

every hour, every day, every week, every month to countries, many of which are our enemies and could care less about us, that we must pay that to get crude oil to be refined so that we can move our automobiles and our trucks and do our work and our business every day.

It sounds incredible that we would not join together, Democrats and Republicans, on this exciting day and say we finally have pulled back the curtain that has had a blackout imposed on offshore drilling in America and join hands and say: What do we do to begin to develop it as quickly as we can? I don't see why we ought to be arguing. We ought to do it together and quickly. That is what the American people would like. I don't think that is what we are going to get. I hope some Democrats will be listening. That is what this Senator would like to do.

We have a bill. We have a proposal. It would probably be better if Democrats and Republicans had one together that both produced and conserved, that produced more oil and conserved more in terms of our automobiles by producing more electric cars. Just combine those—this one, and match it off against another one—and we will be moving in the right direction.

I close by saying I hope that day comes. I hope the other side is not waiting, doing nothing until the election is over, using any excuse they would like. There is no excuse. We can do it, and we ought to do it now. The curtain has now rolled back. The offshore is there to look at, to see, and it contains billions of barrels of oil that are ours. We ought to get it in an orderly way, and we ought to pass laws in a bipartisan way that permit us to do it. But if not, we ought to put forth ours and have some serious votes in front of the American people to decide our future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CASEY). Morning business is closed.

#### TOM LANTOS AND HENRY J. HYDE UNITED STATES GLOBAL LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA RE-AUTHORIZATION ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2731, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2731) to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, malaria, and for other purposes.

Pending:

DeMint amendment No. 5077, to reduce to \$35,000,000,000 the amount authorized to be appropriated to combat HIV/AIDS, tuberculosis, and malaria in developing countries during the next 5 years.

Kyl amendment No. 5082, to limit the period during which appropriations may be made to carry out this act and to create a point of order in the Senate against appropriations to carry out this act that exceed the amount authorized for fiscal year 2013.

Gregg amendment No. 5081, to strike the provision requiring the development of coordinated oversight plans and to establish an independent inspector general at the Office of the Global AIDS Coordinator.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 5076

Mr. THUNE. Mr. President, I call up amendment No. 5076, and I ask unanimous consent that Senators CLINTON, DORGAN, and MURKOWSKI be added as cosponsors of the amendment.

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

The pending amendment is set aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for himself Mr. KYL, Mr. JOHNSON, Mr. TESTER, Mr. DOMENICI, Mrs. CLINTON, Mr. DORGAN, and Ms. MURKOWSKI, proposes an amendment numbered 5076.

The amendment is as follows:

(Purpose: To provide for an emergency plan for Indian safety and health)

In section 401(a), strike “\$50,000,000,000” and insert “\$48,000,000,000”.

At the end, add the following:

#### TITLE VI—EMERGENCY PLAN FOR INDIAN SAFETY AND HEALTH

##### SEC. 601. EMERGENCY PLAN FOR INDIAN SAFETY AND HEALTH.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the “Emergency Fund for Indian Safety and Health” (referred to in this section as the “Fund”), consisting of such amounts as are appropriated to the Fund under subsection (b).

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, \$2,000,000,000 for the 5-year period beginning on October 1, 2008.

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under this section shall—

(A) be made available without further appropriation;

(B) be in addition to amounts made available under any other provision of law; and

(C) remain available until expended.

(c) EXPENDITURES FROM FUND.—On request by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, the Secretary of the Treasury shall transfer from the Fund to the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, as appropriate, such amounts as the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services determines to be necessary to carry out the emergency plan under subsection (f).

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) REMAINING AMOUNTS.—Any amounts remaining in the Fund on September 30 of an applicable fiscal year may be used by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services to carry out the emergency plan under subsection (f) for any subsequent fiscal year.

(f) EMERGENCY PLAN.—Not later than 1 year after the date of enactment of this Act, the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services, in consultation with Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), shall jointly establish an emergency plan that addresses law enforcement and water needs of Indian tribes under which, for each of fiscal years 2010 through 2019, of amounts in the Fund—

(1) the Attorney General shall use—

(A) 25 percent for the construction, rehabilitation, and replacement of Federal Indian detention facilities;

(B) 2.5 percent to investigate and prosecute crimes in Indian country (as defined in section 1151 of title 18, United States Code);

(C) 1.5 percent for use by the Office of Justice Programs for Indian and Alaska Native programs; and

(D) 1 percent to provide assistance to—

(i) parties to cross-deputization or other cooperative agreements between State or local governments and Indian tribes (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)) carrying out law enforcement activities in Indian country; and

(ii) the State of Alaska (including political subdivisions of that State) for carrying out the Village Public Safety Officer Program and law enforcement activities on Alaska Native land (as defined in section 3 of Public Law 103-399 (25 U.S.C. 3902));

(2) the Secretary of the Interior shall—

(A) deposit 20 percent in the public safety and justice account of the Bureau of Indian Affairs for use by the Office of Justice Services of the Bureau in providing law enforcement or detention services, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(B) use 45 percent to implement requirements of Indian water settlement agreements that are approved by Congress (or the legislation to implement such an agreement) under which the United States shall plan, design, rehabilitate, or construct, or provide financial assistance for the planning, design, rehabilitation, or construction of, water supply or delivery infrastructure that will serve an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); and

(3) the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 5 percent to provide domestic and community sanitation facilities serving members of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) pursuant to section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), directly or through contracts or compacts

with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

Mr. THUNE. Mr. President, the amendment I called up and made pending, 5076, is an amendment we have been working on for some time. The Senator from North Dakota, Senator DORGAN, is going to offer a second-degree amendment to this, but what I wish to simply say, by way of speaking to the amendment, is this is an important piece of legislation. No one can deny that since its enactment in 2003, PEPFAR has helped provide basic medical care and other services to those in need throughout Africa and around the world. There is clearly still a need for many of these services worldwide, and I applaud the United States for the leadership it has taken in combating HIV/AIDS overseas. Unfortunately, there are also many individuals in America who are struggling to meet many of the basic standards of living, including many Native Americans, with whom the United States has a trust responsibility.

My bipartisan amendment, which has six cosponsors, seeks to ensure we do not turn our backs on these critical domestic needs by redirecting \$2 billion in authorization, or 4 percent of the overall cost of the bill, over the next 5 years to tribal public safety, health, and water projects. This modest redirection will still allow for PEPFAR authorization levels over three times their current amount, or \$18 billion over the President's request, while at the same time starting to address some very critical needs here at home. Unfortunately, many of these needs are great. Nationwide, 1 percent of the U.S. population does not have safe and adequate water for drinking and sanitation. On our Nation's Indian reservations this number climbs to an average of 11 percent, and in the worst part of Indian country that number is 35 percent. This lack of reliable, safe water leads to high incidence of disease and infection. The Indian Health Service has estimated that for each \$1 it spends on safe drinking water and sewage systems, it gets a twentyfold return in health benefits. The IHS estimates that in order to provide all Native Americans with safe drinking water and sewage systems in their home, they would need over \$2.3 billion. What this amendment does is it starts to address that need by authorizing \$1 billion for that important critical infrastructure need.

When it comes to the issue of health care—and that is where the second-degree amendment of the Senator from North Dakota will add to what my amendment does—we have Native Americans who are three times as likely to die from diabetes as compared to the rest of the population. In fact, an individual who is served by the IHS is 6½ times more likely to suffer an alcohol-related death than the general population. An individual served by IHS is 50 percent more likely to commit suicide than the general population.

In terms of my State of South Dakota, on the Oglala Sioux Reservation, the average life expectancy for males is 56 years. In Iraq it is 58, in Haiti it is 59, and in Ghana it is 60—all higher than right here in America on our Indian reservations.

In South Dakota, between 2000 and 2005, Native American infants were more than twice as likely to die as non-Native infants. In South Dakota, a recent survey found that 13 percent of Native Americans suffered from diabetes. That is twice the rate of the general population, where only 6 percent suffer from that disease.

With respect to public safety, which is essential, because without safety children cannot learn and economic development cannot occur, one out of every three Native American women, according to the national statistics, will be raped in their lifetime.

According to a recent Department of Interior report, tribal jails are so grossly insufficient when it comes to jail space that only half of the offenders who should be incarcerated are being put in jail. That same report found that constructing and rehabilitating only those detention centers that are most in need will cost \$8.4 billion.

Again, when you drill down to my State of South Dakota, the South Dakota Attorney General just released a new study on tribal criminal justice statistics this week, and according to that study homicide rates on South Dakota reservations are almost 10 times higher than those found in the rest of South Dakota. Forcible rapes on South Dakota reservations are seven times higher than those found in the rest of South Dakota.

The Standing Rock Sioux Tribe has a crime rate six times higher than the rest of the country. This crime rate places them in the top 15 for reservations nationwide, which is a drop from last year's rating, which had them in the top 10. Unfortunately, this drop has nothing to do with improving public safety on Standing Rock but instead is because of worsening crime rates and conditions on other reservations.

By way of example, some of these critical unmet needs have actual consequences in the day-to-day operations of tribal courts and law enforcement, and I want to point out one example from the Standing Rock Sioux Reservation, which borders South Dakota and North Dakota.

Earlier this year, the Standing Rock Sioux Reservation had six police officers to patrol a reservation the size of Connecticut. Now that means that during any given shift, there was only one officer on duty. One day in particular, the only dispatcher on the reservation was out. That left one police officer to act both as a first responder and also as the dispatcher. Not only did this directly impact the officer's ability to patrol and respond to emergencies, it also prevented him from appearing in tribal court to testify at a criminal trial.

In the Rosebud Sioux Tribal Court there was another example of a tribal prosecutor who was scheduled to attend court proceedings that day but who didn't appear in court that morning. Being somewhat alarmed by this, the tribal judge sent a court employee to the police department to ensure that the prosecutor was not hurt or in an accident. Once it was clear that the prosecutor had not been injured, but instead just did not make it to court that day, all cases scheduled had to be dismissed because no replacement prosecutor was available. Cases that were dismissed included sexual assault, domestic violence, child abuse, and DUIs.

Again, what this amendment does, very simply, is it redirects \$2 billion of the \$50 billion that would be authorized under this bill for PEPFAR—\$1 billion to an emergency plan for Indian public safety, and \$1 billion to clean water programs—and then, as I said earlier, by way of a second-degree amendment that will be offered by the Senator from North Dakota, \$250 million to health care. Within 1 year, the Attorney General, the Secretary of Interior, and the Secretary of Health and Human Services shall establish an emergency plan to address law enforcement and drinking water needs of Indian tribes.

Specifically, the amendment requires the authorization to be spread equally between public safety and water projects as follows: \$750 million for public safety, of which \$370 million would be used for detention facility construction, rehabilitation, and replacement. That is through the Department of Justice; \$310 million for the BIA's Public Safety and Justice Account, which funds tribal police and courts; \$30 million for investigations and prosecutions of crimes in Indian Country, which includes the U.S. attorneys and FBI; and \$30 million would be used by the DOJ's Office of Justice Programs for Indian and Alaska Native programs. Finally, \$10 million for cross-deputization or other cooperative agreements between State or local governments and Indian tribes and \$250 million for health care, which will be split, as the Director of Indian Health Services determines, between contract health services, construction and rehabilitation of Indian health facilities and domestic and community sanitation facilities serving Indian tribes, and, as I said, \$1 billion for water projects which will be used to implement Indian water supply projects approved by the Congress.

We have been working now the last several days on this amendment. I thank my colleagues who have been involved with that. Senator KYL is a cosponsor of this amendment. Last week he and I worked to put this amendment together, to file it. Subsequent to that, I began to work with Senator DORGAN, who chairs the Indian Affairs Committee in the Senate, trying to get sort of a bipartisan agreement we could proceed on that included not only water

development and law enforcement but also Indian health services.

I also thank Senator BIDEN and Senator LUGAR, the managers of the bill, for their cooperation on this, in making it possible for us to proceed to a vote and actually to do something meaningful to address the very desperate and acute needs that exist across this country on America's Indian reservations.

Some of the statistics I have quoted show the needs are very real. In the area of law enforcement and public safety, we have a crisis across this country when it comes to making sure we meet the needs of Native Americans living on our reservations—that they can live with basic public safety and security, that they have access to basic infrastructure such as water and health care.

Those are all things this amendment is designed to address, and it does it in a way that is consistent, I believe, with the purpose and intention of the underlying bill, which is to provide many of these same services to those in Africa. As I said earlier, I believe it is critically important that in the context of addressing those needs, we address the very important needs at home, in our own backyard. In South Dakota, we have nine tribes. In many of our reservations, the poverty rates and the degree of hopelessness and despair that exists on the reservations comes back to these very issues. It comes back to a lack of infrastructure, it comes back to the need for basic public safety and security, and it comes back to the need for critical health care services that are often unmet on America's Indian reservations.

I thank my colleagues for working with me. I thank those who have cosponsored the amendment and the managers of the bill for working with us to put it in a form that could be accepted. I hope as it proceeds to the House—as indicated in conversations and discussions with the chairman of the committee last night—that we will be able to retain the amendment when it gets to that point in the process.

Again, I offered the amendment, got it pending, and I know the Senator from North Dakota, my colleague, has some remarks he wants to make with regard to his amendment and his second degree. At this point, I yield the floor to allow him to make those observations.

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

Mr. DORGAN. Mr. President, I thank the Senator from South Dakota. Senator THUNE and Senator KYL have worked on a piece of legislation that I believe is very important. We have worked together on a wide range of these issues.

I held a hearing in Arizona with Senator KYL on Indian law enforcement issues. I worked with Senator THUNE on the issue he described with respect to the Standing Rock Sioux Indian Reservation and the very serious law

enforcement problems and challenges they face there.

AMENDMENT NO. 5084 TO AMENDMENT NO. 5076

I wish to offer a second-degree amendment. I offer it on behalf of myself, Senator THUNE, Senator JOHNSON, Senator KYL, and Senator BINGAMAN. I ask the second-degree amendment be considered. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, and Mr. THUNE, Mr. JOHNSON, Mr. KYL and Mr. BINGAMAN, proposes an amendment numbered 5084 to amendment No. 5076.

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

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

The amendment is as follows:

(Purpose: To reallocate the distribution of funds from the Emergency Fund for Indian Safety and Health)

On page 4, line 8, strike “and water” and insert “, water, and health care”.

On page 4, line 12, strike “25 percent” and insert “18.5 percent”.

On page 4, line 15, strike “2.5 percent” and insert “1.5 percent”.

On page 4, line 21, strike “1 percent” and insert “0.5 percent”.

On page 5, line 12, strike “20 percent” and insert “15.5 percent”.

On page 5, line 20, strike “45 percent” and insert “50 percent”.

On page 6, strike lines 7 through 17 and insert the following:

(3) The Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 12.5 percent to provide, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

(A) contract health services;

(B) construction, rehabilitation, and replacement of Indian health facilities; and

(C) domestic and community sanitation facilities serving members of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) pursuant to section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

Mr. DORGAN. Mr. President, the underlying legislation that is offered by Senator BIDEN and Senator LUGAR is a very important piece of legislation. We have moral responsibility to address global AIDS, so I support what we are doing. I believe it is very important. We have worked with Senator BIDEN and Senator LUGAR with respect to the first-degree amendment offered by my colleagues and the second-degree amendment I have offered.

While I believe we have a significant moral responsibility to address global AIDS and will do so in the underlying bill, it is also the case that we do not have to go off our shore to find Third World conditions. You can go to some Indian reservations in this country and find Third World conditions in this country, dealing with health care, with crime, with education, and a whole range of issues.

Take a look at some of the Indian reservations and you will find people

have water in their house because they hauled water. They haul water every day, or sometimes two or three times a week, in order to have water in their home. You will find there are places that do not have indoor plumbing; they have outdoor toilets. We have had testimony before my committee of people living in used trailer homes with wood-burning stoves, vented out of a pipe through a window in the living room. Third World conditions exist in this country.

The amendment offered by my colleagues, and my second-degree amendment, begin to address these issues in the area of law enforcement, health care, and water policies. It is very important.

I wish to describe the second-degree amendment. I fully support the underlying bill and am proud to be a cosponsor of it.

In regards to the law enforcement issues, you don't feel safe, you are afraid of the violence on the Indian reservations, as stated by my colleague who described the Standing Rock Reservation that straddles North and South Dakota and its substantial runup in violence. In response to this, we now have additional resources, additional law enforcement people, but they will only be there for 90 days. We need to address these issues. One in three Native American Indian women will be raped or sexually assaulted during their lifetime. My colleague described that. We had a hearing about that subject. We need to address the violence that exists and therefore address the law enforcement issues. That is what the underlying amendment does. My colleagues, Senator THUNE and Senator KYL, have done a great job working on this.

We have also worked together on other legislation we are introducing that is bipartisan, that is a broad legislation dealing with law enforcement. I appreciate the work of all my colleagues on the Indian Affairs Committee to address those issues.

But I wish to talk about this second-degree amendment. The underlying amendment is a \$2 billion issue. A portion of that, \$250 million, will be dealing with the issue of Indian health. As we described before, the amendment deals with water and law enforcement. This second-degree talks about \$250 million dealing with Indian health, half of which will be addressing facilities and the needs of facilities and the other half addressing contract health funding shortages that are in desperate need.

We had a hearing about 2 weeks ago. A young woman named Tracie Revis came to the hearing. She was a member of the Muscogee Creek Nation, a student at the University of Kansas Law School, a Native American. She shared her story with my committee, and here is the story.

She began law school in August 2005. After she had been sick for a year and a half, she finally withdrew from law

school in order to try to get some medical treatment. Her doctors discovered a large mass in her chest and she was subsequently diagnosed with Hodgkin's Lymphoma. She went through several cycles of chemotherapy, stem cell transplant, radiation in order to try to be cancer free. She is cancer free today.

Throughout her diagnosis and treatments, she struggled to try to get approval for coverage from the Indian Health Service. Due to the lack of access—there was very little access where she was—and the urgency of treatment, she was forced to pay for most of her own treatment. She was left with over \$200,000 of personal debt. That included the cost of a surgical procedure where a doctor was conducting a biopsy on this young woman, and, during the conduct of this biopsy, they discovered a cancerous tumor that was much larger than they expected. They decided to surgically remove 75 percent of that tumor during the biopsy. The problem was the doctor doing the surgery, while in the operating room, made this decision but didn't get approval from the Indian Health Service for the surgical procedure so that now the young woman personally owes the funding for that surgery.

That is what is happening in the Indian Health Service, and it has to end. When we dealt with an Indian health bill a while ago, I showed a photograph of this young woman, 5 years old; her name is Ta'shon Rain Littlelight. I will tell you about her, briefly, to tell you why I am so passionate about trying to provide some funding for Indian health. I was, at the time, at the Crow Nation in Montana with Senator TESTER, holding a hearing, and her grandmother showed up. Her grandmother held this photograph above her head and she said Ta'shon was 5 years old. She loved to dance. You could see the sparkle in her eyes. Ta'shon became very ill. They took her again and again and again to the Indian health clinic and they diagnosed this 5-year-old girl with depression—depression, they said.

Then one day she became violently ill. They took her to Billings, MT. From there, she was put on an airplane, taken to the cancer center in Denver, CO, and she was judged to have had terminal cancer.

Ta'shon Rain Littlelight lost her life. Her grandmother and then her mother told me of 3 months of unmedicated pain for this little 5-year-old girl because she didn't get the health care treatment most of us would expect for all our families. In fact, when they diagnosed this young girl with terminal cancer, one of the things Ta'shon Rain Littlelight told her mother she wanted was to go see Cinderella's Castle, and Make-A-Wish Foundation—what a wonderful organization—provided the opportunity for her to go to Orlando, FL, to see Cinderella's Castle at Disney World. The night before she was to visit the castle, in the motel room, Ta'shon snuggled up to her mother and

said: I am so sorry I am sick. I am going to try to get better, Mommy.

She died that night in her mother's arms. She never saw Cinderella's Castle. Now, a 5-year-old is dead because she didn't get the kind of health care most of us would routinely expect. She was sick so they said she was depressed. No, she wasn't depressed. She had terminal cancer and wasn't treated and she lived the last 3 months of her life at that age in unmedicated pain.

This country can do better than that and has a moral responsibility to do better than that.

I can stand here and tell stories for hours—Ardel Hale Baker, who was having a heart attack and was sent to a hospital and pulled on a gurney into the hospital with an 8-by-10 piece of paper Scotch-taped to her leg that said: If you admit this patient, understand we are out of contract health care funding so you, hospital, may be on your own; you may not get paid. This is a woman having a heart attack, wheeled into an emergency room with a piece of paper tacked to her leg saying: By the way, you might not want to admit this patient because Indian Contract Health is out of money.

If I am upset about these things it is because I have seen and heard so much that makes me sick about the way this health care system works for some and not for others. We can do much better.

My second-degree amendment is supported by a good number of my colleagues—Senator JOHNSON, Senator THUNE, Senator KYL, Senator BINGAMAN, and Senator MURKOWSKI. My amendment takes a portion of this \$250 million authorization out of the \$2 billion, that is the subject of the underlying amendment and says: Let's do this. Let's deal with the water issues—which are very important. I commend my colleague. Let's deal with the law enforcement issues. They are urgent. I commend my colleagues for that. Then let's also carve a piece out with respect to Indian health, half of which will deal with facilities that are desperately needed and half of which will deal with contract health care funding. This funding is so desperately short that in many parts of Indian Country the refrain is: Don't get sick after June because there is no money.

We have a trust responsibility. And that trust responsibility is a promise this country made long ago and a promise this country ought to start keeping. So I am proud to offer the second-degree amendment. This is a bipartisan effort to deal with water, law enforcement, and health care.

I am pleased to be here with my colleague, Senator KYL, who will be here shortly. But as I indicated, he and I have conducted a hearing on a reservation just outside of Phoenix, AZ, on the law enforcement issues. He has worked very hard on those issues, and so, too, has Senator THUNE. I appreciate the cooperation and the work we have done together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let me say to both Senator THUNE and to my colleague from North Dakota that I think the work they are doing here is first rate.

As a matter of fact, Senator KYL, who is coming to speak on this amendment as well, and I have agreed to, through the Judiciary Committee and through the regular order of business, work on one aspect of the three pieces of this amendment: water, health, and law enforcement.

I think we are going to be joined by our colleague as well on further increasing the assistance to the Indian nation. It is not an exaggeration to say that it is fairly astounding how poorly, over the 35 years I have been here, we have treated the Indian nations.

An awful lot of people, at least in my neck of the woods, think because they read about some of these Indian nations that have gambling on their reservations and are making tens of millions of dollars that somehow all is well, that we do not have to pay much attention to the moral obligation we have and the treaty obligations—I will not get into all of that but the treaty obligations we have been making and breaking since the 1800s.

So I am reluctant—I was reluctant—to talk about beginning to chip away at this bill which Senator LUGAR and I and many others have worked so hard on. But I conferred with my Democratic colleagues on the House side who have jurisdiction over this matter. And I wanted to make it clear to Senator THUNE, because I do not want to make a commitment I cannot keep, that if and when we get to the point where—I do not speak for Senator LUGAR, but I am prepared, on the Democratic side, to accept the amendment at the appropriate time. And I wanted to make it clear that I was kidding yesterday, and I will say in the RECORD, I want it noted that I am joking, but this is not a Russell Long "acceptance of a voice vote."

It used to be, in the old days when I got here, Russell Long would accept anything on a voice vote on a finance bill. And the joke was, before he got to the other side of the House, they were dropped. That is why most people asked for rollcall votes, to make it harder for the conference to drop amendments.

It is my commitment to my colleague that I have been told by the House that although they prefer nothing change in the bill, they are prepared to accept this amendment and that there is no intention of dropping this amendment.

Mr. DORGAN. Would the Senator yield for a unanimous consent request?

I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor on my second-degree amendment. She is a cosponsor of the underlying amendment.

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

Mr. BIDEN. I wanted to make sure we are playing on a level playing field because I want to say publicly what I was privately asked. So I hope when Senator KYL in his leadership capacity I do not think he is able to be here for another few minutes, but when he does come and speak, that we may be able to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Before we leave the discussion, I want to thank the chairman of the committee, the Senator from Delaware, for his willingness to work with us. And we did have some discussions last night privately about what happens as this proceeds to the House.

I appreciate his comments for the RECORD today and his commitment to work with us to see that it is retained when the bill moves forward to the House.

I want to thank the Senator from Indiana as well, Mr. LUGAR, for his willingness to work with us to accept this amendment. I do not disagree for a minute about the importance of the underlying bill. I do believe, as I stated earlier, however, that there are some incredibly critical needs in this country. And, of course, the amendment addresses law enforcement, infrastructure needs with respect to water development, and also health care.

But the law enforcement component is something on which I have been very active for some time. As I mentioned, we have some tremendous needs. If you go back to 1870, there are photos of that time, there is a photo at the tribal headquarters at Standing Rock Sioux Reservation in the 1870s, a vintage photo of a number of cops on the reservation. There were 28 of them. We are down now to eight or nine cops, and we have a responsibility, I believe, for public safety and security when it comes to our reservations and our tribal leaders who work with us. They have advocated coming and requesting additional assistance in funding to address law enforcement needs on the reservations.

The Senator from Delaware had indicated last night, as well, a willingness to work with us not only on this piece of legislation but additional efforts to solidify and reinforce the commitment that we made to the people who live on reservations that we are indeed serious about law enforcement, about providing basic levels of public safety and security.

So I thank him for his commitments and look forward to working with him and with the Senator from Indiana as this process moves forward.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 5083

(Purpose: To establish a bipartisan commission for the purpose of improving oversight and eliminating wasteful government spending under the President's Emergency Plan for AIDS Relief)

Mr. CORNYN. Mr. President, I ask unanimous consent to set aside the

pending amendment and call up my amendment No. 5083 and ask for its immediate consideration.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 5083.

Mr. CORNYN. 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 printed in today's RECORD under "Text of Amendments.")

Mr. BIDEN. Mr. President, would the Senator yield for a unanimous-consent request?

Mr. CORNYN. I will.

Mr. BIDEN. Mr. President, I ask unanimous consent that there be no second-degree amendments in order to the Cornyn amendment.

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

Mr. CORNYN. Mr. President, as I was saying, I think we can all agree that providing relief for those afflicted with the AIDS virus is a worthy and noble goal. I appreciate the efforts of the Senator from Indiana, Mr. LUGAR, and the Senator from Delaware, the chairman of the Foreign Relations Committee, for their work.

I think we all would recognize, though, that it is important not only that Congress provide appropriate oversight for the various programs that we create and the spending that we authorize but that we actually do everything we can to make sure any waste associated with a Government program, particularly one as big as this one, with a \$50 billion authorization, that we establish mechanisms that will allow us to review and provide the appropriate oversight, and, if necessary, eliminate inefficient and wasteful programs.

My amendment establishes the bipartisan U.S. Authorization and Sunset Commission, which will help improve oversight and eliminate wasteful Government spending in programs reauthorized or established by S. 2731, the PEPFAR bill.

Just to be clear, in negotiations with the majority leader, I actually had a sunset commission bill modeled after the sunset commission in my State and a variety of States that has been enormously effective in looking across the Government to reduce waste and inefficient programs. But in our negotiations we agreed this would be narrowly addressed in the PEPFAR Program, which I think is appropriate. But I want to say that I intend to be here at every opportunity pressing this issue because of its importance across the Federal Government in reducing waste and inefficiency.

As I said, the sunset commission idea was modeled after the process in my State, which—and I know many other States, but in Texas it was instituted in 1977 and has eliminated, over time,

more than 50 State agencies that were no longer serving their stated purpose and saved State taxpayers more than \$700 million.

The commission consists of four Senators and four Members of the House of Representatives. The CBO and GAO will serve as nonvoting ex officio members. My original intent, as I said, was to make this more broad than just the PEPFAR Program, but perhaps this would be a great sort of pilot program, if you will, to see how it works, as we consider programs and expand it more broadly.

The commission will recommend ways to improve the effectiveness and efficiency of the PEPFAR Program according to a timeline. While certainly this \$50 billion is an awful lot of money, and certainly it is \$20 billion over and above what the President actually originally asked for, and as the CBO, the Congressional Budget Office has said, it is probably going to be impossible for the program to spend more than \$35 billion within the 5-year budget window, it makes it even more important—the matter of making sure that the money is spent for intended purposes—that it is actually used to treat AIDS and HIV and actually help people get better and not waste it on extraneous matters. Under this amendment, Congress cannot simply ignore the commission's report. The amendment provides expedited procedures that will force Congress to consider and debate the commission's work, similar to the BRAC procedures.

This commission will help Congress do the necessary oversight to make sure every taxpayer dollar under PEPFAR is being spent wisely. The commission will focus on unauthorized and ineffective programs, as I said. The simple fact is, within the myriad of programs, funds, and organizations funded by Congress each year, the Office of Management and Budget has done a review of about 1,000 Government programs and concluded that about 25 percent of them were either ineffective or that the OMB, the Office of Management and Budget, said there was not sufficient information to make a conclusion one way or another.

That is 25 percent of about 1,000 Government programs. So we know there is waste and ineffectiveness of Government programs, and the need for more oversight is there. I think this would basically provide Congress two bites at the apple when it comes to evaluating Federal spending: when it authorizes a program, and, secondly, when it appropriates money for it.

Year after year the Congressional Budget Office has found that Congress appropriates billions and billions of dollars of taxpayers' money on programs, despite the fact that their authorization has expired. This means Congress has dropped the ball when it comes to doing the hard work of figuring out whether these programs are working and whether taxpayers' money is being spent efficiently or wastefully.

While we all do our best to ensure that proper oversight is given to every program, we simply do not have the tools or the time necessary to monitor and review every program. That is why this sunset commission review is important. It would give these tools, specifically because of the narrowed-down nature of the amendment, to the PEPFAR Program. But I think it is particularly applicable, given the fact that this bill would more than triple the amount of Government spending for this particular program.

The commission will be of assistance to the Senate Foreign Relations Committee and the House Foreign Affairs Committee. It will not replace their work; instead, it will supplement their work. It will serve as another set of eyeballs, keeping a close eye on the wallets of the taxpayer.

Let me be clear, though, in conclusion. This is not a problem only for PEPFAR and this program, it is a problem in every part of our Government. I continue to support the creation of a sunset commission that would review all Government operations—from transportation to scientific research to foreign aid. And my hope is at a later point we will be able to urge its adoption more broadly.

Simply put, the purpose of the commission is to ask: Is this program still needed? Is it still serving the intended purpose? Is the money that Congress has appropriated, is it accomplishing the goal that Congress intends?

I think, and my hope is, that my colleagues would support this amendment and provide this needed additional oversight that would assist the Congress in making sure that taxpayers' money is being spent as intended to help the worthy humanitarian purposes for which this particular program is intended.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to oppose the Cornyn amendment creating a sunset commission related to this bill. This amendment would require that PEPFAR programs be abolished within 2 years after the new commission reviews them, regardless of whether the review recommends abolition, unless Congress takes steps to reauthorize the programs.

The Senate Foreign Relations Committee and other committees in the House, the Senate, and Congress as a whole have spent the last year reviewing U.S. HIV/AIDS, tuberculosis, and malaria programs in preparation for the debate on this bill. During this process, numerous changes have been made to achieve greater transparency and oversight, along with programmatic changes to ensure that PEPFAR is moving in the right direction. The bill before us today has benefited from extensive field examinations of the program, GAO review, and a study by the Institute of Medicine of the National Academies. Moreover, the underlying bill mandates regular scrutiny

by the inspectors general, the GAO, and the IOM.

This reauthorization is based on the widespread view in Congress and in the executive branch that these programs are working and that they have humanitarian and foreign policy values. I do not believe we should be turning over responsibility for part of the legislative process to an unelected commission. Constitutionally, this is a job for Congress, working in association with the executive branch of Government. Congress does not lack the power to end or to change programs. Indeed, the Appropriations Committee must review the program every year during the annual budget process. If some aspect of this program is not meeting expectations, Congress has the ability to withhold funds at that point.

I understand that sunset laws in some cases can have value, and the distinguished Senator from Texas has pointed that out from experience in the State of Texas. For example, they have been used to eliminate unnecessary reports or other provisions of law that have been forgotten or fallen into disuse. But this does not apply to this bill which is continuing a core foreign policy program. There is no lack of scrutiny toward PEPFAR. It is an extremely high-profile endeavor the President has asked us to reauthorize for 5 years. I would, therefore, ask Members to oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will speak briefly, and then we are ready to vote on this amendment.

I would like to associate myself with the remarks of the Senator from Indiana, and I would add two points.

I am a fan of sunset legislation. There used to be a fellow who worked here with us named Lawton Chiles. He got here in 1970 and started sunset ideas, and I am a supporter. But here is the deal, what makes this different.

One of the problems in getting many of these African governments in particular to sign on to being recipients and participants in the PEPFAR legislation to save the lives of their own constituents has been the uncertainty of whether, if they start the program, it will, in fact, last. What they don't want to do, since they know they can't carry it themselves, they don't want to find themselves out there where they have made a promise, and it turns out that we decide, at some near-term date, to say no, we are out. That is not what the Senator is saying. He is not saying we are going to get out. He is saying we are going to review. I argue that, as the Senator from Indiana has, we are reviewing. There is built-in review here.

Let me mention one point. The Ministers of Health from 12 African countries wrote the Congress to express their concern, not about this amendment per se but about the impact of uncertainty around the reauthoriza-

tion of PEPFAR and what impact it would have on their programs in their countries. They said this uncertainty will cost lives because providing these antiviral treatments for people living with HIV/AIDS or caring for orphans and vulnerable children is a long-term commitment, and if the partners can't be confident we are going to continue the program, they are going to be much less willing to enroll new patients and take on a financial responsibility they can't bear. I understand the intent. But it is particularly dangerous to apply it here.

By the way, we don't know whether it applies to PEPFAR specifically, to the tuberculosis program, to the HIV program. Does it apply to all the myriad pieces of this legislation that are holistically designed to prevent and treat the spread of these diseases and the prolonging of life?

The last point, we essentially have a sunset provision. It is only authorized for 5 years. At the end of 5 years, it is over. We have hortatory language saying it is our hope and expectation, if it works as well as we anticipate and works as well as it has in the past, it will be continued for another 5 years. But we can only authorize it for that 5 years.

For those reasons and others which I will not bore my colleagues with now, some of which, if not all of which, my friend from Indiana has already mentioned, I will at the appropriate time ask for the yeas and nays and suggest to our colleagues that we defeat the amendment.

Mr. President, we all want to see effective oversight of taxpayer dollars, but this amendment would exacerbate the very problems it is attempting to solve.

It would create an expensive new bureaucracy that would duplicate functions already being performed by numerous inspectors general, the Government Accountability Office, the Office of Management and Budget, and other outside organizations commissioned by Congress to carry out reviews of this program.

The Congress just spent the last year reviewing the HIV/AIDS, TB, and malaria programs.

The bill before the Senate is based on extensive field examination of the programs, on a GAO review and on an Institute of Medicine study.

We are considering a reauthorization based on the widespread view in Congress that these programs are working. We have a near consensus that they are some of the best foreign policy programs that we have. Why do we need another review at this stage to repeat what has just been done?

Furthermore, the Senate bill already mandates regular scrutiny by the inspectors general, by GAO, and the IOM.

Not only would this Sunset Commission be redundant, it could be harmful. Under this amendment, AIDS, TB, and malaria programs would be abolished within 2 years after the commission's review—even if that review is

positive—unless Congress acts to reauthorize them.

Aside from the fact that we don't want to be fighting to get these programs to the floor every 2 years, think about what message this would send to the world.

As I have said, last year, the ministers of health from 12 African countries wrote to the Congress to express their concern about the impact uncertainty around reauthorization of PEPFAR would have on HIV/AIDS programs in their countries.

They said that uncertainty could cost lives because providing anti-retroviral treatment for people living with HIV/AIDS or caring for orphans and vulnerable children are long-term commitments, and if partners cannot be confident that the program is going to continue, they are going to be much less willing to enroll new patients for treatment.

This provision would only magnify that problem, calling into question the U.S. commitment to this program.

Finally, the amendment does not define what a program is. Is it PEPFAR itself? Is it our treatment programs? Is it a single grant to a faith-based organization working in Kenya?

PEPFAR is widely respected as a high-performing program that embraces what works and discards what doesn't.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I think everyone admires the humanitarian intent of this legislation. But the American people have a right to know that their money is going to be spent for the intended purpose—to treat AIDS and HIV in the countries covered—and that it is not wasted. One of the reasons foreign aid gets a bad rap is because people wonder whether it is going to be squandered or used appropriately.

The only thing this amendment does is provide an extra set of eyes to make sure every dollar is spent, as Congress intended, on a humanitarian purpose. This is especially important under this particular program because the Congressional Budget Office says that even though this bill authorizes \$50 billion for this purpose, only about \$35 billion could actually be spent during the 5-year period covered by this bill. What is going to happen to the additional \$15 billion? One might ask, are we going to try to jam \$15 billion more into the program than can actually be spent effectively and efficiently to accomplish congressional purpose?

The extra set of eyes would be welcome. It doesn't substitute for the important oversight work the committee is performing, but when the Office of Management and Budget surveys 1,000 Government programs and finds that almost a quarter of them are not operating the way Congress intended or there is not enough evidence to tell, which I am not sure which is worse, we have to be more diligent than we have been about spending money effectively.

As regards the uncertainty of future Congresses and how they might act, that is inherent in the fact that Congress can pass laws, can repeal laws. That is part of what we do, the reason why we have an open process and full and fair debate on issues. No one is suggesting that is going to happen here. I am saying, let's make sure this money is spent for the intended purpose.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have been instructed by the floor staff that they are running traps to make sure people are prepared for a vote. I hope we can do that because if we don't vote by 12:15, we probably will not get back on voting until after 4 because of some luncheons; that is, the caucus lunch, the leadership lunch. There is a Republican meeting as well.

In the meantime, if I could take a moment while that is being checked to suggest how maybe we will proceed, if we can, between now and 12:15, hopefully we will be able to get this vote in. Also, I spoke with Senator KYL on the Dorgan-Thune, et al., amendment, which we are prepared to accept. He says he only needs to speak for a minute or two. My hope was that we could wrap up both those things. Maybe Senator KYL is available, and we could move to the voice vote on that. In the meantime, if we don't vote by 12:15, there will be no votes until around 4 p.m.

One of the things I have learned, in a major bill such as this, if you lose momentum, it just takes longer. I would like to keep some momentum going.

I would like to suggest the absence of a quorum. Let's hang here for a few minutes to see if we can clear a vote on the amendment of the Senator from Texas.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 5076

Mr. KYL. Mr. President, Senator BIDEN has indicated that one of the pieces of business on this legislation we can take care of right now relates to an amendment Senator THUNE and I offered to the bill, and then if Senator DORGAN and others have reached an agreement with us about a way to modify that amendment so that it is acceptable to all, both the second-degree and then the underlying amendment can be adopted without the necessity of a rollcall vote.

Let me describe what it is. Some of us had felt that the total price tag at \$50 billion, while too high for this particular program, at least was an acknowledgment that we were willing to spend that amount of money on mat-

ters that related to needs both here in the United States as well as abroad.

Among those needs, as a result of hearings Senator DORGAN has had and Senator THUNE and I have identified, as well as others, are needs dealing with Native Americans in the United States, some of which are the same in terms of water projects that we would be dealing with in this underlying PEPFAR bill, but rather than doing that all in countries of a continent such as Africa, for example, some of that would be done for U.S. citizens because of reports that have demonstrated the dire conditions that exist on some of our Indian reservations.

So the amendment Senator THUNE and I proposed was to take \$2 billion of the total \$50 billion authorization from PEPFAR and devote it to a combination of law enforcement on Indian reservations and for Native Americans and water-related needs of our Native Americans.

Senator DORGAN wanted to further amend that by providing for some Indian health activities that could be funded by part of the amendment as well. So the second-degree amendment provides for funding of \$750 million for law enforcement and \$250 million for Indian health-related activities. In addition, the underlying Thune-Kyl amendment provides for an additional \$1 billion authorization for water development and projects on the Indian reservations.

So the bottom line is, the \$50 billion for the PEPFAR authorization would be reduced to \$48 billion. Two billion dollars in authorization would go to the Indian reservations and Native American needs, and Alaska Natives as well, that I indicated. That is an agreement that has been reached as a result of Senator THUNE, myself on the Republican side, Senator DORGAN, and Senator BIDEN on the Democratic side, but also several other Members—both Democrat and Republican—with whom we have spoken who have asked to be listed as cosponsors on the amendment or second-degree amendment before we pass it.

#### AMENDMENT NO. 5084

There is no indication, Mr. President, there is a need for a rollcall vote on this amendment since it has been agreed to by all. Therefore, unless there is anyone else who would wish to speak to this amendment, I ask unanimous consent that the second-degree amendment be called up for a vote.

Mr. BIDEN. A voice vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there further debate on amendment No. 5084? If not, the question is on agreeing to the amendment.

The amendment (No. 5084) was agreed to.

#### AMENDMENT NO. 5076, AS AMENDED

Mr. KYL. So, Mr. President, if I could, before I thank everyone involved here, by unanimous consent, the second-degree amendment was adopted,

and we voice-voted the underlying amendment; is that correct?

The PRESIDING OFFICER. That was a voice vote on the second degree.

Mr. KYL. OK. So, then, we need to have a voice vote on the underlying amendment as well?

The PRESIDING OFFICER. That is correct.

Mr. KYL. Mr. President, I ask for that at this time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 5076, as amended.

The amendment (No. 5076), as amended, was agreed to.

Mr. KYL. Mr. President, might I just use this opportunity to also thank Senator LUGAR, whom I did not mention but who was also helpful, and his staff, as well as Senator BIDEN and his staff, and Senator THUNE, for all of his work in bringing this issue to the attention of the body, and acknowledge the groundwork that Senator DORGAN and his committee laid in order to make this possible for us to achieve.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I now, after discussions with my colleague, ask unanimous consent that at 12:15 p.m. the Senate vote in relation to Cornyn amendment No. 5083 and that the time until that vote be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, Senator VITTER has been kind enough to come to the floor. He is trying to help move this process. He has an amendment relating to an inspector general. We have not had a chance to talk to him, but Senator LUGAR and I have a second-degree amendment to that amendment that I think it may be worthwhile for the three of us to talk about.

Senator VITTER has indicated he would like—and I have no objection, assuming the second degree is in order—that the pending business, when we return, when the leadership meetings are over, be the Vitter amendment. I forget the number, quite frankly, but the Vitter amendment relating to inspectors general.

Am I correct, I ask the Senator?

Mr. VITTER. Correct.

Mr. BIDEN. I have no objection to that, as long as there is a second-degree amendment in order to the Vitter amendment when that occurs.

But I yield to my colleague, Senator LUGAR.

Mr. LUGAR. Mr. President, I would like to ask a question of the chairman. It is my understanding we could continue on after the vote with Senator VITTER presenting his amendment.

Mr. BIDEN. Yes.

Mr. LUGAR. In other words, there will not be a recess in which everyone leaves the floor?

Mr. BIDEN. There is not a recess, correct.

Mr. LUGAR. I just wanted to establish that point. The continuity of the debate will continue.

Mr. BIDEN. So maybe rather than asking unanimous consent, it might be worthwhile to state the intention of the managers that after the vote on the Cornyn amendment, what we will do is move to the Vitter amendment; that he is here on the floor and will seek recognition to move his amendment. In the meantime, we will let him know what the second-degree amendment we are going to be offering to his amendment will be. As a practical matter, it will be the order of business at the time because he will have been recognized to move to his amendment.

In the meantime, unless my friend from Texas would like to speak further on his amendment, I would suggest the absence of a quorum.

Mr. President, the vote is now set for 12:15 on the Cornyn amendment; am I correct?

The PRESIDING OFFICER. That is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, I ask for the yeas and nays on the Cornyn amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be 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 proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—32

Alexander	Craig	Isakson
Allard	Crapo	Kyl
Barrasso	DeMint	McConnell
Bond	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Graham	Shelby
Chambliss	Grassley	Thune
Coburn	Gregg	Vitter
Cochran	Hatch	Voinovich
Corker	Hutchison	Wicker
Cornyn	Inhofe	

NAYS—63

Akaka	Bingaman	Byrd
Baucus	Boxer	Cantwell
Bennett	Brown	Cardin
Biden	Brownback	Carper

Casey	Klobuchar	Pryor
Clinton	Kohl	Reed
Coleman	Landrieu	Reid
Collins	Lautenberg	Rockefeller
Conrad	Leahy	Salazar
Dodd	Levin	Sanders
Dole	Lieberman	Schumer
Domenici	Lincoln	Smith
Dorgan	Lugar	Snowe
Durbin	Martinez	Specter
Feingold	McCaskill	Stabenow
Feinstein	Menendez	Stevens
Hagel	Mikulski	Sununu
Harkin	Murkowski	Tester
Inouye	Murray	Webb
Johnson	Nelson (FL)	Whitehouse
Kerry	Nelson (NE)	Wyden

NOT VOTING—5

Bayh	McCain	Warner
Kennedy	Obama	

The amendment (No. 5083) was rejected.

Mr. SCHUMER. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for the benefit of our colleagues, we are making pretty good progress here. We only have a few amendments to go. To try to get a sense for our schedules and time, I will start by saying I don't see any reason why we will not finish this bill early tonight, No. 1. No. 2, I am told by the leaders that there will be no votes between now and 4.

We are prepared to take up, debate, discuss, and accept some amendments. I wish to ask my colleagues who have amendments—Senator VITTER is working with us right now. We may be able to work something out on his amendment. Senator DEMINT has an amendment that we have debated. We are ready to vote on it, but he indicated he may have other people wishing to speak to it. We are ready to vote, after 4 o'clock, on that. I wish to set a time for that. Senator CRAIG has two amendments. One we are prepared to accept, and the other we are prepared to vote on. I believe he is ready to vote when we can set the time. Senator KYL has an amendment that I believe we are ready to vote on. The only question is whether there will be a point of order on that amendment because it relates to the budget. That is being discussed now. Senator SESSIONS has an amendment which we are desperately trying to figure out how to proceed on and work out. We may be able to accommodate that and end up with a voice vote on that amendment.

I want my colleagues to know that in the next ensuing minutes and hours we are going to try to work out specific times. As my grandfather used to say, "With the grace of God and the good will of the neighbors," by 4 o'clock, we will be able to set a series of votes. I don't see why we cannot finish this by 5 o'clock. That is the intention, but intentions here are not always met with reality. That is the intention.

I see my colleague, the ranking member of the committee, standing up. I don't know if he wants to make any comment.

Mr. LUGAR. No.

AMENDMENT NO. 5085

Mr. BIDEN. While we are working on the Vitter amendment—we made an offer and there has been a counteroffer—I ask unanimous consent that the pending amendment be set aside and I send to the desk an amendment by Senator GREGG and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. GREGG, proposes an amendment numbered 5085.

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

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

The amendment is as follows:

(Purpose: To encourage the inclusion of cost sharing assurances and transition strategies among compacts and frameworks agreements, the activities authorized under section 104A of the Foreign Assistance Act of 1961, and the highest priorities of the Federal Government)

On page 77, line 2, strike “and”

On page 77, line 5, strike “.” and insert a semicolon.

On page 77, between lines 5 and 6, insert the following:

“(C) the inclusion of cost sharing assurances that meet the requirements under section 110; and

“(D) the inclusion of transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.”

On page 88, line 22, strike “.” and insert the following: “, including—

“(A) cost sharing assurances that meet the requirements under section 110; and

“(B) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.”

On page 94, after line 25, add the following: “(G) Amounts made available for compacts described in subparagraphs (A) and (B) shall be subject to the inclusion of—

“(i) cost sharing assurances that meet the requirements under section 110; and

“(ii) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, and budget support by respective foreign governments.”

Mr. BIDEN. Very briefly, this amendment relates to cost sharing and transition strategies. It has been cleared on both sides. I suggest we move by voice vote. I ask unanimous consent we proceed to a vote.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 5085) was agreed to.

Mr. BIDEN. Mr. President, unless my friend from Indiana thinks we should proceed, I think we should spend the next few minutes in a quorum call while we try to work out, if we can, the

Vitter amendment. So 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. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MORNING BUSINESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business for 1 hour, with Senators allowed to speak for up to 10 minutes each, and the time be equally divided between the two sides.

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

#### PROTECTING THE PUBLIC'S HEALTH

Mr. BROWN. Mr. President, on June 9, just a month ago, Nebraska Beef, an Omaha slaughterhouse, received a notice from the U.S. Department of Agriculture that two beef samples had tested positive for E. coli. By the second week in June, it had also been confirmed that numerous people from my State, Ohioans, had been infected with E. coli O157:H7, a sometimes deadly strain of bacteria. It was not until July 3—June 9 was the original notification—that Nebraska Beef finally acquiesced and issued a recall of 5.3 million pounds of its meat.

Federal officials at the USDA have criticized Nebraska Beef for being slow to respond. Unfortunately for consumers in my State and other places, USDA's authority—beyond issuing public admonishments—to protect the public is limited. In other words, USDA under the law cannot order a recall. They can be critical of Nebraska Beef. They can notify others about what Nebraska Beef is doing. But they cannot order a recall. For instance, most Americans would be alarmed to learn that the Federal Government does not have the power to issue a mandatory recall of contaminated food. Had the USDA been able to issue a mandatory recall of Nebraska Beef once it became clear that consumer safety was at risk due to unsanitary production conditions, unsafe food would have been taken off of the shelves more quickly and fewer people would have purchased it and consumed contaminated meat.

Again, June 9 is when the USDA first found out, but it was not until July 3—almost 4 weeks—until Nebraska Beef did what it should have done right away, something USDA had no authority under law to do. Lives continue to be put at risk because of delay since many consumers may be unknowingly storing infected meat in their kitchens for future use.

I have been on this floor lots of times in the 18 months I have been in the

Senate, especially the last 8 or 9 months, talking about food banks and food pantries. I know the Presiding Officer from New Jersey has had particular concerns of constituents of his in places such as Essex County and urban poor areas but also rural, low-income areas or even moderate-income areas where people with jobs, people employed but not making much money have to go to food banks and food pantries to supplement their food budgets because of the cost. We have enough concerns of people getting food. We should not have to have concerns in New Jersey or Ohio about buying food and being uncertain of its safety.

In my State, health officials have confirmed that 21 Ohioans, plus another 20 in other States, have been made ill by this outbreak. Yesterday, reports were released that indicated the outbreak has spread from Ohio and Michigan, where it was initially reported and perhaps confined to, to now New York, Kentucky, Indiana, and possibly Georgia. The 21 ill Ohioans hail from Franklin County, Columbus, Fairfield, which is where Lancaster is the county seat, Lucas, which is where Toledo is located, Delaware, Seneca and Union Counties. Eleven people have required hospitalization.

This recent example is, unfortunately, not an isolated case. An analysis of a selected sample of outbreaks affecting Ohio over the last 5 years has shown a widespread problem. It is not the first time, and it probably will not be the last time. It means it is a real public health issue. Ten outbreaks dating back to 2003 have led to 217 illnesses, 66 hospitalizations, and 1 death.

Of the people exposed to food safety problems, to toxins, to bacteria in our food supply, those who are harmed the most are the very young and very old, people whose immune systems are weaker, who are sick anyway and are most likely to be hospitalized or even die from these kinds of outbreaks. But it affects all of us. Some of these outbreaks, such as those involving hepatitis A and botulinum, cause serious lifelong health problems. It is not a question of your digestive tract clearing it out and surviving these bacteria; sometimes they actually cause long-term health problems.

The top priority for both USDA and the Food and Drug Administration, the two chief food safety oversight agencies, should be to protect the public's health—a mission that will sometimes require swift and decisive action that sometimes the industry simply will not like. It is all about public health.

That is why yesterday I introduced legislation to provide mandatory food recall authority for both the USDA, which is responsible for poultry and beef, and the FDA, which is responsible for most processed foods, fruits and vegetables—everything the USDA doesn't do. Mandatory recall authority will ensure that these agencies have the necessary leverage to demand that those private companies, such as Nebraska Beef, that have sometimes been