article III court, that was an argument for putting him in the article III court. As a distinguished former prosecutor, I wonder if my friend from Alabama could address the issue of whether because somebody happened to end up in an article III court and happened to plead guilty, how that was an argument for his placement there in the first place.

Mr. SESSIONS. That is a very important question. This individual perhaps looks like he just fell off a turnip truck or something. He was not a very solid person and he decided to plead guilty, and that was good.

Many of these individuals are very tough, very clever, very devious. They have, we know for a fact, used the civil justice system to find discovery against us, how we discover their activities, what kind of surveillance techniques we use, and made the trials dangerous places and have made the trials showcases. So I think that just because one individual decided to plead guilty, it has no bearing on the overall principle that if you arrest people on the battlefield, they are not required to be taken immediately to a judge and given a lawyer.

Mr. MCCONNELL. Will my friend further yield for a question?

Mr. SESSIONS. I will be pleased to.

Mr. MCCONNELL. I have heard it said on the floor that because a number of terrorists have been tried in article III courts in the past—and I have heard people add up the number of times—that is somehow an argument for continuing to do it.

Is it not the case, I ask my friend from Alabama, that we just set up these military commissions a few years ago at the insistence of the Supreme Court in order to deal with this issue, and only since that time have we had a defined alternative for dealing with these enemy combatants who are also not citizens of the United States?

Mr. SESSIONS. The Senator is so correct. We went through a number of actions. The Supreme Court found the law inadequate, and Congress responded to the Supreme Court's concerns and passed clear laws that are certainly adequate within the Constitution as described by the Supreme Court. We now have an entire system set up to meet the Supreme Court's concerns about the trial of these individuals. It is safe. It is secure. It is consistent with Supreme Court requirements and international law.

Mr. MCCONNELL. I ask my friend, is it not also the case that the amendment of Senator AYOTTE has in it a national security waiver? I have heard it said that we have eliminated all the President's options. Is it not the case that even if the amendment of the Senator from New Hampshire were adopted and the President felt strongly, for some reason—it's hard for me to contemplate such a set of circumstances, but it is possible—he could, in fact, issue a national security waiver and go ahead and do it anyway, could he not?

Mr. SESSIONS. Absolutely correct. I think Senator AYOTTE really reached out to Members of this Senate to make sure they knew there was an option to do it another way, and it does provide the President that option.

With regard to the FBI and their involvement, they are a great investigative agency. If they participate in the arrest of one of these individuals and they were turned over to the military, the FBI can still work with the military to investigate the case. It would just be tried under military commissions according to the lawful system Congress, in a bipartisan way, passed several years ago.

Mr. MCCONNELL. I have also heard it said—I am going to pose another question to my friend—that it is kind of ludicrous to assume this ultimately leads to reading Miranda rights to a foreign terrorist on foreign soil. I think it strikes the Senator from Kentucky that that might be the logical extension of where we are going. If, in fact, we are saying that, routinely, foreigners, enemy combatants are going to be mainstreamed into article III courts, when do these protections, if you will, we afford to American citizens under the Constitution attach?

Mr. SESSIONS. That is a very good question. Under the law of the United States, if you are to interrogate an individual who has been taken into custody, the police have to give them Miranda rights before they interrogate them. As long as that person is in custody, if you are going to try them in a civilian court—and Director Mueller of the FBI, in response to questions I asked him, acknowledged that if you are going to try the person in the civilian courts and you conduct interrogation, you must give them Miranda warnings.

Mr. MCCONNELL. So would it not be the case, then, that all of these issues in terms of the timing of the attachment of these rights would soon be before courts in the United States for interpretation—ultimately, I guess, by the Supreme Court—as to at what point do these rights now afforded a foreign enemy combatant attach?

Mr. SESSIONS. There have been suggestions that somehow the terrorist cases would allow the interrogation to go on a few hours, but I have not seen any real authority that would justify that. The clear Miranda standard for any police officer in America is that if you arrest someone, before you ask them questions, they must have been given their Miranda rights. That is the rule in the trial of any Federal court. I think it would be very dangerous to assume the court is going to give some extraordinary new rights that they have never indicated they would.

Mr. MCCONNELL. I thank the Senator from Alabama.

Mr. SESSIONS. I thank the Senator, the Republican leader, for his good questions.

I would just say I think Senator AYOTTE has worked very hard on this amendment. She herself is a skilled prosecutor. I believe the legislation would be helpful to us.

I will just say that as a matter of policy, you can be absolutely sure it will be more difficult to prosecute a case, more likely to complicate matters significantly, if they are given Miranda warnings, if they are given lawyers, if they are brought publicly before a judge—perhaps revealing to the other coconspirators the fact that you have been arrested before they can be apprehended. It would cause many more difficulties than are necessary.

Of all people we ought not to give extra rights to, it would be terrorists bent on killing and maiming innocent Americans.

I yield the floor.

The PRESIDING OFFICER (Mr. COONS). The Senator from Illinois.

Mr. DURBIN. Does the minority leader wish to speak? I will yield to him if he does. No.

Mr. President, I am going to respond very briefly. This argument is so upside-down. If during the last 10 years we had successfully prosecuted terrorists—300 of them—in military commissions and only 3 in our criminal courts, then all of their arguments would make sense because you would have to argue that is the best place to go, that is where you can investigate and prosecute and successfully incarcerate those accused of terrorism. Exactly the opposite is true.

President Bush and President Obama, given the authority to choose a forum to try a suspected terrorist, have overwhelmingly and successfully chosen the article III criminal courts of America. Here is the score. They don't like to hear me say this, but I am going to give them the score again. It is important to know. Since 9/11, we are told by the Department of Justice, as many as 300 suspected terrorists have been successfully prosecuted in our criminal courts and 3 before military commissions, 2 of whom—before the military commissions—were released within a year to return to their home countries of Australia and Yemen. When you look at where terrorists are in jail in America today, you will find 300 to 1 they were terrorists who were prosecuted in our criminal courts.

In comes the Ayotte amendment and the arguments by Senator MCCONNELL and Senator SESSIONS to argue that clearly this system is upside-down, that we should be going to the military commissions, not to the criminal courts. Their argument is, incidentally, Miranda warnings—when you give an alleged defendant, a suspected criminal defendant, Miranda warnings, end of story, they stop cooperating. The problem they have is the facts, and the facts are that all 300 prosecuted terrorists in article III courts were given their Miranda warnings, the investigation continued, and the prosecution continued successfully. It did not end the case.

They do not like to talk about the details about this Christmas bomber, the Underwear Bomber. He was read his Miranda rights, and he shut up. Then the FBI brought in his mother and father, who said, ''Why don't you cooperate?''According to the head of the FBI, the Director of the FBI, he talked nonstop for days about everything he knew about al-Qaida. He did it after he was read his Miranda rights. Then he was off to court, where he is going to defend himself in this criminal case, and he pled guilty.

I have heard the Senators on the floor dismiss this—well, he pled guilty, so they didn't really prosecute him. They prepared the case—a case he knew he couldn't win. He fully cooperated with the investigation, and he conceded that he was guilty. Now he faces a life sentence in prison.

Is that a good outcome? It is the best outcome, and I will tell you why because they will not acknowledge this fact, and they should. All across the world, when they look at the way we prosecute terrorists in the United States, they have to say: You know, they are following the same rules and laws for alleged terrorists as they are following for anyone accused of crime in their country, and it is public, and he had an opportunity for a lawyer, and he was given the same warnings as any prospective criminal defendant.

You can't argue that this was done behind closed doors or done any differently from any other criminal defendant. There is something to be said for that. It is a bragging right, or at least something we should be proud of, that in the United States we use that system and use it so successfully.

For those who want to pass the Ayotte amendment and make it more difficult for any President to decide the appropriate forum to prosecuter terrorists, I just leave them one last reminder: The score is 300 to 3 since 9/11, 300 suspected terrorists successfully prosecuted in our criminal courts, 3 before military commissions.

Give this President, give every President the tools and the authority to make the right decision to keep America safe. Defeat the Ayotte amendment.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I am just going to make one final point on this issue, and then I want to address another amendment we will be voting on at some point.

One thing we have not discussed is what happens if the foreign enemy combatant in the article III court in the United States is actually acquitted. If he is, he, of course, has to be released. The deportation option is only available if some other country is willing to take him. There is not a whole lot of clamoring for these kinds of folks anywhere else in the world. We have had that experience. The courts then cannot keep them. They are released into the United States as a result of an acquittal in an article III court in the United States, and there is a situation where you cannot deport them because no one will take them.

I think the point is that this is all totally unnecessary. These are foreigners; these are not citizens of the United States. They have no right to be in an article III court. We don't dispute that the President can put them in an article III court, but why would he want to do that? We responded to the decision of the Supreme Court to set up these military commissions for this precise purpose, and it is clear this administration does not want to use them.

I also would like to make some brief comments about a matter we will be voting on later this evening. Everybody here in this body knows the American people want us to do something about the jobs crisis. What Republicans have been saying is that raising taxes on business owners is not the way to do it. So what we have done is we have combed through the President's latest stimulus bill looking for things we can actually support, for things that do not punish the very people we are counting on to create jobs. In other words, since the President never asked if there was anything in this legislation we could support, we have actually done it ourselves.

It turns out there is a very sensible provision in the President's second stimulus bill that would help businesses across the country. In fact, it is absolutely identical to a bill Senator SCOTT BROWN of Massachusetts introduced with 30 cosponsors earlier this year, many of them Democrats, among them Senators FRANKEN, BEGICH, KLOBUCHAR, PRYOR, TESTER, and MCCASKILL. They are all cosponsors of Senator SCOTT BROWN's bill.

What this bill does is it repeals an existing requirement that government agencies at the State, local, and Federal level withhold 3 percent of every payment to any contractor with whom they do business. This is money contractors may very well end up getting back from the IRS at some point long after the job is done, but in the meantime the government gets to hold on to it instead of allowing the businesses to invest it in jobs and the economy. This is money these companies could be putting toward hiring workers and growing their businesses, but it is going to the IRS instead, basically as a zero-interest loan to the Federal Government here in Washington.

I know Members on both sides of the aisle are hearing from constituents about how burdensome this regulation is. That is why President Obama himself already embraced delaying its implementation in his first stimulus bill and proposed delaying it again in his latest stimulus bill. That is why Senator SCOTT BROWN got so many Democratic sponsors when he proposed a full repeal.

Like the President's bill, this bill is fully offset, and the offset we are proposing has been supported by our friends across the aisle. In fact, the last time I saw a vote, I think 81 Senators actually voted for it. So the bill we are proposing is bipartisan. The offset we are proposing is bipartisan. There is no reason in the world that our Democratic friends, including the President, certainly, should oppose it. If delaying this legislation was a good idea before, repealing it should be an even better idea now. The bill is supported by hundreds of business groups representing job creators across America. We should come together and act right now and make it easier for them to create jobs for a change, and not harder.

The President asked us to come together and pass pieces of this bill. Here

is one that all Senators should be able to agree on. Let's vote on it and prove the skeptics wrong by acting in a bipartisan fashion on something that the job creators in this country actually want.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, the provision my friend talks about is placed in legislation as a result of the study made during the Bush administration—second Bush administration. GAO did a study. They found that 33,000 contractors, in effect, cheated on their taxes, and they owed some $3 billion. This money, they also determined, went mostly to giving the owners more salary and building them second and third homes.

There is no question that a lot of people, in addition to the 33,000 who cheated, were found to be burdened by this withholding 3 percent of what they had coming to them. What my friend fails to acknowledge is this bill that was amended that my friend has before the Senate has no chance of accomplishing anything. Constitutionally it will be killed in the House in a matter of a millisecond because constitutionally it will be what we call blue slipped here. It is a revenue measure. It cannot start in the Senate.

It costs $11.6 billion to take this money out—I am sorry—take that 3-percent provision out, and we need to do that. It costs $11.6 billion. What my friend fails to alert the Senators to is that since this matter has come up in years past and months past, things have changed. We have burdened the American people—especially the American middle class—with all of these cuts we have made. We did them. It was done by Democrats and Republicans, but they have given enough.

My friend's bill is offset by reducing discretionary spending by $30 billion. Senator MCCONNELL's bill does nothing to address contractors who cheat on their taxes and still get Federal contracts. Nothing, zero.

Our alternative—and I will offer a unanimous consent request of this at a later time before we get to these two cloture motions we have. It repeals the 3-percent withholding tax, and we acknowledge it should do that. The Democratic alternative also addresses the problem of tax evaders receiving government contracts by expressly prohibiting contractors who are delinquent on their taxes being eligible for Federal contracts. That way all contractors are not punished, only those who are, in effect, cheating.

The Democratic alternative offsets the costs of repealing the withholding requirement by closing the loophole that allows companies to claim excess foreign tax credits and the famous corporate jet preference. It has a 1-year delay in implementing worldwide interest allocation which allows taxpayers to claim greater tax credits for the foreign taxes they pay; fair, reasonable, not a burden on the middle class.

A vote for Senator MCCONNELL's amendment would do nothing to repeal the withholding requirement because the House, I repeat, will blue slip this. The House will send us a repeal bill. They told us, the Republican leadership, soon, and I mean soon rather within a matter of weeks. We will have a real opportunity to repeal the withholding requirement when we get the House bill. We would, of course, put our amendment on that.

Let's be honest about this. This is nothing more than a misdirected stunt by my friend, the Republican leader. This provision will be repealed, but it should be done the right way. We all agree that it is unfortunate that the Bush administration did that. They had a good intent. They were trying to get rid of some people who were cheating, but it was too broad and overreaching and has hurt a lot of people. That GAO report said 33,000 people, civilian contractors, owed more than $3 billion. I repeat, that 2005 GAO report said $3 billion in taxes. I didn't make this up. The GAO report also found that these firms, many of them diverted these payroll taxes to increase an owner's salary or building him a new home or two.

So by withholding a small amount of a contractor's payment and sending it to the IRS, the belief was that the contractors would have more motivation to comply with the law. It didn't work well. It was too overreaching and too broad.

I would hope that we would look at the consent I will offer. Procedurally there is no way we can have a second-degree or side by side with what we are doing here. I would hope my friends, Democrats and Republicans, would do something that is real, not something that is only figurative. What we are doing is real. We agree it should be done. It should be done right. It should not be done by burdening the middle class with more domestic discretionary cuts.

I will say this generally. Here it is 9:30 at night. The decision is going to have to be made very quickly as to whether we will be here tomorrow. The two matters that the Republican leader and I have spoken about, we could vote on those right now. I offered to vote on those earlier today, but we were unable to do that. We can come tomorrow. It is getting late here, and I am not sure what we are accomplishing by trying to work through all of this tonight. We are trying to be reasonable. As I indicated, my friend the Republican leader said he needed 10 or 12 votes. We agreed to that a long time ago. I cannot imagine why we cannot move forward.

I repeat, we cannot be stalled so we come back with a very short work period. We have a continuing resolution and many other things to deal with when we come back with the short work period. I wish to do another appropriations bill, but we cannot do another appropriations bill while this one is still floundering here.

This was an experiment that I was happy to engage myself in because I believe we should try to do our work here. But this CR business and holding us up from doing the work we have done for 10 months this year was not our doing. This has been as a result of my friends who are the majority in the House and the minority over here. So we have spent all of these months on two major issues, CRs and raising the debt ceiling. I would hope we can work something out on this appropriations bill and get it done tonight.

Mr. MCCONNELL. Mr. President, I would ask my friend, did you propound a consent agreement?

Mr. REID. No. What I said I would do is when we get ready to schedule these votes, I will do it. I will make sure you are here.

Mr. MCCONNELL. Fair enough. I want to echo the comments of the majority leader. In my time in the Senate some of our best work has been done on Thursday night. Usually when we are passing bills around here, we are working on Thursdays into the evening and finishing them. It is my hope that we will continue on that path and finish this bill tonight. Frequently coming back on Friday is counterproductive, and I would encourage all of the Members to cooperate to the greatest extent possible. I think we were, the last time I checked, making progress toward getting a lot of amendments in the queue hopefully to be voted on tonight.

Mr. REID. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative 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. The Senator from Ohio.

AMENDMENT NO. 771

Mr. BROWN of Ohio. I rise in support of amendment No. 771 sponsored by Senator BINGAMAN. It will strengthen our Nation's competitiveness. As I heard the majority leader and the Republican leader talk about job creation, this will matter, strengthening our Nation's competitiveness by ensuring we enforce trade laws better than we have.

American workers, American farmers can compete with anyone. We can compete on productivity, we can compete on skills. When workers are forced to compete against unfair export subsidy, that is cheating, as we showed on the China currency bill, which passed with 63 votes—a good, strong bipartisan effort. We cannot compete against unfair export subsidies. Our workers cannot compete against that kind of cheating.

Fortunately, we have tools to do something about that. Our trade laws are the last line of defense to retain and create jobs in American industries. Paper, steel, tires—President Obama

has actually enforced trade laws in those three industries which directly created jobs in Finley, OH, in Lorain, OH, in Youngstown, OH, including the construction of a new steel mill.

Our trade laws are critical if we are going to compete for advance manufacturing jobs. Jobs in solar, wind, and clean energy component manufacturing in the auto supply chain all rely—or should rely—on an active U.S. Trade Representative who will initiate more cases.

I proposed an amendment to this appropriations bill, No. 865, that would provide the office of the U.S. Trade Representative an additional $5 million to initiate cases on China's subsidies to solar producers and China's hoarding of rare earth materials, an increasingly important problem that is eroding American manufacturing.

I support Senator BINGAMAN's amendment, which provides funds for general trade enforcement. But here is why I wanted to specify solar and rare earths in my amendment. According to the U.S. International Trade Commission, our solar producers, like those in Toledo—and there are three of them—are facing an expected 240-percent increase in the import of Chinese solar panels this year. Yesterday a number of solar companies filed a complaint with the Commerce Department and the ITC, asking them to seek duties on Chinese solar panels sold below cost. Understand, the Chinese sell these into our market as they sold coated paper, as they sold tires, as they sold oil country tubular steel. They often undercut our prices because they are subsidizing energy and water and capital and land and, of course, the currency subsidy, which this body spoke about and voted on a couple of weeks ago.

On rare earths, China is artificially using export restraints or quotas to raise the cost of rare earths internationally while keeping them low domestically so producers in Ohio and the Presiding Officer's home State of Delaware simply cannot compete because of how they are subsidizing their production.

Ohio companies such as Electrodyne in Cincinnati saw their costs go up 59 percent in June and 68 percent in July of this year alone on account of these price changes. How can we possibly compete when they are cheating that dramatically and to that degree? These policies have fundamentally turned rare earths into a spot price market. I want to see the USTR litigate on these protectionist policies. This is not American protectionism. This is our serving our own interest as a nation against answering the protectionism they have exhibited.

Every country in the world practices trade according to their national interest. Too often in the United States we practice trade according to a college economics textbook that is 20 years out of print. These two enforcement initiatives, critical to my State and many others of my colleagues here, will absolutely matter. This amendment will ensure that USTR has the resources to investigate and to act on blatant, unfair trade practices. Trade enforcement is critical if we are going to compete for advanced manufacturing jobs and so many other industries that are in our States.

I urge my colleagues to support the amendment. I applaud Senator BINGAMAN for his leadership on amendment No. 771.

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, 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 and motions: Landrieu No. 781, as modified with the changes that are at the desk; Kohl No. 755; Vitter No. 917 to Menendez No. 857; Menendez No. 857; Gillibrand No. 869; Lautenberg No. 836; Bingaman No. 771, as modified; Sessions No. 810; Coburn No. 791; Coburn No. 792; Coburn No. 796; Coburn No. 800; Paul No. 821; Portman No. 859; McCain No. 892; Cantwell No. 893, as modified with the changes that are at the desk; Cochran No. 805, as modified with the changes that are at the desk; Burr No. 890; DeMint No. 763; Inouye No. 918; Ayotte No. 753; Crapo No. 814; Kyl, as modified with the changes that are at the desk; and Lee motion to recommit; that there be no amendments or points of order in 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, Menendez, Sessions, Paul, Ayotte, Crapo, and the Coburn amendments Nos. 792 and 796 be subject to a 60-affirmative vote threshold; that all after the first vote be 10-minute votes; that upon disposition of these amendments, the remaining pending Coburn amendments be withdrawn with the exception of amendment No. 801; that no other motions or amendments be in order to the bill, the Senate proceed to the cloture vote on the substitute amendment No. 738, as amended; that if cloture is invoked, the substitute amendment, as amended, be agreed to and be considered original text for the purposes of further amendment; that the majority leader then be recognized to raise points of order against any pending nongermane amendments; further, if cloture is invoked, the Senate resume consideration of the bill at 4 p.m., Monday, October 31, and proceed to votes in relation to any remaining germane pending amendments in the order they were offered; further, that upon disposition of any pending germane amendments, the bill, as amended, be read a third time and the Senate proceed to vote on passage of the bill with no intervening action or debate; that when the Senate receives a message from the House with respect to H.R. 2112, the Senate insist on its amendment, request, or agree to, a conference with the House on the disagreeing votes of the two Houses; and the Chair be authorized to appoint the following conferees: KOHL, HARKIN, FEINSTEIN, JOHNSON of South Dakota, NELSON of Nebraska, PRYOR, BROWN of Ohio, INOUYE, MURRAY, MIKULSKI, BLUNT, COCHRAN, MCCONNELL, COLLINS, MORAN, HOEVEN, HUTCHISON, and SHELBY; finally, that if cloture is not invoked on the substitute amendment No. 738, as amended, cloture on the underlying bill be vitiated and the bill be returned to the calendar in status quo. I failed, Mr. President, to identify the Kyl amendment. It is No. 912.

The PRESIDING OFFICER. Is there objection to the leader's request?

Without objection, it is so ordered.

Mr. REID. Mr. President, for all of these amendments that are pending, there is no requirement that we have to have rollcall votes. Everyone should understand that.

Mr. President, tonight the Senate will vote on a bill introduced by my friend, the Republican leader.

While I have great respect for my friend, the senior Senator from Kentucky, I believe in this case he is playing political games.

The Republican leader has inserted a poison pill for Democrats into his proposal.

To offset the $11 billion cost of his legislation, the Republican leader proposes we slash $30 billion in programs that help the middle class and get our economy back on track.

What is more, this is a backdoor violation of the debt ceiling agreement we reached after months of negotiation this summer.

This is not a serious attempt to repeal the rule requiring the government to withhold 3 percent from all government contractors. It is an attempt to circumvent the rules.

And even if we passed the Republican leader's bill tonight, the House will not act on it. Revenue bills like this one must originate in the House, a prerogative that body guards jealously.

So our action on this bill this evening is nothing more than a misdirected stunt by Republican leadership.

But let me be clear: this provision will be repealed before it takes effect.

The Senate will have a real opportunity to repeal this provision, when the House sends us a bill that repeals the 3-percent withholding the week we return from the in-State work period.

In 2 short weeks, we will have an opportunity to work together on a commonsense way to both repeal the withholding requirement and address the underlying problem it was enacted to address.

It is important to review the history of this proposal to understand why we are in this situation today, and how to move forward.

A 2005 GAO report found that 33,000 civilian contractors owed more than $3 billion in taxes. The GAO report also found that some of these firms diverted payroll taxes to increasing the owner's salary or build him a new house.

By withholding a small amount from a contractor's payment and sending it along to the IRS, the belief was that contractors would have more motivation to comply with the tax law.

The withholding requirement was enacted with overwhelming Republican support. Only a couple of Democrats supported the legislation.

But this withholding has turned out to be more trouble than it is worth for a number of reasons, and now many on both sides feel it should be repealed.

But Democrats also believe we must address the underlying problem. The Republican leader's bill does nothing to prevent taxpayer dollars from going to contractors who fail to pay their taxes.

Democrats have offered alternative legislation that would address the problem of noncompliant contractors without targeting those who pay their taxes.

The Senate will take action on this worthy alternative in just a couple weeks, after the House sends us its bill.

Voting on this measure today is nothing more than a diversion by my Republican colleagues.

I am confident that Senate Democrats and Republicans will be able to work together next month to repeal this provision.

We should be successfu1 at working together to stop an unfair tax increase that will hit middle-class families.

This month, Republicans blocked our attempt to keep payroll taxes low for families and businesses who are still struggling as our country fights its way out of a serious recession.

I hope they will be as willing to work with Democrats on finding solutions that work for middle-class families as they are on finding solutions for government contractors.

UNANIMOUS CONSENT REQUEST—H.R. 674

Mr. President, I want to get the Republican leader's attention.

I ask unanimous consent that when the Senate receives from the House H.R. 674, the Senate proceed to its consideration; that the Reid substitute amendment, the text of which is at the desk, be agreed to.

This amendment would do the following: It repeals the 3-percent withholding requirement; prohibits contractors who are delinquent on their taxes from being eligible for Federal contracts; offsets by closing a loophole that allows oil and gas companies to claim excess foreign tax credits, eliminating a tax preference for corporate jets, and a 1-year delay in implementing worldwide interest allocation.

I then ask consent that the bill be read a third time and the Senate proceed to a vote on passage of the bill, as amended, with all of the above occurring with no intervening action or debate.

We have both given our statements in this regard, Mr. President, earlier today.

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. MCCONNELL. Mr. President, reserving the right to object, this would implement a tax increase. It also would be subject to the same blue-slip concern the majority leader expressed with regard to the vote we are going to have on the 3-percent withholding. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Mr. President, I would say there would be no blue-slip problem whatsoever because, as I indicated, this would be an amendment to a revenue bill we have received from the House, and I identified which one that would be.

Mr. President, I ask unanimous consent that the cloture vote with respect to the Reid motion to proceed to Calendar No. 204, S. 1723, occur at 9:55 tonight; further, that if cloture is not invoked on the Reid motion to proceed, the Senate then proceed to a vote on the motion to invoke cloture on the McConnell motion to proceed to Calendar No. 205, S. 1726; finally, that if cloture is invoked on either motion to proceed, that notwithstanding cloture having been invoked, the Senate resume consideration of H.R. 2112, and upon disposition of H.R. 2112, the Senate resume consideration of the motion to proceed, postcloture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, today I wish to express strong support for the Teachers and First Responders Back to Work Act, a bill that provides funding to hire and prevent the layoff of tens of thousands of teachers, police officers, and firefighters.

Difficult economic times have devastated the ranks of these critical positions. Since 2008, California alone has seen more than 70,000 educators laid off. The resources in this bill will help cities and towns across the country avoid more layoffs and start rebuilding their workforce.

Nationwide, some 300,000 education jobs have been lost in the past 3 years, and State and local budget cuts will endanger as many as 280,000 teacher jobs next year.

The difficult economy has also strained police departments across the country. In the past 18 months, 10,000 police officers have been laid off around the country, while 30,000 vacancies have gone unfilled.

I have heard from many police departments in my home State of California that fear that this understaffing will jeopardize public safety. They are concerned that with fewer officers for patrols, investigations and other critical tasks, crime will increase.

Fire departments face similar problems. Thousands of firefighters were laid off in 2009 and 2010, and another 7,000 face layoffs this year.

This legislation will help communities address staffing shortages in these critical positions.

To help our schools, the bill would provide $30 billion to States and school districts to protect and create up to 400,000 education jobs nationwide, which would prevent the layoffs of up to 280,000 teachers and hire tens of thousands more.

In my home State of California, this will safeguard more than 37,000 education jobs.

According to the Government Accountability Office, 72 percent of school districts expect to have less funding in the 2011–2012 school year as compared to last year.

In California, public schools are suffering from State budget cuts. I have heard from thousands of teachers in my State who have received pink slips each spring over the last several years warning that their jobs are in danger.

Many teachers wait for months to find out whether they will still be teaching the following year. Many pink slips are rescinded, sparing jobs, but others are not as lucky. Our teachers should not have to deal with such uncertainty, and this bill helps safeguard those jobs.

With so many teachers losing their jobs in California, classrooms are becoming crowded and the school year is becoming shorter. On average, K–3 classrooms in California are up to 25 students, up from 20 students 2 years ago.

Average class sizes for higher grades have risen from 28 students to 31. The more we squeeze students into one classroom, the more difficult it is to provide standards-based instruction, and the harder it is for students to focus on their education.

This bill invests in education to keep educators on the job, continuing to provide students with a supportive learning environment.

In a country that prides itself on providing children with every opportunity, it does not make sense to lay off the very teachers who prepare our children for the future.

Another casualty of budget cuts is the many talented individuals who are being driven away from the teaching profession because of the lack of job stability. I fear that a deteriorating education system means more children will slip through the cracks and be unprepared for college or to compete in the global economy.

The quality of education is a direct reflection of how firmly we support our teachers.

In addition to supporting thousands of teaching jobs, the Teachers and First Responders Back to Work Act also provides $4 billion for communities to hire police officers. These

funds will support more than 17,000 positions over the next 3 years, including about 2,600 in my home State of California.

There is also $1 billion for firefighters, supporting about 6,300 positions nationwide.

These funds go to support the dedicated first responders we depend upon in emergencies—the firefighters who enter burning buildings to save lives and the police officers who risk everything to keep our streets and homes safe.

In recent years, firefighters and police officers have taken on even more responsibilities as they prepare for—and respond to—terrorist attacks. We are reminded of the importance of these first responders when we remember the brave men and women who worked so heroically to save lives after the 9/11 attacks, including more than 400 firefighters, police, and other emergency personnel who lost their lives that day.

Now is the time to stand with our first responders and give them the support they need. We must make sure our emergency personnel are not risking their lives because too many of their colleagues have been laid off.

While this legislation will strengthen our schools and protect our streets and homes, it will not add a penny to the deficit. This is accomplished by paying for the bill with a half-percent tax on Americans with an adjusted gross income over $1 million.

I have long said that those people who have benefited from this economy and can help out should do so. Millionaires can afford to help build a smarter, safer, stronger nation.

It is not the wealthiest Americans who have been bearing the brunt of this recession; it is the middle class and the poor who have suffered.

Our Nation continues to face serious economic difficulties. The unemployment rate is over 9 percent, and remains stuck at 12 percent in California. This lack of employment is causing severe financial strain with too many families losing their homes and too many families struggling to make ends meet.

Congress needs to help Americans get back to work and get our economy moving forward. And this bill will help.

With the Teachers and First Responders Back to Work Act, we will strengthen our schools, help our children get the education they deserve and give our first responders the support they need to keep our communities safe.

I urge my colleagues to support this legislation.

TEACHERS AND FIRST RESPONDERS BACK TO WORK ACT OF 2011—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1723, a bill to provide for teacher and first responder stabilization, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—50

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

NAYS—50

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

The PRESIDING OFFICER (Mr. BEGICH). On this vote, the yeas are 50, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I ask unanimous consent that all remaining votes tonight be 10 minutes in duration.

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

Mr. REID. Mr. President, we have 16 more amendments that we must vote on. I hope people will look at those closely. A number of them—in fact, most of them—can be done by voice vote. If they win, it doesn't matter how you win. Let's get done with them as quickly as we can.

WITHHOLDING TAX RELIEF ACT OF 2011—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

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, 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.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1726, a bill to repeal the imposition of—the Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for a minute on this motion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we all agree that the contractors who contract with the Federal Government should pay their taxes. I don't think there is any dispute on that. There is also agreement that we should not overburden small businesses which are paying their taxes. The bill before us would repeal the provisions scheduled to go into effect in 2013 to require a withholding of 3 percent of payments from the U.S. Treasury to the government contractors. There are two flaws in this. One, it lets all government contractors off the hook, even those who refuse to pay taxes. Those contractors would not be subject to the mechanism to make sure they pay. Second, this is paid for by rescinding $30 billion of appropriated funds, which is, frankly, contrary to the agreement reached with the President on the deficit reduction.

I ask colleagues to oppose the cloture motion to proceed to the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, this is a no-brainer. This is where political theater stops and we actually do something the American people want and need. Three percent withholding is good for small businesses. We have viewed this pay-for

many other times. It passed one time with 81 votes, another time, I think, 37-plus of my colleagues on the other side of the aisle used the same funding we are using to pay for this, but now all of a sudden it is not appropriate.

We have six cosponsors on the Democratic side. We need a couple more to make it go forward. The people want us to work together in a bipartisan manner, and this is a way to send that message that we have turned the corner.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1726, a bill to repeal the imposition of the withholding of certain payments made to vendors by government entities, shall be brought to a close?

The yeas and nays are mandatory under the rules.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—57

Alexander	Graham	McConnell
Ayotte	Grassley	Menendez
Barrasso	Hagan	Moran
Bennet	Hatch	Murkowski
Blunt	Heller	Nelson (NE)
Boozman	Hoeven	Nelson (FL)
Brown (MA)	Hutchison	Paul
Burr	Inhofe	Portman
Chambliss	Isakson	Risch
Coats	Johanns	Roberts
Coburn	Johnson (WI)	Rubio
Cochran	Kirk	Sessions
Collins	Klobuchar	Shelby
Corker	Kyl	Snowe
Cornyn	Lee	Tester
Crapo	Lugar	Thune
DeMint	Manchin	Toomey
Enzi	McCain	Vitter
Franken	McCaskill	Wicker

NAYS—43

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

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

AMENDMENT NO. 781, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes, equally divided, prior to a vote in relation to amendment No. 781, as modified, authored by the Senator from Louisiana.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I will do my best to start the pace around here. I am going to ask for a voice vote, and I would hope people would give a shout out for a ''yea'' vote for a narrow exception to a wetlands project for nonprofits with a permit to build. That is what this amendment does. There is no opposition.

I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator wish to modify her amendment?

Ms. LANDRIEU. Yes.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

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

SEC. 7___. For fiscal year 2012, section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) shall not apply to a project funded under the community facilities programs authorized under such Act.

The PRESIDING OFFICER. All time is yielded back.

The question on agreeing to the amendment, as modified.

The amendment (No. 781), as modified, was agreed to.

AMENDMENT NO. 755

The PRESIDING OFFICER. There will now be 2 minutes, equally divided, on amendment No. 755.

Who yields time?

The Senator from Wisconsin.

Mr. KOHL. I accept a voice vote.

The PRESIDING OFFICER. Is there any further debate?

All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 755) was agreed to.

AMENDMENT NO. 917 TO AMENDMENT NO. 857

The PRESIDING OFFICER. The question is on amendment No. 917, the Vitter second-degree amendment.

Mr. VITTER. Mr. President, I call up the Vitter second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 917 to amendment No. 857.

Mr. VITTER. Mr. President, 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 reestablish the maximum aggregate amount permitted to be provided by the taxpayers to Fannie Mae and Freddie Mac)

On page 5, strike line 14 and insert the following:

2011'' and inserting ''December 31, 2013''.

SEC. ___. REESTABLISHMENT OF MAXIMUM AGGREGATE AMOUNT PERMITTED TO BE PROVIDED BY THE TAXPAYERS TO FANNIE MAE AND FREDDIE MAC.

(a) MAXIMUM AGGREGATE AMOUNT OF COMMITMENT.—No funds may be provided by the Department of the Treasury or any other agency or entity of the Federal Government to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as part of the Amended and Restated Senior Preferred Stock Purchase Agreement, dated September 26, 2008, amended May 6, 2009, and further amended December 24, 2009 (as such agreement may be further amended), between the Department of the Treasury and the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as applicable, under any other agreement between the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and the Department of the Treasury, or otherwise, that exceed a maximum aggregate amount of $200,000,000,000.

(b) PAYMENTS TO TREASURY.—Any dividend or interest payment made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to the Department of the Treasury pursuant to any applicable contract, agreement, or provision of law shall not be included in the calculation of the aggregate amount of a commitment under subsection (a).

(c) ENFORCEMENT.—The Director of the Federal Housing Finance Agency shall take such actions as the Administrator determines are necessary to prevent the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation from requesting or receiving any funds that exceed the limit provided in subsection (a).

(d) DEFINITIONS.—For purposes of this section, the terms ''deficiency amount'' and ''surplus amount'' have the meanings provided such terms in the applicable Senior Preferred Stock Purchase Agreement described in subsection (a), as amended through December 24, 2009.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, this is a second-degree amendment to the Menendez amendment. The Menendez amendment would actually expand the already dominant role of Fannie Mae and Freddie Mac in the mortgage marketplace when there is an unlimited taxpayer bailout liability toward that.

My amendment would simply say, particularly if there is going to be this expansion, we should limit taxpayer liability to $200 billion, and the taxpayer should definitely be paid the dividend they were promised. I think that is a very reasonable taxpayer protection.

I reserve the remainder of my time for the ranking member of Banking.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that I be allowed to speak for 45 seconds on this amendment.

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

Mr. SHELBY. Mr. President, I urge my colleagues to support the Vitter amendment. The amendment will limit the taxpayers' exposure to the bailout of Fannie and Freddie. No more blank checks. We have already spent $169 billion in taxpayer dollars; $200 billion is more than enough. Think about it.

The PRESIDING OFFICER. Who yields time?

The Senator from South Dakota.

Mr. JOHNSON of South Dakota. Mr. President, this amendment would essentially force the wind-down of

Fannie Mae and Freddie Mac prematurely without any structure to take their place. The Banking Committee has heard from witnesses, including Dwight Jaffee and Mark Zandi, that taking over Fannie Mae and Freddie Mac were the only options the government would have to avoid a complete market collapse. This amendment could plunge us back into the panic of 2008, when credit was unavailable and the economy was on the verge of collapse. Mortgages would not be finalized, home sales could not go through, and the home owners would be unable to refinance.

The Vitter amendment would eliminate any stability we have achieved in the housing market. The Vitter amendment is an irresponsible response to the housing crisis, and I urge my colleagues to oppose this amendment.

I ask unanimous consent to have printed in the RECORD a letter from the National Association of Realtors, and a letter from the Mortgage Bankers Association.

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

MORTGAGE BANKERS ASSOCIATION,
Washington, DC, October 20, 2011.

Hon. HARRY REID,
Majority Leader, US Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, US Senate,
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: I am writing to express the Mortgage Bankers Association's strong opposition to an amendment being offered by Senator Vitter to the Menendez/Isakson amendment #857 to the Transportation, Housing and Urban Development Appropriations Bill currently being considered by the Senate. The Vitter amendment would reestablish the cap on the amount of capital Treasury could provide to Fannie Mae and Freddie Mac. If adopted, this amendment would severely undermine investor and market certainty in our nation's housing markets.

Private capital has yet to return to the secondary market at volumes that would sustain a sufficient level of liquidity. Establishing an arbitrary cap on the amount necessary to preserve the GSEs' presence in the market would unnecessarily constrain some of the only sources of liquidity during this volatile period in the nation's economy. MBA urges a no vote on the Vitter second degree amendment to the Menendez amendment.

Sincerely,

DAVID H. STEVENS,
President and Chief Executive Officer,
Mortgage Bankers Association.

NATIONAL ASSOCIATION OF HOMEBUILDERS AND NATIONAL ASSOCIATION OF REALTORS,
October 20, 2011.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: It has come to our attention that Senator Vitter is asking for a second degree amendment to Menendez/Isakson #857 that will cap the lending authority for Fannie Mae and Freddie Mac from the US Treasury. Please be aware that the National Association of Homebuilders and the National Association of REALTORS adamantly oppose the Vitter Amendment.

Housing markets remain fragile. Despite record low interest rates, existing home sales for September were down and contract failures are more than double last year's rates. The Vitter amendment would devastate any housing recovery. The amendment would shut down Fannie Mae and Freddie Mac at the very time that they are providing valuable support to a struggling housing market.

At their current rate, including the punitive ten percent dividend they are required to pay, they may reach this cap in short order, ending their ability to provide liquidity to mortgage markets. Private entities simply do not have the capacity to fill the void. Passage of this amendment would be catastrophic to housing markets and would most likely cause a relapse recession.

Please vote NO on the Vitter Amendment.

Sincerely,

NATIONAL ASSOCIATION OF HOMEBUILDERS,
NATIONAL ASSOCIATION OF REALTORS.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, I yield back the time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to Amendment No. 917.

Under the previous order, the Senate amendment requires 60 votes for adoption.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BURR (when his name was called). ''Present.''

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

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

[Rollcall Vote No. 179 Leg.]

YEAS—41

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

NAYS—57

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

ANSWERED ''PRESENT''—1

Burr

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 57. One Senator responded ''present.''

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

AMENDMENT NO. 857

The question is on the underlying Menendez amendment. There is 2 minutes, evenly divided. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I ask the Chair to advise me when 30 seconds has passed by.

The Menendez-Isakson amendment would temporarily restore conforming loan limits to the level that existed under the law as of September 30 but expired. The drop in loan limits has reduced consumer credit in 669 counties across 42 States. The amendment as we have drafted it will save taxpayers $11 million over 10 years, including $2 million in fiscal year 2012, according to the CBO, by creating a premium that borrowers have to pay as a result of getting the loan, therefore putting the risk on the borrower, not the taxpayer. If we want to get our economy moving, the housing market has to be part of it.

I yield to my distinguished colleague from Georgia, Senator ISAKSON.

Mr. ISAKSON. Mr. President, how much time remains?

The PRESIDING OFFICER. Ninety seconds.

Mr. ISAKSON. It is going to be tough, but let me say there is a 15-basis point fee on every loan that closes on this that goes into the credit that is issued by Fannie, Freddie or FHA; it makes the taxpayer whole, plus $11 million. It is right for the housing market. It takes us back to where we were. It doesn't add any additional liability.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield myself 1 minute. I urge my colleagues to vote against the Menendez amendment. If this amendment becomes law, taxpayers will be forced to subsidize individuals who make upward of $200,000 a year so they may buy homes worth nearly $1 million. That is what this is about. Increasing the loan limits will only benefit those who do not need Federal subsidies.

This is simply not a good use of scarce taxpayer dollars. Even the administration does not support higher loan limits here. It is a bad amendment.

I yield my time.

The PRESIDING OFFICER. Under the previous order, 60 votes are required for the adoption of the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BURR (when his name was called). ''Present.''

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—60

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

NAYS—38

Alexander	Grassley	Moran
Ayotte	Hatch	Paul
Barrasso	Hoeven	Portman
Boozman	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Johanns	Rubio
Cochran	Johnson (WI)	Sessions
Collins	Kirk	Shelby
Corker	Kyl	Thune
Cornyn	Lee	Toomey
Crapo	Lugar	Vitter
DeMint	McCain	Wicker
Enzi	McConnell	

ANSWERED ''PRESENT''—1

Burr

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote, the ayes are 60, the nays are 38, 1 Senator voting ''present.''

The amendment is agreed to.

Mr. MENENDEZ. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, this is a point of personal privilege or a parliamentary inquiry. Due to the rate at which we are voting on amendments that are pending, can the Parliamentarian or the leadership share with us, after, say, 1 hour and 45 minutes on four votes, what it might look like for the rest of the night?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I know how frustrating it is for everyone. This is not a question for the Parliamentarian. We are doing our best to work through these votes. They are 10-minute votes. We are doing our utmost to maintain that time and will continue to do that. We are sorry that close votes, as everyone knows, sometimes take a little bit longer. So I apologize to my friend from Louisiana and everyone else. We will move through the votes as quickly as we can.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. May I respectfully make one suggestion. Three options: Stick to 10 minutes, we can voice vote, or we can withdraw, all of which would rapidly speed up the process.

Mr. REID. Mr. President, I wish I had thought of saying that.

AMENDMENT NO. 869

The PRESIDING OFFICER. The next amendment is the Gillibrand amendment No. 869.

The Senator from New York.

Mrs. GILLIBRAND. Mr. President, I urge my colleagues to support this amendment because we have all seen how these storms have destroyed crops, farmland. There have been enormous economic losses in State after State.

Texas: 98 percent of the State is experiencing drought.

Mississippi: Farmers wade through acres of murky water; timber, catfish farms inundated.

New York State: Crops destroyed, cows destroyed.

Tennessee: Unprecedented levels of rainfall.

This money is literally the difference between life and death for these farmers.

I urge my colleagues to support this amendment, and I request a voice vote.

Would Senator BLUNT like to address the Chamber?

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the Gillibrand amendment.

All those in favor, say aye.

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

The PRESIDING OFFICER. Is there a sufficient second?

At this moment, there is not a sufficient second.

Mr. SESSIONS. Mr. President, I note the absence of a quorum.

Ms. MIKULSKI. Mr. President, would the clerk please call the roll and see if a quorum is present. I believe a quorum is present.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Point of personal privilege. Could we call the roll faster?

Mr. REID. Mr. President, I ask unanimous consent that the call of the quorum be terminated.

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

Mr. REID. I ask for the yeas and nays on the Gillibrand amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—58

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

NAYS—41

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

NOT VOTING—1

Webb

The amendment (No. 869) was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we would be much more efficient here if we have 10-minute votes. It is very difficult for those who are doing the work for us to determine who is voting which way, to hear us. People are moving around. I think it will be to everyone's advantage if we all sit down and make sure these are really 10-minute votes. It would make it so much easier for the tally clerks and for everyone concerned. So I would ask that we all be ladies and gentlemen, take our seats. This will move much more efficiently.

AMENDMENT NO. 836

The PRESIDING OFFICER. The question is on the Lautenberg amendment No. 836. There is now 2 minutes of debate evenly divided.

The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, this amendment increases funding for disaster relief grants at the Economic Development Administration. Forty-eight States have received a Federal disaster declaration this year and may be eligible for this relief. EDA funds rebuild sewers and drinking

water systems, coordinate response and recovery plans, and help businesses to recover. This year alone, we have experienced a record 10 natural disasters costing more than $1 billion each. Hurricane Irene caused more than $7 billion in damage alone.

In 2008, we gave EDA $500 million to respond to disasters in the South and the Midwest. This amendment would give EDA the same amount this year. The amendment complies with the disaster relief provision in the Budget Control Act and is not offset with cuts from other programs.

Senators SANDERS, MENENDEZ, GILLIBRAND, BLUMENTHAL, and LEAHY are cosponsors, and Chairman MIKULSKI supports it as well.

The PRESIDING OFFICER. The Senator has used 1 minute.

Mr. LAUTENBERG. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

If all time is yielded back, the question is on agreeing to the amendment.

The amendment (No. 836) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 771, AS MODIFIED

Mr. BINGAMAN. Madam President, the next amendment is amendment No. 771; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BINGAMAN. Madam President, this amendment will increase funding for the U.S. Trade Representative's Office to the level the President requested, also to the level the House appropriators have proposed. It adds nearly $4.5 million to the budget for the U.S. Trade Representative's Office. This is funding that is needed to enforce our trade agreements. We just entered into three new free-trade agreements. They need the personnel in order to try to enforce these. We have a great many trade disputes with China—all of us are aware of that—and other major industrial countries as well.

This amendment has the support of the U.S. Chamber of Commerce, the Farm Bureau, and the National Pork Producers Council.

This is good legislation which I hope all Senators will support.

I yield the floor.

The PRESIDING OFFICER. Who yields time in opposition?

If all time is yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 771), as modified, was agreed to.

AMENDMENT NO. 810

The PRESIDING OFFICER. The next amendment is the Sessions amendment No. 810.

The Senator from Alabama.

Mr. SESSIONS. Madam President, the fastest growing large program we have by far is the Food Stamp Program. It has gone from $20 billion to $80 billion since 2001, grown four times. It has doubled since 2008. This year proposes another $10 billion increase—14 percent. One of the big reasons is that we have a growing utilization of categorical eligibility where if one qualifies for LIHEAP, TANF, counseling programs, and any number of other governmental relationships, one also qualifies for food stamps. CBO scores this as costing as much as $10 billion over 10 years.

This is a good-government amendment. You can get food stamps. Nobody would be eliminated. You simply have to go to the office and fill out the form and show that you meet the food stamp qualifications and not get by having met other qualifications that are less stringent. I really believe it is a good amendment and would help us save some money and make this program more effective.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Ms. STABENOW. Madam President, first of all, I completely agree with Senator SESSIONS. We need to eliminate waste, fraud, and abuse in the supplemental food program, as in every Federal program.

I wish to commend the USDA now for having less than a 4-percent error rate, and we are going to continue to push them to go down even further. Why? Because right now we have people who have paid taxes all their lives, who had never in their wildest dreams thought they would ever need help putting food on their table, and they do. We cannot afford to waste even one dollar.

My colleague mentioned on the floor several times a lottery winner in Michigan who got food assistance. He is right, it was outrageous. The State changed it, and we are changing it in the upcoming farm bill. But the reality is that this amendment, the Sessions amendment, completely changes the structure of the food assistance program, putting up barriers to hard-working, honest men, women, and children who need help, most of them for the first time in their entire lives.

I urge my colleagues to vote no.

Mr. LEAHY. Madam President, I am disappointed that with so many Americans struggling in difficult economic times, we are considering amendments that will greatly reduce the ability of the neediest among us to put food on the table for their families. The amendment numbered 810 filed by Senator SESSIONS would eliminate the ability of States to align the Supplemental Nutrition Assistance Program, SNAP, eligibility rules with the temporary assistance to needy families to reduce administrative costs and simply enrollment.

Since 2008, Vermont has used categorical eligibility to reach more households and more needy individuals by simplifying enrollment. Reducing administrative costs and simplifying paperwork should be a goal we all share for Federal programs. But by adopting this amendment, about 1 million low-income Americans would lose their benefits and many more families that are newly eligible during these difficult economic times would have their benefits delayed because of the increased complexity of the additional processing time for applications.

Low-income working families with children are the majority of those who would be affected by the elimination of categorical eligibility. Additionally, roughly 200,000 children in these families would lose access to free school meals.

Improving the error rate even further in the SNAP program is an issue that the Agriculture Committee is committed to addressing in the upcoming farm bill negotiations, and one that we have already heard to chairwoman of the Senate Agriculture Committee speak about this week. Eliminating State flexibility through categorical eligibility programs does not address error rates in any meaningful way. Supporters of this amendment cite limited examples as proof that categorical eligibility is at the root of erroneous enrollments in SNAP. But allowing millions to go hungry because of a few anecdotal stories is shortsighted at best.

The Senate Agriculture Committee, which I am proud to be a senior member of, will be looking for additional ways to improve SNAP in the coming months, but eliminating categorical eligibility as this amendment does is not the answer. I urge all Senators to oppose this amendment.

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—41

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

NAYS—58

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

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 88. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 791

The PRESIDING OFFICER. The next amendment is the Coburn amendment No. 791.

Mr. COBURN. Mr. President, we have 2,705 people in this country who had adjusted gross incomes in excess of $2.5 million last year who got farm payments—direct farm payments. This is an amendment that will limit adjusted gross incomes above $1 million from receiving direct payments.

We hear we are going to change that system. We may change that system. But that has not happened yet. All this amendment says, if you make more than $1 million, you should not be eligible to receive a direct farm payment from this government. Rather than taxing the millionaires, the first thing we ought to do is quit giving them subsidies.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Ms. STABENOW. Mr. President, let me just indicate that the House and Senate Agriculture Committee leaders have come together in a bipartisan, bicameral basis to recommend reforms in our farm commodity programs that will, frankly, make this amendment a moot point. I would ask my colleagues to vote no and to give us the next 10 days to come forward with the new approach we will be offering.

I will now yield to my friend and colleague on the Agriculture Committee, Senator ROBERTS.

Mr. ROBERTS. I thank the chairwoman for yielding. The Senator from Oklahoma has a good intent, but he is adding in a payment limit on top of two others. It is going to be difficult to implement and administrate from the Department of Agriculture's standpoint. The Senator from Michigan is exactly right. He is limiting programs for which there probably will not be any programs. I suggest we do this during the reauthorization of the farm bill, and then I would encourage the Senator to come at that particular time and figure out what is in the farm bill and what is not, what payment limitation is appropriate and what is not.

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

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

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. COBURN. Mr. President, $1 million a year and we are giving them money. We have a $1.3 trillion deficit, and we continue to hear the defense of that. It would be great if we do a new farm program. But the fact is, that is not a given. If we pass this amendment and we do a new farm bill, this amendment has no effect.

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

Mr. COBURN. 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 amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—84

Akaka	Gillibrand	Merkley
Ayotte	Graham	Mikulski
Barrasso	Grassley	Murkowski
Begich	Hagan	Murray
Bennet	Harkin	Nelson (NE)
Bingaman	Hatch	Nelson (FL)
Blumenthal	Heller	Paul
Boxer	Hutchison	Portman
Brown (MA)	Inouye	Reed
Brown (OH)	Johanns	Reid
Burr	Johnson (SD)	Risch
Cantwell	Johnson (WI)	Rockefeller
Cardin	Kerry	Rubio
Carper	Kirk	Sanders
Casey	Klobuchar	Schumer
Coats	Kohl	Sessions
Coburn	Kyl	Shaheen
Collins	Landrieu	Shelby
Conrad	Lautenberg	Snowe
Coons	Lee	Tester
Corker	Levin	Thune
Cornyn	Lieberman	Toomey
Crapo	Lugar	Udall (CO)
DeMint	Manchin	Udall (NM)
Durbin	McCain	Vitter
Enzi	McCaskill	Warner
Feinstein	McConnell	Whitehouse
Franken	Menendez	Wyden

NAYS—15

Alexander	Cochran	Moran
Baucus	Hoeven	Pryor
Blunt	Inhofe	Roberts
Boozman	Isakson	Stabenow
Chambliss	Leahy	Wicker

NOT VOTING—1

Webb

The amendment (No. 791) was agreed to.

AMENDMENT NO. 792

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, on the Coburn amendment No. 792.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, there are 4,000 properties in the United States that get money from HUD for housing to help people whom we want to help. There are 450 owners who are chronically on the list of slumlords, who put the people who live in these houses in danger; they are at high risk for losing their lives in that property.

This amendment only says that if you are going to continue to put these people at risk of losing their lives, then we are not going to pay you anymore. We are not going to send you money if you continue to be in this group of slumlords who are not spending any of their money bringing their properties up to date and you are leaving people at risk of significant harm. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank Senator COBURN for his passion on this issue. He has raised valid concerns about the bad actors who are part of the Federal program.

The problem is, the way this is drafted, it goes too far. This amendment puts the tenants at risk. It will put the tenants out of a place to live.

Earlier, I offered to work with the Senator to address the issue in a way that would make sure we protect residents. We were not able to get to a resolution. I hope we can continue to work on this. This amendment, as drafted, will put the tenants at risk and out. If once in 5 years a HUD property falls under the troubled category, the tenants will be at risk.

I ask my colleagues to reject this amendment. I offer to work with the Senator to address this in a way that gets after the problem he has defined.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, they did offer, but they told us they didn't have the time to work it out.

The fact is, these are life-threatening emergencies. If one person dies because we don't do this, it is on our hands.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. There is a 60-vote threshold on this vote.

The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—59

Alexander	Blunt	Casey
Ayotte	Boozman	Chambliss
Barrasso	Brown (MA)	Coats
Baucus	Brown (OH)	Coburn
Begich	Burr	Cochran

Corker	Johnson (WI)	Paul
Cornyn	Kirk	Portman
Crapo	Kohl	Risch
DeMint	Kyl	Roberts
Enzi	Lee	Rubio
Graham	Lieberman	Sessions
Grassley	Lugar	Shelby
Hagan	Manchin	Snowe
Hatch	McCain	Tester
Heller	McCaskill	Thune
Hoeven	McConnell	Toomey
Hutchison	Moran	Vitter
Inhofe	Murkowski	Warner
Isakson	Nelson (NE)	Wicker
Johanns	Nelson (FL)	

NAYS—40

Akaka	Gillibrand	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Stabenow
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 40. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Oklahoma.

AMENDMENT NO. 796

Mr. COBURN. Mr. President, is the next ordered amendment No. 796?

The PRESIDING OFFICER. That is correct.

Mr. COBURN. Might I be recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. COBURN. This is an amendment that addresses something that is going on that I think we should not allow. We have a lot of great programs that help a lot of cities and States out by creating loans that allow the cities and States to do something. What is happening is, when the project we gave the loan for fails, they turn around and take Federal grants to repay the loan.

All this amendment does is to prohibit us from allowing grants to be used to repay Federal loans on local or city or State projects.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I have concerns about the way this amendment is worded. It may have serious consequences on disaster funding. I am prepared to have a voice vote on this issue.

Mr. COBURN. 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 amendment No. 796.

Under the previous order, the amendment requires 60 votes for adoption.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—73

Alexander	DeMint	McCaskill
Ayotte	Enzi	McConnell
Barrasso	Feinstein	Moran
Begich	Graham	Murkowski
Bennet	Grassley	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Blumenthal	Harkin	Paul
Blunt	Hatch	Portman
Boozman	Heller	Risch
Boxer	Hoeven	Roberts
Brown (MA)	Hutchison	Rubio
Brown (OH)	Inhofe	Schumer
Burr	Isakson	Sessions
Cardin	Johanns	Shelby
Carper	Johnson (WI)	Snowe
Casey	Kerry	Thune
Chambliss	Kirk	Toomey
Coats	Klobuchar	Udall (CO)
Coburn	Kyl	Udall (NM)
Cochran	Landrieu	Vitter
Collins	Lee	Warner
Coons	Lieberman	Wicker
Corker	Lugar	Wyden
Cornyn	Manchin	
Crapo	McCain	

NAYS—26

Akaka	Kohl	Reed
Baucus	Lautenberg	Reid
Cantwell	Leahy	Rockefeller
Conrad	Levin	Sanders
Durbin	Menendez	Shaheen
Franken	Merkley	Stabenow
Gillibrand	Mikulski	Tester
Inouye	Murray	Whitehouse
Johnson (SD)	Pryor	

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote, the yeas are 73 and the nays are 26. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

AMENDMENT NO. 753

Mr. REID. Mr. President, I ask unanimous consent notwithstanding the previous order the Senate now proceed to vote in relation to the Ayotte amendment No. 753, and all other provisions of the previous order remain in effect.

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

The majority leader.

Mr. REID. Mr. President, the Republican leader and I had a meeting here a few minutes ago. Following this vote we will have more information for the body.

AMENDMENT NO. 753

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, our country continues to be at war with members of al-Qaida, enemy combatants who want to kill Americans and that is why Congress authorized the use of military force to combat these individuals. My amendment applies to the worst of the worst. It would prohibit the use of funds for fiscal year 2012 for the prosecution of enemy combatants in civilian article III courts. This prohibition would extend to members of al-Qaida or affiliated entities, and who have participated or carried out an attack against our country or our coalition partners. It does not apply to American citizens.

These individuals, enemy combatants, are not common criminals who just robbed a liquor store. When we detain a member of al-Qaida who is planning an attack on our country, the priority has to be on gathering information to protect Americans. I have great respect for our civilian court system, but it was not set up to allow the time to interrogate members of al-Qaida. We should not be trying these individuals in our civilian system but in military commissions. We should not be providing these terrorists Miranda rights and speedy presentment rights that come with our civilian system.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the amendment. This is a very different amendment from the one we adopted in our Armed Services Committee relative to detention. This amendment was rejected on a strong bipartisan vote in the Armed Services Committee. The reasons are set forth in a letter from the Secretary of Defense, Mr. Panetta, who wrote us:

> If we are to safeguard the American people, we must be in a position to employ every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives. By depriving us of one of our most potent weapons in the fight against terrorism, the Ayotte amendment would make it more likely that terrorists would escape justice and innocent lives would be put at risk.

They have been successfully prosecuted. Recently in Detroit a terrorist was successfully prosecuted in an article III court. We should not deny the prosecutors this tool.

I yield the remainder of my time to the Senator from Illinois, Mr. DURBIN.

Mr. DURBIN. Mr. President, there have been over 300 successful prosecutions of accused terrorists since 9/11; 200 under President Bush, 100 under President Obama, all in article III courts; only 3 prosecutions in military commissions. Give the President the power he needs to keep America safe.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The time of the Senator has expired.

The question is on agreeing to the amendment.

Ms. AYOTTE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

This is a 60-vote threshold.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB) is necessarily absent.

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

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—47

Alexander	Boozman	Coats
Ayotte	Brown (MA)	Coburn
Barrasso	Burr	Cochran
Blunt	Chambliss	Collins

Corker	Isakson	Portman
Cornyn	Johanns	Risch
Crapo	Johnson (WI)	Roberts
DeMint	Kyl	Rubio
Enzi	Lee	Sessions
Graham	Lieberman	Shelby
Grassley	Lugar	Snowe
Hatch	McCain	Thune
Heller	McConnell	Toomey
Hoeven	Moran	Vitter
Hutchison	Murkowski	Wicker
Inhofe	Nelson (NE)	

NAYS—52

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

NOT VOTING—1

Webb

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Under the previous order requiring 60 votes for the adoption of the amendment, it is rejected.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, as I indicated, the Republican leader and I met prior to the last vote. We understand there has been tremendous progress made. This is something for those of us who have been in the Senate a while that brings back a lot of memories. This is the way we did things in the past. It is difficult, but it moves legislation. It has been inconvenient for everyone.

Before moving to this consent agreement, the most difficult time is for our staffs. They have worked the last two days as hard as people can work, led by Gary Myrick on my side, David Schiappa on the other side. Other staff has worked very hard, but they have been exemplary people to help us move it.

Here is the consent agreement. I hope everyone will agree with this.

I ask consent that the next vote on our sequence be the cloture vote with respect to the substitute amendment No. 738; that if cloture is invoked, the substitute amendment be agreed to and it be considered original text for the purposes of further amendment; that the remaining amendments which were scheduled for votes under the previous order remain in order notwithstanding cloture having been invoked; that when the Senate resumes consideration of H.R. 2112 on Tuesday, November 1, the Senate proceed to votes on the remaining amendments; and that all other provisions of the previous order remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. An inquiry. I will not object. Does that mean 60 votes are required under the current order and continue to be required?

Mr. REID. All elements of the previous order are in effect.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill 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.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on amendment No. 738 offered by the Senator from Nevada, Mr. REID, 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 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the role.

Mr. DURBIN. I announce that the Senator from Virginia (Mr. WEBB), is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kentucky (Mr. PAUL).

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

The yeas and nays resulted—yeas 82, nays 16, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—82

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

NAYS—16

Chambliss	Hatch	Rubio
Coburn	Heller	Sessions
Corker	Johnson (WI)	Toomey
Cornyn	Lee	Vitter
Crapo	McCain	
DeMint	Risch	

NOT VOTING—2

Paul Webb

The PRESIDING OFFICER. On this vote, the yeas are 82, the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the substitute amendment (No. 738) is agreed to.

The Republican leader.

TRIBUTE TO CARL H. LINDNER, JR.

Mr. MCCONNELL. Madam 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 Ohio. Carl Henry Lindner, Jr., was Greater Cincinnati's most successful entrepreneur and a self-made man. 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. 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 living 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. Carl also ran an amusement park and his hometown newspaper, the Cincinnati Enquirer.

Always the optimist, Carl was famous for carrying cards with him that he would hand out to anyone he met with motivational sayings printed on them. One frequent version of the card would read: ''Only in America! Gee, am I lucky!''

Carl spent much of his time working for 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 was renowned for his philanthropic efforts. He gave generously of his time and resources to charities, churches, universities, museums, organizations serving the underprivileged, and even children in Sri Lanka orphaned by the 2005 tsunami.

I had the benefit of knowing Carl for a long time very 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, 5 great grandchildren, and many other beloved family members and friends.

The passing of Carl Lindner 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.

Madam President, the Cincinnati Enquirer recently published an obituary of Carl Lindner. I ask unanimous consent that it be printed in full 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.

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENTS NOS. 859, 892, 893, AS MODIFIED; 805, AS MODIFIED; 890, 918, AND 912, AS MODIFIED, EN BLOC

Mr. DURBIN. I ask unanimous consent that the following amendments be

called up, reported by number, and considered en bloc: Senator PORTMAN, No. 859; Senator MCCAIN, No. 892; Senator CANTWELL, No. 893, as modified, with the changes that are at the desk; Senator COCHRAN, No. 805, as modified, with the changes at the desk; Senator BURR, No. 890; Senator INOUYE, No. 918; and Senator KYL, No. 912, as modified.

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

The clerk will report the amendments by number.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. PORTMAN, proposes an amendment numbered 859.

The Senator from Illinois [Mr. DURBIN], for Mr. MCCAIN, proposes an amendment numbered 892.

The Senator from Illinois [Mr. DURBIN], for Ms. CANTWELL, proposes an amendment numbered 893, as modified.

The Senator from Illinois [Mr. DURBIN], for Mr. COCHRAN, proposes an amendment numbered 805, as modified.

The Senator from Illinois [Mr. DURBIN], for Mr. BURR, proposes an amendment numbered 890.

The Senator from Illinois [Mr. DURBIN], for Mr. INOUYE, proposes an amendment numbered 918.

The Senator from Illinois [Mr. DURBIN], for Mr. KYL, proposes an amendment numbered 912, as modified.

The amendments are as follows:

AMENDMENT NO. 859

(Purpose: To strike a section relating to the approval of projects that include beam rail elements and terminal sections)

Strike section 125 of title I of division C.

AMENDMENT NO. 892

(Purpose: To provide additional flexibility for the closing or relocation of Rural Development offices)

On page 70, line 7, insert ''or that the closing or relocation would result in cost savings'' after ''delivery''.

AMENDMENT NO. 893, AS MODIFIED

(Purpose: To direct the National Aquatic Animal Health Task Force to assess the risk Infectious Salmon Anemia poses to wild Pacific salmon and the coastal economies which rely on them)

On page 108, between lines 22 and 23, insert the following:

SEC. 114. (a) 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 (b).

(b) RESEARCH AND SURVEILLANCE.—The National Aquatic Animal Health Task Force shall establish Infectious Salmon Anemia research objectives, in collaboration the with the Government of Canada, and Federal, State, and tribal governments, including the Department of Fish and Wildlife of Washington and the Department of Fish and Game of Alaska, to assess—

(1) the prevalence of Infectious Salmon Anemia in both wild and aquaculture salmonid populations throughout Alaska, Washington, Oregon, California, and Idaho;

(2) genetic susceptibility by population and species;

(3) susceptibility of populations to Infectious Salmon Anemia from geographic and oceanographic factors;

(4) potential transmission pathways between infectious Canadian sockeye and uninfected salmonid populations in United States waters;

(5) 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;

(6) potential economic impacts of Infectious Salmon Anemia;

(7) any role foreign salmon farms may have in spreading Infectious Salmon Anemia to wild populations;

(8) the identity of any potential Federal, State, tribal, and international research partners;

(9) available baseline data, including baseline data available from a collaborating entity; and

(10) other Infectious Salmon Anemia research priorities, as determined by the Task Force.

AMENDMENT NO. 805, AS MODIFIED

(Purpose: To set aside certain funding for the construction, acquisition, or improvement of fossil-fueled electric generating plants that utilize carbon sequestration systems)

On page 49, line 15, before the period at the end insert '': *Provided*, That up to $2,000,000,000 may be used for the construction, acquisition, or improvement of fossil-fueled electric generating plants (whether new or existing) that utilize carbon sequestration systems''.

AMENDMENT NO. 890

(Purpose: To improve the transparency and accountability of the FDA in order to encourage regulatory certainty and innovation on behalf of America's patients)

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.''.

AMENDMENT NO. 918

(Purpose: To strike provisions related to the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent)

Beginning on page 197, strike line 9 and all that follows through page 209, line 2, and insert the following:

SEC. 541. The amount appropriated or otherwise made available by title IV under the heading ''COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT'' is hereby reduced by $1,700,000.

AMENDMENT NO. 912, AS MODIFIED

(Purpose: To increase funding for the southwest border enforcement)

On page 117, line 16, strike ''$1,101,041,000'' and insert ''$1,111,041,000; of which not to exceed $10,000,000 shall be available for necessary expenses for increased deputy marshals and staff related to Southwest border enforcement until September 30, 2012;''.

On page 117, line 23, strike ''$12,000,000'' and insert ''$20,250,000, of which $8,250,000 shall be available for detention upgrades at Federal courthouses located in the Southwest border region''.

On page 191, line 20, after the semicolon, insert ''and an additional $25,000,000 shall be permanently rescinded;''.

Mr. DURBIN. I believe the Senate is ready to act on these amendments.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendments, en bloc.

The amendments were agreed to en bloc.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 893, AS MODIFIED

Ms. CANTWELL. Madam President, in that en bloc group of amendments was an important amendment, amendment No. 893, as modified, that was sponsored by my colleagues from the Northwest—obviously myself, Senator MURRAY, Senator WYDEN, Senator MERKLEY, Senator BOXER, and Senator FEINSTEIN. We thought it was very important that this amendment pass tonight because scientists are calling it a disease emergency; that is, that the Pacific Northwest wild salmon might be threatened by a virus that has already decimated fish farm salmon from around the world.

So we want to see, first of all, important scientific questions answered about the impacts of this virus, and the threat they pose to Pacific Northwest salmon. Second, we want to make sure there is an aggressive management plan and an effective rapid response plan to deal with the threat of this virus. And, third, we want to make sure we are protecting the wild salmon and the important economy that goes with it.

I know many people know the Northwest is known for a healthy salmon population, but this salmon population is also an economy for us. It is tens of thousands of jobs and hundreds of millions of dollars as it relates to our economy. So being able to detect this virus and make sure we are assessing the potential threat to the wild salmon population is something we want to see happen immediately.

This makes sure the task force, which is a joint task force already in place between NOAA and the USDA, works effectively in a very short time period to make sure we are getting this accurate assessment.

As I mentioned, this virus in the farm fish population around the world—in Chile and other places—has decimated salmon. We cannot risk having this impact the Pacific Northwest wild salmon. So we need answers quickly from the scientific community. We need an action plan immediately. And we need to make sure we are formulating a rapid response as to what to do if we do detect this virus is spreading, with the potential impact we have seen in other areas.

I thank my colleagues for making sure this amendment was adopted tonight. I know Senator MURKOWSKI had planned earlier to talk about this. I want to thank Senator HUTCHISON from Texas for helping us move this along in the process.

I hope now, as we move this legislation, we will also get the cooperation from NOAA and Secretary Lubchenco and others, and those at NMFS, to make sure we are responding very rapidly to this very serious, what people have called the scientific need to get these questions answered as soon as possible.

I thank the Presiding Officer and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 898, 809, AND 806

Mr. REID. Madam President, I ask unanimous consent that the following amendments, which have been cleared by the managers of both sides be agreed to: Rubio, 898; Thune, 809; and Hutchison, 806.

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

The amendments (Nos. 898, 809, and 806) were agreed to, as follows:

AMENDMENT NO. 898

(Purpose: To require an evaluation of the Gulf Coast Claims Facility)

On page 153, after line 24, add the following:

SEC. 218. EVALUATION OF GULF COAST CLAIMS FACILITY.

The Attorney General shall identify an independent auditor to evaluate the Gulf Coast Claims Facility.

AMENDMENT NO. 809

(Purpose: To authorize States to be reimbursed for expenditures made in reliance of a grant erroneously awarded pursuant to sections 4101(c)(4) and 4126 of Public Law 109–59)

On page 251, strike line 8 and insert ''agreement, shall not be required to repay grant amounts received in error under such sections and, in addition, shall be reimbursed for core or expanded deployment expenditures such States made before the date of the enactment of this Act in reliance on a grant awarded in error under such sections.''.

AMENDMENT NO. 806

(Purpose: To amend the requirements for the designation of Moving-To-Work agencies)

On page 365, line 8, strike ''10,000'' and insert ''20,000''.

Mr. WARNER. Mr. President, today I wish to say a few words about the bill that we are currently considering and, in particular, a very worthwhile program funded by this bill that I believe is critical to moving our Nation forward.

One very important agency funded by the fiscal year 2012 Commerce-Justice-Science bill that has not been getting much attention in the debate this week is NASA. Senators NELSON, HUTCHISON, ROCKEFELLER, and others worked incredibly hard to get a balanced reauthorization bill passed last year, and I commend them for their hard work in getting it signed into law. One aspect of that bill that I worked particularly hard on was ensuring that we are doing what we can to advance NASA's mission while also promoting the development of the commercial space sector. In negotiations on that authorization bill, Senator NELSON and I arrived at what I believe is a fair compromise that will allow us to pursue advances in the commercial cargo and commercial crew fields and harness the innovation and cost savings that the private sector can provide. In a recently released study, in fact, NASA estimated that the Falcon 9 launch vehicle being developed by the private sector company SpaceX will cost less than half what it would cost for NASA to develop the launch vehicle itself. In the current fiscal climate, it is imperative that we partner with commercial companies to pursue the cost-effective innovation that can only be achieved through the competition that exists in the private sector. Supporting development of the commercial space industry will also help create steady, well-paying jobs and spur economic growth—not only in urban tech corridors, but also in more rural areas where launch facilities are located such as the Wallops Island facility in my home State of Virginia.

By appropriating funding at the authorized level of $500 million for the commercial crew development, CCDEV, program, I believe the fiscal year 2012 Commerce-Justice-Science bill honors the commitment we made in the authorization bill to move forward in that field. I commend Senator MIKULSKI for her leadership in that regard, and I am excited by the opportunities to come. While NASA develops our next heavy lift vehicle and a host of other important research duties, the private sector has the capability to quickly and cost-effectively deliver vehicles for our astronauts to access the International Space Station, ISS, and minimize our dependence on Russia for those trips. Given what we will be paying Russia for those trips to the ISS, there is the potential that we can actually save money in the long run by investing in commercial space to develop a competitive vehicle, rather than continuing to pay the Russians for seats on their vehicles.

Moving forward with the CCDEV program will also result in additional opportunities for development at the NASA Wallops Flight Facility, the Virginia Commercial Space Flight Authority, and the Mid-Atlantic Regional Spaceport. I have supported the Wallops facilities in Virginia since my time as Governor, and from my recent visits, I can attest that they are making tremendous progress in developing their launch infrastructure. Providing funding for the CCDEV program at authorized levels, as we have done in this bill, will help us drive competition in the commercial space industry and will provide opportunities for facilities such as Wallops to further develop their launch infrastructure and provide steady, high-wage employment in areas that sorely need it.

Mrs. FEINSTEIN. Mr. President, I wish to speak about amendment No. 855, which I filed with Senators COBURN, GILLIBRAND, LAUTENBERG, and BROWN.

This amendment would require the Secretary of Agriculture to enforce adjusted gross income limits on farm subsidies that were established in the last farm bill by:

Pursuing thousands of individuals flagged by the IRS as potentially illegal recipients of farm subsidies; reclaiming subsidies from millionaires and other illegal recipients; and auditing subsidy recipients who claim they are in compliance with income limits but whose IRS tax returns suggest otherwise.

I do not intend to ask for a vote on this amendment at this time, but I would like to explain to my colleagues why I am calling upon the USDA to more vigorously enforce the adjusted gross income limits in law.

In the 2008 farm bill, Congress capped the income of farm bill subsidy payment recipients at $500,000 for non-farm income and $750,000 for farm income.

The limits were imposed because there had been increasing concerns that direct payments, countercyclical payments, and marketing loan benefits had been going to corporate agriculture and millionaires.

These subsidy programs are designed to provide a safety net to farmers whose industry suffers from dramatic swings in prices from year to year.

Congress intended to prevent individuals who could provide their own safety net from drawing funds they didn't need from taxpayers.

The final enacted limits—$500,000 for non-farm income and $750,000 for farm income—prevent payments only to farmers and absentee farm-owners who are doing extremely well financially.

Less than 2 percent of Americans make this much money in a given year.

And Congress applied the caps flexibly.

Income can be averaged over a 3-year period, standard income tax deductions apply, and farmers can deduct their expenses related to their entire farm operation.

Congress gave the U.S. Department of Agriculture clear direction to investigate and enforce the income caps.

But the USDA has been very slow to enforce this provision.

First, USDA did not thoroughly review subsidy recipients to prevent illegal payments from going out the door in 2009, 2010, or 2011, even though the farm bill instructed that ''the Secretary shall deny the issuance of applicable payments and benefits'' to farmers who fail to certify compliance.

Second, the USDA has not yet aggressively pursued thousands of payment recipients that the IRS has identified as likely violators.

Third, the USDA has not conducted a single audit of a subsidy recipient, even though the farm bill states:

> The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations . . .

Finally, USDA has made no attempt to identify those who lied about or concealed their income in order to receive subsidy payments. Such an act would constitute fraud against the U.S. government.

USDA has taken the initial step by working with the IRS to identify potentially illegal payments in 2009 and 2010, and I commend them for this action.

The preliminary results of their investigation are staggering:

The IRS ''flagged'' 13,000 individuals in USDA's database with tax returns that suggest they exceed congressionally mandated income caps.

When USDA reached out to 200 randomly selected ''flagged'' individuals, more than 15 percent returned the money—with no questions asked.

Another 30 percent of those contacted by USDA didn't bother to respond, suggesting a lack of respect among payment recipients for USDA's enforcement ability.

This preliminary effort demonstrates that enforcing this law is both fair and fiscally responsible.

Thousands of recipients could be receiving tens, even hundreds, of millions of Federal dollars each year, illegally.

Wealthy farmers—and absent farm owners—are still claiming payments from the farm bill's safety net programs, and the USDA is not doing enough to stop them.

Some of my colleagues believe we should wait for the next farm bill to address this problem. But I doubt they recognize that failing to enforce this provision wastes this much money.

Furthermore, the next farm bill is likely to include some form of payment regime, as every farm bill has for more than 50 years.

It might not be direct payments, but some form of subsidy payment regime is expected to remain.

Vigorous income limit enforcement makes the farm safety net stronger, not weaker. It assures that funding is available for those who need it, even in a time of severe cuts.

Our constituents are suffering through the longest economic downturn in a generation. And government resources to help those truly in need are dwindling.

And yet despite congressional direction to conduct audits and oversight of fraudulent payments to individuals already making hundreds of thousands of dollars per year, the Department of Agriculture has not done enough to ensure that our limited resources are being spent wisely.

I urge our colleagues to join me in speaking out about this issue. I urge them to demand that the USDA enforce the law.

We need to send a clear message that fraudulent claims and subsidies to the rich are unacceptable.

Mr. CORNYN. Mr. President, though I support the goal of sensible reform to the Federal criminal justice system, I opposed the Webb amendment, No. 750, for several reasons.

First, I am concerned that the National Criminal Justice Commission created by this amendment would not be required to adopt unanimous recommendations. As a result, it is likely that this commission would fracture into partisan camps instead of working toward the types of bipartisan consensus recommendations that would truly help solve the problems facing our justice system. The experience of the 9/11 Commission is instructive. Despite the widely divergent policy views of the ten 9/11 Commission members, they came together to produce a 567-page report containing 37 recommendations—without a single voice of dissent. As a result, Congress passed nearly all of that commission's recommendations within 2 years. I am not confident that a nonunanimous National Criminal Justice Commission will have the same success.

Additionally, I believe the broad jurisdiction of the National Criminal Justice Commission could lead it to examine highly controversial policy areas better left to the elected branches of government. This would create an opportunity for certain interest groups to pressure the commission to make divisive recommendations on issues such as narcotics legalization and the repeal of mandatory minimum sentences. While these interest groups may believe that their arguments have merit, they should make these arguments to their elected representatives, rather than unelected commission members. The Congress and the House and Senate Judiciary Committees are the proper venue in which to examine controversial criminal justice policy issues.

Furthermore, I have strong federalism concerns with the commission's jurisdiction to make recommendations concerning State and local criminal justice systems. Though Congress has the legitimate authority to appropriate funds to examine the federal criminal justice system, it does not have the authority to order the same examination at the State and local level. In my home State of Texas, the State government undertook sweeping reforms to its criminal justice system that will save taxpayers billions of dollars. While I am proud of this achievement, I do not believe that the Federal Government should push other States to do the same thing. If another State looks at the success of the Texas reforms, but decides not to enact them, then that is the choice reserved to them by the United States Constitution. Federal taxpayer dollars should not be used to interfere with this decision.

Given the major concerns I have noted, it is almost certain that the money appropriated by this amendment would amount to little actual change in the criminal justice system. In fact, the proposed National Criminal Justice Commission, in its current form, would likely only lead to more partisan bickering. Given the financial state of the Nation, I believe that it would be unwise to spend $5 million on a commission whose recommendations will likely be so divisive and controversial that they will never even be acted upon by Congress.

I believe that we should have a serious discussion about the federal criminal justice system and reducing out-of-control incarceration rates. Unfortunately, this amendment would not advance that goal. For this reason, I voted against the Webb amendment No. 750.

Mr. GRASSLEY. Mr. President, earlier this afternoon we voted on a good government proposal that would have improved accountability for taxpayer dollars. That amendment focused on grants awarded by the Department of Justice. Soon we will be voting to repeal another good government measure; that is, the provision to ensure that government contractors pay their taxes by requiring that governments withhold 3 percent from payments to contractors as prepayment for their taxes. The provision was enacted in direct response to a series of Government Accountability Office, or GAO, reports about Federal contractors not paying their taxes.

I have always said that taxpayers should pay what they owe—not a penny more, and not a penny less. And several GAO reports indicate that information reporting and upfront withholding significantly improve compliance. In fact, that is why the Federal Government withholds taxes from individual paychecks.

Since the provision was enacted, I have heard repeatedly about the costs of implementation. I am disappointed by the misinformation that has been spread by the various outside groups—just like the ones that lobbied against my Justice Department grant amendment today.

Specifically, one fictitious estimate by an outside group states that the cost to implement this provision is $75 billion. There is another made-up estimate that it would cost the Department of Defense $17 billion to implement this provision.

I have a very long history, over 30 years in the Senate, of doing oversight of various Federal agencies. I cut my teeth in oversight by combating waste, fraud, and abuse at the Defense Department. I knew both the 75 billion and 17 billion numbers were bogus the first time I heard them.

The Congressional Budget Office, or the CBO, the nonpartisan, objective scorekeeper for Congress, has estimated the cost of implementation to the Federal Government, including the Defense Department, to be $85 million over 5 years.

Mr. President, I am a firm believer in reviewing laws that aren't working. This provision never even had a chance to work. However, I have heard from small business owners across Iowa about the burdens the withholding provision would impose on them, particularly with the economy still being in the dumps.

For that reason, I support repealing this provision. My preference would have been to fix the provision so that small businesses and State and local governments would be exempted. However, that would have likely created even more complexity.

Let me just say that, despite the rhetoric, large corporations would not have been impacted in the same way that small businesses would have been.

They, especially defense and Medicare contractors, are not operating on a cash flow basis or on profit margins of 3 percent. They are just riding the coattails of small businesses in pushing for repeal of this provision.

As we proceed to vote on repeal of this provision, let me remind my colleagues on both sides of the aisle that tax cheats are a very real problem. Tax delinquent contractors continue to be awarded Federal contracts, despite the administration's efforts to clamp down on awarding contracts to them. The most recent example is the award of stimulus contracts.

A GAO report from May of just this year indicated that $24 billion in Federal contracts were awarded to contractors who owed more than $750 million of back taxes. This is not chump change.

In the past year or so, Members of the House and Senate have supported measures to ensure that Federal employees pay their taxes. Well, Federal contractors should not be treated any differently. The country is in the midst of an unprecedented fiscal crisis. Tax increases are off the table so we need to ensure that we are collecting every dollar that is owed to the Federal Government.

Senator BAUCUS and I continue to work on an alternative to 3 percent withholding. This alternative would prohibit the Federal Government from awarding contracts to tax cheats.

In order to assist contracting agencies in identifying tax cheats, we would enable those agencies to check a contractor's tax status with the Internal Revenue Service. This new approach would be much narrower in focus than the 3 percent withholding provision. It should only impact the bad actors. When we have an opportunity to consider this provision, I would hope that my colleagues would support us in enacting it. Preventing tax cheating should be a bipartisan issue.

I ask unanimous consent that the CBO estimate be printed in the RECORD.

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

PRELIMINARY ESTIMATE—CHANGE IN AMOUNTS SUBJECT TO APPROPRIATION ARISING FROM SECTION 511 OF THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

[In millions of dollars by fiscal year]

	2012	2013	2014	2015	2016	Total
Federal Implementation Costs:						
Nonrecurring	35	0	0	0	0	35
Recurring	10	10	10	10	10	50
Total	45	10	10	10	10	85
Costs to Federal Contractors:						
Nonrecurring [a]	7,500	400	400	400	400	9,100
Recurring [b].						
Financing	550	550	550	550	550	2,750
Reporting	100	100	100	100	100	500
Total	8,150	1,050	1,050	1,050	1,050	12,350
Total Costs	8,195	1,060	1,060	1,060	1,060	12,435

Sources: Congressional Budget Office, Department of Defense, Federal Procurement Data System.

a. Implementation costs of federal contractors are not directly billable to federal agencies. CBO expects that such costs will eventually be passed on to federal agencies in the form of higher prices for goods and services, although not necessarily in the same year that those costs are incurred.

b. Ongoing implementation costs arise from regular turnover of federal contractors. New vendors will need to modify their accounting systems to provide goods and services to federal agencies.

Ms. MIKULSKI. Mr. President, I wish to thank Chairman KOHL and Senator BLUNT for their hard work on this bill. They had to make tough choices because of their tight allocation. I commend them for the choices they made and agree with them. They have my full support for this bill.

I especially want to thank them for increasing the Food and Drug Administration's budget. They provided $2.5 billion which is $50 million over this year's funding level. Twenty-five cents for every dollar spent by consumers is for FDA-regulated products, over $1 trillion worth of goods bought each year.

This funding increase will strengthen our food safety infrastructure so that the FDA can meet its increased responsibilities. It gives the FDA new defense capabilities to hold imported and domestic foods to the same standards. It also will help Federal, State, and local officials prevent and more efficiently detect food safety problems. Finally, it increases the FDA and State and local workforce capacity to prevent deadly outbreaks.

Employees at the FDA are on the front lines every day to stop food safety outbreaks in their tracks and get unsafe foods off of supermarket shelves. We rely on the FDA more than ever to make sure the drugs and medical devices we depend upon are safe and effective.

I have been a longtime fighter for the FDA. I have fought for years for the right facilities and the right resources. I will continue to fight for these hardworking employees. This increase will help the FDA continue to be the gold standard in upholding drug, device, cosmetic, and food safety.

They also make nutrition assistance programs a priority, which is so important in these difficult economic times. For Women, Infants and Children, they provide $6.6 billion. This funding level will meet the needs of low-income pregnant women, infants, and children under 5 by providing nutritious foods, dietary supplements, healthy eating information, and medical referrals.

This bill is also very important to Maryland. It supports the hard-working Federal employees at FDA and the Beltsville Agricultural Research Center. Headquartered in Silver Spring, MD, FDA employs 9,400 people, while BARC, located in Beltsville, MD, employs 975 Federal employees, including 250 scientists. BARC is the flagship campus of the Agricultural Research Service. It conducts cutting-edge research to develop and transfer solutions to our Nation's most pressing agricultural problems. This research is impacting not just farmers but every American as it relates to food safety, nutrition, and obesity. They keep BARC funded at existing funding levels and protect these jobs.

They also provide $16.5 million for farmers market nutrition programs. This program gives WIC recipients vouchers to use at farmers markets and roadside stands to buy locally

grown fruits and vegetables. This program helps low-income women and children as well as our local farmers. In 2009, Maryland distributed $403,000 vouchers to 42,000 WIC clients. This also helped 260 Maryland farmers sell their crops.

In addition, Maryland is home to two land grant institutions: University of Maryland at College Park and University of Maryland Eastern Shore. They rejected the House cuts to land grant university research and extension programs and keep them in good standing. These programs support food and agriculture research, provide peer-reviewed, competitively awarded grants, help attract top-notch scientists, fund youth programs, including 4–H, and reach out and solve community needs for small farmers and business owners.

Maryland's No. 1 industry is agriculture. We have both the traditional industry sectors and nontraditional: everything from poultry, to dairy to organic farms and vineyards and a specialty nursery industry. This bill supports these farmers and small business owners, but it also supports all Americans by protecting our public health and safety when it comes to our food supply, drugs, and medical devices.

Mr. President, I also wish to thank Chairman MURRAY and Senator COLLINS for their hard work on this bill. I say to the Senators, you worked together in a bipartisan way and with collegiality. You had a tight allocation and had to make tough choices. But you did an outstanding job, and you have my full support for this bill.

I support this bill because it is a jobs bill. It provides formula funding to the States for our highways, byways, and subways. According to the U.S. Department of Transportation, every $1 million spent on transportation creates 13 jobs.

This bill will hire the construction workers and engineers to widen our highways and build new bridges. The bill also provides $550 million for TIGER Grants, the discretionary grant program begun in the economic recovery bill. This competitive grant program funds road, rail, transit, and port projects.

This bill provides nearly $16 billion for the Federal Aviation Administration, the current year funding level. This funding supports our air traffic controllers, air safety personnel, and construction jobs at our airports.

This bill also provides funding to maintain the Maritime Security Program. This program maintains 60 U.S. flagships, crewed by U.S. citizens, to service both commercial and national security needs.

This bill provides $120 million for Choice Neighborhoods. Choice Neighborhoods uses the lessons of HOPE VI. It builds upon them to reach more communities and turn ZIP Codes of poverty into healthy, vibrant communities.

It also provides much-needed funding for veterans' housing, a total of $75 million, to get them the housing help they need. Our Nation owes our vets a debt of gratitude, and I will keep fighting to show that gratitude not just with words, but with deeds.

For Maryland, this bill guarantees $750 million in Federal transportation formula funding. Within this amount, Maryland receives $600 million for highways and $150 million for transit. It also supports 9,750 jobs. About half of Maryland's highway and transit capital projects are funded with these Federal dollars.

In addition, this bill funds Metro here in our Nation's capital, providing $150 million for safety improvements, including new rail cars, track, and signal upgrades. It also guarantees Metro's $228 million in Federal formula funding for capital improvements. This funding combined supports nearly 5,000 public and private sector jobs.

Infrastructure and housing investments are vital to sustain economic growth and create jobs. I support Senate action on multiyear transportation and aviation authorization bills and infrastructure bank legislation. But agreement and passage of these bills is going to take some time. This appropriations bill is a jobs bill we can pass now to get Americans back to work in the near term.

Mr. CONRAD. Mr. President, I previously filed committee allocations and budgetary aggregates pursuant to section 106 of the Budget Control Act of 2011. I am further adjusting some of those levels, specifically the allocation to the Committee on Appropriations for fiscal year 2012 and the budgetary aggregates for fiscal year 2012.

Section 101 of the Budget Control Act allows for various adjustments to the statutory limits on discretionary spending, while section 106(d) allows the chairman of the Budget Committee to make revisions to allocations, aggregates, and levels consistent with those adjustments. Senator LAUTENBERG has offered Senate amendment No. 836 to the appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and related agencies. That amendment includes $365 million in 2012 funding that is designated for disaster relief pursuant to the Budget Control Act of 2011. CBO estimates that budget authority would result in $18 million in outlays in 2012.

In addition, Senator GILLIBRAND has offered Senate amendment No. 869 to the Agriculture appropriations bill. That amendment includes $110 million in 2012 funding that is designated for disaster relief pursuant to the Budget Control Act of 2011. CBO estimates that budget authority would result in $44 million in outlays in 2012.

Therefore, in total, I am revising the allocation to the Committee on Appropriations and to the budgetary aggregates by $475 million in budget authority and $62 million in outlays.

I ask unanimous consent that the following tables detailing the changes to the allocation to the Committee on Appropriations and the budgetary aggregates be printed in the RECORD.

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

DETAIL ON ADJUSTMENTS TO FISCAL YEAR 2012 ALLOCATIONS TO COMMITTEE ON APPROPRIATIONS PURSUANT TO SECTION 106 OF THE BUDGET CONTROL ACT OF 2011

$s in billions	Program integrity	Disaster relief	Emergency	Overseas contingency operations	Total
Amendments—Lautenberg SA 836 & Gillibrand SA 869:					
Budget Authority	0.000	0.475	0.000	0.000	0.475
Outlays	0.000	0.062	0.000	0.000	0.062
Memorandum 1: Breakdown of Above Adjustments by Category:					
Security Budget Authority	0.000	0.000	0.000	0.000	0.000
Nonsecurity Budget Authority	0.000	0.475	0.000	0.000	0.475
General Purpose Outlays	0.000	0.062	0.000	0.000	0.062
Memorandum 2: Cumulative Adjustments (Includes Previously Filed Adjustments):					
Budget Authority	0.893	8.588	0.000	126.544	136.025
Outlays	0.774	1.669	−0.007	63.568	66.004

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

THE DEPARTURE OF LISA WOLSKI

Mr. KYL. Mr. President, it has been said no one is indispensable and that may be true, but next week we will test that theory after the departure of my chief of staff, Lisa Wolski. Lisa has been on my whip staff since January of 2003. She started as tax counsel in my personal office, because I serve on the Finance Committee, and then moved to the whip office in late 2007.

We refer to people around here as staffers. She is more than that. That name doesn't begin to encapsulate what we think of those people who work with us every day and provide us with all the things we need to try to be successful. That certainly is Lisa Wolski. She is and always has been one

of my most trusted advisers. She is the gold standard of expertise and professionalism. Everything I have asked her to do she has done and done well. More important, she brings to me the things she thinks I should be thinking about, and more often than not that is exactly what I end up doing. She knows what she is talking about. She knows what I want and what I need.

Those who work with her know she is smart, she is articulate, and through her mastery of complex policies and political savvy, she has accomplished great things in my whip office during the time I have been whip.

I cannot tell you the number of people who have told me, over the last several weeks since they learned she is going to be departing, how much they will miss working with her.

Other than her extraordinary competence and work ethic, one of the many reasons I will miss her is because, as I said, I think she and I think alike. That is not because she accommodated her views to mine but because she came to her views separately, from a basis of understanding and reason and experience and knowledge and it happens our views generally coincide. That is a happy coincidence for Member and staff, and in my case to have a chief of staff who shares those views with me has made my job much easier and it makes work much more comfortable, to be able to work in great harmony with someone on whom you rely.

She instinctively knows what I will think about a particular issue and she has always been there with good counsel and advice.

I wish to conclude by saying Lisa Wolski leaves behind a great example for all the other staff people who work here, as well as the legacy of achievement and professionalism. I know she will be a great success in her new job—she doesn't need good luck. Her new employer will be very fortunate to have her wise counsel—undoubtedly more than they even know at this point. But I do know in the Senate we are going to miss Lisa Wolski very much.

TRIBUTE TO EDWARD J. REINKE

Mr. MCCONNELL. Mr. President, today I wish to pay tribute and respect to an accomplished Kentuckian and photo-journalist, Mr. Edward Reinke of the Associated Press. Mr. Reinke tragically passed away on October 18 after an accident several days earlier while he was covering the IndyCar race at Kentucky Speedway in Sparta, KY. He was 60 years old.

Ed Reinke was a mentor to countless photographers throughout his illustrious career and leaves behind him a legacy in the photo-journalism industry that is admired and respected throughout the world.

Edward J. Reinke was born and raised in Howard County, Indiana, and was a graduate of the University of IN. Ed began his photo-journalism career as an intern with the Cincinnati Enquirer in 1972. Ed worked as a full-time staffer until 1979 when he left to work for the Associated Press in Cincinnati. Ed also spent several years in the Washington, DC, bureau and on August 31, 1987, he came to Louisville, where he became the Associated Press's first staff photographer in Kentucky in 25 years.

During his 25-plus-year career, Ed built an impressive network of Kentucky AP-member photographers who encourage and help each other to this day by contributing pictures that can be shared among all AP-member newspapers. ''He was the hub of a very close-knit community,'' said John Flavell, Ed's personal friend of 25 years and photo editor at the Daily Independent in Ashland, KY.

Ed was driven by the philosophy that good photographers make themselves better by making pictures that mattered over long periods of time. He spent each day attempting to fulfill his motto: ''You don't just take pictures, you make good pictures.'' And Ed did just that.

He was often selected for special events around the world such as Super Bowls, World Series championships, Final Four tournaments, Summer and Winter Olympics, Masters and PGA Championships, President Bill Clinton's first inauguration, and Hurricane Andrew. In Kentucky, Ed was the Associated Press's lead photographer for almost every major event in my State's modern history, including the 2006 crash—of Comair Flight 5191, the 1988 Carrolton bus crash the Nation's deadliest drunk-driving accident—and the Kentucky Derby every year since 1988.

In stark contrast to covering these somber and significant events, Ed had also had the remarkable ability to find the ''quiet dignity'' in tobacco farmers, racetrack workers, and short-order cooks. Ed was a man of passion and compassion, and his life revolved around his commitment to his family and his work. ''His family was most important to him and he wasn't shy about telling it to those who understood,'' said Flavell. ''It was his family that made him.''

''There's a big black hole in my soul and at the center of the photo-journalism universe with Ed Reinke gone, but it's his influence that will shine the brightest,'' Flavell says in remembrance of his friend.

Mr. President, I would ask my Senate colleagues to join me in extending my greatest condolences to Mr. Reinke's mother, Margaret L. Harmon Reinke, his wife, Tori, and his two sons, Wilson and Graham, for their loss. Edward J. Reinke was a true inspiration to the people of our great Commonwealth, and photo-journalists throughout Kentucky and the rest of the world owe him a debt of gratitude for the work and legacy he leaves behind.

Mr. President, I ask unanimous consent that an article appearing in the Ashland Daily Independent highlighting Ed's life and achievements be printed in the RECORD.

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

[The Daily Independent, Oct. 19, 2011]

A GREAT ONE PASSES

(By John Flavell)

Chances are you don't know the name Ed Reinke, but you've seen his work grace this newspaper for decades as a venerated photo-journalist with the Associated Press. He passed away early Wednesday morning after suffering a brain injury at Sparta Racetrack two weeks ago.

Ed taught the lesson that good photographers make themselves better by making pictures that mattered over long period of time. Within that wisdom is his credo: ''You don't just take pictures, you make good pictures.'' All within the confines of journalism ethics.

Even though he covered great events like the Olympic Games, World Series, and Super Bowls, Ed could quickly find the quiet dignity in tobacco farmers, racetrack workers, and short-order cooks.

Ed was a great teacher. A college student approached Ed and wanted to know why she couldn't get the nice close-ups with her normal lens, pointing to his long glass. He told her she was lucky, with her short lens she could get really close to her subject, saying, ''The rest of us don't remember how to do that.''

And to see him work was like watching a master's class in photo-journalism far beyond the classroom or textbook. During a break one Derby Week morning at Churchill Downs, Ed struck up a long conversation with an elderly African-American gentleman who wiped dew off the seats around the paddock. After the conversation, Ed said, ''makes me wish I worked for NPR.'' The photo he filed of the worker put the guy in exactly the dignified light Ed brought out in the conversation.

I repeated that story to Ed last year after he asked about audio recordings I made for slideshows. He wanted to know why so much effort went into the audio track and I reminded him of his paddock conversation and the influence it had on me. He was genuinely touched. And I was touched when he once drove from Louisville to Morehead to see a show I had at Morehead State University, where we had the gallery to ourselves. He looked at the seemingly endless row of images and said, ''You probably should have edited tighter, but I'm glad you didn't. We should talk about these.'' It was a nice afternoon.

That's the way our relationship grew over the 25 or so years. Conversations were long in-between, but lasted long as we caught up with the professional and personal sides of our lives. We started with the utmost respect for our ingrained craft and took it to the personal level as we learned—through maturity—that our photography was made by what we are.

As Ed's family grew, so did Ed. We rarely see a man of his stature in photo-journalism stop in the middle of talking shop to talk about his wife and sons. When they hurt, it showed in his voice and mannerisms. Most of the time, though, times were good and his eyes would light up. His family was most important and he wasn't shy about telling it to those who understood it was his family that made him.

When Ed and I last spoke, he called to ask if I would be attending a reunion at our alma mater, Indiana University's School of Journalism. We both had other commitments

that weekend, and the conversation settled into a former teacher there. Although we attended the school at different times, we had similar stories about the Pulitzer nominee, who had photographed the desegregation clashes in Arkansas. After the obligatory words of praise for our mentor, we went directly to the obligatory stories about him that made us laugh the most.

Probably what I'll miss the most are those phone calls out of nowhere that started with the words, ''I sure enjoyed that picture you made.'' When I told Ed I'd miss the reunion because I was taking a 45 field camera to the coast, he said, ''I'd sure like to see those.'' It rarely mattered what the pictures were about, we had reached a point when we knew the pictures were about us. I'll miss that.

There's a big black hole in my soul and at the center of the photo-journalism universe with Ed Reinke gone, but it's his influence that will shine the brightest.

MORE ON REINKE

Ed used to wear a bright red jacket, which is how people could quickly find him. Early one morning at Churchill Downs, Ed spotted a former Kentucky Derby winner on the track on a workout. He took off the jacket, stuffed it in his camera bag, and snuck away from the crowd. A couple of us watched as he stalked the backside to wait for the horse to come back around. Ed wasn't particularly competitive, but he didn't like finding a situation only to have another photographer crash in.

The Kentucky Derby brings in photographers from all over the world. During an early morning meeting of photographers, Ed spotted a well-known group standing together. ''There isn't many people I really dislike at the Kentucky Derby, but they're all standing right there.''

During a conversation at a recent Kentucky Legislative session, I commented to Ed his pictures were getting better with age. After the obligatory expletive, which is what I was after, he said, ''Well, if it has my name on it, I'm going to keep trying.''

Ed liked using a Wild West vocabulary. The cameras were his shootin' irons. Film rolls and the cards that came later were his bullets or ammo.

Whenever asked if he got a dunk at a basketball game, Ed would point to the stands and reply, ''Nah, but you see that guy up there in the stands with the white shirt? Tack sharp!''

DREAM SABBATH

Mr. DURBIN. Mr. President, 10 years ago I introduced the DREAM Act legislation that would allow a select group of immigrant students with great potential to contribute more fully to America.

The DREAM Act would give these students a chance to earn legal status if they: came to the United States as children; are long-term U.S. residents; have good moral character; graduate from high school; and complete 2 years of college or military service in good standing.

The DREAM Act would make America a stronger country by giving these talented immigrants the chance to serve in our military and contribute to our economy. Tens of thousands of highly qualified, well-educated young people would enlist in the Armed Forces if the DREAM Act becomes law. And studies have found that DREAM Act participants would contribute literally trillions of dollars to the U.S. economy during their working lives.

These young people have overcome great obstacles to succeed. They are valedictorians, star athletes, honor roll students, and R.O.T.C. leaders. Now they want to give back to their country. The DREAM Act would give them that chance.

For the last 10 years I have been working on the DREAM Act, there has been one constant: strong support from the faith community. The DREAM Act is supported by almost every religious group you can imagine: Catholic, Methodist, Episcopal, Lutheran, and Evangelical Christians; Orthodox, Conservative, and Reform Jews; and Muslims, Hindus, and Sikhs.

The faith community supports the DREAM Act because it is based on a fundamental moral principle that is shared by every religious tradition—it is wrong to punish children for the actions of their parents.

These students were brought to this country as children. They grew up here pledging allegiance to the American flag and singing the only national anthem they have ever known. They are American in their hearts and they should not be punished for their parents' decision to bring them here.

During the past two months, people of faith all across this country have been showing their support for the DREAM Act by observing the first-ever ''DREAM Sabbath.''

During the DREAM Sabbath, at churches, synagogues, mosques, and temples around the country, Americans of many religious backgrounds have been offering prayers for the immigrant students who would be eligible for the DREAM Act. At many of these events, these DREAM Act students have told their stories.

In all, there have been more than 400 DREAM Sabbath events in 44 States.

In June, when I announced the DREAM Sabbath, I was joined by religious leaders from a great variety of faith traditions, including: Cardinal Theodore McCarrick; Bishop Minerva Carcaño of the United Methodist Church; Reverend Samuel Rodriguez of the National Hispanic Christian Leadership Conference; Reverend Derrick Harkins of the National Association of Evangelicals; Bishop Richard Graham of the Evangelical Lutheran Church in America; Bishop David Jones of the Episcopal Church; Rabbi Lisa Grushcow; Imam Mohamed Magid of the Islamic Society of North America; Sister Simone Cambell, Executive Director of NETWORK; Rabbi Doug Heifetz; Dr. Fred Kniss, Provost of Eastern Mennonite University; and Father Jacek Orzechowski, Franciscan Friar, the Holy Name Province.

The DREAM Sabbath events reflect this great religious diversity. To give a few examples of the congregations who observed the DREAM Sabbath: The First Presbyterian Church of Cheyenne, Wyoming; The Central United Methodist Church in Fairmont, West Virginia; The Unitarian Church of Lincoln, Nebraska; Galloway Memorial Episcopal Church in Elkin, North Carolina; Grace United Methodist Church in Missoula, Montana; Trinity Episcopal Church in Winner, South Dakota; The Texas Catholic Conference of Bishops; The Florida Catholic Conference of Bishops; and many Catholic dioceses.

In Tucson, AZ, the DREAM Sabbath was recognized at the National Hispanic Evangelical Immigration Summit, a gathering of 1,200 Evangelical ministers. This summit was convened by Reverend Sam Rodriguez and the National Hispanic Christian Leadership Conference. In my home State of Illinois, I observed the DREAM Sabbath at, among other places, Anshe Sholom B'nai Israel Congregation.

I worked with a remarkable team of leaders to put the DREAM Sabbath together. This team was led by Bill Mefford, director of civil and human rights at the United Methodist Church; Jen Smyers, associate director of immigration and refugee policy at Church World Service; and Liza Lieberman, grassroots policy associate at the Hebrew Immigrant Aid Society. I thank them, and the Interfaith Immigration Coalition, for their leadership.

I would also like to thank the following individuals for their tremendous efforts in ensuring that the DREAM Sabbath was observed in nearly every State in this country:

Kevin Appleby and Antonio Cube, U.S. Conference of Catholic Bishops; Nora Skelly, Lutheran Immigration and Refugee Service; Patrick Carolan, Franciscan Action Network; Tammy Alexander, Mennonite Central Committee; Larry Couch, National Advocacy Center of the Sisters of the Good Shepherd; Sr. Mary Ellen Lacy, NETWORK: A Catholic Social Justice Lobby; Regina McKillip, Sisters of Mercy of the Americas; Kat Liu, Unitarian Universalist Association; Robert Gittelson, Conservatives for Comprehensive Immigration Reform; Jenny Yang, World Relief; and Ana White, Episcopal Church.

I would like to offer special thanks to Diana Villa, from United We Dream, for working to make sure that DREAM Act students could attend many of these DREAM Sabbath events and share their moving stories.

Finally, I would like to thank all of the Dreamers, as DREAM Act students call themselves, for having the courage and persistence to continue the fight for the DREAM Act.

If anyone is interested in becoming part of this important national movement, they can visit www.dreamsabbath.org or call my office at 202–224–2152.

The DREAM Sabbath is putting a human face on the plight of undocumented students who grew up in this country and will help build support for passage of the DREAM Act. Again, I thank all those who worked so hard to make DREAM Sabbath a reality. Because of these leaders, DREAM Act

students remain in the prayers of the many thousands of Americans who have attended DREAM Sabbath events.

LIVESTOCK COMPETITION RULE

Mr. HARKIN. Mr. President, throughout the decades since the Packers and Stockyards Act was enacted in 1921, livestock and poultry producers and growers have depended upon the U.S. Department of Agriculture to enforce basic rules of honest dealing, fairness, and nondiscriminatory treatment when livestock and poultry growers and producers engage in sales and contractual transactions with meat and poultry packers, processors, and dealers.

The underlying justification for the Packers and Stockyards Act, and the regulations that have been issued to carry it out, is basic and straightforward. There is inherently a substantial inequality in bargaining power and economic leverage between the individual producer or grower of hogs, or cattle, or poultry, on the one hand, and the packing or processing company on the other hand. That is not to accuse or disparage the packers and processors, but simply to recognize the inherent disparities in economic power in the real world. It is accordingly only reasonable to have some basic Federal rules of the road, so to speak, because livestock and poultry production and processing is a national industry of huge importance to our country and its economy.

For many years we have heard repeated testimony before Congress that the Packers and Stockyards Act is not being carried out by the Department of Agriculture, specifically by the Grain Inspection, Packers and Stockyards Administration, in a manner that fully and effectively lives up to the language of the statute, its intent, and purposes. For that reason, in crafting the Food, Conservation, and Energy Act of 2008, as chairman of the Committee on Agriculture, Nutrition, and Forestry, I was proud to work with my colleagues in the committee and with our counterparts in the House of Representatives to include language directing the Secretary of Agriculture to issue new regulations under the Packers and Stockyards Act that would clarify criteria and interpretations for carrying out and enforcing the act. These new regulations are required to establish criteria that the Department of Agriculture will use in determining whether the actions of a packer or processor constitute an undue or unreasonable preference or advantage for one or more producers or growers to the disadvantage of others, in violation of the act; whether a live poultry dealer has provided reasonable notice for suspending the delivery of birds to a grower under a poultry growing contract; under what circumstances it would be an unfair practice in violation of the act for a packer or processor to require a swine or poultry grower to make additional capital investments during the life of a contractual arrangement; and whether a live poultry dealer or swine contractor has provided a reasonable period of time for a swine or poultry contract grower to remedy a breach or failure to perform in order to avoid termination of the contract.

In accordance with the farm bill, the Department of Agriculture issued a proposed rule on June 22, 2010, and kept the public comment period open until November 22, 2010. Some 61,000 comments were submitted, which the department has been reviewing and responding to in the process of developing a final rule. The proposed rule is not perfect, of course. That is why there is a public comment process so that anyone who is interested can comment and make recommendations. Secretary of Agriculture Vilsack has made it very clear that the comments were being carefully reviewed so that the proposed rule can be appropriately modified and improved in response to the comments.

Contrary to some of the arguments that are being made, the topics and subject matter covered in the proposed rule, and which therefore likely would be encompassed in the final rule, are entirely consistent with the rulemaking process that the 2008 farm bill directed the Secretary of Agriculture to conduct and with the authority provided by the Packers and Stockyards Act. It is not at all correct to assert that the Department of Agriculture has exceeded its authority or in some manner or contradicted the farm bill's directive to issue regulations on specified matter.

It is true the proposed rule would do more to interpret and clarify terms in the Packers and Stockyards Act than is specifically required in the farm bill. Most important, the proposed rule would clarify what many believe to be a misinterpretation of the act by some courts that have held that an individual grower or producer cannot succeed on a claim for harm suffered from a violation of the act without an additional showing of harm to competition in the broader market. The effect of these holdings is effectively to deny relief to independent producers and growers for harm caused by unjust, discriminatory, or unfair practices, which are clearly in violation of the act's protections, unless they can show the broader injury to competition. That showing of injury to competition in the broader market is usually very hard or impossible to make. What is lost in these decisions is that the Packers and Stockyards Act was written and intended to provide protection to individual producers and growers against harm from unfair, unjustly discriminatory, or deceptive practices and similar actions by packers, processors, and dealers. The act was not written or intended to require that harm to competition in the broader market must be shown in order to establish a violation.

The Department of Agriculture clearly has the authority to issue regulations to clarify interpretations of the Packers and Stockyards Act in order to ensure that it is properly carried out. This authority of a department or agency to issue regulations that will clarify the interpretation of a statute within its purview is fully supported by basic principles of administrative law established in the decisions of the Supreme Court and other Federal courts. Claims that in some way the proposed rule exceeds the authority of the Department of Agriculture are plainly unfounded.

As for the details of the proposed rule, it is not designed or intended to put an end to systems in which packers pay premiums for higher quality or distinctive livestock, for example, ''Certified Angus'' beef, or assess a discount if animals fail to meet standards. The proposed rule is quite clear that it is not designed to prohibit premiums and price differentials that are based on the quality of the livestock or poultry or similar features or circumstances. Because there is a valid economic justification for quality-based premiums and discounts, they are not prohibited by the Packers and Stockyards Act. Accordingly, the proposed rule is clear that such quality-based premiums or discounts are entirely valid and won't be prohibited or jeopardized by the final rule. It just stands to reason, that since there is now obviously economic justification and reward to packers as well as producers for these systems of quality-based premiums and discounts, there will still be incentives and motivation to keep them in place after the final rule is issued.

Finally, regarding the claims that the proposed rule will be very costly and eliminate jobs, the short answer is that these studies, as I understand them, are founded on basic misreading and mischaracterization of the terms and intent of the proposed rule and upon misguided and exaggerated predictions of the effects of carrying it out. They are undoubtedly very extreme predictions of the effects of a rule that is designed and intended, fundamentally, to do no more than simply to ensure fair and nondiscriminatory treatment of livestock and poultry producers and growers in the market.

This rule is vitally important to producers and growers across our country. We should not in legislation prevent the Department of Agriculture from going ahead to make improvements and modifications and issue a final rule that is greatly needed to enhance the effectiveness of the Packers and Stockyards Act.

Mr. JOHNSON of South Dakota. Mr. President, today I rise to reiterate and again offer my full support of the United States Department of Agriculture Grain Inspection, Packers, and Stockyards Administration's, GIPSA, authority to continue promulgating its proposed rule concerning livestock competition. There have been some comments made with concern about both the substance of GIPSA's proposed rule as well as the authority of

the Department to continue its rulemaking process. I would like to respond to some of those concerns and to discuss the critical importance of the protections afforded under the proposed rule.

The 2008 Farm Bill, more formally known as the Food, Conservation, and Energy Act of 2008, was enacted by overwhelming majorities in both the House of Representatives and the Senate with amendments to the Packers and Stockyards Act of 1921 as well as directions to USDA to conduct rulemaking with respect to additional issues relating to implementation and enforcement. As a result of this rulemaking authority, as well as given the authorities permitted explicitly in the Packers and Stockyards Act, GIPSA in 2010 issued a proposed rule that would provide a variety of new protections for livestock producers. Among these protections would be to further define practices that are unfair, unjustly discriminatory or deceptive, establish new protections for producers required to provide expensive capital upgrades to their growing facilities, prohibit packers from purchasing, acquiring or receiving livestock from other packers, and bar them from communicating prices to competitors, as well as including arbitration provisions that give contract growers opportunities to participate in meaningful arbitration. The Department has not yet published a final rule.

In August 2010, I joined with Senator HARKIN in leading a bipartisan letter with 19 of our Senate colleagues to USDA Secretary Tom Vilsack that reiterated our belief that GIPSA has the authority to promulgate such rules as is consistent with its responsibilities under the Packers and Stockyards Act and that the rules should and will allow for continued marketing opportunities including pricing premiums and contracting.

I am fully supportive of the proposed rule as I have consistently supported efforts to strengthen our anti-trust and competition laws. Independent farmers and ranchers must have an opportunity to leverage a decent price for their products. Market consolidation has done a severe disservice to our producers, and it is critically important that we maintain market access and price discovery options for independent farmers and ranchers. I am also fully supportive of GIPSA's authority to continue the rulemaking process as directed in the 2008 farm bill. The proposed rule takes an important first step toward finally enabling livestock producers to get a fair shake in the marketplace.

Opponents of the rule were able to include a provision in the House-passed version of the Fiscal Year 2012 Agriculture Appropriations bill which prohibits GIPSA from spending funds to finalize the proposed rule. A letter written by 190 organizations from across the country, including the South Dakota Farmers Union, the South Dakota Livestock Auctions Markets Association, and the South Dakota Stockgrowers Association, was recently sent to Congress outlining the important protections provided for in the proposed rule and urging Congress to allow the rulemaking process to continue. I ask unanimous consent that the letter be printed in the RECORD. Fortunately, the Senate version does not contain this provision. As the appropriations process continues, I will work to defend GIPSA's ability to continue the rulemaking process, and I urge my colleagues to do the same.

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

AUGUST 3, 2011.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: In the 2008 Farm Bill, Congress directed USDA to propose rules to address unfair, deceptive and anti-competitive trade practices that have become rampant in the livestock and poultry sectors. Congress included these provisions to address concerns over the increasingly abusive and anti-competitive trade practices employed by meatpacker and poultry companies that have harmed farmers, ranchers, growers and consumers. Meatpacker and poultry companies opposed these provisions in the Senate, but compromise language was included in the final Farm Bill requiring USDA to use their existing authority under the 1921 Packers & Stockyard Act to take action.

USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) issued a proposed rule in June 2010. USDA received more than 66,000 public comments on the proposed rule, most of which were supportive. The same meatpacker and poultry companies that opposed the strong farmer and rancher protection provisions in the 2008 Farm Bill are now fighting the regulations to implement those provisions. These special interests, joined by purported farm groups that have meatpackers entrenched on their boards, have launched a misleading public relations campaign that distorts the provisions of the proposed rule.

The proposed rule includes many commonsense measures that protect farmers, growers and ranchers from abusive and unfair treatment at the hands of the meatpackers and poultry companies. These safeguards include:

Prohibitions against company retaliation against farmers for speaking out about problems within the livestock industry, joining other farmers to voice concerns to seek improvements, or raising concerns with federal officials. Today, meatpackers and poultry companies can and do economically retaliate against farmers that exercise these legal rights;

Sensible protections for contract poultry and hog growers that make expensive facility investments or upgrades on their farms to meet packer or poultry company requirements;

Requirements to provide growers and ranchers with information necessary to make wise business decisions regarding their operations;

Disclosure and transparency requirements to eliminate deception in the way packers, swine contractor and poultry companies pay farmers;

Eliminating collusion between packers in auction markets;

Clarification of the types of industry practices the agency considers unfair, unjustly discriminatory, or a granting of unreasonable preference or advantage.

These are all terms used in the existing statute to prevent unfair trade practices, but these broad terms have never been defined in regulations.

Clarifying the ambiguity in interpretation of the terms of the Packers & Stockyards Act. Such ambiguity can lead to litigation as farmers and packers attempt to clarify the intent of the Act. Moreover, added clarity would enable the agency to address unfair trade practices, which likely would further reduce litigation.

Expressly ensuring that meatpackers can pay premium prices for premium livestock, but prohibit companies from unfairly offering select producers sweetheart deals but paying other producers less for the same quality, number, kind and delivery of livestock.

Recordkeeping requirements that would enable regulators to identify unfair trade practices while ensuring that livestock producers and companies can offer justified premiums or discounts.

Unfortunately, under pressure from meatpackers and poultry companies, the House approved a legislative rider in its FY 2012 Agriculture Appropriations bill that would prevent USDA from taking any further action on this regulation. The provision would even prohibit USDA from analyzing the 66,000 public comments received on the proposed rule and from completing an economic analysis of the rule. The meatpackers and poultry companies oppose the sensible transparency and disclosure provisions of the proposed rule that would shine sunlight onto their unfair practices. The two largest general farm organizations in the United States—the American Farm Bureau Federation and the National Farmers Union—have joined with over 140 farmers, consumer and community groups across the nation to oppose this rider.

The 190 undersigned groups urge you to stand with our nation's farmers, ranchers, growers and consumers to oppose the meatpacker and poultry special interest efforts to insulate themselves from federal scrutiny of their anti-competitive behavior and unfair treatment of farmers and ranchers. Congress should allow USDA to move forward expeditiously to implement a final rule that will strengthen and clarify the Packers & Stockyards Act with commonsense protections for farmers and ranchers.

8th Day Center for Justice (IL), Adams County North Dakota Farmers Union, Added Value (NY), Alabama Contract Poultry Growers Association, Alliance for a Sustainable Future (PA), Ambler Environmental Advisory Council (PA), American Agriculture Movement, American Federation of Government Employees (AFL-CIO), Local 3354, USDA-St. Louis, American Raw Milk Producers Pricing Association (WI), Ashtabula, Geauga, Lake Counties Farmers Union (OH), Assateague Coastal Trust (MD), Assateague COASTKEEPER (MD), Black Farmers and Agriculturalists Association (BFAA) (NC), BLK ProjeK (NY), BUGS: Black Urban Growers (NY), Bronx Food and Sustainability Coalition (NY), Brooklyn Food Coalition (NY), Buckeye Quality Beef Association (OH), Bull Mountain Landowners Association (MT), California Dairy Campaign, California Farmers Union, California Food & Justice Coalition, California Institute for Rural Studies, Campaign for Contract Agriculture Reform, Campaign for Family Farms & the Environment (CFFE), Carolina Farm Stewardship Association, C.A.S.A. del Llano (TX), Catholic Charities of Central and Northern Missouri, Cattle Producers of Louisiana, Cattle Producers of Washington, Center for New Community (IL), Center for Rural Affairs,

Church Women United of New York State, Citizens for Pennsylvania's Future (PennFuture) Citizens for Sanity.Com (FL), Colorado Independent CattleGrowers Association, and Columban Center for Advocacy and Outreach (MD).

Community Alliance with Family Farmers (CAFF) (CA), Community Farm Alliance (KY), Community Food Security Coalition, Community Vision Council (NY), Contract Poultry Growers of the Virginias, The Cornucopia Institute (WI), Crawford Stewardship Project (WI), Cumberland Countians for Peace & Justice, (TN), Dakota Resource Council (ND), Dakota Rural Action (SD), Dawson Resource Council (MT), Delta Enterprise Network (AR), Earthworks Urban Farm, East New York Farms!/United Community Centers, Endangered Habitats League (CA), Environment Maryland, Environmental Health Watch (OH), Family Farm Defenders (WI), Farm Aid, Farm and Ranch Freedom Alliance (TX), Farmworker Association of Florida, Fay-Penn Economic Development Council (PA), Federation of Southern Cooperatives, First Unitarian Universalist Church of Columbus (OH), Flatbush Farm Share (NY), Food Chain Workers Alliance (CA) Food Democracy Now! Food First, Food Freedom, Food for Maine's Future, Food & Water Watch, Friends of Family Farmers (OR) Friends of the Earth; Gardenshare: Healthy Farms, Healthy Food, Everybody Eats (NY), Georgia Poultry Justice Alliance, Grassroots International, Great Lakes Bioneers Detroit, Hattie Carthan Community Garden (NY), Hattie Carthan Herban Farm (NY), Hmong 18 Council of South Arkansas, Hmong Association Inc. (AR & OK), and Hmong National Development, Inc.

Hunger Action Network of New York State, Idaho Rural Council, Illinois Stewardship Alliance, Independent Beef Association of North Dakota, Independent Cattlemen of Wyoming, Institute for Agriculture and Trade Policy, Institute for Responsible Technology, Intertribal Agriculture Council, Iowa Citizens for Community Improvement, Iowa Farmers Union, Island Grown Initiative (MA), Jackson County, South Dakota, Board of Commissioners, Johns Hopkins Center for a Livable Future (MD), Just Food (NY), Kansas Farmers Union, Kansas Rural Center, The Land Loss Prevention Project (NC), La Familia Verde (NY), La Fines Del Sur (NY), Land Stewardship Project (MN), Local Matters (OH), Madison Farm to Fork (MT), Maine Organic Farmers and Gardeners Association (MOFGA), Michael Fields Agricultural Institute (WI), Michigan Farmer's Union, Michigan Interfaith Power and Light, Michigan Land Trustees, and Michigan Organic Food & Farm Alliance.

Midwest Environmental Advocates (IL), Minnesota Farmers Union, Missionary Society of St. Columban (MD), Mississippi Association of Cooperatives, Missouri's Best Beef Cooperative, Missouri Farmers Union, Missouri Rural Crisis Center, Montana Farmers Union, Mvskoke Food Sovereignty Initiative (OK), National Catholic Rural Life Conference, National Cooperative Grocers Association (NCGA), National Family Farm Coalition, National Farmers Organization, National Farmers Union, National Latino Farmers & Ranchers Trade Association, National Organic Coalition, National Sustainable Agriculture Coalition, National Young Farmers Coalition, Nebraska Environmental Action Coalition (NEAC), Nebraska Farmers Union, Nebraska Sustainable Agriculture Society, Nebraska Women Involved in Farm Economics (NE WIFE), Network for Environmental & Economic Responsibility (TN), New Agrarian Center (OH) New England Farmers Union, New York City Community Garden Coalition (NY), North Carolina Contract Poultry Growers Association, and North Dakota Farmers Union.

Northeast Organic Dairy Producers Alliance, Northeast Organic Farming Association of Massachusetts (NOFA-Mass.), Northeast Organic Farming Association of New York, Inc. (NOFA-NY), Northern Plains Resource Council (MT), Northwest Atlantic Marine Alliance, NYC Foodscape, Oglala Lakota Livestock and Land Owners Association (SD), Ohio Ecological Food and Farm Association (OEFFA), Ohio Environmental Council, Ohio Environmental Stewardship Alliance, Ohio Farmers Union, Oregon Livestock Producers Association, Oregon Rural Action, Organic Consumers Association, Organic Farming Research Foundation, Organic Seed Alliance, Organization for Competitive Markets, PCC Natural Markets (WA), Peach Bottom Concerned Citizens Group (PBCCG) (PA), Pennsylvania Farmers Union People's Food Co-op (MI), Pesticide Action Network North America, Powder River Basin Resource Council (WY), Progressive Agriculture Organization (PA) , Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America, (R–CALF USA), and Rocky Mountain Farmers Union.

Rural Advancement Foundation International—USA, Rural Empowerment Association for Community Help (REACH) (NC), Rural Coalition/Coalicion Rural, Slow Food Portland (ME) Slow Food USA, Slow Food USA—Rocky Mountain Region, Small Planet Institute, Socially Responsible Agricultural Project (ID), South Dakota Farmers Union, South Dakota Livestock Auction Markets Association, South Dakota Stockgrowers Association, Southwest Nebraska Women Involved in Farm Economics, Stevens County Cattlemen's Association (WA), Sustain LA (CA), Sustainable Economic Enterprises of Los Angeles (SEE–LA), Tidal Creek Cooperative (Food Market) (NC), Tilth Producers of Washington, Trappe Landing Farm & Native Sanctuary (MD), United Church of Christ Justice and Witness Ministries, United Poultry Growers Association, Virginia Association for Biological Farming, Western Colorado Congress, Western Organization of Resource Councils (WORC), West Side Campaign Against Hunger (NY), WhyHunger, Williams County Alliance (OH), Wisconsin Farmers Union, Women, Food and Agriculture Network (IA), and Yellowstone Valley Citizens Council (MT).

YOM KIPPUR'S LESSONS IN IRENE'S AFTERMATH

Mr. LEAHY. Mr. President, recently in my State, as throughout the world, Yom Kippur was celebrated. This beginning of the Jewish year comes as Vermonters and residents of other States are struggling to regain their footing and to renew their lives and livelihoods after the devastation wrought by Hurricane and Tropical Storm Irene.

Vermonters of all faiths can take heart and inspiration from the thoughts about the meaning of the Yom Kippur observance, in the context of the aftermath of this natural disaster, which were presented in a recent essay published in the Rutland Herald and the Huffington Post. It was written by my good friend, Rabbi Michael Cohen. Vermonters' resilience in the face of this devastation and its lingering challenges truly has been remarkable. I commend Rabbi Cohen's message to the Senate's attention, and I ask unanimous consent that his essay be printed in the RECORD.

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

BEGINNING THE JEWISH YEAR IN THE AFTERMATH OF HURRICANE IRENE

(By Rabbi Michael Cohen)

Acting as a leitmotif rain lightly showers the beginning of the Jewish year. The powerful song Avinu Malkeiyu, Our Father, Our King sung on Rosh Hashanah and Yom Kippur was written by the first and second century Rabbi Akiva as a prayer for rain during a drought (Babylonian Talmud Taanit 25b). During the holiday of Sukkot, while the ancient Temple stood in Jerusalem, the ceremony of drawing of the water, Simchat Beit Ha-Shoeva was performed. It was said in the Babylonian Talmud (Sukkot 51b), the rabbinic discussion of Jewish law, that ''One who has not seen the joy of Simchat Beit Ha-Shoeva has never seen true joy.'' Finally on Shemni Etzeret, the one day holiday after Sukkot, Tefilat HaGeshem, the Prayer for Rain is recited even to this day. With Judaism arising out of a parched region of the world when it comes to rain and water it is not surprising that such an emphasis is placed on them.

For those of us living in parts of the United States where the effects of Hurricane Irene are still an all too real reality the thought of praying for rain can be somewhat jarring. That being the case, what can the holidays at the beginning of the Jewish year offer us in the wake of Irene? The symbol most associated with the Jewish New Year is the shofar, the ram's horn blown during Rosh Hashanah and at the end of Yom Kippur. In the Torah, the five books of Moses, Rosh Hashanah is actually called yom teruah, the day of blowing (the shofar). There are numerous explanations why the shofar is blown on Rosh Hashanah and Yom Kippur; it is also blown every weekday during the month of Elul, the month before Rosh Hashanah. One explanation that addresses those of us who felt the wrath of Irene is taught by Rabbi Art Green. In the Machzor, a prayerbook for the Jewish holidays, of the Reconstructionist movement called Kol HaNeshamah Rabbi Green writes:

The shofar sound represents prayer beyond words, an intensity of longing that can only be articulated in a wordless shout. But the order of the sounds, according to one old interpretation, contains the message in quite explicit terms. Each series of shofar blasts begins with tekiyah, a whole sound. It is followed by shevarim, a tripartite broken sound whose very name means ''breakings.'' ''I started off whole'' the shofar speech says, ''and I became broken.'' Then follows teruah, a staccato series of blast fragments, saying: ''I was entirely smashed to pieces.'' But each series has to end with a new tekiah, promising wholeness once more. The shofar cries out a hundred times on Rosh Hashanah: ''I was whole, I was broken, even smashed to bits, but I shall be whole again!''

Hurricane Irene literally and figuratively broke in some cases, and smashed in other cases, people, their lives, and their possessions. The road to wholeness for some was quick, for others longer, and for some they are still a traveler on that journey. The message of the shofar, as taught by Rabbi Green, can help remind us not to lose hope along that path. A similar message is also taught during the Jewish High Holidays, but in a different way.

According to the traditional reading of the Bible, Moses received the Ten Commandments, called Aseret HaD'varim, literally the Ten Words, (Exodus 34:28) on the 17th of

the Hebrew month of Tammuz. On that same day, ''Moses came near the camp and saw the calf (idol) and the dancing, he became enraged; and he hurled the tablets from his hands and shattered them at the foot of the mountain.'' (Exodus 32: 19) One can argue that the pinnacle of his life's work was the receiving of the Ten Commandments; and there they lay shattered at his feet. Moses could have given up then, but he did not. Rather he climbed back up Mt. Sinai on the 1st of Elul and remained there for 40 days. Remember, according to the text he is 80 years old at the time. While up there he asked to see God face to face, but God told him that that would be impossible as he could not survive such an encounter and live.

God tells Moses, after Moses carves a second set of blank tablets that God will write the Ten Commandments on again, to go to a crack in the mountain. At that point, as God's back passes before Moses God reveals his essential attributes, ''The Lord! the Lord! a God compassionate and generous, slow to anger, abounding in kindness and faithfulness, extending kindness to a thousand generations, forgiving iniquity, transgression, and sin.'' (Exodus 34: These attributes are sung as part of the liturgy of the Jewish holidays at the beginning of the year, as well as at other holidays during the year. At the beginning of the year they remind us when Moses was back up on Mt. Sinai and when he returned to the people with the new set of tablets 40 days later on Yom Kippur.

Moses climbing back up the mountain serves as an important model for all of us, not just those dealing with the aftermath of Hurricane Irene. We all have moments in our lives when something has been shattered. Often the easiest way to deal with that new reality is to run away from it. That is not what the actions of Moses tell us to do. When Moses finds his life's work shattered in front of him he turns back and retraces his steps up that steep mountain. The word for repentance, the main theme of the holidays at the beginning of the Jewish new year, in Hebrew is teshuvah which means to return. Both the cycles of the shofar's notes and the model of Moses returning to get a new set of tablets provide us with a way to address what may have been shattered by Hurricane Irene.

JUSTICE CLARENCE THOMAS

Mr. HATCH. Mr. President, 20 years ago this week Justice Clarence Thomas took his seat on the Supreme Court of the United States. With the expectation that these are only the first two of his decades on the Court, I want to offer a few thoughts about Clarence Thomas, both as a judge and as a person.

Clarence Thomas was born on June 23, 1948, in Pinpoint, GA. Poverty and segregation contributed to how he understands the past, present, and future of our country but, as he has often said, rising above and growing beyond difficulties is more important than the difficulties themselves. That is a powerful part of his life and the hope that his life represents for us all. Helping him on that path were his maternal grandparents, Myers and Christine Anderson, with whom he lived after the age of 7 and whose influence shaped his character. Few books have had a more poignant title than Justice Thomas' autobiography, My Grandfather's Son, for that is exactly what he was then and remains today.

Clarence Thomas was an honor student in high school and the first person in his family to attend college. He graduated cum laude from Holy Cross College with a degree in English literature and in 1974 received his law degree from Yale. After serving as Assistant Attorney General of Missouri under then-Missouri Attorney General John Ashcroft and a stint with the Monsanto Corporation, Thomas accompanied Senator John Ashcroft here to this body as a legislative assistant specializing in energy issues.

President Reagan appointed Clarence Thomas first to be an Assistant Secretary of Education and then Chairman of the Equal Employment Opportunity Commission. He remains the longest serving chairman in EEOC history. After he left for the judiciary, EEOC employees used their own personal funds to purchase a plaque for the lobby.

Here is what it said:

Clarence Thomas, Chairman of the U.S. Equal Employment Opportunity Commission . . . is honored here by the Commission and its employees, with this expression of our respect and profound appreciation for his dedicated leadership exemplified by his personal integrity and unwavering commitments to freedom, justice, and equality of opportunity, and to the highest standards of government.

President George H.W. Bush appointed him to the U.S. Court of Appeals for the D.C. Circuit in 1990 and to the Supreme Court in 1991.

So much can be said about any life and career, let alone one that is already so full and rich. Analysts and pundits, admirers and enemies, lawyer or layman, nearly everyone has at least an impression of Justice Thomas, and nearly as many have an opinion. The Internet and library shelves are rapidly filling with commentary, analysis, biography, and even psychoanalysis. I will not attempt to do anything so sweeping, but simply offer a few observations about Clarence Thomas as a judge and as a person.

Professor Gary McDowell wrote at the time of Justice Thomas' appointment that the ''true bone of contention here is . . . the proper role of the Court in American society, and the about the nature and extent of judicial power under a written Constitution.'' That is the bone of contention in every judicial confirmation because the debate over judicial appointments is really a debate over judicial power.

In general, the judicial power provided by Article III of the Constitution means that Federal judges interpret and apply written law to decide cases. The main source of judicial appointment controversy is about how judges should do the first of these tasks, how they should interpret written law such as statutes and, especially, the Constitution.

Legislatures choose the words of statutes, and the people choose the words of the Constitution. Judges may not pick the words of our laws, but they do have to figure out what those words mean so that they can decide cases. The dispute over judicial appointments is over whether the meaning of our laws comes from those who make our laws or from judges who interpret them.

There are innumerable variations and applications of these two general approaches. After all, we lawyers spend three or more grueling years learning how to make words mean whatever we want, to split a single legal hair at least six different ways, and to make the simple masquerade as the profound. But at its core, the battle over judicial appointments is about whether statutes mean what the legislature meant, and whether the Constitution means what the people meant. The alternative is an increasingly powerful judiciary, able to change our laws by changing their meaning.

Justice Thomas refuses to go there. Shortly after he became an appeals court judge in 1990, he was speaking to a friend and reflecting on his new judicial role.

He had, as I described a minute ago, worked in the legislative and executive branches and was actively involved in the process of developing policy and making law. Now, he told his friend, ''whenever I put on my robe I have to remind myself that I am only a judge.''

Only a judge. That statement almost does not compute in 21st century America. Judges today are asked, and many gladly accept the invitation, to solve our problems, heal our wounds, revise our values, reconfigure our rights, and even restructure our economy. We have traveled far from Alexander Hamilton calling the judiciary the weakest and least dangerous branch to Charles Evans Hughes saying that the Constitution is whatever the judges say it is.

That is the wrong direction for Justice Thomas. His view that he is only a judge means that while judges alone may properly play the judicial role, that judicial role is part of a larger system of government, which operates within a much larger culture and society.

Liberty requires that government, including judges, stay within their proper bounds and allow people to make their own decisions and live their own lives. Justice Thomas' view that liberty requires limits on government, including on the judiciary, parallels the very principles on which our country was founded and which are necessary for us to remain free.

But for him this is more than theoretical. James Madison had said that if men were angels, no government would be necessary and if angels governed men, no limits on government would be necessary. Justice Thomas not only knows those as axioms, but literally as life lessons. Growing up in poverty and segregation, he experienced the dark side of human nature. Studying and working in government, he knows the damage it can do when government exceeds its proper limits.

The Senate knew from the beginning what kind of Judge Clarence Thomas would be. While still EEOC chairman, he had written about a judiciary ''active in defending the Constitution but judicious in its restraint and moderation.'' At the Judiciary Committee hearing for his appeals court appointment, he said unambiguously that the ultimate purpose of both statutory construction and constitutional interpretation is to determine what the authors of the law intended. And he would later write in a concurring opinion on the Supreme Court: ''Though the temptation may be great, we must not succumb. The Constitution is not a license for federal judges to further social policy goals.''

In my opening statement at Justice Thomas' hearing, I said that ''I am confident that Judge Thomas will interpret the law according to its original meaning, rather than substitute his own policy preferences for the law.'' That is the kind of judge America needs, and that is what Justice Thomas has consistently been for the past two decades.

Those who opposed Justice Thomas' appointment, and who continue to criticize his service, take the opposite view. They believe that the Constitution is a license for Federal judges to further social policy goals. When I look at the social policy goals these folks want to further, I am not surprised. Their political agenda is, to put it mildly, unpopular with the American people and, therefore, unsuccessful in legislatures. The only way for them to win is to impose their agenda through the courts and that requires judges willing to do the imposing. Justice Thomas is not their kind of judge.

Those whose political fortunes depend on political judges went to extraordinary lengths to keep Justice Thomas off the Supreme Court. When their efforts failed, they have gone to great lengths to belittle and smear his service on the Court. For years, they said that Justice Thomas was simply parroting his fellow originalist, Justice Scalia, since they vote the same way so often. As recounted in the book Supreme Discomfort, Justice Scalia said that this criticism is nothing but a slur on both him and Justice Thomas. He said: ''The myth's persistence is either racist or it's political hatred.''

Liberals never even mentioned, let alone criticized, that Justice Thurgood Marshall voted even more often with fellow activist Justice William Brennan. Why the double standard? Because liberals like activist judges such as Marshall and don't like restrained judges such as Thomas. The real point, after all, is not that two Justices agree but what they agree on.

Or some take pot shots at the fact that Justice Thomas asks few questions in oral argument. Needless to say, if he did speak up more often, these same folks would nit-pick what he said. Justice Thomas has said that the purpose of oral argument is for him to listen to the lawyers, not for the lawyers to listen to him.

Other critics just call him names. In 1992, the New York Times called him the youngest, cruelest justice for his dissent in an Eighth Amendment case. Fast forward to this year, with Slate writer Dahlia Lithwick calling him cruel and saying that he wrote ''one of the meanest Supreme Court decisions ever.'' Anyone who knows Justice Thomas knows that he just does not care how papers or pundits feel about his opinions. The way many of them report or comment on his work, it's doubtful they even read his opinions.

No, Justice Thomas does not care how critics feel, he cares only whether he gets each case right and applies the law impartially. Justice Thomas believes that our system of government and our written Constitution define his judicial role and that he has no authority to do otherwise. He is both principled and independent.

These are not attacks on Clarence Thomas the man, or even on Clarence Thomas the Justice. Many times, they are really attacks on the kind of Justice that he represents. Many times, they are attacks on the idea that the Constitution is fixed and sure rather than malleable, that the Constitution belongs to the people rather than to judges, that the Constitution trumps politics.

I believe today what I said in Justice Thomas' hearing, that these opponents actually fear that he will in fact be faithful to the Constitution and to federal laws as we enact them, rather than to their political agenda. Frankly, I am pleased to say that he has confirmed that fear because Justice Thomas has steadfastly kept the Constitution, rather than any political agenda, as his guide. The truth is that he is writing some of the most persuasive, profound, and powerful opinions on the Supreme Court today.

As a Justice, Clarence Thomas has had a significant impact on our country and on the law. As a person, Clarence Thomas has similarly had a profound impact on people's lives. These certainly include the dozens of women and men who have served as his law clerks through the years. I invited some of them to write letters offering their own reflections and I will ask unanimous consent that these letters be printed in the RECORD following my remarks. I urge my colleagues to read them. Some of them include erudite analysis of Justice Thomas' approach to judging. You don't get to be a Supreme Court clerk, after all, without at least the potential for erudition. But every one of them includes personal anecdotes and memories about how Justice Thomas continues to impact their lives.

Federal judges in general, and Supreme Court Justices in particular, receive dozens and even hundreds of invitations to speak at events of all kinds. Justices appear at grand podiums in the great halls of the nation's most prestigious academic institutions. Justice Thomas, however, is more likely to be found speaking at schools known little beyond the communities they serve.

Or speaking to young people who are trying to get their lives back on track. On June 17, 1997, Justice Thomas gave a most memorable graduation address. The institution was Youth for Tomorrow, a residential program for at-risk youth founded by former Washington Redskins head coach Joe Gibbs. The website of this wonderful program states its mission: to provide these young people the opportunity and motivation to focus their lives and develop the confidence, skills, intellectual ability, spiritual insight and moral integrity to become responsible and productive members of society.

June is the busiest month of the Supreme Court's term, with Justices and clerks working longer and longer days to complete opinions for the term's hardest cases. This graduation was on a weekday, and Youth for Tomorrow is located out in Prince William County. But none of that mattered to Justice Thomas. On that day, just one young man received a high school diploma.

That's right, Justice Thomas was the commencement speaker for a high school class of one. When that young man says that Justice Thomas was his high school graduation speaker, he really means it.

Justice Thomas applauded the decisions that the young men in the Youth for Tomorrow program were now making. He was proud to come to them as a speaker, he said, rather than to have them come before him as a judge.

Let me close by returning to the words of that plaque placed by EEOC employees.

Through turbulence and calm, highs and lows, controversy and consensus, Justice Clarence Thomas continues to exemplify personal integrity and unwavering commitment to freedom, justice, and equality of opportunity, and to the highest standards of government. He may be only a judge, but Justice Clarence Thomas is truly a force for good in our country.

I now ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW,
Berkeley, CA, October 6, 2011.

Hon. ORRIN G. HATCH,
United States Senator,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: Thank you for your speech commemorating the twentieth anniversary of the United States Senate's confirmation of Clarence Thomas as an Associate Justice of the United States Supreme Court. I am honored that you asked me, a former clerk to Justice Thomas and former general counsel to the Senate Judiciary Committee during your chairmanship, to contribute this letter for the Congressional Record. Without your irreplaceable leadership, Justice Thomas could never have been

confirmed, so you have been responsible for the two most important years of my career.

Historians will always record that Justice Thomas was the second African-American to serve on the Supreme Court, following the great Thurgood Marshall. But this symbolism is of secondary importance. Justice Thomas's contribution to our Supreme Court is his powerful intellect and his unique commitment to the principle that the Constitution means what the framers thought it meant.

This can make Justice Thomas unpredictable to those who view Supreme Court decisions through a partisan lens. He agrees, for example, that the use of thermal imaging technology by police in the street to scan for marijuana in homes violates the Constitution's ban on unreasonable searches. He opposes the Court's effort to place caps on punitive damages as a violation of our federal system of government. He has voted to strike down literally thousands of harsher criminal sentences because they were based on facts found by judges rather than juries, as required by the Bill of Rights. He supports the right of anonymous political speech, and wants advertising and other commercial speech to receive the same rights as political speech, because he believes them protected by the First Amendment.

No one, of course, would deny that Justice Thomas has strong conservative views on constitutional law. He rejects much of affirmative action, believes Roe v. Wade was wrongly decided, recognizes broad executive powers in wartime, and allows religious groups more participation in public life. But I have long thought that there is a deeper principle of political philosophy at work in Justice Thomas's thought that goes beyond the close interpretation of disparate constitutional text. What he brings to the Court as no other justice does is a characteristically American skepticism of social engineering promoted by elites—whether in the media, academia or well-heeled lobbies in Washington—and a respect for individual self-reliance and individual choice. He writes not to be praised by professors or pundits, but for the American people.

As his memoir, My Grandfather's Son, shows, Justice Thomas's views were forged in the crucible of a truly authentic American story. This is a black man with a much greater range of personal experience than most. A man like this on the Court is the very definition of the healthy diversity that our misguided affirmative action programs seek. As a result, Justice Thomas opposes affirmative action not just because it violates the guarantee of racial equality in the Equal Protection Clause, but because it subordinates individual energy, ambition, and talents to misinformed and misguided social planning. In his dissent from the Court's approval of the use of race in law-school admissions, he quoted Frederick Douglass: ''If the negro cannot stand on his own legs, let him fall also. All I ask is, give him a chance to stand on his own legs! Let him alone!'' Justice Thomas observed: ''Like Douglass, I believe blacks can achieve in every avenue of American life without the meddling of university administrators.''

In a 1995 race case, Justice Thomas explained why he thought the government's use of race was wrong. Racial quotas and preferences run directly against the promise of the Declaration of Independence that all men are created equal. Affirmative action is ''racial paternalism'' whose ''unintended consequences can be as poisonous and pernicious as any other form of discrimination.'' Justice Thomas speaks from personal knowledge: ''So-called 'benign' discrimination teaches many that because of chronic and apparently immutable handicaps, minorities cannot compete with them without their patronizing indulgence.'' He argued that ''these programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are 'entitled' to preferences.''

One of the most admirable traits that I have witnessed in Justice Thomas is his focus on speaking honestly about his views, rather than concerning himself with the politics of winning votes on the Court. By foreswearing the role of coalition builder or swing voter, Justice Thomas has used his opinions to highlight how the latest social theories hurt those they are said to help. Because he both respects grassroots democracy and knows more about poverty than most people do, he dissented vigorously to the Court's 1999 decision to strike down a local law prohibiting loitering in an effort to reduce inner-city gang activity. ''Gangs fill the daily lives of many of our poorest and most vulnerable citizens with a terror that the court does not give sufficient consideration, often relegating them to the status of prisoners in their own homes.''

Justice Thomas is an admirer of the work of Friedrich Hayek and Milton Friedman, both classical liberals. His firsthand experience of poverty, bad schools and crime has led him to favor bottom-up, decentralized solutions for such problems. He rejects, for example, the massive, judicially-run desegregation decrees that have produced school busing and judicially-imposed tax hikes. A student of a segregated school himself, Justice Thomas declares that ''it never ceases to amaze me that the courts are so willing to assume that anything that is predominantly black must be inferior.''

To Justice Thomas, the national government's command-and-control policies have failed to make the poorest any better off. Rather, they have simply suppressed innovation in solving the nation's problems. He believes that the Constitution allows not just states and cities, but religious groups, to experiment to provide better education. In a 2002 concurrence supporting the use of school vouchers, Justice Thomas again quoted Frederick Douglass: Education ''means emancipation. It means light and liberty. It means the uplifting of the soul of man into the glorious light of truth, the light by which men can only be made free.'' Justice Thomas followed with the sad truth: ''Today many of our inner-city public schools deny emancipation to urban minority students.''

''While the romanticized ideal of universal public education resonates with the cognoscenti who oppose vouchers,'' Justice Thomas wrote, ''poor urban families just want the best education for their children, who will certainly need it to function in our high-tech and advanced society.''

These are not the words of an angry justice, or a political justice, but of a human justice. Justice Thomas's personal story shows him to be all too aware of the imperfections in our society and mindful of the limits of the government's ability to solve them. That kind of understanding and humility, and personal courage in the face of incessant unjustified attack, is what most Americans would want on their Supreme Court. Read a Thomas opinion on a subject like affirmative action, religion, crime, or free speech, and you cannot miss its authentic voice, unmistakable in its clarity, logic and moving language.

During the administration of George W. Bush, in which I served, there was speculation that the President might elevate Justice Thomas to the Chief Justiceship to replace Chief Justice William H. Rehnquist. That position, of course, went to Chief Justice John G. Roberts. In the end, I believe that the President did Justice Thomas and the country an unintentional favor. I believe he can do more good for the country as an outspoken associate justice than he could as Chief Justice. Because he is not the Chief Justice, Thomas has more freedom to speak his mind—and he does so on a regular basis. Clarence Thomas, growing up in the segregated South, beating poverty and hardship to succeed in his education and survive in the political shark pool of Washington, brings a unique outsider's perspective to the Court and the Constitution. Without the burden of the chief justiceship, Thomas can pull aside the curtain of clever legal and intellectual argumentation to reveal the stark and real policy choices being imposed by the Court on the nation.

Thank you for commemorating the twentieth anniversary of Justice Thomas's confirmation to the Supreme Court. I am honored that you asked me to contribute a few thoughts on the occasion, and I continue to feel myself lucky to have worked for both you and Justice Thomas in the years since.

Best wishes,

JOHN YOO,
Professor of Law.

GEORGE MASON UNIVERSITY
SCHOOL OF LAW,
Arlington, VA, October 8, 2011.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I write on the occasion of Justice Clarence Thomas' twentieth anniversary on the Supreme Court. It was my great privilege to serve as a law clerk to Justice Thomas during the October Term 2001.

In the past two decades, Justice Thomas has blazed an influential path, focusing on the text and history of the Constitution and following these wherever they may lead. Many perceived his potential from the beginning of his tenure, but now even his critics and skeptics have acknowledged his distinct and important impact on the Court.

Lawyers, friends, and students often ask what it was like to clerk for Justice Thomas. In his commitment to hard work and careful thinking, Justice Thomas taught his clerks many lessons in the law. The Justice encouraged us to debate the merits of each case, digging into the finer points of law and its particular application to the facts before the Court. We provided our best assessments to the Justice while he was deliberating. But once he decided, the debate ended. Whatever points of disagreement may have remained, a clerk could proceed knowing that the decision was based on the Justice's honest judgment. The integrity of this process, without intellectual compromise or concern for newspaper editorials, reflected Justice Thomas' unwavering commitment to the law and to his oath to uphold the Constitution of the United States.

Yet the clerkship was more than legal training. Justice Thomas shared rich experiences from his own life. He spent a great deal of time talking with us—about our professional futures, our families, and, of course, sports. In the years following my clerkship, Justice Thomas has remained a mentor and inspiration, providing professional and personal advice whenever needed. He has an excellent way of helping one see what is important.

Justice Thomas' generosity of spirit extends beyond his ''clerk family.'' He regularly speaks to student groups and takes time from his busy schedule to meet with young people. I have seen how this inspires them. A few years ago, he volunteered to speak to my constitutional law class. No topic was out of bounds as students asked the Justice about his judicial philosophy, the

role of the Supreme Court, the dynamics between the justices, and his personal history. With good humor, Justice Thomas stayed after class until every student who wanted a signature or picture had a turn.

This was not an unusual event—but simply one example of the Justice's graciousness and engagement in a wider public dialogue. In this regard, he elevates the role of the Supreme Court through his public appearances and meetings. Although he does not seek commendation or attention from the usual sources, Justice Thomas seeks to inspire others by example, just as he recognizes the importance of those who inspired him along the way. Those who have met him, even just in a public lecture, know his intelligence, candor, and bellowing laugh.

Justice Thomas' tremendous jurisprudential contribution can be read in the decisions of the Court— his influence increasingly documented by academics and justly recognized by lawyers and the public. In this short letter I have shared some personal reflections on Justice Thomas because this record is less public and often obscured. Justice Thomas presents a rare example from public life that one's intellectual and personal legacies need not be inversely related.

I am grateful for your leadership in the confirmation of Justice Clarence Thomas. Having served as counsel to the Senate Judiciary Committee under your Chairmanship during the year before my clerkship, I am especially honored to have the opportunity to join you in commemorating Justice Thomas' first twenty years on the Supreme Court.

Best regards,

NEOMI RAO.

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October 12, 2011.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This past weekend, we watched on CSPAN key excerpts from the October 1991 U.S. Senate Judiciary Committee confirmation hearings for justice Clarence Thomas. It made us recall the critical role that you played in those hearings, methodically debunking the absurd accusations raised by liberal left interest groups and Senate staffers who would stop at nothing to bring down a black man who strayed from the ideological plantation. As Justice Thomas said presciently at the time, America herself was harmed by those attacks far more than he was. Our great institutions of government—the U.S. Senate and the Supreme Court—were harmed. Sadly, those injuries perdure.

But we share your joy in celebrating this day in 2011, as you mark on the Senate floor the happy occasion of Justice Thomas's twentieth anniversary on the Supreme Court. As two of his former law clerks, who knew him from the days even before he was on the Court, we speak for all Americans who love Justice Thomas, our country, and our Constitution when we say ''thank you'' for what you did in 1991, for your prominent role in averting the ''high-tech lynching'' in the Judiciary Committee, and for marking this milestone today.

The passing of these 20 years has only confirmed what you knew back then: that Justice Thomas is an extraordinary American, one of the greatest of his generation—indeed, of any generation, and as our friend Bill Bennett recently said, ''the greatest living American.'' He has taught us to understand the Constitution, this great gift the Founders gave us, in its fullness and integrity: for example, that without proper respect for private property (what the Founders called ''the pursuit of happiness'' in the Declaration of Independence), there can be no real freedom; that freedom and equality are really two sides of the same coin; and that if we are to be a nation of laws and not of men, judges must look not from the point of view of their own race, sex, religion, or other personal characteristics in deciding cases, but to the truth of the law and the rule of law, which is for all persons, at all times.

Justice Thomas reminds us that interpreting the U.S. Constitution is ''not a game of cute phrases and glib remarks in important documents.'' It is, rather, ''a deadly serious business.'' He approaches each case with no preconceptions, only an honest and incisive intellect and a dogged commitment to ''get the law right'' based on a clear understanding of the Constitution and the principles it was created to vindicate—preservation of life, liberty, and property—and to the structural Constitution that created a system of self-government for the first time in history based upon a clear-eyed view of human nature. He treats the great gift given to us, and to all civilization, by the Founders as it should be treated: as a precious treasure, not something to be twisted, played with, or destroyed.

And those of us who have been his employees and friends have been doubly blessed by having a boss of intense personal loyalty, who sees us all as family, who not only guides and encourages us in our legal and other professional endeavors, but is always there for us in our personal lives when we need advice or support—through cancer diagnoses, the illnesses and deaths of family members, the births and baptisms and deaths of children, and all the other joys and tragedies of life.

We look back on these 20 years with pride—but not surprise—at what the Great Man has accomplished on the highest Court in the land. It is now undeniable, even to the liberal left and the mainstream media that Justice Thomas is, in fact, a leader and a powerful intellectual force on the U.S. Supreme Court. America has learned from the investigative reporting and writing of Jan Crawford, in Supreme Conflict: The Inside Story of the Struggle for Control of the Supreme Court, that Justice Thomas was a powerful, independent, and influential voice on the Court from the very first day he walked through the door, shortly after the 1991 confirmation hearings ended and he was seated as the junior Justice on the Court.

We can't let the moment pass without also noting that Justice Thomas, notwithstanding his greatness, has always been a man of deep and sincere humility, as befits a servant of the law. He continues to be strengthened by his favorite prayer, the Litany of Humility, which asks Jesus to ''deliver me . . . from the desire of being loved, extolled, honored, praised, [and] approved,'' and ''from the fear of being humiliated, despised, ridiculed, [and] wronged. . . .''

May all of our great Country's public servants, and all of us citizens, pray with him the same prayer. We join you today in honoring and praising a truly great man.

Respectfully yours,

LAURA A. INGRAHAM AND
WENDY STONE LONG.

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THE UNIVERSITY OF GEORGIA
SCHOOL OF LAW,
August 31, 2011.

Sen. ORRIN HATCH,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: Thank you for honoring the twentieth anniversary of Justice Clarence Thomas's confirmation to the Supreme Court of the United States. I had the privilege of serving as one of Justice Thomas's law clerks during October Term 1998. I cannot possibly hope to distill into a single letter the lessons, reflections and memories of that remarkable year. Hopefully, though, this letter in some small way may give you, your colleagues in the Senate and the American public some sense of this remarkable man.

October Term 1998 was not, to borrow an unfortunate term from the media, a ''blockbuster'' It did not produce a slew of decisions whose holdings made headlines. Of course, this is not to say that the cases were insignificant—they surely were for the litigants before the Court, for the broader constituencies affected by the Court's decisions and for the country. Perhaps precisely for this reason, we digested a lesson that Justice Thomas taught us early in the term—our job was to help him decide cases and to serve the Court. We should not worry about the political impact of a decision or its media significance. Nonetheless, we had to understand that, for the litigants, the case may well be the most important matter in their lives. Our job was to ''call them like we see them'', to master the facts of a case and to examine the relevant legal authorities.

This workmanlike approach infused everything we did—from drafting memos for the ''cert pool'' to preparing bench memoranda. He taught us to leave no stone unturned and to run down obscure but potentially important jurisdictional snags in cases. Consequently, when the day of oral argument came around, he was prepared for everything. Thus, it was unsurprising when he did not ask a lot of questions—he already knew the answers!

Justice Thomas also taught us not to be afraid of the truth. It would have been unforgivable for any of us to shade a fact or twist a precedent in support of some preordained result. There were right answers, and there were wrong ones. To be sure, there were hard cases, and sometimes the right answers were difficult to discern or required, ultimately, a judgment. That process of discernment, however, required hard work—to dig into the history of a constitutional amendment, to focus on the language of the laws enacted by Congress and not to be afraid where that research led us. When we met with him—either privately or as a ''chambers team''—we presented the results of our work with directness, honesty and forthrightness. The result of a working atmosphere was a work product that everyone could understand and believe in because no corners had been cut.

These were not the only lessons that Justice Thomas taught us. He also taught us the importance of treating people with respect. As his elbow clerks, we often had the privilege of accompanying him places—whether morning mass, breakfast in the Court cafeteria or sometimes lunch over at his old stomping ground in the Senate. On these outings, it never ceased to amaze me how many people the Justice knew. Not only did he know their names, he also asked after their families; he could recall the names of their spouses, the activities of their children and the last joke that they told. This was true whether the person addressed was a former Senate staffer or a cafeteria worker. Think about how often each of us passes one of the countless, hardworking individuals like a janitor or security guard—men and women who work often without recognition, acknowledgement or a word of thanks. How many of your Senate colleagues could name the janitors who sweep the floors, clean the bathrooms and, on a daily basis, ensure that the appearance of the building reflects the dignity of the institution? Without exception, I know Justice Thomas could name them all those who serve in the Court, those who serve in the Senate and countless others into whom he has come into contact. The example he set for us was powerful, and I am reminded of it on a regular basis when I try

to accord the same respect to every individual with whom I come into contact, just as he did.

Finally, no letter praising Justice Thomas would be complete without reference to his family, especially his wife Virginia. As you undoubtedly know, she is a rock for him, and their marriage is an incredibly strong, indeed inspiring, one. I had the privilege firsthand of benefiting from Justice Thomas's keen insight into the importance of a strong marriage as I faced a difficult dilemma during the end of my clerkship. My fiancée and I were due to be married after the clerkship, and I had already accepted a job in the Criminal Division of the Justice Department (fulfilling a lifelong dream to serve as a federal prosecutor). I had also made a ''prenuptial'' promise to my fiancée (who was from Europe) that if the opportunity ever came along to live and work in her home country, I would do so. In March 1999, I received an offer from a law firm in Europe and confronted a dilemma—pursue my dream job or fulfill that prenuptial promise? After stewing on the dilemma for several hours, I sheepishly knocked on Justice Thomas's door and asked if we could have a ''throwdown'' (his term for a conversation where we could put all our concerns about a matter on the table). He listened patiently as I laid out my dilemma to him. At the end of my monologue, he looked me directly in the eye. and uttered words I will never forget: ''Bo, a man goes where his wife will be happy. The Justice Department will always be there, but if you break this promise, you may wake up one day and find your wife is not.'' The moral certainty behind his advice helped me make the right decision. I called the Justice Department, withdrew my application (a decision that, to the Department's credit, was graciously accepted) and accepted the position in Europe. My wife and I recently celebrated our tenth anniversary, and not a day goes by when I do not reflect on (and sometimes share) Justice Thomas's advice.

As I read over this letter, I realize it does not begin to scratch the surface of all the memories, reflections and impressions created both during my year of service with Justice Thomas and in the intervening thirteen years (for the relationship endures long after the clerkship ends). All I can say is thank you—for your unflagging support of this true patriot and to Justice Thomas for his willingness to serve the country.

Sincerely,

PETER B. RUTLEDGE,
Professor of Law.

UNIVERSITY OF NOTRE DAME,
THE LAW SCHOOL,
Notre Dame, IN, October 13, 2011.

Hon. ORRIN HATCH,
U.S. Senator, U.S. Senate, 104 Hart Office Building, Washington, DC.

DEAR SENATOR HATCH: I am writing on the occasion of the twentieth anniversary of Justice Clarence Thomas's confirmation to the United States Supreme Court. During the Supreme Court's 1998–1999 term, I had the great privilege of serving as Justice Thomas's law clerk. The experience was one of the most important and formative of my life. During my year in his chambers, Justice Thomas—whom I had long admired as a jurist—became my mentor, teacher, and friend. He taught me, as he teaches all of his clerks, to be a better lawyer—the kind of lawyer who always honors the law by seeking and applying the correct answer, even when the correct answer does not comport with personal preferences. But even more importantly, Justice Thomas taught me, as he teaches all of his clerks, to be a better person—the kind of person who chooses right over wrong, serves when called, and always treats every individual, regardless of rank or station, as their equal.

In the years since his confirmation, Justice Thomas's critics have begun to give him his due as a jurist. Legal academics and public intellectuals, many of whom disagree virulently with his approach to the law, now grudgingly acknowledge the intellectual weight of his opinions, the consistency and clarity of his jurisprudential approach to constitutional questions, the respect accorded to him by his colleagues, and the increasing evidence of his intellectual leadership on the Court. Most importantly, Justice Thomas's opinions reflect an unwavering fidelity to the Constitution as it was intended to be understood, a steadfast commitment to religious liberty and free expression, and a firm insistence that equality of opportunity is best promoted (indeed must be promoted) by equal treatment under the law.

I know that law professors usually write tributes about Justices as jurists, so I hope you will understand if I depart from the mold and begin with a few words about the Justice as a man. I do so in part because I am sure that there will be no shortage of reflections about Justice Thomas as a jurist in the days and years to come. But I also do so because, during my year as his law clerk and in the years since, I was, and have been, impressed and formed by Justice Thomas's humanity, as much as (or more than) his judicial philosophy or the careful crafting of his opinions.

As you undoubtedly remember, during his confirmation hearings, then-Judge Thomas described watching, through his chamber's window, as shackled prisoners were led into the federal courthouse. ''I say to myself almost every day,'' he introspectively reflected, ''But for the grace of God there go I.'' In the intervening years, more than one commentator has accused Justice Thomas of reneging on his implicit promise—embedded in his self-identification with the prisoners—to look out for the little guy. According to these critics, Thomas has turned out to be anything but empathetic to the plight of the downtrodden. This view—that Justice Thomas exhibits a disregard, even contempt, for the difficulties facing the least fortunate among us—pervades the popular imagination. These criticisms reflect a profound misunderstanding of Justice Thomas and his jurisprudence. There is a reason why Justice Thomas, upon his nomination to the Supreme Court, first thanked his grandparents and the Franciscan nuns who educated him in Savannah's segregated Catholic schools: He sincerely believed that they saved his life. And one need only spend a day with Justice Thomas to realize that he still believes that, but for their intervention—or perhaps more accurately, but for God's intervention through them—his life might well have taken a very different path.

In his years on the Supreme Court, Justice Thomas's generosity has become increasingly difficult to ignore. Even his critics have begun to acknowledge publicly his personal efforts to help ''the little guy''—from his decision to raise his sister's grandson, to his practice of welcoming groups of poor and predominantly minority school children to the Court, to his record of mentoring young people, to his involvement in a scholarship program that sends first-generation professionals to New York University School of Law on a race-blind basis. It was one of the great privileges of serving as his law clerk to witness these efforts up close—and to see that these public acts of generosity were coupled with dozens more private acts of kindness, each as natural as it was reflective of Justice Thomas's generosity and character. A few examples: Justice Thomas not only knew every member of the Supreme Court's staff by name, he also knew the names of their spouses and many of their children. (I arrived early one morning to find six custodians crowded into his office teasing him about a Dallas Cowboy's loss.) Walking on the hill one day, Justice Thomas stopped to talk to a homeless man whom, he explained, he had known for years. Another day, he stopped in front of the Hart Senate Office Building to ask a police officer about his son, who had just started college. When we asked how he knew that the officer's son was entering college, he explained he remembered the officer from his days as a staffer for Senator Danforth. (Justice Thomas worked for Senator Danforth from 1970 until 1981; I clerked for him seventeen years later.)

Contrary to elite opinion, Justice Thomas's concern for the metaphorical ''little guy'' is also reflected in his jurisprudence. Critics often overlook this fact because his views about how the law can properly help the poor, the marginalized, and (perhaps especially) racial minorities are profoundly contrarian, at least as measured against prevailing elite sentiments. But properly understood—that is, understood in the context of Thomas's history and teleology—the evidence of his attentiveness to the underdog is undeniable. Opinions reflecting Thomas's concern for ''the little guy'' contain at least three overlapping themes. The first is an unwavering respect for, and faith in, the competence and ingenuity of all people, regardless of race or station. Consider, for example, his scathing indictment of the compulsory integration programs at issue in Missouri v. Jenkins (1995):

''It never ceases to amaze me,'' he began, ''that the courts are so willing to assume that anything predominantly black must be inferior.'' The second theme is a distrust of many social programs designed to ''help'' the disadvantaged, which is frequently interpreted as reflecting either callousness, naïveté or both. But Justice Thomas is acutely aware of historical lessons suggesting that government actions ostensibly designed to help sometimes mask illicit motives, and he is deeply suspicious of ''window dressing'' efforts that enable elites to avoid rolling up their sleeves and engaging in the difficult task of equipping the disadvantaged with the skills they need to succeed. As he observed in Grutter v. Bollinger (2003), which upheld the University of Michigan Law School's affirmative action program, ''It must be remembered that the Law School's racial discrimination does nothing for those too poor or uneducated to participate in elite higher education and therefore presents only an illusory solution to the challenges facing our Nation.'' The third theme reflects, in my view, the genuineness of Justice Thomas's ''window dressing'' concern. Thomas is jealously protective of the kind of ''back-to-basics'' efforts that he believes will actually help the disadvantaged. His frustration with opponents of these efforts is palpable, and reflected in several opinions that warning that decisions invalidating such efforts will have devastating consequences for our most vulnerable citizens. For example, he began his concurrence in Zelman v. Simmons-Harris (2002), which upheld a school choice program in Cleveland, by quoting Frederick Douglass: ''[E]ducation . . . means emancipation. It means light and liberty. It means the uplifting of the soul of man into the glorious light of truth, the light by which men can only be made free.'' He continued, ''[M]any of our inner-city public schools deny emancipation to urban minority students. . . . [S]chool choice programs . . . provide the greatest educational opportunities for . . . children in struggling communities.''

I do not make these observations to prove the wisdom of Justice Thomas's views on the

merits, but rather to respond to a particularly pernicious and deeply misguided criticism of his life and his jurisprudence. Nor should my reflections be interpreted as evidence that he is, as some have claimed, a results-oriented jurist. That Justice Thomas's expressed constitutional commitments are both genuine and self-binding is, in my view, established in an undeniable record of reaching conclusions that run counter to his personal preferences. And, I think it important to note, Justice Thomas himself has spoken on the subject of how a judge best serves the ''little guy'' and that is to maintain fidelity to the law. As Thomas once explained, ''A judge must get the decision right because, when all is said and done, the little guy, the average person, the people of Pinpoint, the real people of America will be affected not only by what we as judges do, but by the way we do our jobs.'' And, in living out that aspiration, every day, Justice Thomas has become a model jurist, worthy of our commendations on this day.

Sincerely,

NICOLE GARNETT,
Professor of Law.

US-RUSSIA NUCLEAR COOPERATION

Ms. MURKOWSKI. Mr. President, today I wish to note the importance of growing Russian-American cooperation in the field of civil nuclear energy. Our common interests in this area are a significant opportunity to enhance energy security and economic growth for both nations. Just as importantly, building on a good record of cooperation on nuclear energy can form a basis for improving our relationship with the Russian Federation more broadly.

As the two largest nuclear complexes, the United States and Russia play an essential role in setting global standards. We have worked effectively together on non-proliferation initiatives through the Nunn-Lugar program for nearly a generation. But our cooperation in nuclear energy is not as well known.

Russia has long been America's largest foreign partner in nuclear power through the HEU-LEU Agreement of 1993. Better known as the ''Megatons-for-Megawatts'' agreement, Russia's nuclear corporation Rosatom has converted fissile material from thousands of weapons into energy for American homes and businesses. Nearly half of the fuel used in U.S. reactors is of Russian origin, which accounts for 10 percent of the electricity produced in this country.

In terms of nuclear technology, we have a lot to learn from one another. If the event at the Fukushima reactors in Japan has taught us anything, it's that nuclear safety is an issue that crosses borders. The recent signing of the ''Joint Statement on the Strategic Direction of U.S.-Russian Nuclear Cooperation'' between Rosatom and the Department of Energy is a good example and will take advantage of Russian technological leadership on advanced reactors with passive safety systems. It recognizes that the long-term answers on nuclear safety will be a new generation of inherently safe reactors.

I applaud the work of the Nuclear Energy and Nuclear Security Working Group led by Deputy Energy Secretary Dan Poneman and Rosatom Director General Sergey Kirienko. By expanding their joint efforts to include nuclear safety and development of a global framework for nuclear energy, they are bringing the world's best technical expertise to bear on critical issues that must be addressed to sustain public confidence in nuclear energy.

Mr. President, cooperative efforts between the United States and Russia in civil nuclear energy are a success story in an often complex relationship. Building on this relationship should be a priority for both countries.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

Mr. LEAHY. On October 21 we will celebrate the 25th anniversary of the enactment of the Electronic Communications Privacy Act, ECPA, one of the Nation's premiere privacy laws for the digital age. Since the ECPA was first enacted in 1986, this law has provided privacy protections for e-mail and other electronic communications for millions of Americans who communicate and transact business in cyberspace.

Today, the many rapid advances in technology that we have witnessed make this key privacy law more important than ever if we are to ensure the right to privacy. Just in the past few months, we have witnessed significant data breaches involving Sony and Epsilon that impact the privacy of millions of American consumers. We are also learning that smartphones and other new mobile technologies may be using and storing our location and other sensitive information, posing new risks to privacy.

When I led the effort to write the ECPA 25 years ago, no one could have contemplated these and other emerging threats to our digital privacy. But today, this law is significantly outdated and outpaced by rapid changes in technology and the changing mission of our law enforcement agencies after September 11. At a time in our history when American consumers and businesses face threats to privacy like no time before, we must renew the commitment to the privacy principles that gave birth to the ECPA a quarter century ago. That is why I am working to update this law to reflect the realities of our time.

Before the end of the calendar year, the Judiciary Committee will consider legislation that I have drafted to update the ECPA and to bring this law fully into the digital age. My bill makes several commonsense changes to the law regarding the privacy protections afforded to consumers' electronic communications. Among other things, my bill gets rid of the so-called ''180-day rule'' and replaces this confusing mosaic with one clear legal standard for protection of the content of e-mails and other electronic communications. This bill also provides enhanced privacy protections for American consumers by expressly prohibiting service providers from disclosing customer content and requiring that the Government obtain a search warrant based on probable cause to compel the disclosure of the content of an individual's electronic communications.

The ECPA Amendments Act also gives important new privacy protections for location information that is collected, used, or stored by service providers, smartphones, or other mobile technologies. To address the role of new technologies in the changing mission of law enforcement, my bill also provides important new tools to law enforcement to fight crime and protect cybersecurity including—clarifying the authority for the government to temporarily delay notice to protect the integrity of a law enforcement investigation and allowing a service provider to disclose content that is pertinent to addressing a cyberattack to the government to enhance cybersecurity.

I drafted this bill with one key principle in mind—updates to the Electronic Communication Privacy Act must carefully balance the interests and needs of consumers, law enforcement, and our Nation's thriving technology sector. I also drafted this bill after careful consultation with many government and private sector stakeholders, including the Departments of Justice, Commerce and State, local law enforcement, and members of the technology and privacy communities.

As the ECPA approaches its silver anniversary, I join the many privacy advocates, technology leaders, legal scholars, and other stakeholders who support reform of the ECPA in celebrating all that this law has come to symbolize about the importance of protecting Americans' privacy rights in cyberspace. I hope that all Members will join me in commemorating this important milestone anniversary and in supporting the effort in Congress to update this law to reflect the realities of the digital age.

TRIBUTE TO BARRIE DUNSMORE

Mr. LEAHY. Mr. President, Vermont benefits both by the people who were born there and those who come to Vermont and make us even better.

One of those people who has chosen Vermont is Barrie Dunsmore, who before his change in careers had been one of the foremost reporters and commentators on the national news scene. When he and his wife, Whitney Taylor, and his daughter, Campbell, came to Vermont, we Vermonters have benefitted by his columns in The Rutland Herald and his commentary on Vermont Public Radio. Recently Barrie took a number of his columns and collected them in a book, ''There and Back.'' I could not begin to do his writings justice, but my wife Marcelle

and I were privileged to be at a reception for Barrie and Whitney in Burlington and we heard him speak. I asked him if I could have a copy of his notes from that evening, and he shared them with me. The notes offer only a hint of what awaits in the book, which I read with pleasure at our home in Vermont.

I ask unanimous consent that Mr. Barrie Dunsmore's remarks be printed in the RECORD.

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

THERE AND BACK

(By Barrie Dunsmore)

Thank you Senator Leahy for being here tonight with your wife Marcelle, and for your kind words. I also thank you for your constant support for my columns and comments over many years. Having you in my camp has been an inspiration.

Thank you to Holly Johnson, the proprietor of Wind Ridge Publishing. If you had not had faith that my writing deserved a wider audience outside Vermont, there would be no book and we would not be here this evening.

Last, but certainly not least, I wish to thank my wife, Whitney Taylor. She is tireless in encouraging me and steadfast in supporting me. She is an excellent editor and my most important audience. She always reads my material before I send it out. And if she doesn't get something I know nobody will—so I make changes accordingly.

There are others who are deserving of my thanks but I promise I won't bore you kind folks who probably aren't interested in my high school Latin teacher who made me such a great writer.

Seriously I make no such claim, but I am a writer. In fact over the last decade—including my columns, radio and television commentaries, book reviews and speeches—I have written about a half a million words. To put that into perspective, Tolstoy's War and Peace in Russian runs 460,000 words.

I'm not talking about quality here, but in quantity, my body of work is greater than War and Peace. But you'll be happy to know the book contains only a fraction of that.

Let me explain the title of the book, ''There and Back.''

The first section, called THERE, contains columns and commentaries that deal largely with events taking place in foreign lands over THERE in this century—but seen through the prism of events I covered in the last century. For example, I wrote about the Arab Spring in Egypt last February, in the context of my long experience in Egypt and particularly my contacts with the late president Anwar Sadat.

The section called BACK contains articles addressing the politics, culture and media of America—since I've been in retirement, BACK here in the United States.

The items in this section reflect a somewhat detached view of America as a former foreign and diplomatic correspondent might see it. The title of the book, and the concept, were suggested by my principal editor Emily Copeland to whom I am most grateful.

I promise you, this is not going to be a long speech, but I've been asked to reflect a bit on my impressions of how the mainstream media have fared since I retired in the mid-1990s.

When I took early retirement, I vowed I would not fall victim to the affliction that hits many old men and induces them to claim that everything that has happened in their field since they retired is a disaster. I confess in recent years being true to that vow has been a real challenge. Actually, when I did a series of lectures to the journalism classes at Vermont's Saint Michael's College last year, I suggested the students look at me as an archeologist might view a relic from the past that is more or less intact, and might provide some useful information.

During my four decades as an active reporter, there were major technological changes in network television news—going from black and white film to color; shifting from film to videotape; the advent of high-quality hand held cameras. And, finally of course, the coming of the communications satellite. That significantly changed everything. It meant there would be no more waiting for three days for the film from Vietnam or the Middle East to arrive in New York. But much more important, it became possible to have live coverage of news events virtually anywhere in the world.

Yet as great as those changes were, they pale in comparison to how the new information technologies have totally revolutionized the media. The Internet and the almost universal use of the personal computer and the cell phone have had an extraordinarily profound impact on the reporting of news, not to mention redefining what constitutes news—and who or what is a reporter. Many consider this a good thing—a notion I do not entirely share.

I will say this about the new technologies—they are not inherently good or bad. Like all of their revolutionary predecessors, such as the telegraph or moveable type, they are neutral instruments. Whether they serve society—or subvert it—depends on how these new tools are being used, by whom and to what ends.

For me, one of the more troubling consequences of this latest revolution is that by siphoning off huge portions of ad revenues, the Internet and its social networks have threatened the financial viability of the mainstream media—and as a consequence, have undermined the credibility of the news media as one of the key institutions that make democracy work.

Thomas Jefferson repeatedly said it. And the philosophers of ancient Greece apparently believed it: In order to survive, democracy needs to have a relatively well-informed electorate. The people cannot wisely choose their leaders if they don't have at least a basic understanding of the issues and of the consequences of the choices they are making.

What worries me most about the declining role of the mainstream media in today's world, is that in spite of all the various new platforms to provide and dispense information—ironically, maybe because of all these choices—there is evidence that the electorate is less well informed than it was in other times in history. As I see it, these days more people than ever hold passionate, partisan opinions—that are largely free of facts. At another time, those necessary facts would have been available in the major news media, and most people would have accepted them as such. Sad to say, that is something which large and growing numbers of people no longer do.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2011

Mrs. MURRAY. Mr. President, today, as chairman of the Senate Committee on Veterans' Affairs, I would like to show my strong support for Senate passage of S. 894, the Veterans' Compensation Cost-of-Living Adjustment Act of 2011.

Effective December 1, 2011, this measure directs the Secretary of Veterans Affairs to increase the rates of veterans' compensation to keep pace with a rise in the cost-of-living, should an adjustment be prompted by an increase in the Consumer Price Index, commonly known as the CPI. Referred to as the COLA, this important legislation would make an increase available to veterans at the same level as an increase provided to recipients of Social Security benefits.

All of my colleagues on the Committee on Veterans' Affairs, including Ranking Member BURR and Senators ROCKEFELLER, AKAKA, SANDERS, BROWN of Ohio, WEBB, TESTER, BEGICH, ISAKSON, WICKER, JOHANNS, BROWN of Massachusetts, MORAN, and BOOZMAN join me in supporting this important legislation. I look forward to our continued work together to improve the lives of our Nation's veterans.

Last year, Congress passed, and the President signed into law, Public Law 111–247, which would have increased veterans' compensation rates had there been an increase in the CPI. While there was no cost-of-living increase in 2011; the 2012 adjustment will be 3.6 percent.

The COLA affects so many important benefits, including veterans' disability compensation and dependency and indemnity compensation for surviving spouses and children. It is projected that over 3.9 million veterans and survivors will receive these benefits in fiscal year 2012.

Mr. President, our Nation's veterans are hurting. The cost of food and fuel continue to rise. Failing to pass a cost-of-living adjustment will have serious effects on the quality of life veterans deserve. We have an obligation to care

for our brave veterans and their families by providing them with the compensation needed to maintain a quality standard of life.

I ask my colleagues to keep our promise to our Nation's veterans by working together to ensure this benefit remains available and is not diminished by the effects of inflation.

TRIBUTE TO JERRY HILDEBRAND

Mr. BAUCUS. Mr. President, I ask unanimous consent to have a memorial to the extraordinary life and service of Jerry Hildebrand printed in the CONGRESSIONAL RECORD.

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

EXCERPTS TAKEN FROM A SENATE FINANCE COMMITTEE HEARING TITLED REDUCING OVERPAYMENTS AND INCREASING QUALITY IN THE UNEMPLOYMENT SYSTEM CONDUCTED ON MAY 25, 2010

Senator Baucus: Last week, the Obama Administration announced a proposal to address these issues. The proposal seeks to rein in overpayments by making the unemployment insurance program more efficient. Today, we will walk through that proposal.

Under the administration's proposal, states could use a portion of the money that they recover from overpayments to strengthen their program integrity activities. States would also be required to impose financial penalties on people who defraud the program.

Under the proposal, employers would be required to report the start dates of new employees. That will help to identify beneficiaries who have returned to work in a different state but continue to receive unemployment benefits.

The administration's proposal is just one solution. States and private industry have also devised systems that reduce overpayments. They also have ideas on how to streamline unemployment insurance. I look forward to learning more about these proposals today.

Let's recognize the problem that we have in our Nation's safety-net programs. Let's grab the chance to do our best to correct the overpayments, and let's redouble our efforts to make the government work more efficiently.

I would like to turn to our witnesses. First, we will hear from Jane Oates, Assistant Secretary of Employment and Training at the Department of Labor. Ms. Oates, it is a pleasure to welcome you back. I was saddened not to see Jerry Hildebrand sitting behind you. His passing is a great loss. He provided tremendous advice and information honestly and accurately to all of us who asked; he was a tremendous public servant. We wanted you to know personally, and his family to know that we're thinking of him and very saddened that he is no longer with us.

Mrs. Oates: We cannot thank you enough for that. My career spans from the 1970s. A loss of that magnitude is just hard to get over. The whole career staff is remarkable but Jerry was the high water mark. He is sorely missed every day, particularly by me when we were prepping for this hearing.

Senator Baucus: Well he was a tremendous man.

Mrs. Oates: Thank you so much Senator. And we will make sure his wife and daughter get your——.

Senator Baucus: We just want you to know how much he meant to all of us.

Mrs. Oates: Thank you very much.

Senator Baucus: You're very welcome.

EULOGY FOR JERRY HILDEBRAND

(Written by Suzanne Simonetta)

I'm speaking this evening on behalf of those of us who had the privilege of working with Jerry Hildebrand in the Unemployment Insurance (UI) program to give you a sense of what he meant to us.

Jerry was a scholar. One of Jerry's most impressive professional gifts was the depth and breadth of his knowledge. I was constantly awed by him—particularly by how much he remembered without even having to check his files. More important than his knowledge, and love of learning in general, was his ability to critically think about the information he knew—What does this mean? Why is it important? What are the implications? He always had the answer. The English major in Jerry made him an excellent writer as well—always pruning a document to reduce it to its essential elements and clarifying its intent.

Jerry was a passionate advocate for the Unemployment Insurance program. He was a worthy heir to the Wisconsin intellectual tradition that led to the creation of the UI program in 1935. Jerry truly believed UI was the most important program in the Employment and Training Administration. He felt strongly about the insurance principles upon which it is based—payments to individuals who lost their jobs through no fault of their own. Jerry believed in the importance of upholding the original intent of the UI program and protecting workers' rights. He dedicated his entire career to achieving these goals.

Jerry was a dedicated public servant. He was a consummate professional. Everyone with whom he worked knew that they could count on Jerry to give them his best effort. Jerry cared very deeply about his work and held himself to the highest standards. Though he might grumble and grouse to us about the fire drill du jour, he always got the job done. During the last two years in particular, with so much attention being paid to unemployment and so much UI legislation being enacted, so much had been demanded from Jerry. And he always delivered. He was one of the hardest working people I know.

Jerry touched the lives of millions of Americans without them ever knowing it. Jerry was a very modest, humble man. Some of you may not be aware that during the last 10 years, Jelly wrote many of the Federal laws relating to unemployment insurance and much of the guidance for states that operate these programs. When you think back on some of the major events in our nation's recent history—the terrorist attacks on September 11, 2001, Hurricane Katrina, the current recession—Jerry worked to support the people affected. Whether it was the new benefits program for airline workers after 9/11, modifications to the disaster unemployment assistance program after Katrina, the seemingly countless benefit extensions we currently have, or certifying billions of dollars of payments to states that expand eligibility for UI benefits, Jerry's contributions helped make it happen. His efforts lessened the burden that so many individuals and families face because of unemployment.

Jerry was a truly decent human being. Though a reserved man, Jerry's actions spoke volumes about his character. He was honest, fair, reasonable, reliable and dedicated. Jerry was well respected by all who knew him. I couldn't have asked for a better boss.

Jerry was taken from us too soon. We all feel his loss so profoundly—both personally and professionally. The void left behind is unbearable and the daunting task of carrying on without him seems insurmountable. However, I am confident that the wisdom Jerry shared and the lessons we learned from him will enable us to achieve what now feels almost impossible. Our greatest tribute to Jerry will be to continue his legacy of excellence.

RECOGNIZING INTERNATIONAL CREDIT UNION DAY

Mrs. FEINSTEIN. Mr. President, today I wish to recognize the importance and many achievements of credit unions worldwide in celebration of the 63rd annual International Credit Union Credit Day.

The difference credit unions make in the United States by providing affordable and safe financial services to many Americans of moderate means has been significant and widely recognized.

However, the contributions credit unions have made on an international scale are equally notable. Since the mid-1800s, credit unions have established themselves in communities around the world struggling with social dislocation, political unrest, and economic depression as a means to promote economic growth and democratic practices at the local level. Today, more than 54,000 credit unions provide financial services to more than 186 million members in 97 nations. Nationally, credit unions provide financial services to more than 93 million Americans.

Credit unions make a difference on a global scale by providing access to affordable financial services for those who otherwise would have been excluded from the financial sector. Such financial services include the provision of small savings and loans, which enable some of the poorest individuals in the world to start their own microenterprises, improve household stability and stimulate growth in their communities. Credit unions are the largest source of these microfinance services in countries as diverse as Colombia, Kenya, Russia, Mexico, Thailand, and Rwanda.

Credit unions are also at the forefront of expanding access to finance for people living in rural areas who can't afford the time or money it takes to visit a financial institution. Credit unions are working with the World Council of Credit Unions, WOCCU, to introduce a variety of innovative technology solutions to bank the unbanked in rural areas. In Mexico, credit union officers carry hand-held personal digital assistant, PDA, devices to conduct financial transactions with members in communities located up to 90 minutes from the credit union office. In Kenya, Peru, and Mexico, point-of-sale devices enable credit unions to partner with local merchants in rural areas, allowing members to deposit and withdraw money from their credit union accounts. Finally, mobile banking capabilities in Mexico will enable members to check their balances and transfer funds without leaving their homes.

In addition, credit unions throughout the world are filling the agricultural

lending gap that has kept the vast majority of small farmers stuck in low-production, low-return cycles. In countries such as Peru, Kenya, and Colombia, credit unions are taking an integrated, value-chain approach to financing that includes access to agricultural training and markets for farmers to sell their products. As a result, farmers are not only increasing their incomes and producing more food for their families, they are also playing a role in securing their nations' food supply.

U.S. credit union members, staff and leagues, along with the Credit Union National Association and the U.S. Government support the global work of credit unions and WOCCU. Through WOCCU's International Partnerships Program, 25 U.S. credit union leagues are matched with developing credit union movements overseas to encourage the direct transfer of technology, skills, and experience among peers across borders.

I ask you and my other distinguished colleagues to join me in commending the work of credit unions, both domestically and internationally, for providing vital financial services that improve the lives of people demonstrating the greatest need around the world. By providing the world's poor with the most basic financial services, credit unions help expand job opportunities, improve local economies and promote democracy. In short, credit unions offer a sustainable development solution to some of the world's poorest countries, and this is the ''credit union difference.''

ADDITIONAL STATEMENTS

UDALL FOUNDATION

● Mr. UDALL of New Mexico. Mr. President, in 1992, Congress created the Udall Foundation, to honor the service of Mo Udall, my uncle, and father of the Senator from the great State of Colorado, MARK UDALL. In 2009 that mandate was expanded to also honor the service of my dad, Stewart Udall, and a legacy of two brothers who fought to preserve and protect our environment and advocate on behalf of Native people.

The Udall Foundation would not be what it is today without the tireless work of one man—Terrence L. Bracy. Terry's been there since the very beginning and has served as chairman of the foundation for 17 years, appointed by both President Clinton and President George W. Bush. At the end of this year, Terry will step down from the board, closing the first chapter of the Udall Foundation . . . and I rise today to express my deep gratitude to him for his service to the Foundation and honoring the Udall legacy.

What started as only a vision is now an organization dedicated to educating a new generation of Americans to preserve and protect their national heritage through scholarship, fellowship, and internship programs that focus on environmental and Native American issues, as well as promoting environmental conflict resolution.

I know Senator MARK UDALL agrees with me when I say that Terry Bracy is the Udall Foundation. Over the past 17 years, he has continually pushed the Foundation to new heights—developing new programs, providing new opportunities for young people, and finding new ways to make a difference on issues relating to the environment and tribal communities.

He created an organization to inspire young people to tackle the tough policy problems that confront our nation. And Terry deeply cares about the students that are touched by the foundation's various programs.

After the Washington internship program, Terry and his lovely wife, Nancy, always got us all together. Early on, it was at their house in Virginia. The Senator from Colorado and I would answer questions and share our experiences with these exceptional young people, getting to know a new generation of leaders who, thanks to Terry, were inspired to carry on the torch of public service.

Under his leadership, the foundation also created the Native Nations Institute, accepted stewardship of the U.S. Institute for Environmental Conflict Resolution from Congress, and most recently, established the Stewart L. Udall Parks in Focus Program.

And while he has always looked forward to what the foundation could become, he has also continually reinforced the legacy of the two Udall brothers. It was Terry who pursued changing the name of the organization to the Morris K. Udall and Stewart L. Udall Foundation, after two brothers whose joint legacy as public servants and environmental visionaries will endure through the ages. The dedication ceremony in 2009 was the final public appearance of my father before his passing, and I know he was deeply honored and appreciative of the hard work of his friend Terry.

I would like to extend my thanks to Terry for his service to this nation in preserving the legacy of two American brothers who fought to change the world, and for continuing to champion the causes to which they dedicated their lives.●

TRIBUTE TO ALBERT KELLY

● Mr. COBURN. Mr. President, I rise today to congratulate and commend an outstanding citizen of my State.

Next Tuesday, October 25, Albert ''Kell'' Kelly of Bristow, OK, will take office as the new chairman of the American Bankers Association. Mr. Kelly is CEO Of SpiritBank in Bristow, part of a family-owned cluster of businesses which includes farming, ranching and banking enterprises. In fact, even now, Kell continues to work his 900-acre ranch whenever he is not traveling.

Mr. Kelly is equally active in community affairs. He once served as an assistant district attorney and also was chairman of the Oklahoma Bankers Association, and he is currently chairman of the Oklahoma Turnpike Commission. No wonder Kell Kelly has been called the most influential nonpolitician in Oklahoma. Education, transportation, and local business development are all key elements of Kell's community involvement. He understands that the purpose of a community bank is to build a community.

Kell is also a champion of empowerment. Five years ago he started a program among his bank employees, teaching them how to write letters and speak with government officials about public policy issues. So far, 65 SpiritBank employees have been trained to be volunteer citizen-activists regarding the various issues that concern them.

Kell's insight as a community banker will be vital in rolling back the excessive intrusion into the day-to-day business of banking that is stifling our Nation's economic recovery

Banking is not only a barometer of economic health but also one of the key drivers of an economy. Under Kell Kelly's leadership, we can expect the American Bankers Association to be a strong advocate for more sustainable and more responsible banking policy and, God willing, to lead the way to a strong and lasting economic recovery for our Nation.●

TRIBUTE TO TERRY BRACY

● Mr. UDALL of Colorado. Mr. President, I rise today to pay tribute to an outstanding public servant, Terrence L. Bracy, who has chaired the Udall Foundation board of trustees for 17 years.

In 1 week, Terry, as his friends call him, will step down from his longtime role as chair of the board.

In light of his impending retirement from the Udall Foundation board, it is fitting that we commemorate Terry's groundbreaking work on behalf of the foundation.

For those of my colleagues who may not be familiar with the Udall Foundation, Congress created the foundation as an independent Federal agency in 1992, in honor of my late father, former Arizona Congressman Morris K. ''Mo'' Udall. The foundation, in fact, is headquartered in Tucson, AZ, in the congressional district that Mo Udall proudly served for 30 years.

In 2009, Congress enacted legislation to honor Stewart L. Udall, Mo's older brother, by adding his name to the foundation. It is now known as the Morris K. Udall and Stewart L. Udall Foundation. My uncle Stewart was a congressman and also served for 8 years as U.S. Secretary of the Interior under Presidents Kennedy and Johnson, and Uncle Stewart's son is none other than Senator TOM UDALL of New Mexico, with whom I am proud to serve in this Chamber.

The foundation was conceived as one way to carry on what has been described as the ''Udall ethic''—a reverence for the natural world, a deep commitment to public service, and a respect and admiration for Native American communities.

With this ethic as his lodestar, Terry has led the board of the foundation, whose members are appointed by the President and confirmed by the Senate, from its inception. And over the past two decades, Terry has helped define and hone the foundation's mission, enabled it to grow and flourish, and ensured that it had the necessary resources to do its work.

As set forth in its founding legislation, the purposes of the foundation are many: to increase the awareness of, the importance of, and promote the benefit and enjoyment of, the Nation's natural resources; to foster a greater recognition and understanding of the role of the environment, public lands, and resources in the development of the United States; to identify critical environmental issues; to develop resources to train professionals properly in environmental and related fields; to provide educational outreach regarding environmental policy; to develop resources to train Native American and Alaska Native professionals in health care and public policy; and through the U.S. Institute for Environmental Conflict Resolution, provide assessment, mediation, and other related services to resolve environmental disputes involving Federal agencies.

In pursuit of these purposes, under Terry's leadership, the foundation has instituted several programs, including the following: annual scholarships and fellowships to outstanding students who intend to pursue careers related to the environment; annual scholarships and internships to outstanding Native American and Alaska Native college students who intend to pursue careers in health care and tribal public policy; Parks in Focus, which takes young people into national and State parks to expose them to the grandeur of the Nation's natural resources and instill a sustainable appreciation for the environment; and the Native Nations Institute for Leadership, Management, and Policy, NNI, which focuses on leadership education for tribal leaders and on policy research. The Udall Foundation and the University of Arizona cofounded NNI, building on the research programs of the Harvard Project on American Indian Economic Development.

Moreover, the foundation works in cooperation with the Udall Center for Studies in Public Policy at the University of Arizona on various activities, including environmental research and conflict resolution.

One of the foundation's most outstanding initiatives is the Native American Internship Program. This program provides Native American and Alaska Native students with an opportunity to learn about Congress, Cabinet departments, and the White House. I am always proud to host these students in my Senate office as interns, where they put their considerable talents to work. Getting to know those outstanding young people is a highlight of every year for me, and that is thanks to Terry's hard work.

Terry is a one-of-a-kind leader, and he has nurtured and grown the foundation from a mere idea into a respected and established independent institution.

Terry's retirement means that a new leader will take the helm of the foundation's board. We all know that change is never easy, but I am confident the foundation will thrive for many years to come because Terry laid such solid ground on which to continue to build. And the top-rate staff Terry helped assemble will ensure a continuity that will keep the foundation on mission.

On a more personal level, I observe that Terry is the consummate competitor—whether on the golf course or in the legislative arena—and he has never shied away from a fight if it was necessary to get the right things done.

I also note that during the time that he led the foundation's board of trustees, Terry also ran his own successful firm and played an active role in his community. His commitment to public service meant that he took time away from his own business—and more importantly, his family—to oversee the foundation's work. Those are the sacrifices of a true public servant.

My father had that same core—he passionately believed that public service was an honorable calling. It is little wonder that Mo Udall hired Terry as his chief of staff many years ago in the U.S. House. Hand in hand with Representative Mo Udall, Terry worked on historic pieces of legislation that have protected our Nation's public lands and ensured that our government lived up to its obligations to Native Americans.

As my dad used to say, ''If the good guys don't get involved, the scoundrels will.'' I know my dad would say that Terry Bracy's support and loyalty were invaluable to his own career. And Mo would be the first in line to heartily congratulate Terry on his successful tenure heading the foundation's board and creating a lasting public service legacy.

Terry wasn't just important to my dad, he was important to my Uncle Stewart. And I want to mention that it was Terry who suggested changing the official name of the Udall Foundation to recognize my uncle, the late Stewart L. Udall as well.

My dad and my uncle were extremely close, and Terry believed that naming the foundation for both Udalls, on one level, brought them together again. The christening of the foundation's building in Tucson, AZ, 2 years ago was the last significant public appearance that Stewart made before he died, and it was a proud and moving day for all of us. I treasure the photos that were taken that day of the Udall family, and I will always cherish the memories. I credit Terry with making that day possible.

The Udall Foundation will recognize Terry Bracy's contributions at a dinner in Tucson on October 27. I am sorry that I won't be able to attend the function, as I will be on international travel. But while I can't be there in person, I will be there in spirit, applauding Terry for everything that he has done for the foundation and its important mission.

In the meantime, I urge everyone in this body to join me in recognizing Terry Bracy for his many significant contributions. Terry, thank you.●

TRIBUTE TO KATHY CLONINGER, CEO OF GIRL SCOUTS U.S.A.

● Mr. ALEXANDER. Mr. President, Senator CORKER and I wish to recognize Kathy Cloninger for her outstanding service as the chief executive officer of Girl Scouts of the USA for the past 8 years and her 28 years of service to the Girl Scouts movement.

Kathy is a shining example of American leadership and service. She has devoted her life to girls and to one of America's most treasured institutions. We honor her today for a career that has been dedicated to building girls of courage, confidence, and character who make the world a better place.

Kathy's journey with Girl Scouts began in 1983 and spanned more than two decades of service as the head of Girl Scout councils in Tennessee, Texas, and Colorado. During her tenure as CEO of the Girl Scouts of Cumberland, TN, Girl Scout membership in our region rose to more than 25,000 girls—an increase of nearly 40 percent. She was also responsible for creating an outreach program that tripled the number of African-American Girl Scouts, increased the participation of Hispanic girls, and brought more than 1,000 girls in public housing into the program.

Since assuming her role as CEO of Girl Scouts of the USA in 2004, Kathy has transformed the Girl Scout movement. Under her guidance, the Girl Scouts accomplished the remarkable task of successfully merging 315 councils down to 112 high-performance councils nationwide. Kathy has unified the Girl Scout movement around a common mission and business strategy, laying a sound foundation for success as the organization looks towards its 100th anniversary and beyond.

Kathy's service goes well beyond Girl Scouts. She has received numerous awards for her work on behalf of youth empowerment and the nonprofit community, including Nonprofit CEO of the Year 2000 from the Center for Nonprofit Management. In 2010, Kathy was named one of the ''21 Leaders for the 21st Century'' by Women's eNews.

Mr. President, we ask our colleagues to join us in thanking Kathy Cloninger for nearly 30 years of service to the

Girl Scouts and our country. Kathy leaves Girl Scouts on the eve of its 100th anniversary, with a mission and program that is as critically important today as it was 100 years ago. We wish her the best in all of her continuing work for girls nationwide, and we welcome her back home to Tennessee.●

TRIBUTE TO AMBER AUGUSTUS

● Mr. COONS. Mr. President, it is with great pleasure that I rise to honor the 2012 recipient of the Delaware Teacher of the Year Award, Mrs. Amber Augustus. For over 7 years, Mrs. Augustus has been providing Delaware children with an exceptional education in the fields of Social Studies, Math, and Science. Every day Amber approaches teaching with an unyielding determination and passion that fosters a wonderful learning environment for her students. Today, I give thanks to her and all the teachers across the state of Delaware who help foster a love for learning and a desire for knowledge with every student they teach.

It is essential that we continue to take the time to honor excellent educators who are devoted to preparing the next generation of young adults. Day in and day out, teachers and educators across the country are tasked with the enormous responsibility of preparing our children for their futures and helping them to achieve their dreams. It is imperative that we encourage our teachers and thank them for inspiring our youth to be all that they can be. Mr. President, teachers like Amber Augustus are shining examples of the generous and giving spirit of the American people.

I congratulate Mrs. Amber Augustus on being named the 2012 Delaware Teacher of the Year. Her hard work and dedication to her students and the state of Delaware is greatly appreciated. On behalf of all Delawareans, I extend my thanks to each and every teacher who was nominated for this coveted award and to the continued efforts of teachers across the country to invest in and provide quality education to America's youth.●

NATIONAL COOPERATIVE MONTH

● Mr. BARRASSO. Mr. President, I wish to submit for the RECORD an article written by Scott Zimmerman, cooperatives specialist with the Rocky Mountain Farmers Union and published October 15, 2011, in the Wyoming Livestock Journal. The article's title is ''Cooperatives Continue to Shape the Landscape in Rural Wyoming.''

Across the country, October is celebrated as National Cooperative Month. With the fall harvest season upon us, our Nation's farmers are seeing the fruits of their labors. Gov. Matt Mead has declared October Cooperative Month in my home State of Wyoming. In his article, Scott Zimmerman traces the history of cooperatives and explains how their founding principles continue to guide cooperatives today.

As Mr. Zimmerman points out, cooperatives form the basis of life in many rural communities. Cooperatives have shaped the landscape of American agriculture and rural way of life. For example, their pioneering organization led to memberowned and operated Rural Electric Associations. These co-ops first brought electricity to many small Wyoming communities. Additionally, cooperatives help many small Wyoming farmers and ranchers keep their costs low by purchasing needed inputs such as fertilizer, seed, and fuel at a discount. They accomplish this by pooling their purchasing power and buying farm inputs with volume pricing, thus taking advantage of their collective economy of scale.

The author also notes how cooperatives market their goods together as well. This allows buyers to source larger volumes of a product from a single seller, rather than attempting to procure a similar volume from many different sellers. This increased procurement efficiency allows buyers to offer higher prices to the co-op members than they would otherwise receive.

American consumers also have reason to celebrate National Cooperative Month. By contributing to increased efficiency, both in the way farm inputs are purchased and outputs are sold, consumers as well as co-op members benefit. Cooperatives provide lower prices to the final consumer by keeping the cost to produce and market their goods and services down.

Two of the founding principles of cooperatives are cooperation among cooperatives and commitment to their communities. I would like to acknowledge and recognize Scott Zimmerman and all co-op members who assist in bringing safe, wholesome, and affordable food to our tables in a spirit of cooperation and community involvement.

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

COOPERATIVES CONTINUE TO SHAPE THE LANDSCAPE IN RURAL WYOMING

(By Scott Zimmerman, Cooperatives Specialist, Rocky Mountain Farmers Union)

October is being celebrated across the U.S. as National Cooperative Month, and Governor Matt Mead has signed a proclamation declaring Cooperative Month in Wyoming as part of this celebration. Here at Rocky Mountain Farmers Union and our Cooperative Development Center we applaud the Governor's action, and we join with him in saluting cooperatives nationwide.

To understand what cooperatives mean today, it helps to understand the history of cooperatives. The cooperative movement began in Europe in the 19th Century, not long after the beginning of the Industrial Revolution. The increasing mechanization of the European economy transformed society. It threatened the livelihoods of skilled workers and destroyed businesses too small to compete with industrial giants. Labor and social movements attempted to address the need for change.

The Rochdale Society of Equitable Pioneers was formed in Rochdale, England in 1844. Mechanization was replacing skilled workers with unskilled labor. Weavers were being replaced with machines that produced quantity without much regard for quality. These tradesmen, driven into poverty by industrialization, banded together to open their own store. They designed the Rochdale Principles to govern their business and they pooled their meager capital to stock their store with simple necessities at affordable prices. They were so successful that, in the next 10 years, more than 1,000 co-ops sprang up in Great Britain.

Cooperatives worldwide still subscribe to the Rochdale principles that guided these first cooperators to success. There are seven original principles:

1. Open, voluntary membership
2. Democratic governance (one member, one vote)
3. Members control capital and equity
4. Autonomous, independent governance
5. Education and training in cooperative principles
6. Cooperation among cooperatives
7. Commitment to their communities

Agricultural cooperatives have played a huge role in developing and sustaining local agriculture here in Wyoming and across the West. Wyoming agriculture has created and benefited from three general types of cooperative: service, supply and marketing. Each type fills a different role in our state.

The service cooperative, as its name suggests, provides its member owners with a service typically not available otherwise. A good example of this type of cooperative is member-owned Rural Electric Associations. Had it not been for the vision and hard work of the founding members of these co-ops, rural Wyoming would have remained without electricity many years longer. Co-ops emphasize benefits to members rather than measuring their results in raw profits, so small ''local'' electric utilities were able to address the need.

The supply cooperative offers its members the opportunity to buy inputs and raw materials at prices competitive with the volume discounts offered to the industrial corporations they must compete with. Typically the co-op can offer the supply item at volume pricing based on the buying power of the entire membership, and typically the coop will deliver to small, independent operations. Many rural Wyoming agricultural communities have been home to ''fuel and supply'' cooperatives. These operations offered fuel, seed, fertilizer and farm and ranch supplies to their members. Cenex is a well-known example of this type of cooperative that is still part of the Wyoming landscape.

The marketing cooperative typically pools its members' goods and offers them for direct sale to obtain the best price. Grain or commodity marketing cooperatives fall into this category, as well as the co-op food markets that benefit both consumers and producers.

Starting in the late 1970s, many states changed the legal definition of ''cooperative,'' and a new kind of co-op emerged. New-generation cooperatives in rural America adapt traditional cooperative structures to the increasing need for capitalization. Some states now allow capital investors to participate as voting members. This kind of co-op often is an agricultural processor adding value to a primary product. Capitalized by investors and run democratically by members, they might be producing ethanol from corn, pasta from durum wheat or gourmet cheese from goat's milk. The highly successful Mountain States Lamb Cooperative, headquartered in Douglas, is an example of such a cooperative.

Rocky Mountain Farmers Union takes cooperation as one of its founding principles, and we have promoted cooperative solutions

to rural and agricultural challenges for more than 100 years. Since 1991, our foundation has been a leader forming and assisting cooperatives of all types. Our Cooperative Development Center, created in 1996, has used funding from Rural Cooperative Development Grants (RCDG) awarded each year by USDA-Rural Development to support our cooperative development work in Colorado, New Mexico and Wyoming. In the Center's 15 years we have helped design, develop, incorporate and manage more than a hundred cooperatives, many of them, like Mountain States, still thriving. We continue to seek out and assist individuals and groups with ideas that may become the next successful cooperative venture.

As you can see, cooperatives have had a significant role in shaping the Wyoming agricultural landscape. We celebrate that role each year in October. RMFU and our Co-op Center will ensure that the role of co-ops will be important for years to come, and we will strive to enhance that role wherever possible.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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–3639. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report responding to House Report 111–491, page 317, to accompany H.R. 5136, the National Defense Authorization Act for Fiscal Year 2011 relative to spectrum sharing issues for parts of the spectrum under control of the Department of Defense (DoD) related to micro-stimulators; to the Committee on Armed Services.

EC–3640. A communication from the Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, a report relative to the termination of the Joint Tactical Radio System (JTRS) Ground Mobile Radio (GMR) program; to the Committee on Armed Services.

EC–3641. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Recovery of Delinquent Debts—Treasury Offset Program Enhancements'' (RIN0960–AH19) received in the Office of the President of the Senate on October 19, 2011; to the Committee on Finance.

EC–3642. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Procedures for Certain Determinations and Decisions'' (RIN0960–AG72) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Finance.

EC–3643. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''United States—Oman Free Trade Agreement'' ((RIN1515–AD68)(CBP Dec. 11–19)) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Finance.

EC–3644. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Postponement of Certain Hybrid Plan Regulations; Special Timing Rule for Section 204(h) Notice'' (Notice No. 2011–85) received in the Office of the President of the Senate on October 17, 2011; to the Committee on Finance.

EC–3645. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''National Environmental Policy Act Implementing Procedures'' (RIN1990–AA34) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Environment and Public Works.

EC–3646. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, a report entitled ''Draft Strategic Plan: Fiscal Years 2012–2016''; to the Committee on Environment and Public Works.

EC–3647. A communication from the Administrator, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report relative to the cost of response and recovery efforts for FEMA–3322–EM in the State of Louisiana having exceeded the $5,000,000 limit for a single emergency declaration; to the Committee on Environment and Public Works.

EC–3648. A communication from the Director of Congressional Affairs, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Design-Basis Hurricane and Hurricane Missiles for Nuclear Power Plants'' (Regulatory Guide 1.221) received in the Office of the President of the Senate on October 11, 2011; to the Committee on Environment and Public Works.

EC–3649. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Testing of Certain High Production Volume Chemicals; Third Group of Chemicals'' (FRL No. 8885–5) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Environment and Public Works.

EC–3650. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—Compliance Date Amendment for Farms'' (FRL No. 9681–4) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Environment and Public Works.

EC–3651. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuel and Fuel Additives: Alternative Test Method for Olefins in Gasoline'' (FRL No. 9482–1) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Environment and Public Works.

EC–3652. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Final Division of Safety Systems Interim Staff Guidance DSS–ISG–2010–01'' received in the Office of the President of the Senate on October 3, 2011; to the Committee on Environment and Public Works.

EC–3653. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California; 2008 San Joaquin Valley PM2.5 Plan and 2007 State Strategy'' (FRL No. 9482–2) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Environment and Public Works.

EC–3654. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report prepared by the Department of State on progress toward a negotiated solution of the Cyprus question covering the periods June 1, 2011 through July 31, 2011; to the Committee on Foreign Relations.

EC–3655. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Ames Laboratory at Iowa State University in Ames, Iowa, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3656. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Y–12 facility in Oak Ridge Tennessee, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3657. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from W. R. Grace and Company in Curtis Bay, Maryland, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3658. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Food and Drug Administration's annual report on the performance evaluation of FDA-approved mammography quality standards accreditation bodies; to the Committee on Health, Education, Labor, and Pensions.

EC–3659. A communication from the Secretary of Education, transmitting, pursuant to law, the report of a rule entitled ''State Fiscal Stabilization Fund Program'' (RIN1894-AA03) received in the Office of the President of the Senate on October 17, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3660. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–170 ''Returning Citizens and Ex-Offender Services Reform Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3661. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–171 ''Interstate Compact for Juveniles Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3662. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–172 ''Community Council for

the Homeless at Friendship Place Equitable Real Property Tax Relief Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3663. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–173 ''Accountant Mobility Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3664. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–174 ''Howard Theatre Redevelopment Project Great Streets Initiative Tax Increment Financing Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3665. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–175 ''Daylight Savings Time Extension of Hours Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3666. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–177 ''Health Professional Recruitment Program Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3667. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–176 ''KIPP DC—Shaw Campus Property Tax Exemption Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3668. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–178 ''Public Space Permit Fee Waiver Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3669. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–179 ''Pedestrian Safety Reinforcement Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3670. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–180 ''Disposed Real Property Procurement Clarification Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3671. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–181 ''United House of Prayer for All People Real Property Tax Exemption Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3672. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–182 ''DOC Inmate Processing and Release Temporary Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3673. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–183 ''Revised Fiscal Year 2012 Budget Support Technical Clarification Temporary Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3674. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–184 ''Carver 2000 Low-Income and Senior Housing Project Temporary Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3675. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–185 ''Workforce Intermediary Task Force Establishment Temporary Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3676. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–186 ''Real Property Tax Appeals Commission Establishment Temporary Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3677. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–187 ''Martin Luther King, Jr., Drive Designation Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–188 ''Mayor's Council on Physical Fitness, Health, and Nutrition Establishment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3679. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–189 ''Creditor Calling Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–3680. A communication from the Executive Director of the U.S. Election Assistance Commission, transmitting, pursuant to law, report entitled ''2010 Uniformed and Overseas Citizens Absentee Voting Act''; to the Committee on Rules and Administration.

EC–3681. A communication from the Deputy General Counsel, Office of Surety Guarantees, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Surety Bond Guarantee Program; Timber Sales'' (RIN3245–AG14) received in the Office of the President of the Senate on October 18, 2011; to the Committee on Small Business and Entrepreneurship.

EC–3682. A communication from the Deputy Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Sharing Information Between the Department of Veterans Affairs and the Department of Defense'' (RIN2900–AN95) received in the Office of the President of the Senate on October 19, 2011; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2012'' (Rept. No. 112–89).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 473, a bill to extend the chemical facility security program of the Department of Homeland Security, and for other purposes (Rept. No. 112–90).

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. FRANKEN (for himself and Mr. TESTER):

S. 1741. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for community wind projects having generation capacity of not more than 20 megawatts, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (for himself, Ms. COLLINS, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. SANDERS, and Ms. SNOWE):

S. 1742. A bill to amend title 18, United States Code, to prohibit fraudulently representing a product to be maple syrup; to the Committee on the Judiciary.

By Mr. BROWN of Massachusetts:

S. 1743. A bill to consolidate certain Federal job training programs into a State-administered, market-delivered block grant program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR (for herself and Mr. NELSON of Florida):

S. 1744. A bill to provide funding for State courts to assess and improve the handling of proceedings relating to adult guardianship and conservatorship, to authorize the Attorney General to carry out a pilot program for the conduct of background checks on individuals to be appointed as guardians or conservators, and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Ms. STABENOW, Mrs. GILLIBRAND, Mrs. MCCASKILL, Mrs. BOXER, Mr. AKAKA, Mr. BEGICH, Ms. MIKULSKI, Ms. KLOBUCHAR, Ms. COLLINS, and Mr. SANDERS):

S. 1745. A bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Mr. LEE):

S. 1746. A bill to amend the Immigration and Nationality Act to stimulate international tourism to the United States; to the Committee on the Judiciary.

By Mrs. HAGAN (for herself, Mr. ISAKSON, Mr. ENZI, and Mr. BENNET):

S. 1747. A bill to amend the Fair Labor Standards Act of 1938 to modify provisions relating to the exemption for computer systems analysts, computer programmers, software engineers, or other similarly skilled workers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG:

S. 1748. A bill to amend the Truth in Lending Act and the Higher Education Act of 1965 to require additional disclosures and protections for students and cosigners with respect to student loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself and Mr. WEBB):

S. 1749. A bill to establish and operate a National Center for Campus Public Safety; to the Committee on the Judiciary.

By Mr. FRANKEN (for himself, Mr. CASEY, and Mr. WHITEHOUSE):

S. 1750. A bill to amend the Older Americans Act of 1965 to establish a Home Care Consumer Bill of Rights, to establish State Home Care Ombudsman Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOEVEN (for himself, Mr. CONRAD, Mr. ENZI, Ms. LANDRIEU, Mr. BOOZMAN, Mr. NELSON of Nebraska, Mr. PORTMAN, Mr. MANCHIN, Mr. THUNE, and Mr. ROCKEFELLER):

S. 1751. A bill to amend subtitle D of the Solid Waste Disposal Act to facilitate recovery and beneficial use, and provide for the proper management and disposal, of materials generated by the combustion of coal and other fossil fuels; to the Committee on Environment and Public Works.

By Mr. ROBERTS:

S. 1752. A bill to nullify certain regulations regarding the removal of essential-use designation for epinephrine used in oral pressurized metered-dose inhalers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KIRK (for himself, Mr. BROWN of Massachusetts, Mr. CARDIN, and Mr. KERRY):

S. 1753. A bill to require operators of Internet websites that provide access to international travel services and market overseas vacation destinations to provide on such websites information to consumers regarding the potential health and safety risks associated with traveling to such vacation destinations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TESTER (for himself, Mr. HARKIN, Ms. KLOBUCHAR, and Mr. BENNET):

S. 1754. A bill to promote clean energy infrastructure for rural communities; to the Committee on Finance.

By Mr. TESTER (for himself and Mr. BEGICH):

S. 1755. A bill to amend title 38, United States Code, to provide for coverage under the beneficiary travel program of the Department of Veterans Affairs of certain disabled veterans for travel for certain special disabilities rehabilitation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HAGAN (for herself and Ms. LANDRIEU):

S. 1756. A bill to extend HUBZone designations by 3 years, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. TESTER (for himself, Mr. HARKIN, Mr. BENNET, and Ms. KLOBUCHAR):

S. 1757. A bill to promote clean energy infrastructure for rural communities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. MCCASKILL (for herself and Mr. BLUNT):

S. 1758. A bill to amend the Federal Power Act prohibit the Federal Energy Regulatory Commission from requiring the removal or modification of existing structures or encroachments in licenses of the Commission; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. REED, and Mr. WHITEHOUSE):

S. 1759. A bill to facilitate the hosting in the United States of the 34th America's Cup by authorizing certain eligible vessels to participate in activities related to the competition; to the Committee on Commerce, Science, and Transportation.

By Mr. MANCHIN (for himself and Mr. KIRK):

S. 1760. A bill to amend the Controlled Substances Act to provide for increased penalties for operators of pill mills, and for other purposes; to the Committee on the Judiciary.

By Ms. CANTWELL:

S. 1761. A bill to amend the Internal Revenue Code of 1986 to repeal the exception to the treatment of consolidated groups under the personal holding company rules; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY:

S. Res. 301. A resolution urging the people of the United States to observe October 2011 as Italian and Italian-American Heritage Month; to the Committee on the Judiciary.

By Ms. LANDRIEU (for herself, Mr. INHOFE, Mr. KERRY, Ms. KLOBUCHAR, Mr. WYDEN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mr. BOOZMAN, Mr. BLUNT, Mr. LUGAR, Mrs. GILLIBRAND, Mr. LEVIN, Mr. GRASSLEY, Ms. COLLINS, Mr. BAUCUS, Mr. MORAN, Mr. NELSON of Nebraska, Mr. CARDIN, Mr. JOHNSON of South Dakota, Mr. BROWN of Ohio, and Mr. DEMINT):

S. Res. 302. A resolution expressing support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging the people of the United States to secure safety, permanency, and well-being for all children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Florida:

S. Res. 303. A resolution honoring the life, service, and sacrifice of Captain Colin P. Kelly Jr., United States Army; to the Committee on Armed Services.

By Mrs. BOXER (for herself, Ms. COLLINS, Mr. COCHRAN, Mr. WHITEHOUSE, Mr. CASEY, and Ms. STABENOW):

S. Res. 304. A resolution supporting ''Lights on Afterschool'', a national celebration of afterschool programs; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 305. A resolution to authorize legal representation in Edward Paul Celestine, Jr. v. Social Security Administration; considered and agreed to.

By Mr. JOHNSON of Wisconsin (for himself, Mr. LIEBERMAN, Ms. COLLINS, Ms. LANDRIEU, Mr. BEGICH, Mr. AKAKA, Mr. COONS, Mr. CARPER, Mr. BROWN of Massachusetts, and Ms. SNOWE):

S. Res. 306. A resolution supporting the goals and ideals of National Cybersecurity Awareness Month and raising awareness and enhancing the state of cybersecurity in the United States; considered and agreed to.

By Mr. WICKER (for himself, Mr. COCHRAN, Mr. VITTER, and Ms. LANDRIEU):

S. Res. 307. A resolution honoring the men and women of the John C. Stennis Space Center on reaching the historic milestone of 50 years of rocket engine testing; considered and agreed to.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 164

At the request of Mr. BROWN of Massachusetts, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Illinois (Mr. KIRK) were added as cosponsors of S. 164, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 211

At the request of Mr. ISAKSON, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 227

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 331

At the request of Mr. BARRASSO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 331, a bill to ensure that military voters have the right to bring a civil action under the Uniformed and Overseas Citizens Absentee Voting Act to safeguard their right to vote.

S. 384

At the request of Mrs. FEINSTEIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 384, a bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

S. 576

At the request of Mr. HARKIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 576, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 598

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 598, a bill to repeal the Defense of Marriage Act and ensure respect for State regulation of marriage.

S. 687

At the request of Mr. CORNYN, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 687, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 720

At the request of Mr. THUNE, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from North Dakota (Mr. HOEVEN) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 720, a bill to repeal the CLASS program.

S. 968

At the request of Mr. LEAHY, the name of the Senator from Ohio (Mr. BROWN) 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. 998

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 998, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 1025

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1025, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1106

At the request of Mr. KOHL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1106, a bill to authorize Department of Defense support for programs on pro bono legal assistance for members of the Armed Forces.

S. 1392

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1392, a bill to provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.

S. 1440

At the request of Mr. ALEXANDER, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy—related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

At the request of Mr. BENNET, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1440, supra.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1467

At the request of Mr. BLUNT, the name of the Senator from Pennsylvania (Mr. TOOMEY) 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. 1468

At the request of Mrs. SHAHEEN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1468, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self—management training by authorizing certified diabetes educators to provide diabetes self—management training services, including as part of telehealth services, under part B of the Medicare program.

S. 1479

At the request of Mr. CASEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1479, a bill to preserve Medicare beneficiary choice by restoring and expanding Medicare open enrollment and disenrollment opportunities.

S. 1527

At the request of Mrs. HAGAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1527, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

S. 1576

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1576, a bill to measure the progress of relief, recovery, reconstruction, and development efforts in Haiti following the earthquake of January 12, 2010, and for other purposes.

S. 1610

At the request of Mr. BARRASSO, the name of the Senator from Pennsylvania (Mr. TOOMEY) 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. 1651

At the request of Mr. SESSIONS, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor 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 Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1653, a bill to make minor modifications to the procedures relating to the issuance of visas.

S. 1668

At the request of Mr. MERKLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1668, a bill to provide that the Postal Service may not close any post office which results in more than 10 miles distance (as measured on roads with year—round access) between any 2 post offices.

S. 1671

At the request of Mrs. HAGAN, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1671, a bill to amend the Internal Revenue Code of 1986 to allow a temporary dividends received deduction for dividends received from a controlled foreign corporation.

S. 1684

At the request of Mr. BARRASSO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1684, a bill to amend the Indian Tribal Energy Development and Self—Determination Act of 2005, and for other purposes.

S. 1702

At the request of Mr. MORAN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1702, a bill to provide that the rules of the Environmental Protection Agency entitled ''National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines'' have no force or effect with respect to existing stationary compression and spark ignition reciprocating internal combustion engines operated by certain persons and entities for the purpose of generating electricity or operating a water pump.

S. 1718

At the request of Mr. WYDEN, the name of the Senator from South Dakota (Mr. THUNE) 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. 1723

At the request of Mr. MENENDEZ, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1723, a bill to provide for teacher and first responder stabilization.

S. 1726

At the request of Mr. MCCONNELL, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Maine (Ms. SNOWE), the Senator from Massachusetts (Mr. BROWN), the Senator from South Dakota (Mr. THUNE), the Senator from Missouri (Mr. BLUNT), the Senator from New Hampshire (Ms. AYOTTE), the Senator from Nebraska (Mr. JOHANNS), the Senator from North Carolina (Mr. BURR), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORAN), the Senator from Maine (Ms. COLLINS), the Senator from Florida (Mr. RUBIO), the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. HOEVEN), the Senator from Illinois (Mr. KIRK), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Nevada (Mr. HELLER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 1726, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 1726, supra.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 1726, supra.

AMENDMENT NO. 750

At the request of Mr. WEBB, the names of the Senator from Delaware (Mr. COONS) and the Senator from New Jersey (Mr. LAUTENBERG) 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. 753

At the request of Mr. BROWN of Massachusetts, his name was added as a cosponsor of amendment No. 753 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 Rhode Island (Mr. WHITEHOUSE), the Senator from Pennsylvania (Mr. CASEY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Michigan (Mr. LEVIN) and the Senator from New Hampshire (Mrs. SHAHEEN) 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. 815

At the request of Mr. MORAN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 815 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 names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Minnesota (Mr. FRANKEN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Rhode Island (Mr. REED), the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Vermont (Mr. SANDERS) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors 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. 839

At the request of Mr. CONRAD, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Missouri (Mr. BLUNT) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of amendment No. 839 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. 841

At the request of Mr. TESTER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of amendment No. 841 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 Jersey (Mr. LAUTENBERG) and the Senator from Oklahoma (Mr. COBURN) 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 name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor 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.

AMENDMENT NO. 859

At the request of Mr. PORTMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 859 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. 869

At the request of Mrs. GILLIBRAND, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 869 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. 875

At the request of Mr. HATCH, the names of the Senator from West Virginia (Mr. MANCHIN), the Senator from Louisiana (Mr. VITTER), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Alaska (Mr. BEGICH), the Senator from North Carolina (Mr. BURR), the Senator from Wyoming (Mr. ENZI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Wyoming (Mr. BARRASSO) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 875 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. 885

At the request of Mr. BEGICH, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Utah (Mr. LEE) were added as cosponsors of amendment No. 885 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. 886

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of amendment No. 886 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. 890

At the request of Mr. BURR, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of amendment No. 890 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. 893

At the request of Ms. CANTWELL, the names of the Senator from Washington (Mrs. MURRAY), the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. MERKLEY), the Senator from Oregon (Mr. WYDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 893 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. FRANKEN (for himself and Mr. TESTER):

S. 1741. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for community wind projects having generation capacity of not more than 20 megawatts, and for other purposes; to the Committee on Finance.

Mr. FRANKEN. Mr. President, today I am introducing the Community Wind

Act with my friend and colleague Senator TESTER from Montana.

Rural renewable energy development has been one of my top priorities since coming to the Senate. America's rural communities have some of our country's most abundant renewable energy resources, and I strongly believe that community-owned renewable energy projects are among the most promising drivers of economic development in our rural communities.

Minnesota has a lot of wind. In the past decade, communities across southwestern Minnesota have been transformed by wind power, with turbines producing renewable energy to power homes and businesses across the midwest. These projects are helping Minnesota meet its ambitious goal of obtaining 25 percent of its electricity from renewable sources by 2025. As we look to develop more renewables in Minnesota and across the country, I want to make sure that rural communities are reaping the maximum benefit from these projects.

That is why community wind is so powerful. When a wind project has some level of local ownership, studies have shown that the project will have higher local economic impact than conventional projects. That is because profits from the project flow to members in the community. Those profits are then reinvested in the community, fueling economic activity that wouldn't have otherwise happened.

Like many small and distributed energy projects, community wind projects face unique challenges when compared to conventional wind, ranging from difficulties accessing financing to the inability to take full advantage of Federal tax benefits. Despite these barriers, community wind projects have devised innovative financing structures to move forward with projects across the country. However, like the larger wind industry, community wind still faces great uncertainty with the looming expiration of the federal production tax credit for wind at the end of 2012.

Our bill provides long-term certainty to community wind over the next 5 years by expanding the existing small wind Investment Tax Credit to projects with capacity up to 20 MW. There is no restriction on turbine size, and the bill prevents the subdivision of large wind projects to game the system and claim the credit.

This bill has support from a diverse group of stakeholders, including the American Wind Energy Association to the National Farmers Union, the Minnesota Farmers Union, the Minnesota Corn Growers, the Minnesota Soybean Growers, a broad coalition of Minnesota and national small and community wind developers, and rural businesses and nonprofits across the country. I am proud to introduce this legislation with Senator TESTER today, and I look forward to working with my colleagues from both sides of the aisle to garner support for its passage.

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. 1741

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 ''Community Wind Act''.

SEC. 2. INVESTMENT TAX CREDIT FOR COMMUNITY WIND PROJECTS HAVING GENERATION CAPACITY OF NOT MORE THAN 20 MEGAWATTS.

(a) IN GENERAL.—Paragraph (4) of section 48(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) IN GENERAL.—The term 'qualified small wind energy property' means—

''(i) property which uses a qualifying small wind turbine to generate electricity, or

''(ii) property which uses 1 or more wind turbines with an aggregate nameplate capacity of more than 100 kilowatts but not more than 20 megawatts.'', and

(2) by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to prevent improper division of property to attempt to meet the limitation under subparagraph (A)(ii).''.

(b) DENIAL OF PRODUCTION CREDIT.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting ''or any facility which is a qualified small wind energy property described in section 48(c)(4)(A)(ii) with respect to which the credit under section 48 is allowable.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. LEAHY (for himself, Ms. COLLINS, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. SANDERS, and Ms. SNOWE):

S. 1742. A bill to amend title 18, United States Code, to prohibit fraudulently representing a product to be maple syrup; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to be joined by Senators COLLINS, SCHUMER, SANDERS and GILLIBRAND as we introduce this legislation to hold accountable those criminals who fraudulently sell what they call ''maple'' syrup.

Vermont iconic maple syrup—painstakingly produced, and prized across the Nation and beyond—is one of our state's fine, high-quality, natural products. I have been alarmed by the growing number of individuals and businesses claiming to sell genuine Vermont maple syrup when they are in fact selling an inferior product that is not maple syrup at all. This is fraud, plain and simple, and it undermines a key part of Vermont's economy and reputation for quality that has been hard-earned through Vermonters' hard work. I know that diligent syrup producers in Maine, New York, and other States have been similarly hurt by this crime. Our bill, the Maple Agriculture Protection and Law Enforcement, or ''MAPLE''Act, will deter this criminal conduct.

The MAPLE Act creates a felony offense with a 5-year maximum penalty for fraudulently selling a product purported to be maple syrup that is not, in fact, maple syrup. Under current law, doing so is only a misdemeanor offense with a one year penalty.

The sale of fraudulent maple syrup is a real problem facing consumers and producers. Recently, Vermont U.S. Attorney Tris Coffin sought an indictment after a Food and Drug Administration investigation revealed that a Rhode Island man had been selling cane sugar-based syrup as ''maple'' syrup and representing to consumers that the syrup was authentic. The legislation we introduce today will more effectively protect consumers and the maple industry by punishing and deterring this deceptive conduct.

Vermonters, and consumers across the country, should be confident that when they buy food, they know exactly what they are getting. The fines that may result from criminal violations under current law are often not enough to protect the public from harmful or fraudulent products. Too often, those who are willing to endanger our livelihoods in pursuit of their profits see fines as just a cost of doing business. We need to make sure that those who intentionally deceive consumers get a trip to jail, not a slap on the wrist. Schemers should not easily be able to sully the seal of quality that is associated with genuine Vermont maple syrup.

I have a longstanding commitment to comprehensive food safety and food integrity reforms, and our work is not done. Earlier this year, the Senate unanimously passed my Food Safety Accountability Act, which would hold those criminals who intentionally poison our food supply accountable for their crimes. I urge the House to pass that noncontroversial bill, and I hope that all Senators will join us in supporting the MAPLE Act.

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. 1742

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 ''Maple Agriculture Protection and Law Enforcement Act of 2011'' or the ''MAPLE Act''.

SEC. 2. FRAUDULENTLY REPRESENTING A PRODUCT AS MAPLE SYRUP.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. Fraudulently representing a product as maple syrup

''(a) DEFINITION.—In this section, the term 'maple syrup' means a liquid food—

''(1) derived by—

''(A) concentration and heat treatment of the sap of a species of tree in the genus Acer (commonly known as 'maple trees'); or

''(B) solution in water of maple sugar (commonly know as 'maple concrete') made from the sap of a species of tree in the genus Acer;

''(2) that is not less than 66 percent by weight of soluble solids derived solely from the sap of a species of tree in the genus Acer; and

''(3) the concentration of which may be adjusted by adding water.

''(b) OFFENSE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly and willfully introduce or deliver for introduction into interstate commerce a product that is labeled as maple syrup and that is not maple syrup.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a product labeled as maple syrup that is not maple syrup if the label also includes a clear identification of the true nature of the product.

''(c) PENALTY.—Any person that violates subsection (b) shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1041. Fraudulently representing a product as maple syrup.''.

By Mr. HOEVEN (for himself, Mr. CONRAD, Mr. ENZI, Ms. LANDRIEU, Mr. BOZMAN, Mr. NELSON of Nebraska, Mr. PORTMAN, Mr. MANCHIN, Mr. THUNE, and Mr. ROCKEFELLER):

S. 1751. A bill to amend subtitle D of the Solid Waste Disposal Act to facilitate recovery and beneficial use, and provide for the proper management and disposal, of materials generated by the combustion of coal and other fossil fuels; to the Committee on Environment and Public Works.

Mr. HOEVEN. Mr. President, I rise to speak on the issue of job creation as well, specifically in regard to legislation I will be introducing that seeks to not only create jobs but also to truly reduce the cost of electricity to Americans throughout this country.

In North Dakota, we have a powerplant north of our State capitol, the city of Bismarck. It is about 1,100 megawatts. It consists of two separate plants, each of them 550 megawatts, so the complex provides 1,100 megawatts of electricity, power that fuels our State, as well as sending power to Minnesota and other places as well. This plant uses the latest in emission control technology. It is state of the art.

We also have an ethanol plant attached to the powerplant, so the waste steam that comes off the powerplant is used to power the ethanol plant to make low-cost transportation fuel as well.

In addition to those things, another innovation at this plant is that after they produce the electricity, they take hundreds of thousands of tons of coal ash and, rather than landfilling it, they actually reuse it, and they use it to make concrete—they call it FlexCrete—for highways, they use it in building materials, and they even use it in products such as the shingles we use on our roofs.

Formerly, this plant paid about $4 million a year to landfill that coal ash. Now they sell it for all these products and generate around $12 million a year in revenue. If you take the $4 million they used to expend to landfill the material, figure in the $12 million they now make selling the product, that is a $16 million revenue benefit to the plant. That means a $16 million reduction in the cost of electricity to their customers throughout North Dakota and Minnesota.

At the same time, because they have partnered with a company out of Utah called Headwaters, right there at the complex they also have a facility that manufactures these building products, FlexCrete, and creates good-paying jobs as well.

Today I rise to introduce commonsense, bipartisan legislation—a jobs bill, if you will—the Coal Residuals Reuse and Management Act. In fact, this legislation has already passed the House of Representatives with a large bipartisan majority.

In a true example of American ingenuity and innovation, entrepreneurs around the country are recycling coal ash. Millions of Americans now work in buildings that are either partially constructed from coal ash-strengthened building materials or they drive home from work on roads and over bridges that are made of coal ash concrete or, as I said, they live under roofs that are shingled, and those shingles are made out of this coal residuals material. In fact, in my home State of North Dakota, we have both our Heritage Center, which is under construction now, and also the National Energy Center of Excellence that were constructed with these materials.

First, this National Energy Center of Excellence, this is the Bismarck State College. They specialize in energy programs. This facility overlooks the Missouri River and it is about a $20-plus million facility. It is absolutely beautiful, and it is made with the coal residual building materials.

On this other slide, right now this facility is under construction. This will be a more than $50 million facility, which is, in essence, a museum and a heritage center for the State of North Dakota. The building materials in this state-of-art facility will have both static and interactive displays and is being built with what is called coal ash—but coal residual materials. These are materials coming out of powerplants that were formerly simply landfill, and now we are using them for all these purposes. The important point is, we need to be able to continue to do that. That is exactly why I am introducing this legislation.

It turns out that using this natural byproduct of coal combustion not only makes our buildings and infrastructure stronger, it makes homes, businesses, and highways more affordable to build. It also creates hundreds of thousands of jobs in the process, while using this cost-effective material.

Meanwhile, by using coal ash in such an innovative manner, it is estimated the overall energy consumption in this country can be reduced by 162 trillion Btu's, British thermal units, and that water usage is reduced annually by 32 billion gallons a year. That is the equivalent of the amount of energy used by 1.7 million homes a year and the amount of water—actually one-third of the amount of water used in the entire State of California each year. So we can see from a conservation standpoint what an incredible impact using these materials has.

Unfortunately, the EPA is now considering whether to overturn 30 years of precedent and regulate coal ash as a hazardous material, despite findings from the Department of Energy, the Federal Highway Administration, and State regulatory agencies throughout the country, as well as EPA itself. EPA's own studies show the toxicity level in coal ash is well below the criteria that requires any type of hazardous waste designation.

In fact, the EPA's May 2000 regulatory determination—in that determination they concluded that coal ash does not warrant regulation as hazardous waste and that doing so would be environmentally counterproductive. However, new regulations first proposed in June of 2010 would create a stigma for coal ash recycling and expose it to frivolous lawsuits that could undermine the industry, cost thousands of jobs, and take billions of dollars out of our economy at a time when working families can least afford it. But the damage to American's pocketbooks would not just stop with the undermining of this recycling industry.

It is estimated that meeting the regulatory disposal requirements under the EPA's subtitle C proposal would cost between $250 and $450 per ton, as opposed to about $100 per ton under the current system. That could mean up to another $50 billion in costs, a burden on our electricity generators that use coal and, most important, customers—American families, businesses, and farmers—again, Americans throughout this great country.

It is also estimated this regulation by EPA, this proposal, could mean the loss of more than 300,000 American jobs. That is why I have at the desk the Coal Residuals Reuse and Management Act, which I am introducing today, along with Senator KENT CONRAD, Senator MICHAEL ENZI, Senator MARY LANDRIEU, Senator ROB PORTMAN, Senator BEN NELSON, Senator JOE MANCHIN, and also Senator JOHN BOOZMAN; four Republicans and four Democrats. This is truly a bipartisan piece of legislation.

As I said, it is a companion to H. Res. 2273 that passed the U.S. House of Representatives last Friday with strong—and I emphasize strong—bipartisan support. It takes a commonsense approach to ensuring we can continue

this vital industry and, in fact, build it, save millions of dollars for American consumers and create hundreds of thousands of jobs.

This bill not only preserves coal ash recycling by preventing the byproducts from being treated as hazardous, it establishes Federal standards for coal ash disposal. Under this legislation, States can set up their own permitting programs for the management and disposal of coal ash. These programs would be required to be based on existing EPA regulations to protect human health and the environment. If a State does not implement an acceptable permit program, then the EPA regulates the program for that State.

Importantly, States will know where they stand under this bill since the benchmark for what constitutes a successful State program is set in statute. EPA can say: Yes, the State does meet these standards or, no, it doesn't. But EPA cannot move the goalposts. This is a State's first approach that provides regulatory certainty. What is certain is, under this bill, coal ash disposal sites will be required to meet established standards. These include groundwater detection and monitoring, liners, corrective action when environmental damage occurs, structural stability criteria and financial assurance and the recordkeeping needed to protect the public.

The Coal Residual Reuse and Management Act is legislation needed to protect jobs and help reduce the cost of home and road construction and electric bills.

I wish to thank both the Republicans and the Democrats who have taken a leadership role and are joining me in cosponsoring this legislation. I particularly wish to thank my fellow Senator from North Dakota, Mr. KENT CONRAD. I urge our colleagues to join us and support this important measure.

By Mr. KIRK (for himself, Mr. BROWN of Massachusetts, Mr. CARDIN, and Mr. KERRY)

S. 1753. A bill to require operators of Internet websites that provide access to international travel services and market overseas vacation destinations to provide on such websites information to consumers regarding the potential health and safety risks associated with traveling to such vacation destinations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KIRK. Mr. President, I rise today to introduce the bi-partisan International Travelers Bill of Rights of 2011 with my colleagues Senators Scott Brown, Ben Cardin, and John Kerry. It is critical that consumers are able to make fully informed decisions, especially with regard to health and safety, as more Americans use the Internet to book overseas travel.

This effort is on behalf of my constituent, Nancy Midlock of Shorewood, Illinois, whose family suffered a great tragedy when her 8-year old son, Brent, drowned in a hotel pool, while on vacation in Mexico. If Ms. Midlock had been aware that this particular hotel did not offer adequate emergency care, perhaps she would have chosen to stay at another location where such services were offered.

Because of this, I feel strongly that websites must do their best to make sure travelers are aware of the available onsite health and safety services before they book. If a hotel can provide details about their fitness center, golf courses, and high speed Internet, it can certainly indicate if there is a lifeguard on duty.

This bipartisan legislation requires website operators to display the available health and safety information of their overseas destinations. This includes Department of State travel warnings, the availability of a nurse or physician on the premises, and the presence of a lifeguard on duty. Additionally, the Department of State is required to update the record of Deaths of US Citizens Aboard by Non-Natural Causes on a monthly basis with increased granularity.

Finally, several provisions will ensure that the travel industry is not burdened with impractical regulations. Website operators will have one year to request and display the necessary information, if available, and are protected from unfair lawsuits. Online travel websites provide an important service to many of us, and I look forward to working with them on behalf of all Americans. This bill is an important first step to ensure Americans are informed, prepared, and ultimately more aware, global travelers.

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. 1753

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 ''International Travelers Bill of Rights Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) COVERED WEBSITE OPERATOR.—The term ''covered website operator'' means an individual or entity that operates an Internet website that provides access to international travel services. Such term includes an overseas vacation destination or a third party that operates an Internet website that offers international travel services.

(3) INTERNATIONAL TRAVEL SERVICES.—The term ''international travel services'' means a service that a consumer can use to reserve lodging at an overseas vacation destination.

(4) OVERSEAS VACATION DESTINATION.—The term ''overseas vacation destination'' means a resort, hotel, retreat, hostel, or any other similar lodging located outside the United States.

(5) UNITED STATES.—The term ''United States'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 3. PROVIDING INFORMATION REGARDING THE POTENTIAL HEALTH AND SAFETY RISKS ASSOCIATED WITH OVERSEAS VACATION DESTINATIONS.

(a) IN GENERAL.—A covered website operator shall provide to consumers information on the Internet website of the covered website operator, in a manner the website operator considers appropriate, regarding the potential health and safety risks associated with overseas vacation destinations marketed on such website, if any, including the following:

(1) Information compiled by the Department of State, including Department of State country-specific travel warnings and alerts.

(2) Information regarding the onsite health and safety services that are available to consumers at each overseas vacation destination, including whether the destination—

(A) employs or contracts with a physician or nurse on the premises to provide medical treatment for guests;

(B) employs or contracts with personnel, other than a physician, nurse, or lifeguard, on the premises who are trained in cardiopulmonary resuscitation;

(C) has an automated external defibrillator and employs or contracts with 1 or more individuals on the premises trained in its use; and

(D) employs or contracts with 1 or more lifeguards on the premises trained in cardiopulmonary resuscitation, if the overseas vacation destination has swimming pools or other water-based activities on its premises, or in areas under its control for use by guests.

(b) SERVICES NOT AVAILABLE 24 HOURS A DAY.—If the onsite health and safety services described in subsection (a)(2) are not available 24 hours a day, 7 days a week, a covered website operator who provides information about such services under subsection (a) shall display the hours and days of availability on its Internet website in a manner the covered website operator considers appropriate.

(c) MINIMUM REQUIREMENT FOR OBTAINING INFORMATION.—If a covered website operator does not possess, with respect to an overseas vacation destination, information about the onsite health and safety services required to be displayed on its Internet website under subsection (a), the covered website operator shall, at a minimum, request such information from such destination.

(d) INFORMATION NOT AVAILABLE.—If onsite health and safety services described in subsection (a)(2) are not available at an overseas vacation destination, or if a covered website operator does not possess information about the onsite health and safety services required to be displayed on its Internet website under subsection (a), the covered website operator shall display on the Internet website of the website operator, in a manner the website operator considers appropriate, the following: ''This destination does not provide certain health and safety services, or information regarding such services is not available.''.

(e) IMMUNITY.—A covered website provider shall not be liable in a civil action in a Federal or State court relating to inaccurate or incomplete information published under subsection (a) regarding an overseas vacation destination that is not owned or operated by the covered website provider if—

(1) such information was provided by the overseas vacation destination; and

(2) the covered website provider published such information without knowledge that such information was inaccurate or incomplete, as the case may be.

SEC. 4. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) UNFAIR OR DECEPTIVE ACTS OF PRACTICES.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) POWERS OF COMMISSION.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(c) DEADLINE FOR ISSUANCE OF REGULATIONS.—The Commission shall prescribe regulations to carry out this Act not later than 1 year after the date of the enactment of this Act.

SEC. 5. DEPARTMENT OF STATE RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NON-NATURAL CAUSES.

(a) INCREASED GRANULARITY OF DATA COLLECTED.—Subsection (a) of section 57 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2729) is amended by striking paragraph (2) and inserting the following:

''(2) The location of where the death occurred, including the address of the location, the name of the property where the death occurred, and the state or province and municipality of such location, if available.''.

(b) INCREASED FREQUENCY OF PUBLICATION.—Subsection (c) of such section is amended by striking ''at least every six months'' and inserting ''not less frequently than once each month''.

(c) MONTHLY REPORTS TO CONGRESS.—Such section is amended by adding at the end the following:

''(d) REPORTS TO CONGRESS.—Each time the Secretary updates the information made available under subsection (c), the Secretary shall submit to Congress a report containing such information.''.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. REED, and Mr. WHITEHOUSE):

S. 1759. A bill to facilitate the hosting in the United States of the 34th America's Cup by authorizing certain eligible vessels to participate in activities related to the competition, to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, today I wish to introduce the America's Cup Act of 2011. This legislation will enable foreign ships to compete for the 34th America's Cup, scheduled to begin in November.

I am happy to be joined by Senators BARBARA BOXER, JACK REED, and SHELDON WHITEHOUSE as original cosponsors.

The America's Cup is one of the oldest global sporting competitions. Its economic impact is surpassed only by the Olympics and the World Cup of soccer.

The event will begin in San Diego on November 12th. Next year the events continue in Italy and Newport, Rhode Island, and they conclude in San Francisco in September 2013.

But the events in San Diego, Newport and San Francisco cannot take place unless we waive certain laws that prohibit foreign vessels from operating in U.S. waters.

My legislation waives the Jones Act and the Passenger Vessel Services Act for all vessels participating in or supporting the America's Cup events.

However, this waiver is limited and narrow. It was carefully crafted to protect our domestic industry and passenger service operators. The legislation specifically states that the authority to operate in U.S. waters is strictly limited to activities that occur during and related to America's Cup Events.

The vessels are prohibited from transporting more than 25 individuals or from receiving compensation for transportation.

The vessels are prohibited from transporting merchandise between ports.

I understand that Jones Act waivers can be sensitive subjects for many, but I want to assure my colleagues that this is a noncontroversial bill.

The waiver is widely supported by local governments and business groups in California and Rhode Island.

Equally important, it is not opposed by the American Maritime Partnership, AMP. Like many of us, the AMP's neutrality was critical to me before I decided to pursue this legislation.

As many of my colleagues know, the American Maritime Partnership, formerly called the American Cabotage Task Force, is the voice of the U.S. domestic maritime industry. The group represents more than 450 member organizations ranging from vessel owners and shipboard unions to shipbuilders and equipment manufacturers.

These diverse interests recognize the importance of a strong domestic maritime industry and share my belief that the continued success of this industry is critical for America's economic security and independence.

Needless to say, Jones Act waivers are not an issue the AMP takes lightly, so I thank them for their willingness to work with me to bring this great event back to the United States.

The reason the American Maritime Partnership and so many other organizations support this legislation is that it will create jobs and stimulate the economy.

As I mentioned, the first event in the America's Cup World Series will occur in San Diego. This event alone is expected to bring $20 million to local businesses.

When the larger America's Cup Finals take place in San Francisco, the economic impacts are expected to be far greater. According to a recent study by Beacon Economics and the Bay Area Council the increase in economic activity in San Francisco could be nearly $1.4 billion. This is three times the estimated impact of hosting a Super Bowl, $300-$500 million.

The event could create as many as 8,840 jobs in San Francisco.

Local Governments could generate an additional $85 million in revenue.

Nationwide, the event is expected to increase domestic economic activity by $1.9 billion and create 11,978 jobs.

The economic impacts of these events are significant.

The waiver is widely supported by labor, business and members of both parties.

This is straightforward, common sense legislation that will facilitate international participation in a globally recognized sporting event.

I urge my colleagues to support 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. 1759

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 ''America's Cup Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(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 section 4.

(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.

SEC. 3. AUTHORIZATION OF ELIGIBLE VESSELS.

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.

SEC. 4. CERTIFICATION.

(a) REQUIREMENT.—A vessel may not operate under section 3 unless the vessel has received an Eligibility Certification.

(b) 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 section 2(4).

SEC. 5. 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.

SEC. 6. 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.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 301—URGING THE PEOPLE OF THE UNITED STATES TO OBSERVE OCTOBER 2011 AS ITALIAN AND ITALIAN-AMERICAN HERITAGE MONTH

Mr. CASEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 301

Whereas Italian and Italian-American Heritage Month is an appropriate time to recognize the enormous contributions that Italian and Italian-American people have made to the United States and the world throughout history, including generals, admirals, philosophers, statesmen, musicians, athletes, and Nobel Prize-winning scientists;

Whereas Italian and Italian-American Heritage Month salutes the Italian and Italian-American community and expresses appreciation for the culture and heritage of Italians and Italian Americans that has immeasurably enriched the lives of the people of the United States and the world;

Whereas the strength and success of the United States, the vitality of communities, and the effectiveness of society depend, in great measure, upon the distinctive and sterling qualities demonstrated by various ethnic groups and exemplified by members of the Italian and Italian-American community, who share their rich and unique heritage with all people of the United States; and

Whereas it is fitting and proper that October 2011 be observed as Italian and Italian-American Heritage Month throughout the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the enormous contributions that Italian and Italian-American people have made to the United States and the world throughout history; and

(2) urges the people of the United States—

(A) to acknowledge October 2011 as Italian and Italian-American Heritage Month; and

(B) to observe the month with appropriate events and activities.

SENATE RESOLUTION 302—EXPRESSING SUPPORT FOR THE GOALS OF NATIONAL ADOPTION DAY AND NATIONAL ADOPTION MONTH BY PROMOTING NATIONAL AWARENESS OF ADOPTION AND THE CHILDREN AWAITING FAMILIES, CELEBRATING CHILDREN AND FAMILIES INVOLVED IN ADOPTION, AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO SECURE SAFETY, PERMANENCY, AND WELL-BEING FOR ALL CHILDREN

Ms. LANDRIEU (for herself, Mr. INHOFE, Mr. KERRY, Ms. KLOBUCHAR, Mr. WYDEN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mr. BOOZMAN, Mr. BLUNT, Mr. LUGAR, Mrs. GILLIBRAND, Mr. LEVIN, Mr. GRASSLEY, Ms. COLLINS, Mr. BAUCUS, Mr. MORAN, Mr. NELSON of Nebraska, Mr. CARDIN, Mr. JOHNSON of South Dakota, Mr. BROWN of Ohio, and Mr. DEMINT) submitted the following resolution; which was referred to the Committee on Health, Labor, and Pensions:

S. RES. 302

Whereas there are approximately 408,000 children in the foster care system in the United States, approximately 107,000 of whom are waiting for families to adopt them;

Whereas 56 percent of the children in foster care are age 10 or younger;

Whereas the average length of time a child spends in foster care is more than 2 years;

Whereas for many foster children, the wait for a loving family in which they are nurtured, comforted, and protected seems endless;

Whereas in 2010, nearly 28,000 youth ''aged out'' of foster care by reaching adulthood without being placed in a permanent home;

Whereas everyday, loving and nurturing families are strengthened and expanded when committed and dedicated individuals make an important difference in the life of a child through adoption;

Whereas a 2007 survey conducted by the Dave Thomas Foundation for Adoption demonstrated that though ''Americans overwhelmingly support the concept of adoption, and in particular foster care adoption . . . foster care adoptions have not increased significantly over the past five years'';

Whereas while 4 in 10 Americans have considered adoption, a majority of Americans have misperceptions about the process of adopting children from foster care and the children who are eligible for adoption;

Whereas 71 percent of those who have considered adoption consider adopting children from foster care above other forms of adoption;

Whereas 45 percent of Americans believe that children enter the foster care system because of juvenile delinquency, when in reality the vast majority of children who have entered the foster care system were victims of neglect, abandonment, or abuse;

Whereas 46 percent of Americans believe that foster care adoption is expensive, when in reality there is no substantial cost for adopting from foster care and financial support is available to adoptive parents after the adoption is finalized;

Whereas both National Adoption Day and National Adoption Month occur in the month of November;

Whereas National Adoption Day is a collective national effort to find permanent, loving families for children in the foster care system;

Whereas since the first National Adoption Day in 2000, more than 35,000 children have joined forever families during National Adoption Day;

Whereas in 2010, adoptions were finalized for nearly 5,000 children through 400 National Adoption Day events in all 50 States, the District of Columbia, and Puerto Rico; and

Whereas the President traditionally issues an annual proclamation to declare the month of November as National Adoption Month, and National Adoption Day is on November 19, 2011: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Adoption Day and National Adoption Month;

(2) recognizes that every child should have a permanent and loving family; and

(3) encourages the people of the United States to consider adoption during the month of November and all throughout the year.

SENATE RESOLUTION 303—HONORING THE LIFE, SERVICE, AND SACRIFICE OF CAPTAIN COLIN P. KELLY JR., UNITED STATES ARMY

Mr. NELSON of Florida submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 303

Whereas Captain Colin P. Kelly Jr. was born in Madison, Florida in 1915 and graduated from that community's high school in 1932;

Whereas Captain Kelly attended the United States Military Academy at West Point, New York, graduating in 1937 and was assigned to a B–17 bomber group;

Whereas Captain Kelly was stationed in the Philippines as a B–17 pilot in the Army Air Corps when the United States came under Japanese attack on December 7, 1941;

Whereas on December 10, 1941, when Clark Field in the Philippines was attacked by Japanese forces, Captain Kelly and his 7 crew members, Lieutenant Joe M. Bean, Second Lieutenant Donald Robins, Staff Sergeant James E. Halkyard, Technical Sergeant William J. Delehanty, Sergeant Meyer S. Levin, Private First Class Willard L. Money, and Private First Class Robert E. Altman, were sent to locate and sink a Japanese Aircraft Carrier, one of the first bombing missions of World War II;

Whereas the crew, commanded by Captain Kelly, located Japanese warships operating off the Luzon Coast, and during the mission successfully hit a large Japanese warship;

Whereas on the return flight to Clark Field, the B–17 came under attack by 2 enemy aircraft and was critically damaged;

Whereas Captain Kelly ordered his crew to bail out while he remained at the controls;

Whereas Captain Kelly continued to operate the controls as the 6 surviving crew members bailed out and parachuted safely to the ground, despite remaining under fire during the descent;

Whereas the B–17 crashed near Clark Field, killing Captain Kelly, who had remained at

the controls so his crew had time to evacuate the aircraft;

Whereas Captain Kelly was posthumously awarded the Distinguished Service Cross for his heroic actions on December 10, 1941; and

Whereas the Four Freedoms Monument in Madison, Florida was commissioned by President Franklin D. Roosevelt and dedicated in Captain Kelly's memory in 1943: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Captain Colin P. Kelly Jr. as an Army officer and pilot of the highest caliber, upholding the Army's core values of loyalty, duty, respect, selfless service, honor, integrity, and personal courage;

(2) commends Captain Kelly for his service to the United States during the first days of World War II; and

(3) honors the sacrifice made by Captain Kelly, giving his own life to save the lives of his crew.

SENATE RESOLUTION 304—SUPPORTING ''LIGHTS ON AFTERSCHOOL'', A NATIONAL CELEBRATION OF AFTERSCHOOL PROGRAMS

Mrs. BOXER (for herself, Ms. COLLINS, Mr. COCHRAN, Mr. WHITEHOUSE, Mr. CASEY, and Ms. STABENOW) submitted the following resolution; which was:

S. RES. 304

Whereas high-quality afterschool programs provide safe, challenging, engaging, and fun learning experiences that help children and youth develop social, emotional, physical, cultural, and academic skills;

Whereas high-quality afterschool programs support working families by ensuring that the children in those families are safe and productive after the regular school day ends;

Whereas high-quality afterschool programs build stronger communities by involving students, parents, business leaders, and adult volunteers in the lives of children in the United States, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality afterschool programs engage families, schools, and diverse community partners in advancing the well-being of children in the United States;

Whereas ''Lights On Afterschool'', a national celebration of afterschool programs held on October 20, 2011, highlights the critical importance of high-quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and approximately 15,100,000 children in the United States have no place to go after school; and

Whereas many afterschool programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of ''Lights On Afterschool'', a national celebration of afterschool programs.

SENATE RESOLUTION 305—TO AUTHORIZE LEGAL REPRESENTATION IN EDWARD PAUL CELESTINE, JR. V. SOCIAL SECURITY ADMINISTRATION

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was:

S. RES. 305

Whereas, in the case of *Edward Paul Celestine, Jr.* v. *Social Security Administration*, No. 4:11–CV–3376, pending in the United States District Court for the Southern District of Texas, the plaintiff has sent subpoenas for testimony and documents to Senator John Cornyn and Senator Kay Bailey Hutchison; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator John Cornyn and Senator Kay Bailey Hutchison in this matter as well as any employee in Senator Cornyn's or Senator Hutchison's offices who may be subpoenaed in this case.

SENATE RESOLUTION 306—SUPPORTING THE GOALS AND IDEALS OF NATIONAL CYBERSECURITY AWARENESS MONTH AND RAISING AWARENESS AND ENHANCING THE STATE OF CYBERSECURITY IN THE UNITED STATES

Mr. JOHNSON of Wisconsin (for himself, Mr. LIEBERMAN, Ms. COLLINS, Ms. LANDRIEU, Mr. BEGICH, Mr. AKAKA, Mr. COONS, Mr. CARPER, Mr. BROWN of Massachusetts, and Ms. SNOWE) submitted the following resolution, which was:

S. RES. 306

Whereas the use of the Internet in the United States to communicate, conduct business, and generate commerce that benefits the overall United States economy is ubiquitous;

Whereas the United States technological know-how, innovation, and entrepreneurship are all digitally connected;

Whereas as the pace of innovation has accelerated, so too have methods to attack the United States economic prosperity and security, spawning new, high-tech challenges, from identity theft to corporate hacking to cyberbullying;

Whereas many people use the Internet in the United States to communicate with family and friends, manage finances and pay bills, access educational opportunities, shop at home, participate in online entertainment and games, and stay informed of news and current events;

Whereas small businesses in the United States, which employ a significant portion of the private workforce, increasingly rely on the Internet to manage their businesses, expand their customer reach, and enhance the management of their supply chain;

Whereas many schools in the United States have Internet access to enhance the education of children by providing access to educational online content and encouraging self-initiative to discover research resources;

Whereas cybersecurity is a critical part of the United States national and economic security;

Whereas the United States critical infrastructure and economy rely on the secure and reliable operation of information networks to support the United States military, civilian government, energy, telecommunications, financial services, transportation, health care, and emergency response systems;

Whereas Internet users and information infrastructure owners and operators face an increasing threat of cybercrime and fraud through viruses, worms, Trojans, and malicious programs, such as spyware, adware, hacking tools, and password stealers, that are frequent and fast in propagation, are costly to repair, and may disable entire systems;

Whereas the intellectual property, including proprietary information, copyrights, patents, trademarks, and related information, of businesses, academic institutions, government, and individuals are vital to the economic security of the United States;

Whereas millions of records containing personally identifiable information have been lost, stolen, or breached, threatening the security and financial well-being of the people of the United States;

Whereas consumers face significant financial and personal privacy losses due to personally identifiable information being more exposed to theft and fraud than ever before;

Whereas national organizations, policymakers, governmental agencies, private-sector companies, nonprofit institutions, schools, academic organizations, consumers, and the media recognize the need to increase awareness of cybersecurity and the need for enhanced cybersecurity in the United States;

Whereas coordination between the numerous Federal agencies involved in cybersecurity efforts is essential to securing the cyber infrastructure of the United States;

Whereas in February 2003 the White House issued National Strategy to Secure Cyberspace, which recommends a comprehensive national awareness program to empower all people in the United States, including businesses, the general workforce, and the general population, to secure their own portions of cyberspace;

Whereas in May 2009 the White House issued Cyberspace Policy Review, which recommends that the Federal Government initiate a national public awareness and education campaign to promote cybersecurity;

Whereas ''STOP. THINK. CONNECT.'' is the national cybersecurity awareness campaign founded and led by the National Cyber Security Alliance, the Anti-Phishing Working Group as a public-private partnership with the Department of Homeland Security, and a coalition of private companies, nonprofits, and governmental organizations to help all digital people of the United States stay safer and more secure online;

Whereas the National Initiative for Cybersecurity Education, led by the National Institute of Standards and Technology, is the coordinating body for the Federal Government to establish a sustainable, operational, and continually improving cybersecurity education program to enhance the United States cybersecurity and support the development of a professional cybersecurity workforce and cyber-capable people;

Whereas according to U.S. Cyber Challenge, the initiative is working to identify ''10,000 of America's best and brightest to fill the ranks of cybersecurity professionals where their skills can be of the greatest value to the nation'';

Whereas the Cyber Innovation Center has established cyber camps and other educational programs to bolster knowledge of science, technology, math, and engineering to build a sustainable knowledge-based workforce capable of addressing cyber threats and the future needs of government, industry, and academia; and

Whereas the National Cyber Security Alliance, the Multi-State Information Sharing & Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States have designated October 2011 as the eighth annual National Cybersecurity Awareness Month, which serves to educate

the people of the United States about the importance of cybersecurity: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Cybersecurity Awareness Month;

(2) continues to work with Federal agencies, businesses, educational institutions, and other organizations to enhance the state of cybersecurity in the United States;

(3) commends the work of National Initiative for Cybersecurity Education and all the Federal agencies, nonprofits, educational institutions, businesses, and other organizations that support this effort;

(4) recognizes ''STOP. THINK. CONNECT.'' as the national cybersecurity awareness campaign to educate the people of the United States and help all people of the United States stay safer and more secure online; and

(5) congratulates the National Cyber Security Alliance, the Multi-State Information Sharing & Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States on the eighth anniversary of National Cyber Security Awareness Month during October 2011.

SENATE RESOLUTION 307—HONORING THE MEN AND WOMEN OF THE JOHN C. STENNIS SPACE CENTER ON REACHING THE HISTORIC MILESTONE OF 50 YEARS OF ROCKET ENGINE TESTING

Mr. WICKER (for himself, Mr. COCHRAN, Mr. VITTER, and Ms. LANDRIEU) submitted the following resolution; which was:

S. RES. 307

Whereas, 50 years ago this month, on October 25, 1961, the National Aeronautics and Space Administration (referred to in this preamble as ''NASA'') publicly announced plans to establish a testing facility in Hancock County, Mississippi, for the purpose of flight-certifying all first and second stages of the Saturn V rocket for the Apollo lunar landing program that would take humans to the Moon;

Whereas the testing facility was renamed the John C. Stennis Space Center (referred to in this preamble as the ''Stennis Space Center'') in 1988 in honor of United States Senator John C. Stennis of Mississippi;

Whereas the Stennis Space Center conducted 45 engine tests for the Apollo program;

Whereas the Stennis Space Center is now home to the largest rocket engine test complex in the United States and serves as the premier rocket-propulsion testing facility in the United States, providing propulsion test services for NASA, the Department of Defense, and commercial providers;

Whereas NASA has celebrated the end of a successful Space Shuttle program, having conducted more than 2,000 total space shuttle main engine tests and certified 54 flight engines at the Stennis Space Center;

Whereas, as NASA enters a new era in space exploration, the Stennis Space Center will continue to play a vital role in the United States space program and commercial space efforts;

Whereas the Stennis Space Center has grown into a unique Federal city that includes more than 30 Federal, State, academic, and private organizations, and numerous technology-based companies;

Whereas the companies and agencies at the Stennis Space Center share the cost of operating and maintaining the facility, making the accomplishment of missions by each entity more cost-effective;

Whereas the Stennis Space Center is home to—

(1) the United States Naval Meteorology and Oceanography Command, which includes the largest concentration of oceanographers in the world;

(2) the most powerful supercomputer of the United States Navy; and

(3) the National Center for Critical Information Processing and Storage, which is facilitating the data center consolidation efforts by the Department of Homeland Security;

Whereas the Stennis Space Center played a critical role during the Deepwater Horizon oil spill by providing unique resources and expertise on the Gulf of Mexico ecosystem to predict the spread and impact of the spill;

Whereas the Stennis Space Center is an economic engine for Mississippi and Louisiana, generating—

(1) approximately 5,400 jobs;

(2) a direct global economic impact of $875,000,000; and

(3) a direct economic impact of $616,000,000 within a 50-mile radius; and

Whereas the Stennis Space Center is committed to continuing in the role of inspiring the next generation of United States scientists, engineers, and professionals: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Aeronautics and Space Administration on reaching the historic milestone of the 50th anniversary of the John C. Stennis Space Center; and

(2) honors the men and women who worked tirelessly to design, build, and test the rocket engines used in the Apollo and Space Shuttle programs in order to promote science, engineering, innovation, and exploration to the benefit of the United States and all humankind.

AMENDMENTS SUBMITTED AND PROPOSED

SA 896. Mr. BROWN of Massachusetts 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 897. Mr. BROWN of Ohio (for himself and Mr. DURBIN) 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 898. Mr. RUBIO (for himself, Mr. WICKER, Mr. NELSON of Florida, Ms. LANDRIEU, and Mr. SHELBY) proposed an amendment to the bill H.R. 2112, supra.

SA 899. Mr. DEMINT 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 900. Ms. SNOWE (for herself and Ms. LANDRIEU) 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 901. Mr. DEMINT 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 902. Mr. KYL 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 903. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, and Mr. UDALL of Colorado) 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 904. Mr. PRYOR 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 905. Mr. PRYOR 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 906. Mr. MERKLEY (for himself, Mr. BROWN of Massachusetts, 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 907. Mr. COONS 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 908. Mr. JOHNSON of South Dakota 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 909. Mr. REED 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 910. Mr. LAUTENBERG 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 911. Mr. CARDIN 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 912. Mr. KYL (for himself, Mr. CORNYN, and Mr. MCCAIN) proposed an amendment to the bill H.R. 2112, supra.

SA 913. Mr. CASEY (for himself, Mr. BLUMENTHAL, and Ms. KLOBUCHAR) 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 914. 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 915. Mr. DURBIN 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 916. Mr. DURBIN 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 917. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 857 proposed by Mr. MENENDEZ (for himself, Mr. ISAKSON, and Mrs. FEINSTEIN) to the amendment SA 738 proposed by Mr. INOUYE to the bill H.R. 2112, supra.

SA 918. Mr. INOUYE proposed an amendment to the bill H.R. 2112, supra.

TEXT OF AMENDMENTS

SA 896. Mr. BROWN of Massachusetts 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. ____. (a) OBSERVANCE OF VETERANS DAY.—Chapter 1 of title 36, United States Code, is amended by adding at the end the following new section:

''§ 145. Veterans Day

''The President shall each year issue a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day, beginning at 2:11 p.m. eastern time, in honor of the service and sacrifice of veterans throughout the history of the Nation.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 36, United States Code, is amended by adding at the end the following new item:

''145. Veterans Day.''.

SA 897. Mr. BROWN of Ohio (for himself and Mr. DURBIN) 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 286, between lines 6 and 7, insert the following:

SEC. ____. None of the funds made available to the Department of Transportation by this Act or an amendment made by this Act shall be used by any State or political subdivision of a State for the purpose of studying, promoting, or finalizing the sale or long-term lease of any federally funded roadway, toll road, bridge, airport, or transit system.

SA 898. Mr. RUBIO (for himself, Mr. WICKER, Mr. NELSON of Florida, Mr. LANDRIEU, and Mr. SHELBY) proposed an amendment 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 153, after line 24, add the following:

SEC. 218. EVALUATION OF GULF COAST CLAIMS FACILITY.

The Attorney General shall identify an independent auditor to evaluate the Gulf Coast Claims Facility.

SA 899. Mr. DEMINT 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. None of the funds made available by this Act may be used for carry out any provision of Executive Order 13547 (33 U.S.C. 857-19 note; relating to stewardship of the ocean, coasts, and Great Lakes).

SA 900. Ms. SNOWE (for herself and Ms. LANDRIEU) 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) None of the funds appropriated or otherwise made available by this title may be obligated or expended to terminate the operations of an office of the United States and Foreign Commercial Service in the embassy of the United States in a country described in subsection (b).

(b) A country described in this subsection is a country for which the ratio of the volume of goods and services exported to that country by small businesses in the United States in fiscal year 2007 to the volume of all goods and services exported to that country from the United States in that fiscal year exceeds by not less than 20 percent the ratio of the volume of goods and services exported to all countries by small businesses in the United States in that fiscal year to the volume of all goods and services exported to all countries from the United States in that fiscal year.

(c) For purposes of subsection (b), the volume of goods and services exported from the United States in fiscal year 2007 shall be determined using data of the Bureau of the Census for that fiscal year.

SA 901. Mr. DEMINT 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. ____. None of the funds made available by this Act may be used to pay for telemedicine services that are used for the purpose of prescribing, dispensing, procuring, or otherwise administering mifepristone, commonly known as RU–486.

SA 902. Mr. KYL 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 89, line 10, strike ''$253,336,000'' and insert ''$226,836,000''.

On page 100, line 6, strike ''$56,726,000'' and insert ''$46,726,000''.

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 $15,000,000 shall be available for detention upgrades at Federal courthouses located in the Southwest border region; and of which not less than $11,196,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, electronic security devices, telephone systems, and cabling.

SA 903. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, and Mr. UDALL of Colorado) 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 125, line 3, insert before the period at the end the following: '': *Provided further*, That no funds made available under this heading shall be made available to enforce sections 5861 or 5872 of the Internal Revenue Code of 1986 with respect to destructive devices that are owned by the United States and used to protect public safety as part of the Forest Service Avalanche Control Program''.

SA 904. Mr. PRYOR 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 87, line 17, strike ''grants'' and insert ''grants and loan guarantees''.

SA 905. Mr. PRYOR 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 5, line 1, strike ''$230,416,000'' and insert ''$226,916,000''.

On page 5, line 6, strike ''$52,146,000'' and insert ''$48,646,000''.

On page 45, line 21, strike ''$509,295,000'' and insert ''$512,795,000''.

On page 48, line 22, before the period at the end insert '': *Provided further*, That $3,500,000 of the amounts appropriated under this heading shall be for loans made by the Secretary, acting through the Administrator of the Rural Utilities Service, under section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a) to carry out projects that include agricultural water supply benefits, groundwater protection, environmental enhancement, and flood control.''

SA 906. Mr. MERKLEY (for himself, Mr. BROWN of Massachusetts, 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 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).

SA 907. Mr. COONS 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 313, line 8, strike ''$3,001,027,000'' and insert ''$3,201,027,000''.

On page 313, line 10, strike ''$2,851,027,000'' and insert ''$3,051,027,000''.

On page 317, line 19, strike ''$1,000,000,000'' and insert ''$1,300,000,000''.

SA 908. Mr. JOHNSON of South Dakota 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 300, line 22, after ''appropriated:'' insert the following: ''*Provided further*, That a public housing agency that does not receive from the Secretary of Housing and Urban Development an allocation sufficient to cover the full amount of administrative fees and expenses payable to the public housing agency under the administrative fee rates provided under this heading may utilize unobligated balances remaining from housing assistance payment funds allocated to the public housing agency during a previous year, to the extent necessary to effect payment to the public housing agency of an amount not exceeding 90 percent of the full administrative fees and expenses payable to the public housing agency with respect to authorized vouchers under lease:''.

SA 909. Mr. REED 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 322, line 2, strike the period and insert the following: '': *Provided further*, the term 'local government' includes an instrumentality of a unit of general purpose local government other than a public housing agency that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to activities funded under this heading: *Provided further*, the term 'State' includes any instrumentality of any of the several States designated by the Governor to act on behalf of the State and does not include Washington, D.C.: *Provided further*, for purposes of environmental review, the Secretary shall continue to permit assistance and projects under this heading to be treated as assistance for special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, and subject to the regulations issued by the Secretary to implement such section: *Provided further*, a metropolitan city and an urban county that each receive an allocation under this heading and are located within a geographic area that is covered by a single continuum of care may jointly request the Secretary to permit the urban county or the metropolitan city, as agreed to by such county and city, to receive and administer their combined allocations under a single grant.''

SA 910. Mr. LAUTENBERG 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. No funds made available under this Act shall be used to allow the knowing transfer of a firearm to an individual known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support or resources for terrorism, when the Attorney General has a reasonable belief that the applicant for a firearm may use a firearm in connection with terrorism, unless the Attorney General determines that denial of a firearm transfer would likely compromise national security.

SA 911. Mr. CARDIN 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 286, between lines 6 and 7, insert the following:

SEC. 1___. STUDY OF APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) COCHAIRPERSONS.—The term ''cochairpersons'' means the cochairpersons of the Appalachian Regional Commission.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(3) SYSTEM.—The term ''System'' means the Appalachian development highway system described in section 14501 of title 40, United States Code.

(b) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary, with the concurrence of the cochairpersons, shall—

(1) conduct a study regarding the System, in accordance with subsection (c); and

(2) submit a report describing the results of the study to—

(A) the Committees on Appropriations of the House of Representatives and the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

(C) the Committee on Environment and Public Works of the Senate.

(c) REQUIREMENTS.—

(1) IN GENERAL.—In conducting the study under this section, the Secretary, with the concurrence of the cochairpersons, shall—

(A) evaluate the effectiveness of the System in meeting the original purpose and goals of the System;

(B) reevaluate the purpose of, and need for, each incomplete corridor of the System;

(C) determine the estimated cost of completing each such corridor and the economic benefits to the communities served by those projects, on a State-by-State basis; and

(D) establish timelines and delivery schedules for the completion of each incomplete corridor determined to be necessary under this paragraph.

(2) ALTERNATIVE FEDERAL-AID HIGHWAY PROJECTS IN APPALACHIAN REGION.—

(A) IN GENERAL.—If the Secretary determines that an incomplete corridor is unnecessary under paragraph (1)(B), the Secretary, with the concurrence of the cochairpersons, may evaluate other transportation needs within the area to be served by that incomplete corridor to determine whether an alternative Federal-aid highway project of greater value to that area may be carried out.

(B) COSTS AND TIME LIMITATIONS.—If an alternative Federal-aid highway project is identified under subparagraph (A), that project may be carried out, subject to the conditions that—

(i) the cost to complete the alternative project does not exceed the estimated cost of completing the original incomplete corridor under paragraph (1)(B); and

(ii) the timeline and delivery schedule for completion of the alternative project does not exceed any timeline or delivery schedule established for the original incomplete corridor under paragraph (1)(C).

SA 912. Mr. KYL (for himself, Mr. CORNYN, and Mr. MCCAIN) proposed an amendment 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 89, strike line 6 and all that follows through page 118, line 2, and insert the following:

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $226,836,000: *Provided*, That from amounts provided herein, funds may be used for promotion, outreach, and marketing activities.

PERIODIC CENSUSES AND PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to collect and publish statistics for periodic censuses and programs provided for by law, $690,000,000, to remain available until September 30, 2013: *Provided*, That from amounts provided herein, funds may be used for additional promotion, outreach, and marketing activities: *Provided further*, That within the amounts appropriated, $1,000,000 shall be transferred to the

Office of the Inspector General for activities associated with carrying out investigations and audits related to the Bureau of the Census.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $45,568,000, to remain available until September 30, 2013: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, operations, and related services, and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For the administration of prior-year grants, recoveries and unobligated balances of funds previously appropriated are hereafter available for the administration of all open grants until their expiration.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, $2,706,313,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2012, so as to result in a fiscal year 2012 appropriation from the general fund estimated at $0: *Provided further*, That during fiscal year 2012, should the total amount of offsetting fee collections and the surcharge provided herein be less than $2,706,313,000 this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of $2,706,313,000 in fiscal year 2012 and deposited in the Patent and Trademark Fee Reserve Fund shall remain available until expended: *Provided further*, That the Director of the Patent and Trademark Office shall submit a spending plan to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such spending plan 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: *Provided further*, That from amounts provided herein, not to exceed $750 shall be made available in fiscal year 2012 for official reception and representation expenses: *Provided further*, That in fiscal year 2012 from the amounts made available for ''Salaries and Expenses'' for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FEGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for PTO's specific use shall be recognized as an imputed cost on PTO's financial statements, where applicable: *Provided further*, That sections 801, 802, and 803 of division B, Public Law 108–447 shall remain in effect during fiscal year 2012: *Provided further*, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: *Provided further*, That there shall be a surcharge of 15 percent, as provided for by section 11(i) of the Leahy-Smith America Invents Act: *Provided further*, That hereafter the Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under 35 U.S.C. 41(h)(1), so long as the fees of the prioritized examination program are set to recover the estimated cost of the program: *Provided further*, That the receipts collected as a result of these surcharges shall be available within the amounts provided herein to the United States Patent and Trademark Office without fiscal year limitation, for all authorized activities and operations of the Office: *Provided further*, That within the amounts appropriated, $1,000,000 shall be transferred to the Office of Inspector General for activities associated with carrying out investigations and audits related to the USPTO.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $500,000,000, to remain available until expended, of which not to exceed $9,000,000 may be transferred to the ''Working Capital Fund'': *Provided*, That not to exceed $5,000 shall be for official reception and representation expenses.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Industrial Technology Services, $120,000,000 to remain available until expended: *Provided*, That of the amounts appropriated herein, $120,000,000 shall be for the Hollings Manufacturing Extension Partnership.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, $3,134,327,000, to remain available until September 30, 2013, except for funds provided for cooperative enforcement, which shall remain available until September 30, 2014: *Provided*, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $109,098,000 shall be derived by transfer from the fund entitled ''Promote and Develop Fishery Products and Research Pertaining to American Fisheries'': *Provided further*, That of the $3,250,425,000 provided for in direct obligations under this heading $3,134,327,000 is appropriated from the general fund, and $109,098,000 is provided by transfer and $7,000,000 is derived from recoveries of prior year obligations: *Provided further*, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed $41,105,000: *Provided further*, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed $219,291,000: *Provided further*, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That in allocating grants under sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, no coastal State shall receive more than 5 percent or less than 1 percent of increased funds appropriated over the previous fiscal year.

In addition, for necessary retired pay expenses under the Retired Serviceman's Family Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration (NOAA), $1,833,594,000, to remain available until September 30, 2014, except funds provided for construction of facilities which shall remain available until expended: *Provided*, That of the $1,841,594,000 provided for in direct obligations under this heading, $1,833,594,000 is appropriated from the general fund and $8,000,000 is provided from recoveries of prior year obligations: *Provided further*, That any deviation from the amounts designated for specific activities in the explanatory statement accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That the Secretary of Commerce shall include in budget justification materials that the Secretary submits to Congress in

support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each NOAA Procurement, Acquisition or Construction project having a total of more than $5,000,000 and simultaneously the budget justification shall include an estimate of the budgetary requirements for each such project for each of the 5 subsequent fiscal years.

PACIFIC COASTAL SALMON RECOVERY FUND

For necessary expenses associated with the restoration of Pacific salmon populations, $65,000,000, to remain available until September 30, 2013: *Provided*, That of the funds provided herein the Secretary of Commerce may issue grants to the States of Washington, Oregon, Idaho, Nevada, California, and Alaska, and Federally recognized tribes of the Columbia River and Pacific Coast (including Alaska) for projects necessary for conservation of salmon and steelhead populations, for restoration of populations that are listed as threatened or endangered, or identified by a State as at-risk to be so-listed, for maintaining populations necessary for exercise of tribal treaty fishing rights or native subsistence fishing, or for conservation of Pacific coastal salmon and steelhead habitat, based on guidelines to be developed by the Secretary of Commerce: *Provided further*, That all funds shall be allocated based on scientific and other merit principles and shall not be available for marketing activities: *Provided further*, That funds disbursed to States shall be subject to a matching requirement of funds or documented in-kind contributions of at least 33 percent of the Federal funds.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $350,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2012, obligations of direct loans may not exceed $24,000,000 for Individual Fishing Quota loans and not to exceed $59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: *Provided*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed $5,000 for official reception and representation, $46,726,000.

RENOVATION AND MODERNIZATION

For expenses necessary, including blast windows, for the renovation and modernization of Department of Commerce facilities, $5,000,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended), $26,946,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce 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: *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 or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce: *Provided further*, That for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

SEC. 104. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property 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. 105. The requirements set forth by section 112 of division B of Public Law 110–161 are hereby adopted by reference.

SEC. 106. Notwithstanding any other law, the Secretary may furnish services (including but not limited to utilities, telecommunications, and security services) necessary to support the operation, maintenance, and improvement of space that persons, firms or organizations are authorized pursuant to the Public Buildings Cooperative Use Act of 1976 or other authority to use or occupy in the Herbert C. Hoover Building, Washington, DC, or other buildings, the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, on a reimbursable or non-reimbursable basis. Amounts received as reimbursement for services provided under this section or the authority under which the use or occupancy of the space is authorized, up to $200,000, shall be credited to the appropriation or fund which initially bears the costs of such services.

SEC. 107. Nothing in this title shall be construed to prevent a grant recipient from deterring child pornography, copyright infringement, or any other unlawful activity over its networks.

SEC. 108. The administration of the National Oceanic and Atmospheric Administration is authorized to use, with their consent, with reimbursement and subject to the limits of available appropriations, the land, services, equipment, personnel, and facilities of any department, agency or instrumentality of the United States, or of any State, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization for purposes related to carrying out the responsibilities of any statute administered by the National Oceanic and Atmospheric Administration.

SEC. 109. All balances in the Coastal Zone Management Fund, whether unobligated or unavailable, are hereby permanently cancelled, and notwithstanding section 308(b) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456a), any future payments to the Fund made pursuant to sections 307 (16 U.S.C. 1456) and 308 (16 U.S.C. 1456a) of the Coastal Zone Management Act of 1972, as amended, shall, in this fiscal year and any future fiscal years, be treated in accordance with the Federal Credit Reform Act of 1990, as amended.

SEC. 110. There is established in the Treasury a non-interest bearing fund to be known as the ''Fisheries Enforcement Asset Forfeiture Fund'', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38 or of any other marine resource law enforced by the Secretary of Commerce, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and with the exception of collections pursuant to 16 U.S.C. 1437, which are currently deposited in the Operations, Research, and Facilities account: *Provided*, That all unobligated balances that have been collected pursuant to 16 U.S.C. 1861 or any other marine resource law enforced by the Secretary of Commerce with the exception of 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Fisheries Enforcement Asset Forfeiture Fund and shall remain available until expended.

SEC. 111. There is established in the Treasury a non-interest bearing fund to be known as the ''Sanctuaries Enforcement Asset Forfeiture Fund'', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38, which are currently deposited in the Operations, Research, and Facilities account: *Provided*, That all unobligated balances that have been collected pursuant to 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Sanctuaries Enforcement Asset Forfeiture Fund and shall remain available until expended.

SEC. 112. Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration is authorized to receive and expend funds made available by any Federal agency, State or subdivision thereof, public or private organization, or individual to carry out any statute administered by the National Oceanic and Atmospheric Administration: *Provided*, 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. 113. (a) The Secretary of State shall ensure participation in the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (''Commission'') and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands (collectively, the U.S. Participating Territories) to the same extent provided to the territories of other nations.

(b) The U.S. Participating Territories are each authorized to use, assign, allocate, and manage catch limits of highly migratory fish stocks, or fishing effort limits, agreed to by the Commission for the participating territories of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, through arrangements with U.S. vessels with permits issued under the Pelagics Fishery Management Plan of the Western Pacific Region. Vessels under such arrangements are integral to the domestic fisheries of the U.S. Participating Territories provided that such arrangements shall impose no requirements regarding where such vessels must fish or land their catch and shall be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in a Territory's Marine Conservation Plan and adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824). The Secretary of Commerce shall attribute catches made by vessels operating under such arrangements to the U.S. Participating Territories for the purposes of annual reporting to the Commission.

(c) The Western Pacific Regional Fisheries Management Council—

(1) is authorized to accept and deposit into the Western Pacific Sustainable Fisheries Fund funding for arrangements pursuant to subsection (b);

(2) shall use amounts deposited under paragraph (1) that are attributable to a particular U.S. Participating Territory only for implementation of that Territory's Marine Conservation Plan adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824); and

(3) shall recommend an amendment to the Pelagics Fishery Management Plan for the Western Pacific Region, and associated regulations, to implement this section.

(d) Subsection (b) shall remain in effect until such time as—

(1) the Western Pacific Regional Fishery Management Council recommends an amendment to the Pelagics Fishery Management Plan for the Western Pacific Region, and implementing regulations, to the Secretary of Commerce that authorize use, assignment, allocation, and management of catch limits of highly migratory fish stocks, or fishing effort limits, established by the Commission and applicable to U.S. Participating Territories;

(2) the Secretary of Commerce approves the amendment as recommended; and

(3) such implementing regulations become effective.

This title may be cited as the ''Department of Commerce Appropriations Act, 2012''.

TITLE II

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $115,886,000, of which not to exceed $4,000,000 for security and construction of Department of Justice facilities shall remain available until expended: *Provided*, That the Attorney General is authorized to transfer funds appropriated within General Administration to any office in this account: *Provided further*, That $18,903,000 is for Department Leadership; $8,311,000 is for Intergovernmental Relations/External Affairs; $12,925,000 is for Executive Support/Professional Responsibility; and $75,747,000 is for the Justice Management Division: *Provided further*, That any change in amounts specified in the preceding proviso greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations consistent with the terms of section 505 of this Act: *Provided further*, That this transfer authority is in addition to transfers authorized under section 505 of this Act.

NATIONAL DRUG INTELLIGENCE CENTER

For necessary expenses of the National Drug Intelligence Center, including reimbursement of Air Force personnel for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, $20,000,000: *Provided*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counterterrorism, and national security investigations and operations.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, $47,000,000, to remain available until expended.

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For the costs of developing and implementing a nationwide Integrated Wireless Network supporting Federal law enforcement communications, and for the costs of operations and maintenance of existing Land Mobile Radio legacy systems, $87,000,000, to remain available until expended: *Provided*, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: *Provided further*, That any transfer made under the preceding proviso shall be subject to section 505 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, $294,082,000, of which $4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the ''Immigration Examinations Fee'' account.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, $1,563,453,000, to remain available until expended: *Provided*, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System: *Provided further*, That not to exceed $20,000,000 shall be considered ''funds appropriated for State and local law enforcement assistance'' pursuant to 18 U.S.C. 4013(b).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $84,199,000, including not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, $12,577,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, $846,099,000, of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the total amount appropriated, not to exceed $7,500 shall be available to INTERPOL Washington for official reception and representation expenses: *Provided further*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to ''Salaries and Expenses, General Legal Activities'' 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: *Provided further*, That of the amount appropriated, such sums as may be necessary shall be available to reimburse the Office of Personnel Management for salaries and expenses associated with the election monitoring program under section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f): *Provided further*, That of the amounts provided under this heading for the election monitoring program $3,390,000, shall remain available until expended.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $7,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $159,587,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be $108,000,000 in fiscal year 2012), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2012, so as to result in a final fiscal year 2012 appropriation from the general fund estimated at $51,587,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,891,532,000: *Provided*, That of the total amount appropriated, not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $25,000,000 shall remain available until expended: *Provided further*, That of the amount provided under this heading, not less than $43,184,000 shall be used for salaries and expenses for assistant

U.S. Attorneys to carry out section 704 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) concerning the prosecution of offenses relating to the sexual exploitation of children.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, $234,115,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $234,115,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2012, so as to result in a final fiscal year 2012 appropriation from the Fund estimated at $0.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, $2,071,000.

FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, $270,000,000, to remain available until expended: *Provided*, That not to exceed $10,000,000 may be made available for construction of buildings for protected witness safesites: *Provided further*, That not to exceed $3,000,000 may be made available for the purchase and maintenance of armored and other vehicles for witness security caravans: *Provided further*, That not to exceed $11,000,000 may be made available for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, $11,227,000: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, 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 preceding 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.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), $20,990,000, to be derived from the Department of Justice Assets Forfeiture Fund.

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.

SA 913. Mr. CASEY (for himself, Mr. BLUMENTHAL, and Ms. KLOBUCHAR) 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 appropriate place in title VII of division A, insert the following:

SEC. ____. An additional $10,000,000 shall be appropriated for the Office of the Commissioner of the Food and Drug Administration to enable such Office to remedy the current drug shortage crisis and to prevent future shortages, including through the creation of information systems for tracking drug shortages and actions taken by the Food and Drug Administration to address such shortages, enhanced communication with manufacturers to establish continuity of operation plans, development of evidenced-based criteria for identifying medically necessary drugs that may be vulnerable to a shortage, and enhanced communication with heath care providers about current shortages and their estimated duration.

SA 914. 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. Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the extent to which negotiations through the United States–China Joint Commission on Commerce and Trade have, since the establishment of the Commission, resulted in specific achievements with respect to increasing the access of United States exporters to the market of the People's Republic of China and creating jobs in the United States.

SA 915. Mr. DURBIN 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 388, between lines 14 and 15, insert the following:

SEC. 419. None of the funds appropriated or otherwise made available by this division may be obligated or expended to grant an exemption under section 47134(b)(2) of title 49, United States Code, to the obligation of an airport sponsor that intends to sell or lease an airport to a person other than a public entity to repay the Federal Government for grants and property received by the airport.

SA 916. Mr. DURBIN 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 286, between lines 6 and 7, insert the following:

SEC. 1____. PROTECTING TAXPAYERS IN TRANSPORTATION ASSET TRANSFERS.

(a) LIMITATION ON USE OF FUNDS.—None of the funds made available to the Department of Transportation by this Act shall be used to promote, finalize, or approve a concession agreement or sale of any public transportation asset unless the State or local government entering into the concession agreement or sale pays to the Secretary an amount determined by the Secretary in accordance with subsection (b).

(b) DETERMINATION OF REPAYMENT AMOUNT.—The Secretary shall determine the amount required to be paid for purposes of subsection (a) by taking into account, at a minimum—

(1) the total amount of Federal funds that have been expended to construct, maintain, or upgrade the public transportation asset;

(2) the amount of Federal funding received by a State or local government based on inclusion of the public transportation asset in calculations using Federal funding formulas or for Federal block grants;

(3) the reasonable depreciation of the public transportation asset, including the amount of Federal funds described in paragraph (1) that may be offset by that depreciation; and

(4) the loss of Federal tax revenue from bonds relating to, and the tax consequences of depreciation of, the public transportation asset.

(c) DEFINITIONS.—In this section:

(1) CONCESSION AGREEMENT.—

(A) IN GENERAL.—The term ''concession agreement'' means an agreement entered into by a private individual or entity and a State or local government with jurisdiction over a public transportation asset to convey to the private individual or entity the right to manage, operate, and maintain the public transportation asset for a specific period of time in exchange for the authorization to impose and collect a toll or other user fee from a person for each use of the public transportation asset during that period.

(B) EXCLUSION.—The term ''concession agreement'' does not include an agreement entered into by a State or local government and a private individual or entity for the construction of any new public transportation asset.

(2) PUBLIC TRANSPORTATION ASSET.—

(A) IN GENERAL.—The term ''public transportation asset'' means a transportation facility of any kind that was or is constructed, maintained, or upgraded before, on, or after the date of enactment of this Act using Federal funds—

(i)(I) the fair market value of which is more than $500,000,000, as determined by the Secretary; and

(II) that has received any Federal funding, as of the date on which the determination is made;

(ii) the fair market value of which is less than or equal to $500,000,000, as determined by the Secretary; and

(I) that has received $25,000,000 or more in Federal funding, as of the date on which the determination is made; or

(iii) in which a significant national pubic interest (such as interstate commerce, homeland security, public health, or the environment) is at stake, as determined by the Secretary.

(B) INCLUSIONS.—The term ''public transportation asset'' includes a transportation facility described in subparagraph (A) that is—

(i) a Federal-aid highway (as defined in section 101 of title 23, United States Code);

(ii) a highway or mass transit project constructed using amounts made available from the Highway Account or Mass Transit Account, respectively, of the Highway Trust Fund;

(iii) an air navigation facility (as defined in section 40102(a) of title 49, United States Code); or

(iv) a train station or multimodal station that receives a Federal grant, including any grant authorized under the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 122 Stat. 4907) or an amendment made by that Act.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SA 917. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 857 proposed by Mr. MENENDEZ (for himself, Mr. ISAKSON, and Mrs. FEINSTEIN) 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; as follows:

On page 5, strike line 14 and insert the following:

2011'' and inserting ''December 31, 2013''.

SEC. ___. REESTABLISHMENT OF MAXIMUM AGGREGATE AMOUNT PERMITTED TO BE PROVIDED BY THE TAXPAYERS TO FANNIE MAE AND FREDDIE MAC.

(a) MAXIMUM AGGREGATE AMOUNT OF COMMITMENT.—No funds may be provided by the Department of the Treasury or any other agency or entity of the Federal Government to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as part of the Amended and Restated Senior Preferred Stock Purchase Agreement, dated September 26, 2008, amended May 6, 2009, and further amended December 24, 2009 (as such agreement may be further amended), between the Department of the Treasury and the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as applicable, under any other agreement between the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and the Department of the Treasury, or otherwise, that exceed a maximum aggregate amount of $200,000,000,000.

(b) PAYMENTS TO TREASURY.—Any dividend or interest payment made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to the Department of the Treasury pursuant to any applicable contract, agreement, or provision of law shall not be included in the calculation of the aggregate amount of a commitment under subsection (a).

(c) ENFORCEMENT.—The Director of the Federal Housing Finance Agency shall take such actions as the Administrator determines are necessary to prevent the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation from requesting or receiving any funds that exceed the limit provided in subsection (a).

(d) DEFINITIONS.—For purposes of this section, the terms ''deficiency amount'' and ''surplus amount'' have the meanings provided such terms in the applicable Senior Preferred Stock Purchase Agreement described in subsection (a), as amended through December 24, 2009.

SA 918. Mr. INOUYE proposed an amendment 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:

Beginning on page 197, strike line 9 and all that follows through page 209, line 2, and insert the following:

SEC. 541. The amount appropriated or otherwise made available by title IV under the heading ''COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT'' is hereby reduced by $1,700,000.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Subcommittee on National Parks. The hearing will be held on Saturday, November 5, 2011, at 11:00 a.m., at the CCC Recreation Hall, Mile Post 19, Mesa Verde National Park, CO.

The purpose of the hearing is to examine issues affecting management of archaeological, cultural, and historic resources at Mesa Verde National Park and other units of the National Park System.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to Jake___McCook@energy.senate.gov.

For further information, please contact David Brooks (202) 224–9863 or Jake McCook (202) 224–9313.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on October 20, 2011, at 10 a.m., to conduct a hearing entitled ''Housing Finance Reform: Continuation of the 30-Year Fixed-Rate Mortgage.''

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. MIKULSKI. 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 20, 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 FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on October 20, 2011, at 10 a.m., to hold a hearing entitled, ''U.S. Military Deployment to Central Africa.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on October 20, 2011, at 8 a.m. in room 216 of the Hart Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on October 20, 2011, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 20, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY AND INTERGOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery and Intergovernmental Affairs of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate, on October 20, 2011, at 10:30 a.m., in order to conduct a hearing entitled, ''Accountability at FEMA: Is Quality Job #1?''

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate, on October 20, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON SECURITY AND INTERNATIONAL TRADE AND FINANCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, Subcommittee on Security and International Trade and Finance be authorized to meet during the session of the Senate, on October 20, 2011, at 2 p.m., in order to conduct a hearing entitled, ''The G20 and Global Economic and Financial Risks.''

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

RECOGNIZING THE FESTIVAL OF DIWALI

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 291, and the Senate proceed to its consideration.

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

The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 291) recognizing the religious and historical significance of the festival of Diwali.

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

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any related statements be printed in the RECORD.

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

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas Diwali, a festival of great significance to Indian Americans and South Asian Americans, is celebrated annually by Hindus, Sikhs, and Jains throughout India, the United States, and the world;

Whereas Diwali is a festival of lights, during which celebrants light small oil lamps, place the lamps around the home, and pray for health, knowledge, peace, wealth, and prosperity in the new year;

Whereas the lights symbolize the light of knowledge within the individual that overwhelms the darkness of ignorance, empowering each celebrant to do good deeds and show compassion to others;

Whereas Diwali falls on the last day of the last month in the lunar calendar and is celebrated as a day of thanksgiving for the homecoming of the Lord Rama and worship of Lord Ganesha, the remover of obstacles and bestower of blessings, at the beginning of the new year for many Hindus;

Whereas for Sikhs, Diwali is celebrated as Bandhi Chhor Diwas (The Celebration of Freedom), in honor of the release from prison of the sixth guru, Guru Hargobind; and

Whereas for Jains, Diwali marks the anniversary of the attainment of moksha, or liberation, by Mahavira, the last of the Tirthankaras (the great teachers of Jain dharma), at the end of his life in 527 B.C.: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the religious and historical significance of the festival of Diwali; and

(2) in observance of Diwali, the festival of lights, expresses its deepest respect for Indian Americans and South Asian Americans, as well as fellow countrymen and diaspora throughout the world on this significant occasion.

RESOLUTIONS SUBMITTED TODAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of the following resolutions which were submitted today: S. Res. 304, S. Res. 305, S. Res. 306, and S. Res. 307.

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

Mr. REID. Madam President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table, en bloc, with no intervening action or debate, and that any related statements be printed in the RECORD, as if read.

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

The resolutions (S. Res. 304, S. Res. 305, S. Res. 306, and S. Res. 307) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 304

(Supporting ''Lights On Afterschool,'' a national celebration of afterschool programs)

Whereas high-quality afterschool programs provide safe, challenging, engaging, and fun learning experiences that help children and youth develop social, emotional, physical, cultural, and academic skills;

Whereas high-quality afterschool programs support working families by ensuring that the children in those families are safe and productive after the regular school day ends;

Whereas high-quality afterschool programs build stronger communities by involving students, parents, business leaders, and adult volunteers in the lives of children in the United States, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality afterschool programs engage families, schools, and diverse community partners in advancing the well-being of children in the United States;

Whereas ''Lights On Afterschool'', a national celebration of afterschool programs held on October 20, 2011, highlights the critical importance of high-quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and approximately 15,100,000 children in the United States have no place to go after school; and

Whereas many afterschool programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of ''Lights On Afterschool'', a national celebration of afterschool programs.

Mr. REID. Mr. President, S. Res. 305 concerns representation by the Senate Legal Counsel of Senator CORNYN and Senator HUTCHISON, who have been subpoenaed to provide testimony and produce documents in a lawsuit between an individual and the Social Security Administration over the termination of the individual's benefits. That individual had requested that Senator CORNYN and Senator HUTCHISON assist him with his attempt to reverse the termination of his benefits by the Social Security Administration, and those Senators' offices had provided standard constituent service seeking an explanation regarding the matter from the agency for this individual. Neither Senator, however, has personal knowledge of the facts supporting the Social Security Administration's termination of plaintiff's benefits, nor were they involved in any way in that termination.

This resolution would authorize the Senate Legal Counsel to represent Senator CORNYN and Senator HUTCHISON, as well as any staff from either of their offices who may be subpoenaed in this lawsuit, in order to quash the subpoena.

S. RES. 305

(To authorize legal representation in *Edward Paul Celestine, Jr. v. Social Security Administration*)

Whereas, in the case of *Edward Paul Celestine, Jr. v. Social Security Administration*, No. 4:11–CV–3376, pending in the United States District Court for the Southern District of Texas, the plaintiff has sent subpoenas for testimony and documents to Senator John Cornyn and Senator Kay Bailey Hutchison; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

Resolved That the Senate Legal Counsel is authorized to represent Senator John Cornyn and Senator Kay Bailey Hutchison in this matter as well as any employee in Senator Cornyn's or Senator Hutchison's offices who may be subpoenaed in this case.

S. RES. 306

(Supporting the goals and ideals of National Cybersecurity Awareness Month and raising awareness and enhancing the state of cybersecurity in the United States)

Whereas the use of the Internet in the United States to communicate, conduct business, and generate commerce that benefits the overall United States economy is ubiquitous;

Whereas the United States technological know-how, innovation, and entrepreneurship are all digitally connected;

Whereas as the pace of innovation has accelerated, so too have methods to attack the United States economic prosperity and security, spawning new, high-tech challenges, from identity theft to corporate hacking to cyberbullying;

Whereas many people use the Internet in the United States to communicate with family and friends, manage finances and pay bills, access educational opportunities, shop at home, participate in online entertainment and games, and stay informed of news and current events;

Whereas small businesses in the United States, which employ a significant portion of

the private workforce, increasingly rely on the Internet to manage their businesses, expand their customer reach, and enhance the management of their supply chain;

Whereas many schools in the United States have Internet access to enhance the education of children by providing access to educational online content and encouraging self-initiative to discover research resources;

Whereas cybersecurity is a critical part of the United States national and economic security;

Whereas the United States critical infrastructure and economy rely on the secure and reliable operation of information networks to support the United States military, civilian government, energy, telecommunications, financial services, transportation, health care, and emergency response systems;

Whereas Internet users and information infrastructure owners and operators face an increasing threat of cybercrime and fraud through viruses, worms, Trojans, and malicious programs, such as spyware, adware, hacking tools, and password stealers, that are frequent and fast in propagation, are costly to repair, and may disable entire systems;

Whereas the intellectual property, including proprietary information, copyrights, patents, trademarks, and related information, of businesses, academic institutions, government, and individuals are vital to the economic security of the United States;

Whereas millions of records containing personally identifiable information have been lost, stolen, or breached, threatening the security and financial well-being of the people of the United States;

Whereas consumers face significant financial and personal privacy losses due to personally identifiable information being more exposed to theft and fraud than ever before;

Whereas national organizations, policymakers, governmental agencies, private-sector companies, nonprofit institutions, schools, academic organizations, consumers, and the media recognize the need to increase awareness of cybersecurity and the need for enhanced cybersecurity in the United States;

Whereas coordination between the numerous Federal agencies involved in cybersecurity efforts is essential to securing the cyber infrastructure of the United States;

Whereas in February 2003 the White House issued National Strategy to Secure Cyberspace, which recommends a comprehensive national awareness program to empower all people in the United States, including businesses, the general workforce, and the general population, to secure their own portions of cyberspace;

Whereas in May 2009 the White House issued Cyberspace Policy Review, which recommends that the Federal Government initiate a national public awareness and education campaign to promote cybersecurity;

Whereas ''STOP. THINK. CONNECT.'' is the national cybersecurity awareness campaign founded and led by the National Cyber Security Alliance, the Anti-Phishing Working Group as a public-private partnership with the Department of Homeland Security, and a coalition of private companies, nonprofits, and governmental organizations to help all digital people of the United States stay safer and more secure online;

Whereas the National Initiative for Cybersecurity Education, led by the National Institute of Standards and Technology, is the coordinating body for the Federal Government to establish a sustainable, operational, and continually improving cybersecurity education program to enhance the United States cybersecurity and support the development of a professional cybersecurity workforce and cyber-capable people;

Whereas according to U.S. Cyber Challenge, the initiative is working to identify ''10,000 of America's best and brightest to fill the ranks of cybersecurity professionals where their skills can be of the greatest value to the nation'';

Whereas the Cyber Innovation Center has established cyber camps and other educational programs to bolster knowledge of science, technology, math, and engineering to build a sustainable knowledge-based workforce capable of addressing cyber threats and the future needs of government, industry, and academia; and

Whereas the National Cyber Security Alliance, the Multi-State Information Sharing & Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States have designated October 2011 as the eighth annual National Cybersecurity Awareness Month, which serves to educate the people of the United States about the importance of cybersecurity: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Cybersecurity Awareness Month;

(2) continues to work with Federal agencies, businesses, educational institutions, and other organizations to enhance the state of cybersecurity in the United States;

(3) commends the work of National Initiative for Cybersecurity Education and all the Federal agencies, nonprofits, educational institutions, businesses, and other organizations that support this effort;

(4) recognizes ''STOP. THINK. CONNECT.'' as the national cybersecurity awareness campaign to educate the people of the United States and help all people of the United States stay safer and more secure online; and

(5) congratulates the National Cyber Security Alliance, the Multi-State Information Sharing & Analysis Center, the Department of Homeland Security, and other organizations working to improve cybersecurity in the United States on the eighth anniversary of National Cyber Security Awareness Month during October 2011.

S. RES. 307

(Honoring the men and women of the John C. Stennis Space Center on reaching the historic milestone of 50 years of rocket engine testing)

Whereas, 50 years ago this month, on October 25, 1961, the National Aeronautics and Space Administration (referred to in this preamble as ''NASA'') publicly announced plans to establish a testing facility in Hancock County, Mississippi, for the purpose of flight-certifying all first and second stages of the Saturn V rocket for the Apollo lunar landing program that would take humans to the Moon;

Whereas the testing facility was renamed the John C. Stennis Space Center (referred to in this preamble as the ''Stennis Space Center'') in 1988 in honor of United States Senator John C. Stennis of Mississippi;

Whereas the Stennis Space Center conducted 45 engine tests for the Apollo program;

Whereas the Stennis Space Center is now home to the largest rocket engine test complex in the United States and serves as the premier rocket-propulsion testing facility in the United States, providing propulsion test services for NASA, the Department of Defense, and commercial providers;

Whereas NASA has celebrated the end of a successful Space Shuttle program, having conducted more than 2,000 total space shuttle main engine tests and certified 54 flight engines at the Stennis Space Center;

Whereas, as NASA enters a new era in space exploration, the Stennis Space Center will continue to play a vital role in the United States space program and commercial space efforts;

Whereas the Stennis Space Center has grown into a unique Federal city that includes more than 30 Federal, State, academic, and private organizations, and numerous technology-based companies;

Whereas the companies and agencies at the Stennis Space Center share the cost of operating and maintaining the facility, making the accomplishment of missions by each entity more cost-effective;

Whereas the Stennis Space Center is home to—

(1) the United States Naval Meteorology and Oceanography Command, which includes the largest concentration of oceanographers in the world;

(2) the most powerful supercomputer of the United States Navy; and

(3) the National Center for Critical Information Processing and Storage, which is facilitating the data center consolidation efforts by the Department of Homeland Security;

Whereas the Stennis Space Center played a critical role during the Deepwater Horizon oil spill by providing unique resources and expertise on the Gulf of Mexico ecosystem to predict the spread and impact of the spill;

Whereas the Stennis Space Center is an economic engine for Mississippi and Louisiana, generating—

(1) approximately 5,400 jobs;

(2) a direct global economic impact of $875,000,000; and

(3) a direct economic impact of $616,000,000 within a 50-mile radius; and

Whereas the Stennis Space Center is committed to continuing in the role of inspiring the next generation of United States scientists, engineers, and professionals: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Aeronautics and Space Administration on reaching the historic milestone of the 50th anniversary of the John C. Stennis Space Center; and

(2) honors the men and women who worked tirelessly to design, build, and test the rocket engines used in the Apollo and Space Shuttle programs in order to promote science, engineering, innovation, and exploration to the benefit of the United States and all humankind.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF STEPHEN A. HIGGINSON

Mr. REID. Mr. President, I ask unanimous consent that on Monday, October 31, 2011, at 4:30 p.m., the Senate proceed to executive session to consider Calendar No. 249; that there be 1 hour of debate equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on Calendar No. 249; the motion to

reconsider be considered made and laid upon the table with no intervening action or debate; that any related statements be printed in the RECORD; and that President Obama be immediately notified of the Senate's action.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 129, 130, 248, 289, 341, 342, 367, 417, 418, 419, 423, 424, 425, 426, 427, 428, 442, 443, 444, and all nominations at the Secretary's desk in the Foreign Service, and NOAA; that the nominations be confirmed en bloc; 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 related statements be printed in the RECORD; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

James A. Torrey, of Connecticut, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2013.

Matthew Maxwell Taylor Kennedy, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2012.

Roberto R. Herencia, of Illinois, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2012.

COMMODITY FUTURES TRADING COMMISSION

Mark P. Wetjen, of Nevada, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring June 19, 2016.

SECURITIES AND EXCHANGE COMMISSION

Luis A. Aguilar, of Georgia, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2015.

Daniel M. Gallagher, Jr., of Maryland, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2016.

DEPARTMENT OF THE TREASURY

Janice Eberly, of Illinois, to be an Assistant Secretary of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Michael W. Punke, of Montana, to be a Deputy United States Trade Representative, with the Rank of Ambassador.

Islam A. Siddiqui, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

DEPARTMENT OF COMMERCE

Paul Piquado, of the District of Columbia, to be an Assistant Secretary of Commerce.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Anne Terman Wedner, of Illinois, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2013.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Katherine M. Gehl, of Wisconsin, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2013.

Terry Lewis, of Michigan, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a a term expiring December 17, 2011.

Terry Lewis, of Michigan, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2014.

UNITED NATIONS

Russ Carnahan, of Missouri, to be a Representative of the United States of America to the Sixty-sixth Session of the General Assembly of the United Nations.

Ann Marie Buerkle, of New York, to be a Representative of the United States of America to the Sixty-sixth Session of the General Assembly of the United Nations.

DEPARTMENT OF JUSTICE

Steven R. Frank, of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of four years.

Martin J. Pane, of Pennsylvania, to be United States Marshal for the Middle District of Pennsylvania for the term of four years.

David Blake Webb, of Pennsylvania, to be United States Marshal for the Eastern District of Pennsylvania for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN922 FOREIGN SERVICE nominations (2) beginning Nicholas E. Gutierrez, and ending John L. Shaw, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2011.

PN923 FOREIGN SERVICE nominations (102) beginning Erik M. Anderson, and ending Larry G. Padget, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2011.

PN970 FOREIGN SERVICE nominations (6) beginning Robert Donovan, Jr., and ending Brenda Vanhorn, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2011.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN744 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (28) beginning Richard R. Wingrove, and ending Linh K. Nguyen, which nominations were received by the Senate and appeared in the Congressional Record of June 30, 2011.

Mr. REID. Madam President, we rushed through these as if they didn't mean anything, but for each one of these people, it means a new life for them. These are very accomplished people, and I am only going to talk about one tonight—Mark P. Wetjen to be Commissioner of the Commodity Futures Trading Commission.

This young man came to me working for a major law firm—the largest law firm in Nevada. I got a call from my son, who said: This person I work with wants to come to work in Washington, so he came and worked in Washington. He has been an invaluable employee of mine and the State of Nevada and the Senate. He is a person the entire Senate looks to for advice and counseling on banking, housing issues, and other matters.

He has been a wonderful employee. I really hate to lose him, but his talent is one people recognize, both Democrats and Republicans, and I am very proud of him. Even though I will miss him, I know he will be very good as Commissioner of the Commodity Futures Trading Commission—one of the most important commissions in the entire world. So I wish him the very best.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

ORDERS FOR FRIDAY, OCTOBER 21, 2011, THROUGH MONDAY, OCTOBER 31, 2011

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 3:45 p.m. on Monday, October 24, 2011, for a pro forma session only, with no business conducted; and that following the pro forma session, the Senate adjourn until 11 a.m., on Thursday, October 27, 2011, for a pro forma session only, with no business conducted; and that following the pro forma session, the Senate adjourn until 3 p.m. on Monday, October 31, 2011; that following the prayer and pledge, the Journal 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 be in morning business until 4:30 p.m., with Senators permitted to speak up to 10 minutes each; and that, at 4:30 p.m., the Senate proceed to executive session, under the previous order.

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

PROGRAM

Mr. REID. The next rollcall vote will be at 5:30 p.m., on Monday, October 31, 2011, on the nomination of Stephen Higginson to be U.S. District Judge for the Fifth Circuit.

ADJOURNMENT UNTIL MONDAY, OCTOBER 24, 2011, at 3:45 P.M.

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 2:26 a.m., adjourned until Monday, October 24, 2011, at 3:45 p.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL SCIENCE FOUNDATION

BONNIE L. BASSLER, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2016, VICE STEVEN C. BEERING, TERM EXPIRED.

DEPARTMENT OF DEFENSE

MARK WILLIAM LIPPERT, OF OHIO, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE WALLACE C. GREGSON, RESIGNED.

NATIONAL BOARD FOR EDUCATION SCIENCES

HIROKAZU YOSHIKAWA, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015, VICE SALLY EPSTEIN SHAYWITZ, TERM EXPIRING.

DAVID JAMES CHARD, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015, VICE JONATHAN BARON, TERM EXPIRING.

LARRY V. HEDGES, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015, VICE FRANK PHILIP HANDY, TERM EXPIRING.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CAROL J. GALANTE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DAVID H. STEVENS, RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION

THOMAS HOENIG, OF MISSOURI, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION, VICE MARTIN J. GRUENBERG.

THOMAS HOENIG, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 12, 2015, VICE THOMAS J. CURRY, TERM EXPIRED.

NATIONAL CREDIT UNION ADMINISTRATION

CARLA M. LEON-DECKER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2017, VICE GIGI HYLAND, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20, 2011:

EXECUTIVE OFFICE OF THE PRESIDENT

HEATHER A. HIGGINBOTTOM, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

OVERSEAS PRIVATE INVESTMENT CORPORATION

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2013.

MATTHEW MAXWELL TAYLOR KENNEDY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

ROBERTO R. HERENCIA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

COMMODITY FUTURES TRADING COMMISSION

MARK P. WETJEN, OF NEVADA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING JUNE 19, 2016.

SECURITIES AND EXCHANGE COMMISSION

LUIS A. AGUILAR, OF GEORGIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2015.

DANIEL M. GALLAGHER, JR., OF MARYLAND, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2016.

DEPARTMENT OF THE TREASURY

JANICE EBERLY, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF COMMERCE

JOHN EDGAR BRYSON, OF CALIFORNIA, TO BE SECRETARY OF COMMERCE.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

ISLAM A. SIDDIQUI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF COMMERCE

PAUL PIQUADO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

ANNE TERMAN WEDNER, OF ILLINOIS, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2013.

OVERSEAS PRIVATE INVESTMENT CORPORATION

KATHERINE M. GEHL, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2013.

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2014.

UNITED NATIONS

RUSS CARNAHAN, OF MISSOURI, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY—SIXTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ANN MARIE BUERKLE, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY—SIXTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DEPARTMENT OF JUSTICE

STEVEN R. FRANK, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

MARTIN J. PANE, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

DAVID BLAKE WEBB, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH RICHARD R. WINGROVE AND ENDING WITH LINH K. NGUYEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 30, 2011.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH NICHOLAS E. GUTIERREZ AND ENDING WITH JOHN L. SHAW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2011.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ERIK M. ANDERSON AND ENDING WITH LARRY G. PADGET, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2011.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ROBERT DONOVAN, JR. AND ENDING WITH BRENDA VANHORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2011.