and we don't allow a new national energy tax to be imposed on the American people. These things are all going to cost average Americans and families enormous amounts of money at a time when they are trying to keep their jobs and trying to make ends meet and trying to balance their own budgets at home.

The American government—their government—ought to be doing what it can to balance its own budget and not spending like drunken sailors and borrowing from future generations in a way that will put the future of many Americans—many American families—at risk.

Madam President, I yield the floor and the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I will yield back the remaining time on the Democratic side.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2892, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2892) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010 and for other purposes.

Pending:

Reid (for Byrd/Inouye) amendment No. 1373, in the nature of a substitute.

Vitter modified amendment No. 1375 (to amendment No. 1373) to prohibit amounts made available under this Act from being used to amend the final rule to hold employers accountable if they hire illegal aliens.

Grassley amendment No. 1415 (to amendment No. 1373), to authorize employers to voluntarily verify the immigration status of existing employees.

Kyl/McCain amendment No. 1432 (to amendment No. 1373), to strike the earmark for the City of Whitefish Emergency Operations Center.

Hatch amendment No. 1428 (to amendment No. 1373), to amend the Immigration and Nationality Act to extend the religious workers and Conrad-30 visa programs, to protect orphans and widows with pending or approved visa petitions.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. I ask unanimous consent the vote in relation to the Kyl amendment No. 1432 occur at 11:30 a.m., with the provisions of the previous order governing consideration of this amendment remaining in effect.

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

AMENDMENT NO. 1375, AS MODIFIED

Mrs. MURRAY. Madam President, I ask unanimous consent the Vitter amendment No. 1375 now be the pending business.

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

Mr. DURBIN. Madam President, I rise to voice my reservations with Vitter amendment No. 1375.

The Vitter amendment would prohibit any funds in the Homeland Security Appropriations bill from being used to change the Bush administration's ''no-match'' letter regulation. This controversial regulation deals with the obligations of employers who receive what are known as no-match letters from the Social Security Administration.

The Social Security Administration sends no-match letters to employers when a Social Security number or other information provided by an employee does not match the agency's records. This is part of the Social Security Administration's efforts to improve the accuracy of their records, but the Bush administration wanted to use no-match letters to get the Social Security Administration involved with enforcing our immigration laws. The theory was that an employee whose information doesn't match the Social Security Administration's database is probably an illegal immigrant. However, the reality is that the vast majority of people whose data does not match the Social Security Administration's information are U.S. citizens who changed their name when they married or whose information is wrong due to typographical or other clerical errors.

The Bush administration's no-match rule would make employers liable if they fail to take action on a no-match notice, even though no-matches are often caused by database errors. A small business owner that receives a no-match letter would be faced with the choice of firing the employee or following costly and burdensome requirements for resolving the no-match. The U.S. Chamber of Commerce estimates that the cost of the no-match rule would be at least $1 billion annually. This is not a price we can afford, especially given the current condition of the American economy.

The no-match rule would also have a dramatic and harmful impact on millions of hard-working U.S. citizens who have done nothing wrong. Experts estimate that as many as 3.9 million authorized workers will be the subject of a no-match letter. And the U.S. Chamber of Commerce estimates that as many as 165,000 legal workers will be wrongfully fired if the no-match rule goes forward.

In addition to all these problems, the no-match rule would not actually improve the enforcement of our immigration laws. The Social Security Administration has repeatedly said that a no-match letter makes no statement about a worker's immigration status. And the Social Security Administration's databases do not have complete or accurate information about workers' immigration status. In fact, according to the Social Security Administration's inspector general, at least 3.3 million records in the administration's database have incorrect citizenship information.

The no-match regulation is opposed by a broad coalition of business, labor, civil rights, and religious groups, from the Chamber of Commerce to the AFL–CIO.

The no-match rule would turn the Social Security Administration into an immigration enforcement agency. This would detract from its primary mission of administering retirement benefits for tens of millions of Americans.

The no-match rule was blocked by a court order shortly after it was issued and two years later the rule still hasn't taken effect. The court found that the rule would ''result in irreparable harm to innocent workers and employers.''

Yesterday, DHS Secretary Janet Napolitano announced that she plans to rescind the no-match rule. She believes that using the Social Security Administration to enforce our immigration laws is ineffective and will harm millions of innocent small business owners and employees.

Instead, Secretary Napolitano plans to use electronic verification so that employers can determine whether their employees are legally authorized to work. There is work to be done to improve the current electronic verification system but this is a much more efficient approach than dragging the Social Security Administration into immigration enforcement.

At the same time, Secretary Napolitano is taking a different approach from the previous administration when it comes to worksite enforcement. Secretary Napolitano has launched a new effort to crack down on employers who knowingly hire illegal immigrants.

This is the right approach and I commend Secretary Napolitano for seeking to rescind the no-match rule and refocus DHS on unscrupulous employers who knowingly hire illegal immigrants.

The Vitter amendment would prevent DHS from going forward with its plan to rescind the no-match rule. Congress should not micromanage DHS's efforts to enforce our immigration laws.

For these reasons, I have serious reservations about the Vitter amendment and I will urge the conferees not to include it in the conference report.

Mrs. MURRAY. Madam President, I understand this amendment is acceptable to both sides.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1375), as modified, was agreed to.

Mrs. MURRAY. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378 TO AMENDMENT NO. 1373

Mr. MCCAIN. I call up amendment No. 1378 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1378 to amendment No. 1373 .

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

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

The amendment is as follows:

(Purpose: To strike the appropriation for the Advanced Training Center)

On page 9, lines 15 and 16, strike ''., of which $39,700,000 shall be for the Advanced Training Center''.

Mr. MCCAIN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 1432

Mr. KYL. Madam President, I believe there is now 5 minutes per side to debate the amendment I have offered, which is cosponsored by Senator MCCAIN. I would appreciate it if the Chair will advise me when I have consumed 2 minutes. Senator MCCAIN will talk for about 2 minutes, and I wish to reserve the last minute following Senator TESTER.

The amendment is very simple. It strikes $900,000 for an earmark for the city of Whitefish Emergency Operations Center in Montana. The administration terminated funding for these types of projects in its 2010 budget submission. This operations center has not been subject to a congressional hearing nor has it been authorized by Congress. It is a pure earmark. Not only did the administration not request funding for the project, it specifically zeroed out funding.

Senator FEINGOLD had an amendment that would have subsumed this project along with several others. That amendment failed. But he noted in regard to his amendment that while we may not all agree on the appropriateness of earmarks in general, I certainly hope we can agree certain things ought not be earmarked, including FEMA grant programs such as those protecting Americans from terrorist attacks. I quote Senator FEINGOLD, because this is precisely the view of the 9/11 Commission. From page 396 of that report it included this recommendation:

Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities . . . Congress should not use this money as a pork barrel.

The report goes on to state:

In a free-for-all over money, it is understandable that representatives will work to protect the interests of their home states or districts, but this issue is too important for politics as usual to prevail. Resources must be allocated according to vulnerabilities.

That is why in its budget submission the administration said this:

The administration is proposing to eliminate the Emergency Operations Center Grant Program in the 2010 budget because the program's award allocations are not based on a risk assessment. Also, other Department of Homeland Security grant programs can provide funding for the same purposes more effectively.

So you have the 9/11 Commission saying these programs should be eliminated; you have the administration saying, in its budget submission, they should be eliminated from the budget submission, that they should not be subject to earmarks. That is why our amendment is being offered.

The ACTING PRESIDENT pro tempore. The Senator has consumed his 2 minutes.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I thank my friend and colleague from Arizona for this amendment.

Look, it is all about the fact that there has been no analysis, no assessment, no debate on the merits of using Federal funds for a municipal improvement project. I am sure Whitefish needs municipal improvement. So do cities and towns all over America. Why was Whitefish picked?

By the way, it might be of interest to taxpayers, Whitefish, according to my information, has a population of 5,849 people. This earmark equals $153.87 per inhabitant.

Cities all across America are operating out of inadequate facilities, including those in my own State. All we have asked for is to have these prioritized according to competition, assessment, and recommendations by agencies of government rather than inserted in the bill as an earmark and without any of that.

From the previous votes, we will probably lose on this one, but I want to tell my friend from Montana, sooner or later the American people are going to reject this kind of pork-barrel earmarking, $153.87 for every resident in Whitefish, which may be warranted—it may be warranted—but there is no assessment, there is no study, there is no rationale besides the fact that this was inserted in this bill without any scrutiny or authorization.

We should reject this kind of practice. This is an egregious example of it.

I yield the floor.

Mr. TESTER. Madam President, I ask you inform me when I have 3 minutes left.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. TESTER. Madam President, I thank the two Senators from Arizona for the debate we have been having on this expenditure. This is not an egregious expenditure. The senior Senator from Arizona talked about 5,849 people living in Whitefish. In the 2000 census figures it is up to 8,500 now, but that is not the issue. The issue is Whitefish is here. This is it up here. We have a Canadian border 60 miles north. We have a park to the east of it. We have millions—millions of acres of Forest Service land all around it, north, south and to the west.

When we have emergencies, it is not necessarily just terrorism. They will tell you on the northern border, terrorism is the biggest threat. On the southern border, next to Arizona, it is illegal immigration. Not only do we have for this emergency operations center the potential—and let's hope it never happens—of terrorist threats coming down, whether it is in the park or north, along in Forest Service lands, we also have a very real threat again of forest fires occurring. They have happened with regularity.

The current building is one-third of the size needed. It is 100 years old. It is in a seismic zone. The truth of the matter is, we have Border Patrol, Forest Service, DEA—all rely on local law enforcement to assist them. We have radio interoperability between Federal, State, and county government that this will address. The truth is, this is for the region.

This money also leverages almost 9 to 1 in local grants—$8 million, this $900,000 leverages. So the local community is stepping up and they are picking up their fair share.

We don't want unfunded mandates put on local governments because we have potential national terrorist problems throughout this region.

The ACTING PRESIDENT pro tempore. There is 3 minutes remaining.

Mr. TESTER. The truth is that you can come up and look at a title and you can talk about it being egregious, but the truth is, millions of acres of forests, a national park, a border 60 miles away—we are talking about emergency services. The local community is supposed to pick up the entire tab for that? I don't think so and I don't think that is fair. That is why we have a $900,000 expenditure in this bill to help local governments meet the needs of this country.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time? If neither side yields time, time will be charged equally on both sides.

The Senator from Arizona is recognized.

Mr. KYL. Madam President, it is appropriate for the sponsor of the amendment to have the final word. I wish to reserve my final minute to have the last response.

Mr. TESTER. Can I ask what the sponsor of the amendment has left for time?

The ACTING PRESIDENT pro tempore. The sponsor has 53 seconds and the Senator has 2 minutes 29 seconds.

Mr. TESTER. We have two Senators for every State in this country. Our forefathers drafted that out. The reason was we don't dictate on population, we don't dictate on landmass, we dictate on need.

The fact is, there are millions of acres of Forest Service grounds; a national park—one of the jewels of this country—to the east; a border to the north where there are real threats that we need to make secure and work with our neighborhoods to the north to make sure we do not have terrorist activity come across the border.

The truth is, the sponsor of this amendment talked about the President zeroing out this program. Why doesn't the amendment zero out the program? It doesn't. The sponsor cherry-picked one expenditure in the bill and said this isn't the way we should be spending money. I appreciate that. We are having a debate here on that. But this is much needed for the security of this country and for the security of the region.

Mrs. MURRAY. Will the Senator from Montana yield?

Mr. TESTER. Yes, I would.

Mrs. MURRAY. My understanding is over the last decade there have been 28 Presidential disasters which occurred in that region.

Mr. TESTER. I believe that is correct.

Mrs. MURRAY. So 28 times in the last 10 years there has been a major disaster that has been responded to, whether it is a fire in the park, on the Federal land, or a border issue or whatever, so this is not just about Whitefish, am I correct?

Mr. TESTER. It is not about Whitefish at all.

Mrs. MURRAY. It is about the entire region and the ability for all the different agencies to respond, is that correct?

Mr. TESTER. That is correct.

Mr. MURRAY. That clarifies the importance for this emergency center. I thank the Senator.

Mr. TESTER. The Senator is spot on right. That is exactly right. It is not about Whitefish at all, it is about the region, it is about the location, and it is critically important we get this money for this project. I appreciate the sponsor bringing the amendment up but, truthfully, this is not pork. This is something that will help the country being secure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I certainly accept the argument of my friend from Montana that this could be put to good purpose in Whitefish, MT. It could be put to good use in Yuma or Nogales or anywhere else in the country. That is why the 9/11 Commission said, and I quote again:

> Homeland Security assistance should be based strictly on an assessment of risks and vulnerabilities . . . The Congress should not use this money as a pork barrel.

All we ask is, as the administration did, that the money be allocated based on the risk assessment from the Department of Homeland Security, not on the ability of a particular Congressman or Senator to get the money earmarked in a bill.

I ask unanimous consent that page 396 of the 9/11 Commission report be printed in the RECORD at the conclusion of my remarks, and again urge my colleagues to support this amendment, as at least one small step we can take to demonstrate that we agree with the 9/11 Commission and we agree with the administration that these grants should be based on risk, rather than earmarks.

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

THE 9/11 COMMISSION REPORT, P. 396

Recommendation: Now, in 2004, Washington, D.C., and New York City are certainly at the top of any such list. We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support.

The second question is, Can useful criteria to measure risk and vulnerability be developed that assess all the many variables? That assessment should consider such factors as population, population density, vulnerability, and the presence of critical infrastructure within each state. In addition, the federal government should require each state receiving federal emergency preparedness funds to provide an analysis based on the same criteria to justify the distribution of funds in that state.

We recommend that a panel of security experts be convened to develop written benchmarks for evaluating community needs. We further recommend that federal homeland security funds be allocated in accordance with those benchmarks, and that states be required to abide by those benchmarks in disbursing the federal funds. The benchmarks will be imperfect and subjective; they will continually evolve. But hard choices must be made. Those who would allocate money on a different basis should then defend their view of the national interest.

COMMAND, CONTROL, AND COMMUNICATIONS

The attacks on 9/11 demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough. Teamwork, collaboration, and cooperation at an incident site are critical to a successful response. Key decisionmakers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety. Regular joint training at all levels is, moreover, essential to ensuring close coordination during an actual incident.

Mr. KYL. I believe we need to ask for the yeas and nays, and I do at this time.

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

There is a sufficient second.

Mrs. MURRAY. Has all the time been used on this amendment?

The ACTING PRESIDENT pro tempore. Yes, it has.

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 West Virginia (Mr. BYRD), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—36

Barrasso	Ensign	Lugar
Bennett	Enzi	Martinez
Brownback	Feingold	McCain
Bunning	Graham	McCaskill
Burr	Grassley	McConnell
Chambliss	Gregg	Murkowski
Coburn	Hatch	Risch
Collins	Hutchison	Roberts
Corker	Inhofe	Sessions
Cornyn	Isakson	Thune
Crapo	Johanns	Vitter
DeMint	Kyl	Wicker

NAYS—59

Akaka	Gillibrand	Nelson (FL)
Alexander	Hagan	Pryor
Baucus	Harkin	Reed
Bayh	Inouye	Reid
Begich	Johnson	Sanders
Bennet	Kaufman	Schumer
Bingaman	Kerry	Shaheen
Bond	Klobuchar	Shelby
Boxer	Kohl	Snowe
Brown	Landrieu	Specter
Burris	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Cochran	Lincoln	Voinovich
Conrad	Menendez	Warner
Dorgan	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feinstein	Murray	Wyden
Franken	Nelson (NE)	

NOT VOTING—5

Byrd	Dodd	Rockefeller
Cantwell	Kennedy	

The amendment (No. 1432) was rejected.

Mr. DURBIN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, Senator MCCAIN has an amendment that he will speak to in a moment. I wish to let all Senators know I appreciate their cooperation. We are working through a number of amendments on both sides that I am hoping we can get through this afternoon. Senator MCCAIN will speak to his amendment now, and we are hoping to have a vote around 2 to settle that and several others. If Members have an amendment they are working on and have some last-minute language to work on, please get it done because we would like to finish this bill today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

AMENDMENT NO. 1378

Mr. MCCAIN. Madam President, I ask for the immediate consideration of amendment No. 1378.

The PRESIDING OFFICER. The amendment is pending.

Mr. MCCAIN. I thank the Chair.

Madam President, this amendment strikes an earmark of $39.7 million for an advanced training center in West Virginia, a training facility for U.S. Customs and border protection agents. The center features a range of training environments, facilities, et cetera. The administration requested and the committee approved $30.3 million to operate and equip the facility. While I have a problem with that, I do not intend for the amendment to affect the $30 million the administration requested to operate and equip the facility. This amendment is not about that.

The committee earmarked an additional $39.7 million to equip, furnish, and expand the Leadership Academy at the Center.

Let me be clear what the amendment does and does not do. It does not strike the requested funding for the training facility. It does strike an unrequested, unauthorized, unnecessary earmark of nearly $40 million that was added to this bill at the direction of a senior Member of this body. I wish to make that perfectly clear. I am sure there will be opponents of this amendment but have no doubt: It does not affect the $30 million the administration requested. This is an additional $39.7 million to equip, furnish, and expand the Leadership Academy.

It might be of interest to our colleagues that today, at 9:23 a.m., the CBO is reporting that the year-to-date budget deficit tops a trillion dollars. We are considering a provision that adds an additional $39.7 million in light of the Congressional Budget Office monthly budget review. Its key points are, the Federal budget deficit is $1.1 trillion for the first 9 months of fiscal year 2009. Here we are with a bill loaded down with earmarks worth tens of millions of dollars on the very day that the deficit tops $1 trillion; in fact, it is $1.1 trillion. That is more than $800 billion greater than the deficit recorded through June 2008. Outlays are 21 percent or $457 billion higher than they were in the 9 months of 2008. Revenues have fallen by 18 percent, by some $346 billion. Outlays for unemployment benefits so far this year are more than 2.5 times what they were at this point last year. About half this increase is driven by a higher unemployment rate and half is driven by legislation expanding unemployment.

The estimated deficit reflects outlays of $147 billion for the Troubled Asset Relief Program, known as TARP, recorded on a net present value basis, and spending of $83 billion in support of Fannie Mae and Freddie Mac. Interest payments have declined 25.5 percent as a result of lower short-term interest rates.

So here we are looking at business as usual on the earmarks and appropriations bills. Meanwhile, the year-to-date budget deficit tops $1 trillion. Maybe it is approaching $2 trillion by the end of the year—an incredible burden to lay on future generations of Americans.

I am sure—I am sure—this amendment will probably lose. I am sure proponents of the Advanced Training Center's Leadership Academy in West Virginia will stoutly defend it, and its essential functions will be graphically described by the opponents of this amendment.

It is time we stopped. Isn't a $1.1 trillion deficit for the first 9 months of this year enough of a signal that maybe we ought to tighten our belts, that maybe we ought to stop adding $39.7 million to an already requested $30 million to operate and equip an advanced training center—a training facility that is located in the State of West Virginia? I understand that. Our thoughts and prayers go out for the senior Senator from West Virginia. We hope he regains his health soon. We hope he continues in his very effective membership and service in this body.

But the fact is, the committee—the committee—earmarked an additional $39.7 million to equip, furnish, and expand the Leadership Academy at the Center. Can't we delay expanding, equipping, and furnishing a leadership academy? Can't we do that? Probably not. Probably not. Probably not.

But as long as Americans are bearing this incredible burden—a burgeoning deficit we are laying on our children and our grandchildren—I and some others will be coming to this floor to try to point out it is time we got rid of things that are maybe even necessary but not vital to our Nation's future.

Madam President, I ask for the yeas and nays on the amendment.

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

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. VOINOVICH. Madam President, I do not think there is a Senator in this body who has talked more about deficits or our national debt than the senior Senator from Ohio.

Senator LIEBERMAN and I have a bill in to create a commission to deal with tax reform and entitlements. I have had a bill in called the SAFE Commission for the last 4 years: Saving America's Future Economy. There is no one more aware of where we are. We will have a deficit this year, I believe, of over $2 trillion when you take into consideration the amount of money we are borrowing from our governmental trust funds.

That being said, I respectfully oppose the amendment offered by my good friend, the Senator from Arizona. This amendment seeks to strike the requirement in the bill for $39.7 million for the Advanced Training Center.

This Advanced Training Center is designed to serve the specialized needs of U.S. Customs and Border Protection. It officially opened in August of 2005. There may be some people who object to the fact that it is in West Virginia, but the fact is it is in West Virginia.

This year alone, the Center will provide advanced training to over 3,200 U.S. Customs and Border Protection employees.

We have already mentioned we have increased the number of these employees substantially to do what most people want us to do; that is, to protect the border and to go after those individuals who are illegal immigrants. There is no question about that. But I also know from my work on the Governmental Affairs Committee and my Subcommittee on Oversight of Government Management, in the Federal workforce, the people we hire have to be trained. You just cannot bring them on. You have to train them.

So this is a critical training facility for frontline employees. In fact, the Department of Homeland Security and the Office of Management and Budget have endorsed the expansion of this facility as well when they approved and sent forward to Congress their 5-year master facility plan.

This is not a boondoggle. This is not a waste of money. This is something to support a facility that is there and needs to be expanded because we have decided we want to hire a lot more employees. When you hire employees, you have to provide them the training. And that is exactly what this is doing.

Again, I wish to emphasize, if we are going to secure the border, it is going to cost a lot of money, including training the people we are going to hire.

So we should oppose this amendment.

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

Mrs. MURRAY. Madam President, I thank my colleague from Ohio for his statement in opposition to the McCain amendment.

I rise as well to speak on behalf of Senator BYRD who, as we all know, is home recovering from a serious illness. The committee bill does include $39.7 million for the continued expansion of the U.S. Customs and Border Protection, CBP, Advanced Training Center. The ATC, which opened back in 2005, provides advanced firearms and tactical training to CBP law enforcement personnel and personnel of other Federal agencies.

The center is expanding in phases. It is consistent with this master plan I hold in my hand. This plan actually was transmitted to Congress back in 2007 and was approved then by the Office of Management and Budget and the Department of Homeland Security.

This master plan accommodates advanced training consistent with the mission of securing our borders. CBP employees are stationed throughout the Nation at land and border crossings, at airports, at seaports, and other urban environments with a need for practical, unique, progressive, and flexible training.

There is no other training of this kind, I want my colleagues to know, and there has never been a time that it has been needed more.

Senator BYRD strongly—he wants us to know—supports the Advanced Training Center and its mission and is going to continue to fight hard for the security of this great country. Customs and Border Protection needs and deserves the advanced training facility to assure that the more than 50,000 Customs and Border Protection agents, officers, and other personnel have the training they require when they are sent in harm's way.

This facility is expected to train over 3,200 law enforcement and other employees in fiscal year 2009, and that is expected to grow to more than 5,000 each year.

I urge our colleagues to vote against that plan.

I, again, would like everyone to know we are hoping Senator ROCKEFELLER will be back shortly. He will speak on this amendment. We are hoping to set up this amendment for a vote around 2 o'clock.

Madam President, with that, I rise to offer the Dodd-Lieberman amendment No. 1458, which I understand is at the desk.

Mr. VITTER. Madam President, I reserve the right to object.

The PRESIDING OFFICER. Does the Senator object?

Mr. VITTER. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Utah.

AMENDMENT NO. 1428, AS MODIFIED

Mr. HATCH. Madam President, I ask for the regular order.

The PRESIDING OFFICER. The Senator is asking for the regular order with respect to the Senator's pending amendment?

Mr. HATCH. With respect to a modification to amendment No. 1428. I send the modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment (No. 1428), as modified, is as follows:

On page 77, between lines 16 and 17, insert the following:

SEC. 556. IMMIGRATION PROVISIONS.

(a) SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.—

(1) EXTENSION.—Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(27)(C)(ii)), as amended by section 2(a) of the Special Immigrant Nonminister Religious Worker Program Act (Public Law 110–391), is amended by striking ''September 30, 2009'' each place such term appears and inserting ''September 30, 2012''.

(2) STUDY AND PLAN.—Not later than the earlier of 90 days after the date of the enactment of this Act or March 30, 2010, the Director of United States Citizenship and Immigration Services shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes—

(A) the results of a study conducted under the supervision of the Director to evaluate the Special Immigrant Nonminister Religious Worker Program to identify the risks of fraud and noncompliance by program participants; and

(B) a detailed plan that describes the actions to be taken by the Department of Homeland Security against noncompliant program participants and future noncompliant program participants.

(3) PROGRESS REPORT.—Not later than the earlier of 90 days after the submission of the report under subsection (b) or June 30, 2010, the Director of United States Citizenship and Immigration Services shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress made in reducing the number of noncompliant participants of the Special Immigrant Nonminister Religious Worker Program.

(b) CONRAD STATE 30 J–1 VISA WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(c) RELIEF FOR SURVIVING SPOUSES.—

(1) IN GENERAL.—The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking ''for at least 2 years at the time of the citizen's death''.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to all applications and petitions relating to immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) pending on or after the date of the enactment of this Act.

(B) TRANSITION CASES.—

(i) IN GENERAL.—Notwithstanding any other provision of law, an alien described in clause (ii) who seeks immediate relative status pursuant to the amendment made by paragraph (1) shall file a petition under section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(ii)) not later than the date that is 2 years after the date of the enactment of this Act.

(ii) ALIENS DESCRIBED.—An alien is described in this clause if—

(I) the alien's United States citizen spouse died before the date of the enactment of this Act;

(II) the alien and the citizen spouse were married for less than 2 years at the time of the citizen spouse's death; and

(III) the alien has not remarried.

(d) HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.—

(1) AMENDMENT.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(l) HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.—

''(1) IN GENERAL.—An alien described in paragraph (2) who was the beneficiary or derivative beneficiary of a petition (as defined in section 204, 207, or 208) filed on behalf of the alien or principal beneficiary before the death of the qualifying relative and who continues to reside in the United States shall have such petition and any related or subsequent applications for adjustment of status to that of a person admitted for lawful permanent residence adjudicated as if the death had not occurred, unless the Secretary of Homeland Security determines, in the unreviewable discretion of the Secretary, that approval would not be in the public interest.

''(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who, immediately prior to the death of his or her qualifying relative, was—

''(A) an immediate relative (as described in section 201(b)(2)(A)(i));

''(B) a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(C) a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d));

''(D) a spouse or child of a refugee (as described in section 207(c)(2)); or

''(E) an asylee (as described in section 208(b)(3)).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) may be construed to limit or waive any ground of removal, basis for denial of petition or application, or other criteria for adjudicating petitions or applications as otherwise provided under the immigration laws of the United States other than ineligibility based solely on the lack of a qualifying family relationship as specifically provided by such amendment.

Mr. HATCH. Madam President, I thank the Chair.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. JOHANNS. Madam President, I ask unanimous consent to speak as in morning business for up to 7 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ECONOMY

Mr. JOHANNS. Madam President, I rise, I think, at a very appropriate time, while we are talking about the budget and deficits and numbers, to say that rarely has a crystal ball proved so regrettably accurate.

Many warned, as did I, that the stimulus would amount to a mountain of wasted money. It produced record deficits, and thus far it has produced little beyond that.

But I am not here to ask the Senate to take my word for this. You can read it in black and white in two reports that were released yesterday: a CBO report and a GAO report.

According to the nonpartisan Congressional Budget Office, the Federal budget deficit for the first 9 months, as Senator MCCAIN mentioned, was a whopping $1.1 trillion. This is the first time in our Nation's history that the annual deficit has been this high.

If that ''Guinness Book'' record-sized debt was not astonishing enough, we would all be floored that this debt is from only the first three-quarters of the year. It is mystifying to me, horrifying to the American taxpayers and their children who eventually will have to pay the bill. It represents a dangerous reality for our future. Only 4 percent of the first stimulus funding has been spent, yet we are shattering national deficit records already.

This was easily predicted. Look back a few short months to February when we were debating the stimulus, a bill we were told we had to do right away.

On February 4, 2009, I delivered my first speech as a Senator. I made some simple predictions based upon my experience as a city council member, a mayor, and as a Governor. Serving in those rolls, I learned a few things about how money is spent at the local level, especially the hidden costs of money from the Federal Government that seemingly comes with no strings attached. In that speech I warned what would happen with the so-called stimulus legislation. I predicted that State governments would use the funds to replace State dollars and shore up their budget problems. Well, sure enough, the Government Accountability Office, known as the GAO, reported this:

States reported using Recovery Act funds to stabilize State budgets and to cope with fiscal distress.

The report states that 90 percent of the money distributed has come in the form of increased Federal education and health care grants to State governments. This money has helped many State governments to partially offset what they are facing, which is budget shortfalls.

I also warned that the result of replacing State funds with Federal funds would lead to an enormous funding cliff for State budgets when that temporary stimulus money ran out. The GAO report sends up a warning flare, because States have not addressed the situation they will be in when the stimulus funding runs out or how they will come up with the funding to cushion the fall.

I wish I had been wrong in February—in fact, I think I said that at the time. I wish I had been wrong when I said that the transportation sector jobs estimated to be created by the major infrastructure projects wouldn't materialize because the funding would instead go to repaving. I urged my colleagues to reconsider because repaving projects would not lead to long-term economic growth or good jobs. So what is the consensus since the stimulus bill went into law? The GAO report states that nearly 50 percent of all transportation projects are for resurfacing and another 18 percent of the funds are being used to widen already existing roads. That adds up to nearly 70 percent on temporary road improvement projects.

Even though President Obama said there is nothing he would have done differently, I find that hard to believe considering his earlier remarks that predicted a much different result. In a speech on February 10, soon after becoming President, he said:

We can use a crisis and turn it into an opportunity. Because if we use this moment to address some things that we probably should have been doing over the last 10, 15, 20 years, then when we emerge from the crisis, the economy is going to be that much stronger.

I doubt he had repaving projects in mind.

As evidenced by the GAO report, the stimulus bill is not laying down the essential groundwork for sustained economic growth, long-term initiatives, or jobs. In fact, unemployment reached 9.5 percent, the highest rate in 26 years. This means that since the stimulus was signed into law, 2,964 jobs have been lost every hour of every workday. Clearly, the stimulus bill was sold to the American people as a quick fix to solve our economic woes, but it is failing.

The Obama administration and his supporters in Congress want to quickly tack on to the $1 trillion stimulus a litany of big spending initiatives: health care reform, cap and tax, an overhaul of the financial system. The recklessness of proposed spending, new government programs, and increased deficits is sobering. What does all this proposed spending add up to? A huge train wreck with stacks of IOUs all the way to China as far as the eye can see. Yet some have the audacity to raise the possibility of a second stimulus. It defies logic.

I will conclude by saying that the last thing the Federal Government should do, directly or indirectly, is stifle American businesses and hard-working families just as they are trying their best to crawl out from the economic yoke of debt, taxes, and a stagnant economy. Before we drive the Federal budget off another cliff—and take State budgets down with us—we need to put our foot on the brakes, slow down, and correct our course.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Madam President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

SOTOMAYOR NOMINATION

Mr. WHITEHOUSE. Madam President, I am here to talk about Judge Sotomayor. I am looking forward to her confirmation hearing, which begins next Monday. I continue to review her record, and I will not make my ultimate judgment until after the hearing. But I must say I am very impressed with Judge Sotomayor's qualifications, including her restrained and fact-based approach to deciding cases. I'm also impressed, as a former prosecutor myself, by her experience as a practicing attorney and as a line prosecutor. I think we are all impressed by her educational achievements.

Like millions of Americans, I have been inspired by her personal story. Frankly, it gives me goosebumps to think of that little girl growing up in the projects in the Bronx and growing into the woman we see before us now at the top of the legal profession, with a career of exemplary conduct, exemplary academic achievement, exemplary judicial experience behind her. It is really a great story of American discipline and achievement.

Unfortunately, critics of Judge Sotomayor's confirmation have unleashed an avalanche of innuendo meant to weaken the case for her confirmation. These criticisms began among the right-wing talking heads, but unfortunately, some of them are now voiced by my Republican colleagues here on the floor. Indeed, rather than waiting for the hearing to ask her about her record and her judicial philosophy, a number of my colleagues have come to the floor to attack her and her nomination.

Today, I would like to briefly address two particular and—frankly, very surprising—attacks on Judge Sotomayor: first, the suggestion that her judicial philosophy is somehow outside of the mainstream; and, second, the suggestion that her life experience is somehow unhelpful to the judgment she would bring to the Supreme Court.

First, Judge Sotomayor's judicial philosophy. My Republican colleagues like to suggest that judges appointed by Republican Presidents are neutral ''umpires'' and that judges appointed by Democratic Presidents are judicial ''activists.'' But Chief Justice Roberts himself, who, indeed, raised the ''umpire'' metaphor at his own confirmation hearing, reveals the falsity of that comparison. Jeffrey Toobin, a well-respected legal commentator, recently described a pronounced ideological predisposition in Chief Justice Roberts.

In every major case since he became the Nation's seventeenth Chief Justice, Roberts has sided with the prosecution over the defendant, the state over the condemned, the executive branch over the legislative, and the corporate defendant over the individual plaintiff.

Let me say that again:

In every major case since he became the Nation's seventeenth Chief Justice, Roberts has sided with the prosecution over the defendant, the state over the condemned, the executive branch over the legislative, and the corporate defendant over the individual plaintiff.

Maybe this is a pure coincidence, and maybe it is a further coincidence, to again quote Toobin, that this record ''has served the interests, and reflected the values, of the contemporary Republican Party.'' Maybe it is also a coincidence that in the Heller decision, the DC gun law case, the Roberts-led conservative block of the Court discovered a new constitutional right that had previously gone unnoticed through 220 years of the United States Supreme Court's history, and which just happens to appeal to the NRA and the Republican base. Perhaps that is all a coincidence. But I will confess to you, I doubt it. I think this record goes a long way towards disproving the metaphor of the Republican judge as neutral umpire.

So let's put aside the notion that conservative men from the Federalist Society have no predispositions in legal matters but that anyone who differs from their views is the activist.

That is just rhetoric, and what it's seeking to do is to normalize the right-wing activism that the Republican Party has calculatedly and over many years moved onto our Court.

If you want to decide whether Judge Sotomayor has an appropriate judicial philosophy, look at her full record. Throughout her long career as a Federal judge, longer than any Supreme Court nominee since the 19th century, Judge Sotomayor, has on every major issue, shown that the facts and the law drive her determination of cases. On the Second Circuit, Judge Sotomayor agreed with her more conservative colleagues far more frequently than she disagreed with them. In 434 published panel decisions where the panel included at least one judge appointed by a Republican President, she agreed with the result favored by the Republican appointee in 413 cases—413 out of 434. That is 95 percent of the time, and it is no record of extremism. Indeed, it would seem to put her on the conservative side of the mainstream. And consider what she told Chairman LEAHY:

> Ultimately and completely, as a judge, you follow the law. There is not one law for one race or another. There is not one law for one color or another. There is not one law for rich and a different one for poor. There is only one law.

Furthermore, the idea that because the Supreme Court disagreed with Judge Sotomayor's Second Circuit panel decision in Ricci v. DeStefano, she is somehow outside the mainstream is patently absurd. First, four Justices of the Supreme Court agreed with the Second Circuit's interpretation of the law. Are Justices Stevens, Souter, Ginsburg, and Breyer outside of the mainstream? Hardly.

Second, Judge Sotomayor and her panel were faithfully applying the settled precedent of the Second Circuit when they rendered their decision—just what a circuit court judge of the United States is supposed to do. The five Justices on the Supreme Court in the Ricci majority, in deciding the case, invented an entirely new test for resolving Title VII claims that, according to legal experts reported in the New York Times, ''will change the landscape of civil rights law.'' It is hardly fair to criticize Judge Sotomayor for not applying a test that did not even exist when she decided the case. Nor for failing to venture into landscape changes of civil rights law.

In the Ricci decision and others, Judge Sotomayor's record demonstrates a long career of faithfully applying the law to the facts of the case before her—and the careful exercise of judicial discretion.

That brings me to my second point. Wise exercise of judicial discretion is the longstanding tradition underlying the American system of law. It is harsh, narrow-minded, and ahistoric to contend that a rich life experience and natural empathy are at odds with that judicial tradition.

Any lawyer knows the importance of judicial discretion, both in our common law system and to the interpretation of the Constitution. As Justice John Paul Stevens has explained:

> the work of federal judges from the days of John Marshall to the present . . . requires the exercise of judgment—a faculty that inevitably calls into play notions of justice, fairness, and concern about the future impact of a decision. . . .

That faculty has served the Nation well for over two centuries. Indeed, discretion is at the heart of the judicial role. Our legal system bears the imprint of the experience and wisdom of generations of judges. As Justice Holmes famously explained, ''[t]he life of the law has not been logic: it has been experience.'' Indeed, as Holmes continued,

> [t]he law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics.

This discretion, of course, does not mean that judges are without bounds. But there exists a broad and lively discretion that falls far short of ''judicial activism.'' Justice Benjamin Cardozo put it this way:

> The judge . . . is not to innovate at pleasure. He is not a knight-errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. . . .He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to ''the primordial necessity of order in the social life.'' Wide enough in all conscience is the field of discretion that remains.

Madam President, within this wide field of discretion, judges do not, cannot, and should not close their minds to their experience of the world, nor to what their experience teaches them about the effects of their decisions on the world.

There has been plenty of empathy at the Supreme Court recently for the rich and powerful, resulting in decisions that frustrate congressional intent and deprive Americans of crucial statutory and constitutional protections. There has been plenty of empathy for right-wing ideology and plenty of empathy for big corporations. Should we not also admit to the Court a nominee who has common sense, who can appreciate how American laws affect different citizens, and who can also empathize with the poor and the weak, as well as the more fortunate?

If reaching correct outcomes were as simple as plugging a few factors and elements into a computer, we would not need nine Supreme Court Justices. Quite simply, a broadened range of perspectives and experiences will make for better judgment by our Court.

One final thing is worth noting about the judicial branch of government. It is designed to be a check and balance to the elected branches. The Founders were keenly aware of the corruption and passing passions to which those elected branches are vulnerable, and they established the judiciary as a place where all were equal before the law, and where power, money, and influence were intended to hold no sway. The courtroom can be the only sanctuary for the little guy when the forces of society are arrayed against him, when proper opinion and elected officialdom will lend him no ear. This is a correct, a fitting, and an intended function of our judiciary, and the empathy President Obama saw in Judge Sotomayor has a constitutionally proper place in that structure.

If everyone on the Court always voted for the prosecution against the defendant, for the corporation against the plaintiff, and for the government against the condemned, a vital spark of American democracy would be extinguished. A courtroom is supposed to be a place where the status quo can be disrupted, where the comfortable can be afflicted, and the afflicted find some comfort when no one else will listen. A judge of the United States is not an orderly, neutered little functionary of the power structure. Judge Sotomayor's broad background and empathy prepare her better for that proper judicial role than would grooming in corporate boardrooms, scrubbing by the Federalist Society, and fealty to party ideology.

I am looking forward to Judge Sotomayor's hearing as an opportunity for her to finally reply to her right-wing detractors, to demonstrate her intellect and qualifications, and to explain her judicial philosophy. My preliminary review of her record suggests that she understands the importance of judicial restraint and modesty, of adherence to precedent, of respect for the legislative branch, and of the timeless values enshrined in the Constitution. And she has articulated a desire to be scrupulously fair by keeping sight of—not denying—the lessons she has learned during her extraordinary life.

Judge Sotomayor appears, more than anything else, to be a careful and conscientious judge. So let us not throw care and conscience to the wind by hurling unjustified, unhelpful, and tired labels at her; let us be proud to have a Justice of the Supreme Court with the type of broad life experience that will inform her good and proper judgment.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. 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. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business.

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

NASA NOMINATIONS

Mr. NELSON of Florida. Mr. President, yesterday the Commerce Committee had its hearing for the NASA

Administrator and Deputy Administrator nominees. Charlie Bolden and Lori Garver respectively are the nominees for these two positions.

I have had the privilege of knowing Charlie Bolden for the better part of a quarter of a century. In addition to all of the numerous accolades that were heaped upon him yesterday by Members of the House and Senate, it came to the Commerce Committee to say a word on his behalf. Many talked about his distinguished career as a graduate of Annapolis, a marine test pilot, an astronaut, then back into the marines—after four times flying in space on the space shuttle, twice as pilot and twice as commander—and then in his various positions in the active-duty marines, retiring at the rank of major general. Those accolades were extensive and they were accurate.

I would merely add to those attributes describing him—all of which were very laudatory—the attribute, the characteristic, that Americans have come to honor, and that is that Charlie Bolden is an overcomer.

One of the first instances of this characteristic occurred in Charlie's native Columbia, SC, in 1964. He could not get an appointment to Annapolis from his congressional delegation because they were still embroiled with the fact that he was an African American. The administration, at that time—the Johnson administration—had appointed a retired judge with the specific purpose of going around the country and finding qualified minorities so they could go into the academies. This gentleman found Charlie and arranged for a Congressman from Chicago to appoint him to Annapolis. When Charlie arrived, he was promptly elected president of the freshman class.

Today, ADM Dennis Blair—now the Director of National Intelligence, and interestingly in the same class—alternated all 4 years at Annapolis being president of the class with Charlie Bolden. Therein is a story in and of itself where Charlie was an overcomer. But let tell you of another part of Charlie's life where he represented an overcomer.

Charlie went back into the Marine Corps after four space shuttle flights, and he came back in as a full bird colonel. The Marine Corps wasn't keen on promoting marine astronauts to general officer, and so the first time that Charlie was in the zone of consideration, they passed him over. Charlie said, instead of retiring, I want to go back to Annapolis and I want to give back to the institution that gave me so much, including an education. He did so as the deputy superintendent, which is a marine slot. His superiors were so impressed by his attitude and his service that the next time he was up for consideration as general officer, they promoted him. A second instance in Charlie's life.

I will mention one other instance of Charlie's being an overcomer. He was so well prepared and so expert at his task, that of a naval aviator and of a pilot astronaut, that 23½ years ago, after having the most delayed space flight in our country's history—that 24th flight of the space shuttle having been scrubbed four times in the course of a month—on the fifth try, the space shuttle lifted off. Charlie was the pilot sitting in the right seat. The commander sits in the left seat. The pilot, in NASA jargon, has all of the systems to monitor. As the shuttle had just cleared the launch tower on liftoff, on the intercom I could hear Charlie's voice: We have a problem. We have a helium leak.

Had that not been a faulty sensor—which ultimately we discovered, but at the time none of us knew that was a faulty sensor—a real helium leak would have caused a serious problem to the mission. But Charlie was all over those switches and those systems. He got it under control and we went on to have an almost flawless 6-day mission in space, only to return to Earth and, 10 days later, Challenger launches and blows up.

That was another instance of Charlie being an overcomer, being presented with an almost insurmountable problem which he overcame.

So with this little aspect of the life of GEN Charlie Bolden, is it any wonder there were so many people who came in front of the Senate Commerce Committee yesterday to say a word on his behalf? And now, as we will consider his nomination first in the Commerce Committee—which ought to happen very shortly—and then in front of the Senate, I don't think there is any expectation of any opposition. I believe that Charlie, as the newly installed NASA Administrator, is going to take on this task where he is going to have to be an overcomer again, because NASA is at a crossroads. America's space program is at a crossroads, and it needs a vigorous leader. But NASA not only needs an administrator who will lead it, it needs to be led by the President of the United States, who is the only one who can be the leader of America's ventures into space. I am hoping the combination of the two of them will put us on a path of reliving a lot of the excitement and the magic this country lived several decades ago when we were achieving extraordinary achievements. It gave a whole new perspective to the human race when astronauts outside the bounds of Earth could look back at this extraordinary planet suspended in the middle of a void and recognize that is our home—planet Earth.

When astronaut John Glenn lifted off on the first American successful orbital flight: ''Godspeed, John Glenn,'' said Scott Carpenter on that immortal day.

I think we in the Senate will unite in saying: Godspeed, Charlie Bolden, in your new assignment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. MURRAY. Mr. President, for the information of all Senators, we are hoping to get a vote in the next 15 minutes, about 2 o'clock, so we can continue to move this bill forward.

I note that there is a Senator here who wishes to speak in morning business. I am happy to accommodate him, but hopefully we will have this agreement and be able to move forward on that very shortly.

I wanted to advise all Senators.

The PRESIDING OFFICER. The Senator from Maryland.

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

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

NEW STEM CELL RESEARCH POLICY

Mr. CARDIN. Mr. President, I rise today to applaud the administration for promptly issuing guidelines implementing President Obama's March 2009 Executive Order on stem cell research. This week, the administration removed the barriers to responsible scientific research involving embryonic stem cells that had been imposed by the previous administration in 2001. The new guidelines establish sound policy and procedures under which the Federal Government will fund such research and help ensure that the research is ethically responsible, scientifically worthy, and conducted in accordance with applicable laws.

President Obama's action will have a profound impact on the long-term health and well-being of millions of Americans. More than 100 million Americans have chronic, debilitating diseases such as Parkinson's, Alzheimer's, diabetes, and ALS. In addition, many Americans have serious spinal cord injuries. Embryonic stem cell research offers hope for advancements in treatment that will improve the quality of life for countless numbers of Americans.

For the past 8 years, American scientists have received limited Federal funding for stem cell research. In 2001, soon after taking office, President Bush issued his stem cell policy. It permitted the use of Federal funds to support research only on the stem cell lines that were in existence as of the date of his Executive order, August 9, 2001.

The Bush compromise seemed reasonable to many in the scientific community at the time, as researchers at NIH believed between 60 and 78 stem cell lines would be available for use. In fact, only 22 lines were available and some of these were found to have been contaminated. In addition, the 22 available lines were developed using science that has since seen significant improvements. Scientists have testified that these lines lack the genetic diversity necessary to perform research for

several diseases that disproportionately affect minority populations. In short, there were real deficiencies in the former administration's policy. It reduced the opportunities available to our scientists, undermined progress, and it discouraged scientific exploration.

Perhaps the best case for stem cell research comes from the patients in the communities we represent here in Congress. I have learned first hand of the importance of moving forward on groundbreaking scientific research through my friendships with three individuals.

A few years ago, my closest friend in law school, Larry Katz, was diagnosed with ALS. Once an active attorney in Baltimore, Larry's body experienced a rapid decline from the symptoms of this debilitating disease, and he died soon after his diagnosis.

Later, I was privileged to meet a young man named Josh Basile, who served as an intern in my House office. Three years before he came to Capitol Hill, he was a healthy young man, leading an active life. But while wading in the Atlantic Ocean, a wave caught him, and he became a quadriplegic overnight. Josh is determined to walk again, and he is making substantial progress. He is also dedicated to helping others make similar strides, and he has established a foundation called ''Determined-2-Heal.'' Through hard work and rehabilitation, Josh has regained movement that many doctors thought was impossible. Josh is also asking the Federal Government to do its part, by funding research and allowing scientists access to the tools they need to make medical advances possible.

Later, in 2006, I came to know Michael J. Fox, a brilliant and talented actor with a remarkable spirit. In 1991, Michael was diagnosed with Parkinson's disease. He has used his prominence as a tireless advocate for stem cell research.

The time I have spent with these three people has taught me much about the burden of debilitating diseases. Those of us who have loved ones experiencing these and similar circumstances share a responsibility to do everything we can to promote medical research. Our scientists need the tools to discover cures and treatments, and stem cell research holds hope for dramatic progress.

There is an added benefit for our Nation beyond improving the health and lives of patients. We are also talking about maintaining the international preeminence of the United States in the field of medical research. My State of Maryland is home to some of the world's leading research institutions, including Johns Hopkins University and the University of Maryland Medical Centers. These institutions have cutting-edge research technology and freeing up these important stem cell lines would jumpstart the numerous promising research tracks in this area.

I meet regularly with scientists like Dr. John Gearhart and Dr. Douglas Kerr to try to get a better understanding about this issue. I am not a scientist nor do I know all the technicalities, but I have had a chance to meet with these scientists to see what they are doing. They have been able to implant embryonic stem cell growth in mice and see movement where there had been paralysis. This research is extremely promising and is happening right now in my State.

The new National Institutes of Health funding guidelines for human embryonic stem cell research are the next important step to expand this research even further. It will result in the availability of approximately 700 lines for research, a dramatic increase over the number of currently available lines.

The new guidelines are based on solid principles. First, that Federal funding for responsible research with human embryonic stem cells has the potential to improve our understanding of human health and illness and discover new ways to prevent and treat illness. Second, individuals donating embryos for research purposes must do so freely, with voluntary and informed consent. They must be derived from embryos that were created for in vitro fertilization and not for research purposes, and they must be excess embryos. To be eligible for NIH funding the embryonic stem cells cannot be obtained through monetary payments or other inducements.

Additionally, human embryonic stem cells eligible for testing must have originated from facilities with proper documentation that the embryos were obtained in a voluntary and legitimate manner. Finally, the guidelines prohibit Federal funding of research that would introduce human embryonic stem cells into breeding animals or into nonhuman primate blastocysts. These guidelines are responsible, have stringent safeguards, and they are ethically sound.

As the new NIH guidelines are implemented, America's knowledge of the potential of stem cell research will continue to broaden. President Obama's courageous actions will accelerate this process. The guidelines send a clear message to scientists across the United States that their important work is now backed by the confidence and resources of the Federal Government.

I commend the administration for this decisive action which will strengthen America's position as the global leader in medical research and for the tremendous hope and promise that its new policy is bringing to millions of Americans.

I yield the floor.

ADMENDMENT NO. 1378

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I ask unanimous consent that at 2 p.m., the Senate proceed to vote in relation to the McCain amendment No. 1378, with the time between now and then equally divided and controlled in the usual form, with no amendment in order to the amendment prior to a vote in relation thereto.

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

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise in clear, strong opposition to this amendment. Let me just say that the fact that this is located in West Virginia is not part of my consideration. I am thinking about national security, Border Patrol. I served as chairman of the Intelligence Committee. I know something about these things. What the Senator from Arizona wants to do doesn't make any sense at all.

What we are talking about is a one-of-a-kind. It is the only one in the country that trains senior officers as well as others in border protection, customs, and other things regarding homeland security. There is no other place in the country that does this. There are 3,300 students there now. They are planning on 5,000 next year. There is no other place where this can be done. If we cut this, there is no substitute. We talk about border control. We talk about all those things. Particularly senior officers side, this is where people are trained. There is a huge master plan which I will not hold up. It has been approved by the Office of Management and Budget, by the homeland security folks, and was submitted to Congress in 2007. The facility is used to train officers on waterborne tactics and operating ports of entry, things which are obscure but essential to national security. It includes a firing range which is not only used by CPB officers but local law enforcement, DEA, Fish and Wildlife personnel, as well as the Capitol Police. It is the only facility of its kind in the Nation. These are crucial jobs. There is no place to take its place. If we cut it, there is no way to make it up and carry out our responsibilities for homeland security.

It is a very grievously formulated amendment. I strongly urge my colleagues to vote against it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from West Virginia for his remarks. I would remind him that this amendment strikes $39.7 million which has been added to the $30 million that is already there for the center. The $39.7 million is described to equip, furnish, and expand a leadership academy at the center. So all the missions the Senator just described don't have anything to do with the additional $39.7 million. It does strike an unrequested, unauthorized, unnecessary earmark. The administration didn't ask for the additional $39.7 million, nearly $40 million. No Member of Congress, regardless of position or seniority, should be able to spend $40 million on a pet project with no scrutiny, no hearing, and no competitive bidding process.

I will take the word of the Senator from West Virginia. This is important. If it is important, why didn't we have a hearing on it before the Homeland Security Committee? Why didn't we have some competition from other parts of America? Why didn't we have a request for it from the administration?

This is just another one of these egregious earmarks that may or may not have merit. We may actually need a leadership academy that needs to be equipped, furnished, and expanded in some place in West Virginia, but no one will ever know that because we have never undergone the scrutiny that should be required before we spend $40 million of the taxpayers' money.

I probably talked enough about this, and I would imagine that we will lose this amendment again. This is in the backdrop of a Federal budget which for the first 9 months of the fiscal year 2009—3 more months to go—is $1.1 trillion. It is estimated to be as high as $1.8 trillion. The last budget deficit that was anywhere near this in recent history was about $450 billion. We are looking at a deficit of massive proportions, and yet we have to pile on additional millions, tens of millions and even billions of dollars in projects that are of questionable value. They may even be valuable, but there has been no authorization, no request, no scrutiny, no competition. It is simply put into a bill in a process we call earmarking. That is not fair to the American taxpayers.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The time of the Senator has expired.

Mrs. MURRAY. I yield back the time on this side.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment No. 1378.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Missouri (Mr. BOND).

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

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—35

Barrasso	Crapo	Isakson
Bayh	DeMint	Johanns
Bennett	Ensign	Kyl
Brownback	Enzi	Lugar
Bunning	Feingold	Martinez
Burr	Graham	McCain
Chambliss	Grassley	McCaskill
Coburn	Hatch	McConnell
Corker	Hutchison	Risch
Cornyn	Inhofe	
Roberts	Snowe	Vitter
Sessions	Thune	Wicker

NAYS—61

Akaka	Gregg	Nelson (FL)
Alexander	Hagan	Pryor
Baucus	Harkin	Reed
Begich	Inouye	Reid
Bennet	Johnson	Rockefeller
Bingaman	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Shelby
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Cochran	Lieberman	Udall (NM)
Collins	Lincoln	Voinovich
Conrad	Menendez	Warner
Dorgan	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feinstein	Murkowski	Wyden
Franken	Murray	
Gillibrand	Nelson (NE)	

NOT VOTING—4

Bond	Dodd
Byrd	Kennedy

The amendment (No. 1378) was rejected.

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

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, we are working with the Republicans at this time to come up with a list of remaining amendments this afternoon so we can make progress. We hope to be able to move forward shortly on a number of amendments that will be pending that we have agreed on.

While we are doing that, the Senator from Illinois would like to speak as in morning business. How much time does the Senator need?

Mr. BURRIS. I need 3 or 4 minutes.

Mrs. MURRAY. Mr. President, I yield 4 minutes to the Senator from Illinois for morning business.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

GENERAL JAMES E. CARTWRIGHT

Mr. BURRIS. Mr. President, as a member of the Senate Armed Services Committee, I often have the opportunity to meet with the fine men and women who serve this country in uniform. Every day we demand the very best from each of them—and in return, we owe them the best we have to offer. That means keeping our commitment to this Nation's veterans. But it also means supporting our troops in the field—with resources, equipment, and—perhaps most importantly—sound leadership at the very highest levels.

No one understands this better than GEN James Cartwright, the current Vice Chairman of the Joint Chiefs of Staff.

Our committee met with General Cartwright just this morning. The Senate has been asked to confirm his nomination for a second term as Vice Chairman. And I rise today to offer him my strongest support.

After speaking with General Cartwright, I am convinced that his long record of loyal service, impeccable judgment, and bold leadership make him the very best choice to continue in this important post. Up to this point, his tenure as a member of the Joint Chiefs has been marked by innovative thinking.

Along with Admiral Mullen, General Cartwright has helped to shape the modern American military as we confront a range of new threats from across the globe.

A native of my home State, General Cartwright was born in Rockford, IL, and began his service as a marine fighter pilot more than 30 years ago. He is a distinguished graduate of the Air Command and Staff College at Maxwell Air Force Base, and has served all over the world. As an aviator, he put his extensive training to good use on the front lines of our global defense network.

As a U.S. marine, he has never wavered in his commitment to the country we all love. And as a former head of the U.S. Strategic Command, General Cartwright has demonstrated his leadership skills and his deep understanding of the threats we face.

He has led the fight for cyber security technology at the Department of Defense, helping to protect America from the evolving threats of the 21st century.

He is a credit to the fighting men and women of our Armed Forces, and an asset to the elected leaders who depend on him every day. Time and again, he has answered the call.

When Secretary Gates first recommended him for nomination 2 years ago, he understood that James Cartwright was someone we can rely upon. Today, as we consider whether he should remain Vice Chairman of the Joint Chiefs, I believe his record speaks for itself.

I urge my colleagues to join me in supporting a speedy confirmation of General Cartwright.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. WICKER. Mr. President, we need serious, substantive health care reform. The reasons for reform are well known, and they have led to overwhelming consensus in Congress that something needs to be done to make health care more affordable and more accessible.

The desire for action extends beyond the walls of this great building. The American people also want us to act. But this desire for action should not

give way to legislative haste. Americans do not want us to rush at the expense of getting it right. They have questions, and they deserve answers.

There are two very basic and important questions with regard to health care reform. No. 1, how much is it going to cost? And No. 2, how will we pay for it? First let's look at the question of cost.

The American public is alarmed about the massive debt we are accumulating. They realize that in the past year, on top of the almost $1 trillion stimulus bill, the Federal Government has also purchased banks, an insurance company, and an auto company, all using borrowed money that we, as taxpayers, will need to pay back. All this massive borrowing and spending was done quickly and with little debate. This was done, the public was told, in order to save the economy. How has that turned out?

At the beginning of the year, the Obama administration told the American people massive stimulus spending, if done quickly, would create 3 to 4 million jobs and would keep the country's unemployment rate at 8 percent. Today, sadly, unemployment is at 9.5 percent, the highest level since 1983. The jobs that were promised have not materialized. In fact, 467,000 additional jobs were lost last month alone.

The administration now says they misread the economy. Our government rushed to borrow and spend $1 trillion, but now we are basically being told they were wrong. Vice President BIDEN said as much only a few days ago.

Unfortunately, the American taxpayers are not going to get a do-over on this spending. They are still on the hook for the almost $1 trillion we borrowed, plus interest. Now there is talk of yet another expensive stimulus package to make up for the one that did not work.

So considering this, it is no surprise the American public is skeptical about the rush to spend yet another $1 trillion or more to create a Washington-run health care scheme.

We have a number of proposals in Congress that attempt to fix health care. There are workable reform proposals that go at the problem in a way that does not incur such prohibitive costs for taxpayers. Unfortunately, however, our Democratic colleagues have plans accompanied by astronomical costs to taxpayers. The Finance Committee is struggling to keep its bill at $1 trillion over 10 years. We are told that just a portion of the Health, Education, Labor, and Pensions Committee bill will cost over $1 trillion. That is just a portion of their bill. Some have estimated the total cost for that bill will be over $3 trillion. These are not scare tactics. These are Congressional Budget Office estimates.

On the other side of the Capitol, the House Democrats' bill is expected to cost closer to $2 trillion. Over and above these Federal costs, there are frightening costs to the States. If the HELP Committee proposal to expand Medicaid is enacted, we can expect a wholesale collapse of State budgets and, of course, we are already seeing the collapse of some State budgets. They are already struggling under the unsustainable costs of the current program.

These spending figures are startling by themselves and even more troubling taken on top of the massive amount of debt we have already acquired.

Even more troubling is the expectation that costs of the Democratic proposals will continue to rise year after year, well beyond the 10-year budget window used to figure the pricetag of these proposals.

The Congressional Budget Office estimated the annual cost of the insurance subsidy program contained in an earlier version of the HELP bill would rise 6.7 percent per year until it is fully phased in. This potential spending explosion should not come as a surprise. Medicare and Medicaid, two programs we need to strengthen, help, and sustain, are both already on unsustainable paths with enormous unfunded liabilities.

This daunting amount of spending has taxpayers worried, and they are beginning to speak up. One of my Democratic colleagues acknowledged this recently saying: ''The big challenge—and I actually heard this at home during the recess—is the sticker shock.''

Other supporters of the President are also warning him and his Democratic colleagues in Congress to slow down and be more careful with taxpayer dollars.

On Sunday, former Secretary of State Colin Powell, an Obama supporter last year, warned the President about the ongoing spending spree, saying:

> You can't have so many things on the table that you can't absorb it all.

To quote Secretary Powell:

> And we can't pay for it all.

In addition to the massive costs associated with these proposals, no one can yet tell us where the money will come from to pay for it. All the proposals we have seen are creative in the way they spend tax dollars but very short on specifics on how to fund them.

Our colleagues on the other side of the aisle have vaguely outlined some ways they may pay for their plan, including a series of cuts to Medicare and Medicaid—I repeat, cuts to Medicare and Medicaid—along with new taxes. But they have not been as forthcoming and specific as they need to be with the American taxpayers.

There is a reason why more details have yet to be released. Since we do not have the money to pay for a government takeover of health care, there will need to be massive tax increases or more borrowing or a combination of the two. In fact, one leading Senate Democrat was quoted in Wednesday's Wall Street Journal as saying they were ''broadening the search for revenue''—broadening the search for revenue—to pay for this massive plan. What that means, of course, is they are intensifying their search for ways to raise taxes on the American people, whether it be taxes on small business, which we have been hearing about lately, or on health insurance plans or surtaxes on soft drinks or anything else they can think of—massive tax increases for the American people for plans which admittedly will only cover one-third of the uninsured persons in the United States of America. All the while, this is being done quickly and without time needed to provide the scrutiny the American public expects and deserves.

All Americans—Republicans, Democrats, and Independents—want health care reform, but they do not want a government-run health care plan. They do not want to pay for it with Medicare and Medicaid cuts. They do not want to drive up the debt. Getting it right is more important than getting it done quickly.

Let's learn from the mistakes that were made in hastily passing the stimulus bill. Massive new amounts of borrowing, spending, and taxes are not the way to successful health care reform.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. Madam President, I wish to speak as in morning business. However, if anybody comes to the Chamber with an amendment or anything, I will immediately stop. I want to make that clear.

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

CAP AND TRADE LEGISLATION

Mr. INHOFE. Madam President, I only rise on the floor for one reason; and that is, it is my intention next week—probably Tuesday or Wednesday, whenever I get the floor time—to give a rather long history of the whole issue of the cap and trade. What I intend to do is start from the very beginning.

While the Presiding Officer was not presiding over the Senate back during the Kyoto Treaty some 11 years ago, I was. At that time, the Republicans were the majority, and I happened to be the chairman of the committee that had jurisdiction.

I have to tell you, at that time, I was a believer that manmade gas, anthropogenic gases, CO_2, methane were the cause of global warming. The reason is because everybody said that. Nobody had a dissenting view. It was not until the Wharton School came out with the Wharton Econometrics Survey and said if we were to ratify the Kyoto Treaty and live by its emissions requirements,

it would cost somewhere between $300 billion and $330 billion a year that I started thinking about that. I remember a tax increase that was enacted in 1993. That was the Clinton-Gore tax increase that at that time was the largest one in a long period of time. This would have been 10 times greater than that.

So I thought: Let's be sure the science is there. That is when I discovered there were many scientists who had been intimidated through the use of manipulation in the awarding of grants from the Federal Government or from the Heinz Foundation or from many of these organizations. They had been suppressed very much like the man in the EPA was suppressed last week. In looking at that, we started examining it and finding out that many scientists around said: No, that is not the case.

I will be specific because this was back when President Clinton was in office and Al Gore was the Vice President. At that time, he wanted to determine how much we could accomplish if the developed nations ratified and lived by the Kyoto Treaty.

He went to Thomas Wigley, who was one of the top scientists at that time. He was chosen by the then-Vice President of the United States, Al Gore, who said: We want a study. Over a 50-year period, if all developed nations would ratify and live by the emissions standards of this treaty, how much would it reduce the temperature over a 50-year period?

When the results came out, it was seven one-hundredths of 1 degree Celsius; in other words, not even measurable. That is what began to catch on, and people realized it was a lot of pain, a lot of punishment, a lot of heavy taxes—like the current cap-and-trade proposal is, or like the one that passed the House—yet there is not any gain. Even if you were to believe—as I do not—that a major cause of global warming is CO_2, then what good would it do for us unilaterally to do it if the developing nations are not doing it?

We discovered something yesterday in a hearing. I have a great deal of respect for Lisa Jackson, who is the new Administrator of the EPA. Her honesty was incredible yesterday. Showing her a chart, I asked her a question, stating: This is what we used during the consideration, 13 months ago, of the Warner-Lieberman bill. The chart shows the numbers as to living within or without the limits of the CO_2 emissions. If we only did it in the United States, would it make any difference at all in the world amount of CO_2? She said: No, it would not.

I think that is the most significant thing. Because individuals, and well-meaning individuals who believe man-made gases are causing global warming, should realize that does not do it, even if you believed it. In fact, the reverse would be true. There is no doubt—and we have all kinds of studies to show it—if we had passed any of the last three cap-and-trade bills we considered on the floor of this Senate, that would have had the effect of pushing the manufacturing jobs out of America into countries where they have no emissions requirements, such as China, and that would have caused a net increase—a net increase—of CO_2.

So I think that was a major thing yesterday that took place. It is my intention next week to go back through the history of this issue, to bring us up to the present time, and then to look into the future as to what we might be doing with this legislation.

I was very happy to hear, a few minutes ago, that Chairman BARBARA BOXER has decided not to come out of the committee with a bill until after the August recess. Quite frankly, I think it works in my favor. The longer we have to inform people as to some of the misinformation, the better I think it is going to be in terms of a vote that would take place. I cannot imagine that if there are only some 35, 36 votes that would have been there to pass the Warner-Lieberman bill 13 months ago, that there would be any way today to get up to 60 votes.

So, quite frankly, I do not think it is going to pass anyway. But I do think during the recess we are going to have an opportunity to talk about this issue.

Today, I visited with a national farm group, and we were talking about how it would disproportionately hurt the farmers. The fact is, 70 percent of their wheat cost is in fertilizer and energy. Fertilizer and energy are where the costs would be increased dramatically if we were to pass some kind of a cap-and-trade bill.

Then, of course, there is the regressive feature. The fact is, poor people in America have to have gasoline in their cars. They have to heat their homes. They spend a lot larger percentage of their disposable income on heating and in using energy than wealthy people do.

So I think, with all these things working right now, we are in a position to stand back and say, cap and trade is not going to work. It is going to be history. And we can start approaching this in ways, perhaps somewhat like President Bush tried to do with the Clear Skies Act, where he talked about real pollutants, such as SO_X, NO_X, and mercury, and have meaningful reductions in those to protect our environment.

That is what our plans are for next week, and I look forward to sharing these thoughts with anyone who is willing to listen.

Madam President, 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. VITTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded, just that I may speak for up to 5 minutes.

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

Mr. VITTER. Madam President, as the manager of this bill, who has been very cooperative, and others on the floor know, I have been working hard to get a vote on my reimportation amendment. It is a very simple, straightforward amendment. It is a limitation amendment—at least it will be once it is perfected and modified. In fact, it is an amendment that has passed the Senate before, in 2006. So it is not new. It has actually passed the Senate before.

Unfortunately, because of the nature of the issue and, in fact, because of the powerful nature of the pharmaceutical interests who oppose this amendment, this is being blocked using every procedural tool in the book. That is unfortunate, but it seems as if that is going to be the case.

If I cannot get a fair hearing and a fair vote on this amendment, I am going to use the procedural tools available to me to block votes on other nongermane amendments, on other amendments that are subject to points of order—which I think are most, if not all, of the other pending amendments.

At this point, given the fairly certain nature of certain Members' fierce opposition to this reimportation provision, I simply suggest we move forward and not waste folks' time. I am certainly amenable to moving to dispense with any pending amendment which is germane, which does not have a point of order against it, move through those and then move to final passage of the bill as quickly as possible. I am certainly open to that and would encourage that and would like to move forward in that vein.

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

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

LONG TERM CARE REFORM

Mr. FEINGOLD. Madam President, I recently spoke to my colleagues about the urgent need to pass health care reform, and in particular about the importance of ensuring that reform includes a strong public option. Today, I want to discuss another one of my priorities for health care reform, and that is long-term care.

I have been working to reform long-term care since I began my career in public service. In 1982, during my first term as a Wisconsin State Senator, I became Chair of the State Senate Aging Committee. I was not yet 30 years old, so you can imagine that I was not the obvious candidate to chair a committee on aging. It was through my work on this committee that I was first exposed to the fractured system of supports and services available to those needing long-term care, and learned about the efforts to reform

that system which were just beginning in Wisconsin. Over the next 10 years, made long-term care reform a priority, authoring the State's Alzheimer's program and drawing attention and resources to the management of this devastating disease. I helped expand Wisconsin's Community Options Program, known as COP, which provided flexible, consumer-oriented and consumer-directed long-term care services in community-based settings, enabling thousands of people needing long-term care to remain in their own homes rather than going to a nursing home.

I have continued to fight for long-term care reform in the U.S. Senate. I served as Chair of the Long-Term Care Working Group at the request of then-Majority Leader George Mitchell during the 1994 attempt at health reform. The recommendations of our working group proved to be one of the least controversial aspects of health reform legislation. Our recommendations drew from the lessons and experiences of states on the cutting edge of long-term care, such as Wisconsin. But when overall reform efforts failed, our recommendations went nowhere.

Now, 15 years later, Congress is debating health reform legislation once again. And reform is even more necessary than it was in 1994. More and more families are struggling to provide care for loved ones who are disabled, ill, and aged. More and more families face the difficult decision of moving a loved one into a nursing facility because no other options exist. These families are stuck in an impossible situation—limited by financial resources and community programs, but dedicated to securing the best care for their family member. We can and must do better.

Long-term care reform is not a luxury, or a minor part of health care reform—it is needed in order to help achieve the goals of health care reform. Federal, State, local, and individual expenditures on health care, including long-term care, are unsustainable. In 2007, the Federal and State governments spent $311 billion on long-term care, or just under 3 percent of the United States' gross domestic product.

Approximately three-quarters of this amount represents government spending on Medicaid and Medicare. Long-term care reform could be one of the most effective tools to ensure solvency for our entitlement programs, reducing the Medicaid burden on State budgets, and getting health care spending under control.

I have worked on these issues for the better part of three decades. And after devoting so much time to long-term care, a number of things are clear. First, we must have a cohesive strategy to care for those needing long-term supports and services. Modern medicine has turned fatal diseases into chronic diseases, and enabled individuals to live much longer. These are tremendous accomplishments. But the reality is that these individuals need even more assistance because of medical advancements from their families, communities, and government.

Long-term care assistance is not something that most people can plan for or save for. This is a very important point. Of the 10 million Americans needing long-term care, 40 percent were working-age adults or children who have become disabled, or too ill, to live independently. This is something that the Trifunovich family in Cudahy, WI, knows all too well. At 33, Aleksandar Trifunovich suddenly suffered a deadly brain stem stroke, cruelly leaving him ''locked in.'' His brain function, eyesight, and hearing remained normal, but his entire body was paralyzed. Against all odds, Aleksandar survived surgery and has made miraculous development through rehabilitation. Today, Aleksandar is no longer ''locked in,'' but fights every day to preserve the progress he has made and regain even more of his mobility. Along the way, his sisters Vera and Andjelija have stepped in, as so many family members do, to support and care for their brother. The family is acutely aware of the current fractured long-term care system. Calling it ''unnavigable,'' they say that it is a daily battle to ensure Aleksandar has access to the care, supports, and services he needs to continue regaining his mobility and independence.

As for the 60 percent of older Americans and senior citizens needing long-term care, who theoretically might have had time to save for these medical needs, financing long-term care on their own is simply too expensive. Not only is the cost of long-term care growing at twice the rate of inflation, seniors are using long-term care supports and services earlier and more often. And families are feeling the strain. Studies estimate that over 85 percent of long-term care is provided by family and friends, but the cost of providing care and forgoing earnings elsewhere is not included in projections on long-term care spending. Long-term care reform is not an issue of making people be more responsible, save earlier, or save more. It is needed because the system, on a fundamental level, is strained to the breaking point.

Second, we do not necessarily need to spend more, but we must spend more wisely. This means establishing consumer-oriented and consumer-directed flexible benefits as well as making fundamental reforms to the linkages between the long-term care and acute care systems. For too long, long-term care has been synonymous with institutional care. Congress has a rare opportunity to redefine long-term care, and put real weight and spending power behind home- and community-based long-term care options.

Central to this effort is creating a system of home- and community-based flexible services that respond to individual consumer choice and preference from the initial assessment right on through to ongoing services, with case managers and others regularly consulting with the consumer and family members to be sure their needs are met in a satisfying manner. I have been working with my colleagues on the Senate Finance Committee and Senate Health, Education, Labor and Pensions Committee for months now, to draw attention to the excellent programs we have in my home State of Wisconsin as we begin to fill the gaps in long-term care supports and services. Wisconsin's progress in long-term care should be used as a template for national reform, and I was pleased that Chairman BAUCUS included new incentives for home and community-based care programs like those Wisconsin uses today in the policy proposals he put forward earlier this year.

Wisconsin's progressive tradition is the driving force behind Family Care, our State entitlement program for low-income and disabled adults to receive necessary care, supports, and services in their homes and communities. Family Care currently operates in almost every county in the State, and provides a flexible benefit for beneficiaries to receive long-term care supports and services in the comfort of their own homes. Family Care has demonstrated two important things: First, it showed that you can establish a long-term care program that is flexible and able to respond to the needs of individual consumers; second, it showed that kind of flexible program could be a cost-effective alternative to nursing homes.

Family Care coordinates consumers with social workers, registered nurses, and local Aging and Disability Resource Centers to identify what each consumer needs to remain a productive and independent citizen. Entitlement benefits can be used for such purposes as hiring help with basic daily tasks like bathing, dressing, or shopping, or with challenges like shoveling snow, which in Wisconsin is not a trivial task.

Because of this benefit, long-term care consumers in the State are choosing to stay in their own homes and saving the State money in the process. One independent assessment of Family Care estimates that the program saves the State $1.2 million each month by allowing long-term care consumers to arrange for the care they need to remain independent, and out of the nursing home. If overwhelming popularity and savings were not enough, counties with Family Care have seen decreases in nursing home admissions, emergency room use, and hospital readmittance. Instead, long-term care consumers are seeing their primary care physicians more to maintain and manage their health.

How we care for those who need it most—seniors, people with disabilities and other who need long term care—is a key part of any effort to change our health care system. I have thought often of my work as Chair of the long-term care working group over the last

15 years. If just those recommendations we put together back then had been enacted, we might not be spending the trillions on health care that we are today. We can not continue to make the mistake of overlooking long-term care in the broader debate. Congress must place this critical issue front and center in the health care debate. It is time to put long-term care in the spotlight and use Family Care, Wisconsin's outstanding example of flexible and cost-effective care, as a model for broader reform.

Madam President, 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. SANDERS. 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. SANDERS. Madam President, as soon as this amendment logjam is broken, it is my intention to offer an amendment which is cosponsored by Senators CARPER, CASEY, and KERRY. This amendment deals with an issue of significance to all 50 States in our country and maybe especially rural America.

In the midst of the financial crisis we are facing, our capabilities to support fire departments—both professional and volunteer—and the EMS services they provide is under great stress.

What my amendment would do is add $100 million for the Assistance to Firefighters Grant Program as well as for another important program for fire departments, the Staffing for Adequate Fire and Emergency Response, or SAFER, Grant Program—$50 million for each program. In the $50 million for the SAFER Grant Program would be included $30 million that would go for addressing the real crisis rural volunteer fire departments are facing.

I say to the Presiding Officer, I do not know what the situation is in New Hampshire, but in Vermont—and I think in many parts of the country—we are seeing a real problem with recruitment and retention. Many people in urban areas may not understand that. But in rural America, most folks get their fire service and most folks get their EMS, their first responder service, from volunteers. If there are not volunteers available for one or another reason—and we have seen both recruitment and retention problems in volunteer fire departments—if those volunteers are not there, what is going to happen is, when fires happen, those fires are not going to be able to be contained. When somebody has a heart attack and dials 911, they are not going to get the kind of speedy ambulance service they need.

In the midst of this recession, what we are seeing is not only a reduction and a real stress on volunteer firefighting departments all over this country, and their EMS services, we are also seeing, in terms of professional firefighters, reductions in one part of the country after another part of the country, after another part of the country. Cities and towns under stress are cutting back, and they are doing it in ways which are certainly endangering the well-being and the health of the people in their communities.

Surveys by the International Association of Fire Fighters say that up to 5,000 firefighting jobs are in jeopardy. In Prince George's County, MD—not far from here—there is a new phenomenon called ''brownouts.'' This is where fire stations are closed, five at a time, to save money. In Atlanta, GA, the economic crisis has resulted in the shutting of five firehouses. In Flint, MI, 22 firefighters were laid off. Proposals in Columbus, OH, include laying off 238 firefighters. In Warren, OH, 17 firefighters received layoff notices. Orlando, FL, plans on laying off 46 firefighters. In Spokane, WA, up to 15 firefighting positions could be eliminated. There is also a serious problem about funding the equipment our firefighters need.

So we have a real problem. It seems to me at this moment this is a priority for this Nation, and it is something we should be addressing.

This amendment is supported by the volunteer firefighters of America.

Madam President, I ask unanimous consent to have printed in the RECORD a letter from the National Volunteer Fire Council. The National Volunteer Fire Council is strongly supporting this amendment, and they represent thousands of volunteer firefighters throughout this country.

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

NATIONAL VOLUNTEER FIRE COUNCIL,
Greenbelt, MD, July 9, 2009.

Hon. BERNIE SANDERS,
U.S. Senate,
Washington, DC.

Hon. ROBERT CASEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: I am writing to express the full support of the National Volunteer Fire Council (NVFC) for your amendment to increase funding for the Assistance to Firefighters Grant (AFG) program and the Staffing for Adequate Fire and Emergency Response (SAFER) grant program by $50 million each in the FY 2010 Department of Homeland Security Appropriations Act. The NVFC represents the interests of the more than one million volunteer firefighters and EMS personnel in the United States.

AFG helps fire departments and EMS agencies purchase desperately needed equipment, apparatus and training. Nearly 20,000 fire departments applied for more than $3.1 billion in funding through AFG in FY 2009—more than five times the $565 million appropriated for this year. The $380 million allocation in the Committee-passed version of the FY 2010 DHS Appropriations Act represents a reduction of 33 percent from last year and is $10 million below the House-passed companion bill.

AFG is a highly successful program that relies on input from the fire service and a direct grant process to ensure that funding quickly reaches the agencies that need it most. An FY 2007 review of AFG by DHS found the program to be 95 percent effective, the second highest rating of any program at DHS.

A needs assessment survey conducted by the Fireman's Fund Insurance Company recently found that 60 percent of respondents report that their fire department has delayed equipment replacement purchases due to the economic downturn. Fifty percent of respondents reported that if economic conditions do not improve within the next 12 months that it could affect their ability to provide service to their communities. Local fire and EMS agencies need AFG funding now more than ever.

SAFER funds assist fire departments to build staffing capacity through hiring of career firefighters and recruitment and retention of volunteers. There is no single more significant challenge facing the volunteer fire service than recruitment and retention. Since 1987, the percentage of volunteer firefighters under the age of 40 has shrunk from 65 percent to approximately 50 percent today. As this trend suggests, fire departments are increasingly having difficulty recruiting and retaining the next generation of volunteer firefighters. Volunteer fire departments can use recruitment and retention funds for a variety of activities from marketing campaigns to establishing modest incentive programs.

Your amendment would provide critical additional funding to assist first responders and signal to local fire and EMS agencies that they remain an important national priority even in these difficult budgetary times. Thank you again for offering this amendment.

Sincerely,

HEATHER SCHAFER,
Executive Director.

Mr. SANDERS. Madam President, I will be speaking about this amendment at a later time, but I wanted to let my colleagues know this issue is of great concern all over this country. It is a concern to the firefighting community, it is a concern to the EMS community, and it is certainly a concern to rural America.

I look forward to my colleagues supporting this amendment.

Madam President, 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.

Mrs. MURRAY. 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. 1459 AND 1455, AS MODIFIED, TO AMENDMENT NO. 1373

Mrs. MURRAY. Madam President, I ask unanimous consent that the pending amendments be set aside and that it be in order for me to call up the following two amendments en bloc: amendment No. 1459 and amendment No. 1455, as modified.

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 Washington [Mrs. MURRAY], for Mr. TESTER, proposes an amendment numbered 1459 to amendment No. 1373.

The Senator from Washington [Mrs. MURRAY], for Mr. KYL, for himself, and Mr. MCCAIN, proposes an amendment numbered 1455, as modified, to amendment No. 1373.

The amendments are as follows:

AMENDMENT NO. 1459

(Purpose: To condition funding for the National Bio and Agro-defense Facility)

On page 77, between lines 16 and 17, insert the following:

SEC. 5____. None of the funds made available under this Act may be obligated for the construction of the National Bio and Agro-defense Facility on the United States mainland until 90 days after the later of—

(1) the date on which the Secretary of Homeland Security completes a site-specific bio-safety and bio-security mitigation assessment to determine the requirements necessary to ensure safe operation of the National Bio and Agro-defense Facility at the preferred site identified in the January 16, 2009, record of decision published in Federal Register Vol. 74, Number 111;

(2) the date on which the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, submits to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that—

(A) describes the procedure that will be used to issue the permit to conduct foot-and-mouth disease live virus research under section 7524 of the Food, Conservation, and Energy Act of 2008 (21 U.S.C. 113a note; Public Law 110–246); and

(B) includes plans to establish an emergency response plan with city, regional, and State officials in the event of an accidental release of foot-and-mouth disease or another hazardous pathogen.

AMENDMENT NO. 1455, AS MODIFIED

(Purpose: To require the Secretary of Homeland Security to submit a detailed report to Congress regarding the utilization and potential expansion of Operation Streamline programs)

At the appropriate place, insert the following:

SEC. ____. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General and the Administrative Office of the United States Courts, shall submit a report to the congressional committees set forth in subsection (b) that provides details about—

(1) additional Border Patrol sectors that should be utilizing Operation Streamline programs; and

(2) resources needed from the Department of Homeland Security, the Department of Justice, and the Judiciary, to increase the effectiveness of Operation Streamline programs at some Border Patrol sectors and to utilize such programs at additional sectors.

(b) The congressional committees set forth in this subsection are—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives;

(4) the Committee on the Judiciary of the House of Representatives, and

(5) the Committee on Homeland Security and Governmental Affairs of the Senate.

Mrs. MURRAY. Madam President, I ask unanimous consent that the amendments be agreed to en bloc and the motions to reconsider be laid upon the table en bloc.

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

The amendments (No. 1459) and (No. 1455), as modified, were agreed to en bloc.

Mrs. MURRAY. Mr. President, 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.

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

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

AMENDMENT NO. 1458 TO AMENDMENT NO. 1373

Mrs. MURRAY. Mr. President, I ask unanimous consent that the pending amendments be set aside and that amendment No. 1458 be the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. DODD, for himself, Mr. LIEBERMAN and Mr. CARPER, proposes an amendment numbered 1458 to amendment No. 1373.

The amendment is as follows:

(Purpose: To provide additional funds for FIRE grants under section 33 of the Federal Fire Prevention and Control Act of 1974)

On page 77, between lines 16 and 17, insert the following:

SEC. __ (a) The amount appropriated under the heading ''firefighter assistance grants'' under the heading ''Federal Emergency Management Agency'' under by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 is increased by $10,000,000 for necessary expenses to carry out the programs authorized under section 33 of that Act (15 U.S.C. 2229).

(b) The total amount of appropriations under the heading ''Aviation Security'' under the heading ''Transportation Security Administration'' under title II, the amount for screening operations and the amount for explosives detection systems under the first proviso under that heading, and the amount for the purchase and installation of explosives detection systems under the second proviso under that heading are reduced by $4,500,000.

(c) From the unobligated balances of amounts appropriated before the date of enactment of this Act for the appropriations account under the heading ''state and local programs'' under the heading ''Federal Emergency Management Agency'' for ''Trucking Industry Security Grants'', $5,500,000 are rescinded.

Mrs. MURRAY. Mr. President, the amendment that is now pending is an amendment that increases fire grant programs by $10 million. It is fully offset. The fire grant programs provide funds to equip, train, and hire our firefighters. The committee provided an increase in the bill because in 2007 there were over 20,731 applications, totaling $3.1 billion, and FEMA could only approve 5,132 of those applications due to limited funds.

I hope we can move quickly to a vote on this amendment. We wish to move forward. I know several Senators have amendments they wish to offer, and if we can move to a vote on this fairly quickly, I think everybody would be amenable to that.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1467 TO AMENDMENT NO. 1458

Mr. VITTER. Mr. President, I certainly share the desire to move forward and resolve these issues and go through these votes. In that vein, I send to the desk a second-degree amendment to the Dodd amendment.

This is a straight limitation amendment. It is a germane amendment with no points of order against it, which would simply enact legislation that the Senate enacted in 2006 with regard to reimportation.

I would be happy to explain the amendment more fully if it is appropriate to have a debate either now or in the near future on it. But again, it enacts language that was previously enacted by the Senate in 2006. It is a straight limitation amendment, which is germane, and does not have points of order against it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 1467 to amendment No. 1458.

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 prevent funds from being used to prevent individuals from importing prescription drugs under certain circumstances)

At the end add the following:

SEC. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided*, That the prescription drug may not be—

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that it be in order to consider a managers' package.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, in a moment I will send a managers' package to the desk. We are waiting for one quick decision. Hopefully, in a moment, I will be sending a managers' package to the desk with a number of

amendments that have been worked out on both sides. We hope to adopt that package.

I know Members have been waiting to get to votes. We have several Senators who require votes on their amendments. We hope to start that fairly shortly, as soon as this package is adopted.

AMENDMENTS NOS. 1401; 1447; 1457; 1463, AS MODIFIED; 1456; 1454, AS MODIFIED; 1466, AS MODIFIED; 1465; AND 1464, AS MODIFIED, TO AMENDMENT NO. 1373

So, Mr. President, I send to the desk a managers' package, and I ask unanimous consent that the amendments be considered, and modified, as indicated, where indicated, and agreed to en bloc; and the motions to reconsider be laid upon the table en bloc; that the consideration of these amendments appear separately in the RECORD, and any statements relating to their consideration be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 1401

(Purpose: To amend title 46, United States Code, to ensure that the prohibition on disclosure of maritime transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes)

SECTION ———. MARITIME TRANSPORTATION SECURITY INFORMATION.

(a) SHORT TITLE.—This section may be cited as the ''American Communities' Right to Public Information Act''.

(b) IN GENERAL.—Section 70103(d) of title 46, United States Code, is amended to read as follows:

''(d) NONDISCLOSURE OF INFORMATION.—

''(1) IN GENERAL.—Information developed under this chapter is not required to be disclosed to the public, including—

''(A) facility security plans, vessel security plans, and port vulnerability assessments; and

''(B) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

''(2) LIMITATIONS.—Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 114(r) of title 49, United States Code, is amended by adding at the end thereof the following:

''(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

(2) Section 40119(b) of title 49, United States Code, is amended by adding at the end thereof the following:

''(3) Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

''(A) to conceal a violation of law, inefficiency, or administrative error;

''(B) to prevent embarrassment to a person, organization, or agency;

''(C) to restrain competition; or

''(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.''.

AMENDMENT NO. 1447

(Purpose: To clarify the definition of switchblade knives)

On page 77, between lines 16 and 17, add the following:

SEC. 556. DEFINITION OF SWITCHBLADE KNIVES.

Section 4 of the Act entitled ''An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes'' (commonly known as the Federal Switchblade Act) (15 U.S.C. 1244) is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; or'' and

(3) by adding at the end the following:

''(5) a knife that contains a spring, detent, or other mechanism designed to create a bias toward closure of the blade and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife.''.

AMENDMENT NO. 1457

(Purpose: To protect taxpayers by improving financial accountability at the Department of Homeland Security)

On page 3, line 13, insert '': *Provided*, That of the total amount made available under this heading, $5,000,000 shall not be obligated until the Chief Financial Officer or an individual acting in such capacity submits a financial management improvement plan that addresses the recommendations outlined in the Department of Homeland Security Office of Inspector General report # OIG-09-72, including yearly measurable milestones, to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the plan described in the preceding proviso shall be submitted not later than January 4, 2010'' before the period.

AMENDMENT NO. 1463, AS MODIFIED

(Purpose: To make a technical correction to the Federal Deposit Insurance Act)

On page 77, between lines 16 and 17 insert the following:

SEC. 556. FEDERAL DEPOSIT INSURANCE ACT TECHNICAL CORRECTION.

(a) APPLICABLE ANNUAL PERCENTAGE RATE OF INTEREST.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in the matter preceding subparagraph (A), by inserting ''(or in the case of a governmental entity located in such State, paid)'' after ''received, or reserved''; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking ''nondepository institution operating in such State'' and inserting ''governmental entity located in such State or any person that is not a depository institution described in subparagraph (A) doing business in such State'';

(B) by redesignating clause (ii) as clause (iii);

(C) in clause (i)—

(i) in subclause (III)—

(I) in item (aa), by adding ''and'' at the end;

(II) in item (bb), by striking '', to facilitate'' and all that follows through ''2009''; and

(III) by striking item (cc); and

(ii) by adding after subclause (III) the following:

''(IV) the uniform accessibility of bonds and obligations issued under the American Recovery and Reinvestment Act of 2009;''; and

(D) by inserting after clause (i) the following:

''(ii) to facilitate interstate commerce through the issuance of bonds and obligations under any provision of State law, including bonds and obligations for the purpose of economic development, education, and improvements to infrastructure; and''.

(b) EFFECTIVE PERIOD.—The amendments made by this section shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

AMENDMENT NO. 1456

(Purpose: To provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), to amend section 552(b)(3) of title 5, United States Code (commonly referred to as the Freedom of Information Act) to provide that statutory exemptions to the disclosure requirements of that Act shall specifically cite to the provision of that Act authorizing such exemptions, to ensure an open and deliberative process in Congress by providing for related legislative proposals to explicitly state such required citations, and for other purposes)

At the appropriate place, insert the following:

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT.

(a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—

(1) SHORT TITLE.—This subsection may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term ''covered record'' means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall issue a certification, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger —

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification under subparagraph (A) and a renewal of a certification under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is made.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may issue—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary's certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the ''OPEN FOIA Act of 2009''.

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

''(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

''(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.''.

AMENDMENT NO. 1454, AS MODIFIED

Purpose: To require the Secretary of Homeland Security to submit to Congress a report on reducing the time to travel between locations in the United States and locations in Ontario and Quebec by intercity passenger rail)

At the appropriate place, insert the following:

SEC. ____. (a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the entities specified in subsection (c), submit to Congress a report on improving cross-border inspection processes in an effort to reduce the time to travel between locations in the United States and locations in Ontario and Quebec by intercity passenger rail.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an evaluation of potential cross-border inspection processes and methods including rolling inspections that comply with Department of Homeland Security requirements that would—

(A) reduce the time to perform inspections on routes between locations in the United States and locations in Ontario and Quebec by intercity passenger rail;

(2) an assessment of the extent to which improving or expanding infrastructure and increasing staffing could increase the efficiency with which intercity rail passengers are inspected at border crossings without decreasing security;

(3) an updated evaluation of the potential for pre-clearance by the Department of Homeland Security of intercity rail passengers at locations along routes between locations in the United States and locations in Ontario and Quebec, including through the joint use of inspection facilities with the Canada Border Services Agency, based on the report required by section 1523 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 450);

(4) an estimate of the timeline for implementing the methods for reducing the time to perform inspections between locations in the United States and locations in Ontario and Quebec by intercity passenger rail based on the evaluations and assessments described in paragraphs (1), (2), and (3); and

(5) a description of how such evaluations and assessments would apply with respect to—

(A) all existing intercity passenger rail routes between locations in the United States and locations in Ontario and Quebec, including designated high-speed rail corridors;

(B) any intercity passenger rail routes between such locations that have been used over the past 20 years and on which cross-border passenger rail service does not exist as of the date of the enactment of this Act; and

(C) any potential future rail routes between such locations.

(c) ENTITIES SPECIFIED.—The entities to be consulted in the development of the report required by subsection (a) are—

(1) the Government of Canada, including the Canada Border Services Agency and Transport Canada and other agencies of the Government of Canada with responsibility for providing border services;

(2) the Provinces of Ontario and Quebec;

(3) the States of Maine, Massachusetts, New Hampshire, New York, and Vermont;

(4) the National Railroad Passenger Corporation; and

(5) the Federal Railroad Administration.

AMENDMENT NO. 1466, AS MODIFIED

(Purpose: To require a report)

On page 39, line 9, after ''spending:'' insert the following: ''*Provided Further*, That not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senaten that includes (1) a plan for the acquisition of alternative temporary housing units, and (2) procedures for expanding repair of existing multi-family rental housing units authorized under section 689i(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 776(a)), semi-permanent, or permanent housing options:''.

AMENDMENT NO. 1465

(Purpose: To authorize the temporary reemployment of administrative law judge annuitants for disputes relating to certain public assistance applications under the Robert T. Stafford Disaster Relief and Emergency Assistance Act)

On page 77, between lines 16 and 17, insert the following:

SEC. 556. ADMINISTRATIVE LAW JUDGES.

The administrative law judge annuitants participating in the Senior Administrative Law Judge Program managed by the Director of the Office of Personnel Management under section 3323 of title 5, United States Code, shall be available on a temporary reemployment basis to conduct arbitrations of disputes as part of the arbitration panel established by the President under section 601 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 164).

AMENDMENT NO. 1464, AS MODIFIED

(Purpose: To protect the privacy of personal information provided by United States travelers who participated in the Registered Traveler program)

At the appropriate place, insert the following:

SEC. ____. PROPER DISPOSAL OF PERSONAL INFORMATION COLLECTED THROUGH THE REGISTERED TRAVELER PROGRAM.

(a) IN GENERAL.—Any company that collects or retains personal information directly from individuals who participated in the Registered Traveler program shall safeguard and dispose of such information in accordance with the requirements in—

(1) the National Institute for Standards and Technology Special Publication 800–30, entitled ''Risk Management Guide for Information Technology Systems''; and

(2) the National Institute for Standards and Technology Special Publication 800–53, Revision 3, entitled ''Recommended Security Controls for Federal Information Systems and Organizations,'';

(3) any supplemental standards established by the Assistant Secretary, Transportation Security Administration (referred to in this section as the ''Assistant Secretary'').

(b) CERTIFICATION.—The Assistant Secretary shall—

require any company through the sponsoring entity described in subsection (a) to provide, not later than 30 days after the date of the enactment of this Act, written certification to the sponsoring entity that such procedures are consistent with the minimum standards established under paragraph (a)(1–3) with a description of the procedures used to comply with such standards.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary shall submit a report to Congress that—

(1) describes the procedures that have been used to safeguard and dispose of personal information collected through the Registered Traveler program; and

(2) provides the status of the certification by any company described in subsection (a) that such procedures are consistent with the minimum standards established by paragraph (a)(1–3).

AMENDMENT NO. 1447

Mr. HATCH. Mr. President, I am proud to join with Senators CORNYN and PRYOR to offer this amendment to the Department of Homeland Security appropriations bill. This bipartisan amendment will bring clarity to the definition of what should be classified as a switchblade knife. This amendment is in response to a proposal by the U.S. Customs and Border Protection, CBP, to revoke four ruling letters that would change the definition of a switchblade knife.

The definition of what is a switchblade has been clear and settled since the Federal Switchblade Act was

passed in 1958, and it has been reaffirmed by many years of legal decisions. The act is very clear that a switchblade must have an automatic mechanism that is activated by a button usually located on the handle. Without a button, it is not a switchblade, and this has been upheld by numerous cases on many levels over the years.

This amendment will clearly define that any knife that can be opened with one hand is not and should not be classified as a switchblade. This amendment conforms to the original intent of Congress when it passed the Federal Switchblade Act in 1958.

According to knife industry sources, 80 percent of pocketknives sold today are one-hand or assisted openers. On a daily basis, good working folks use these knives in their daily tasks as electricians, carpenters, and construction workers. As such, Leatherman-type multitools with one-hand opening features, as well as folding utility knives that have a stud on the blunt portion of the blade to assist one-hand opening, would have been defined as a switchblade. The amendment offered today will provide a permanent statutory remedy to this issue. This amendment will continue to prohibit switchblades, but not at the expense of knives that were never meant to be categorized as a switchblade. Because of that, I saw the need to offer this amendment.

I urge my colleagues to support this important amendment.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1428, AS MODIFIED

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Hatch amendment, No. 1428, as modified, be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1428), as modified, was agreed to.

Mr. NELSON of Florida. Mr. President, I come to the floor today to speak about an issue that I have been working on for several years and which has been addressed once and for all by the amendment that Senator HATCH has proposed—No. 1428—and that I have cosponsored, along with Senators CORNYN, BENNETT of Utah, SCHUMER, MENENDEZ, REID, KENNEDY, and GILLIBRAND. The amendment contains several important provisions, including my bill to put an end to what has become known as the ''widow penalty.'' This bipartisan support for this amendment has brought out the best in the Senate, and the Senate's action today represents a great achievement.

Under our immigration laws, a foreigner who marries a U.S. citizen is entitled to become a permanent U.S. resident. Yet our own immigration service has been trying to deport several hundred widows and a few widowers—foreigners who had been married to American citizens when the Americans died.

To illustrate, here is a little story from a June 14 CBS ''60 Minutes'' rebroadcast:

Raquel Williams, a young nursing student from Brazil, was visiting Florida when one night she and three girl friends drove into a gas station. They caught the eye of a car full of guys who were also getting gas.

''I guess they noticed that we were, you know, not from here,'' Raquel remembers, recalling when she first met her future husband. That chance meeting with Derek Williams led to love, marriage, and eventually parenthood. Two years after they met, their son Ian was born.

But then the unthinkable happened.

Raquel told ''60 Minutes'' she woke up about 4:30 a.m. one morning to find her husband lying on the couch. She could see something was wrong. He wasn't breathing. Raquel called 911. ''Please, please,'' she pleaded, ''come fast. Fast.''

But he was already gone. Derek had insomnia, so he would watch TV on their couch during the night. But he also had breathing problems and an irregular heartbeat, which proved fatal.

After he died, Raquel and Ian moved in with Derek's parents. And 3 months after Derek died, Raquel finally had the immigration interview that she had been seeking for a year to gain status as a permanent U.S. resident.

She went to the interview with Ian, and brought all the documentation needed to prove she had been married to Derek; she also brought the death certificate.

Her case was denied. ''They said, 'You're gonna have to go back to Brazil.' And I said, 'I have my son. You know? This is my son. He's [an] American citizen.' And they said that, 'You can go. He can stay.' ''

Ian was 5 months old at the time.

Raquel found herself caught in what is now referred to by many as the widow penalty—when a surviving spouse faces deportation because they had yet to be married 2 full years when their American husband or wife died.

Tragically, there are hundreds of cases in which men and women are crying out for common sense and reason to prevail. Earlier this year, I filed standalone legislation—the Fairness to Surviving Spouses Act of 2009—to put an end to the unfair and arbitrary widow penalty.

Then, 2 weeks ago, joined by Representative JIM MCGOVERN, the sponsor of the House counterpart to my bill, I held a meeting here in Washington with a number of surviving spouses from around the country. All of them today find themselves in Raquel's situation.

They included Diana Engstrom, whose husband was killed working with the Army in Iraq, and Natalia Goukassian, a Florida woman who, like Raquel, lost her American husband and then found the Federal Government moving to deport her.

Natalia is but one of a few hundred spouses of deceased Americans whose legal status hangs in the balance, but her story is illustrative. She came into the country legally from Russia and met her future husband. They married on June 30, 2006, and soon after they filed for Natalia's permanent resident status in the Orlando office of Citizenship and Immigration Services. Tigran died on December 1, 2006, of an aggressive form of cancer related to his service in the U.S. military. Natalia was denied in March 2009. For now she is here legally, but that status soon will end unless this amendment becomes law.

Widows and widowers facing deportation were given a potential lifeline on June 9, when the Obama administration put plans to send them to their home country on hold. But the administration says they will need a permanent fix, legislation from Congress, to be able to keep them in the country.

Today, with the adoption of our amendment, we finally have given them one. Our amendment puts an end to the widow penalty once and for all. Surviving spouses would still need to prove their marriage was a bona fide marriage before receiving a green card. And they would be still be counted against the overall cap of persons allowed to immigrate to this country each year. U.S. Citizenship and Immigration Services would retain the discretion to deny petitions, but they would no longer deny them automatically in response to the death of the citizen spouse.

The significance of the Senate's action today to the surviving spouses who will benefit from its provisions cannot be overstated. Our government no longer will be ''piling on'' by responding to the tragic death of spouse with an order of deportation instead of an offer of condolences. On behalf of Diana Engstrom, Natalia Goukassian, Raquel Williams, and all the surviving spouses who will have the chance to continue their lives in this country, I thank my colleagues and look forward to seeing this provision, which reflects our values as Americans, embraced by the House so that it may finally become the law of the land.

Mrs. MURRAY. 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. VITTER. 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. VITTER. Mr. President, I wish to present my second-degree amendment.

In a few minutes we will be voting on the Vitter second-degree amendment to the Dodd amendment. This is very straightforward and is something this body has considered very directly before. This amendment simply prohibits funds in the bill from being used by Customs and Border security to prevent the reimportation of prescription drugs from Canada only and for personal use only. So it is a reimportation amendment but only from Canada and only for personal use. It is very limited in that regard.

Also, it only limits funds with regard to enforcement by Customs and Border security. There are numerous other agencies in the Federal Government, such as the Justice Department and many law enforcement agencies, which regularly are in the business of going after counterfeits and other problems in the drug trade. This amendment doesn't limit that activity in any way because it only impacts Customs and Border security.

Finally, this exact amendment was considered and passed by the Senate in July of 2006. It was not only passed by the Senate, but that Vitter amendment, essentially identical, was adopted 68 to 32. A few months later, modified language passed the entire Congress. It was somewhat modified, but it passed the entire Congress and is law now.

So based on all that history, I urge a strong bipartisan vote in favor of this amendment as we had in 2006. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to my friend's amendment.

For the past several years, there has been a provision in this appropriations bill that says that Customs and Border Protection cannot stop an individual from bringing in on their person 90 days' worth of a prescription drug from Canada. While I am not crazy about that language, it has been law for some time and codifies what had been an existing practice at the border. However, my colleague from Louisiana is proposing to radically alter what happens at the border.

This amendment is bad policy, and I hope our colleagues will vote against it. It is not adequate to protect the public health, and it will not keep Americans safe.

This amendment would strike three important elements of existing law. Instead of just individuals, anyone could bring in drugs. There would be no license required for businesses to get into this line of work. There would be no inspections of their facilities, no minimum qualifications, no background checks, no limits on resale, no oversight whatsoever. This would be an open door for criminals to get into Americans' medicine cabinets.

The amendment removes the limit on the method of importation. Instead of bringing in the drugs on your person, you could do it by mail order or more likely via the Internet. This creates a problem with drugs coming not from Canada but through Canada. Many of the drugs ordered online today are purported to be from Canada, but when GAO and others investigate, they are found to be from other countries.

Finally, there would be no limits on the quantities permitted to be imported. Canada has only one-tenth the population of the United States. They cannot serve as our pharmacy. The drugs will be sourced from somewhere else. It is inevitable. While many people may be comfortable with drugs from Canada, I doubt they will have the same level of comfort with drugs from Pakistan, China, or Malta. There is nothing in this amendment to ensure that the drugs come from Canada, but there is every incentive for them not to come from Canada.

Most Americans who turn to imported drugs do so because of cost, but a counterfeit, tainted, or substandard drug is unsafe at any price. As we consider the issue of drug importation, the safety of our citizens must be our primary concern.

I support finding ways to reduce the cost of drugs but never at the expense of safety. So I urge my colleagues to oppose this amendment.

It is a well-intentioned amendment, I am sure. I care a great deal for my colleague, but I think we should oppose it and vote it down.

I yield the floor.

Mr. VITTER. Mr. President, I wish to briefly address some of the issues brought up by my distinguished colleague from Utah.

First, this amendment is only about individuals, and you can look at the clear language of the amendment. It is about individuals, not corporations, not mega businesses, not anything else but individuals.

Secondly, it is only about personal use. It is only about businesses not in the business of importing prescription drugs. So these individuals cannot be in that business, cannot be in that activity as a business. We specifically refer to the relevant portion of the Federal Food Drug and Cosmetic Act, section 801(g).

Third, it is for personal use because of that limitation.

Fourth, we are only limiting funds that go through border security for this purpose, not any other law enforcement agency; and there are many that are involved in the fight against counterfeits and other things, including the Department of Justice.

Fifth, and finally, this language was passed by this body in 2006 by a strong bipartisan vote of 68 to 32 and, as Senator HATCH said, a modified version was actually passed into law and has operated in law for 3 years, with no apparent safety problems that we are aware of.

I yield back my time and look forward to the vote.

Mr. HATCH. Mr. President, I yield back my time, also.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, we just approved a 3-year extension of the Religious Workers Act, which has a good goal and a worthy motive. We need to do better with this program.

We did have, in this legislation that passed, a study of the program to see how well it is working. But in July of 2006, the Homeland Security Department conducted an evaluation of the program, and it was not a good report. Essentially, the situation is that a religious group would be entitled to ask for and petition for someone to be brought into the country to work in their religious entity. It is called a ''religious worker program.'' It is usually not a minister, but some sort of lay worker.

The assessment was done by the Homeland Security group. It was an assessment of 200-plus cases, without any indication that any of those were fraudulent. They just took them at random and checked the 220 cases. Field inquiries were conducted where necessary, and fraud was determined to be the willful misrepresentation or falsification of a material fact—that means something that would probably have meant they were not entitled to the benefit of the program.

Under this evaluation, it was found that out of 220 cases evaluated, 72 were fraudulent; that is, 33 percent—or 1 out of 3—of the religious workers entering the country under this program entered fraudulently. That is not a good record. In fact, it appears to be the highest fraudulent record of any immigrant program we have in the country.

They cited some of the examples of abuses. For example, a beneficiary was invited into the country by a petitioner to work at a religious institution, and when they checked, the institution didn't exist. And the petitioner had filed a number of other petitions bringing in other people.

Another one dealt with a paper church—a church that didn't exist—and the addresses and all that were given were not legitimate.

Another one: Age 33, the beneficiary. The person who filed the petition to bring this foreign worker in couldn't be located, and there could be no connection between the person who petitioned and the group for which they claimed to be petitioning. So it appears that this individual petitioned for another individual to come and work at a school or a church, and the school or church they said they were going to work at didn't even know this was happening. Of course, when the person came in, they were therefore just able

to enter the country illegally and never worked at a church.

There are several more like that. Here is another one. The signer of the petition was no longer at the school, and the school board members interviewed said they didn't know who was invited to come through the petition and were not even aware a petition had been filed.

In another case, the petitioner had filed at least 82 petitions, with many fraudulent indicators, including the misrepresentation of the qualifications and duties of the beneficiary.

Another one dealt with a situation where the beneficiary couldn't be located, and the petitioner whose name was on the petition when found and interviewed said he didn't know anything about the filing. He didn't file it. So somebody just filed it and used his name and brought in somebody, supposedly to work at a religious institution, and it was all bogus.

So this is a program which has some real difficulties. I hope the study will help us figure out how to make it a more honest system that can meet the goals of our program without allowing for so much fraud and abuse.

Mr. President, I yield floor.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that the following amendments be the only amendments remaining in order to the Byrd substitute amendment No. 1373 and H.R. 2892, and that at 8:25 p.m. the Senate proceed to vote in relation to the amendments in the order listed; that prior to each vote, there be 2 minutes of debate equally divided and controlled in the usual form; that no other amendments be in order; further, that upon disposition of the Vitter amendment No. 1467, the Dodd amendment No. 1458, as amended, if amended, be agreed to and the motion to reconsider be laid upon the table; that after the first vote in the sequence, the vote time be limited to 10 minutes each. The amendments in order are Vitter amendment No. 1467, Dodd amendment No. 1458, Coburn amendment No. 1433, Murray amendment No. 1468, Coburn amendment No. 1434, Grassley amendment No. 1415, and Sanders amendment No. 1430; that upon disposition of the listed amendments, the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate and that members of the subcommittee be appointed as conferees; further, that if a budget point of order or any other point of order is raised and sustained, then it be in order for the majority manager to offer another substitute amendment minus any offending provision, but including any amendments which had been agreed to, and that no further amendments be in order; that the substitute amendment, as amended, if amended, be agreed to, and the remaining provisions beyond adoption of the substitute remaining in effect; and further, that the cloture motions be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VITTER AMENDMENT NO. 1467

Mrs. MURRAY. Mr. President, with that, we are ready to vote on the Vitter amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

There is 2 minutes of debate equally divided prior to the vote.

Mr. VITTER. Mr. President, Senator HATCH and I have both spoken, and I am prepared to yield back the time.

Mrs. MURRAY. And I will yield back time.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to amendment No. 1467.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Florida (Mr. MARTINEZ), and the Senator from Oklahoma (Mr. INHOFE).

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

The result was announced—yeas 55, nays 36, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—55

Akaka	Gillibrand	Reid
Baucus	Grassley	Sanders
Begich	Harkin	Schumer
Bennet	Inouye	Sessions
Bingaman	Johnson	Shaheen
Boxer	Kaufman	Shelby
Brown	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Casey	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Udall (NM)
Corker	Lincoln	Vitter
DeMint	McCain	Warner
Dorgan	McCaskill	Webb
Durbin	Merkley	Whitehouse
Feingold	Nelson (NE)	Wyden
Feinstein	Nelson (FL)	
Franken	Pryor	

NAYS—36

Alexander	Crapo	Lautenberg
Barrasso	Ensign	Lugar
Bayh	Enzi	McConnell
Bennett	Graham	Menendez
Brownback	Gregg	Mikulski
Bunning	Hagan	Murkowski
Burr	Hatch	Murray
Carper	Hutchison	Risch
Chambliss	Isakson	Roberts
Coburn	Johanns	Udall (CO)
Cochran	Kerry	Voinovich
Cornyn	Kyl	Wicker

NOT VOTING—9

Bond	Dodd	Martinez
Burris	Inhofe	Reed
Byrd	Kennedy	Rockefeller

The amendment (No. 1467) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1458, AS AMENDED

The PRESIDING OFFICER. Under the previous order, amendment No. 1458, offered by the Senator from Connecticut, Mr. DODD, as amended, is agreed to, and the motion to reconsider is considered made and laid upon the table.

The amendment (No. 1458), as amended, was agreed to.

AMENDMENT NO. 1433 TO AMENDMENT NO. 1373

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1433, offered by the Senator from Oklahoma, Mr. COBURN.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I had a chance to discuss amendment No. 1433 with Senator COBURN during the previous vote. I believe he is willing to take a voice vote on it.

Mr. COBURN. Mr. President, I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1433 to amendment No. 1373.

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

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

The amendment is as follows:

(Purpose: To prohibit the payment of bonuses to government contractors for poor performance)

At the appropriate place, insert the following:

PROPER AWARDING OF INCENTIVE FEES FOR CONTRACT PERFORMANCE

SEC. ____. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to pay award or incentive fees for contractor performance that has been judged to be below satisfactory performance or performance that does not meet the basic requirements of a contract.

Mr. COBURN. Mr. President, I agree with the Senator from Washington. This simply eliminates inappropriate

bonuses at the Department of Human Services. We did that at the Department of Defense, which saved $500 million. It is also an OMB reg for the agency.

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

The amendment (No. 1433) was agreed to.

AMENDMENT NO. 1468, TO AMENDMENT NO. 1373

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I call up amendment No. 1468.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk the read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1468 to amendment number 1373.

The amendment is as follows:

At the appropriate place insert the following:

None of the funds appropriated or othewise made available by this Act may be used by the Department of Homeland Security to enter into any federal contract unless such contract is entered into in accordance with the requirements of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or Chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided on the amendment.

Mrs. MURRAY. Mr. President, for the information of all Senators, the amendment following the vote on the Murray amendment is a Coburn amendment about ensuring that government contracts are competitively awarded. I agree with the premise of the amendment that follows this. However, his amendment is drafted in a way that precludes certain types of contracts that are authorized by statute and have the strong support of Congress. For example, his amendment doesn't acknowledge contracts that are authorized by the Small Business Act, such as minority-owned businesses, women-owned businesses, businesses owned by service-disabled veterans. The Coburn language also ignores the AbilityOne Program, known as the Javits-Wagner-O'Day Program, which provides job opportunities for blind and disabled Americans through Federal contracts.

The amendment I am offering assures that we do award government contracts competitively but does it in a way that makes sure we take care of small businesses and veteran-owned businesses and women-owned businesses.

I encourage all my colleagues to vote for the Murray amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. COBURN. Mr. President, if I understand this correctly, this will actually eliminate competitive bidding on grants so grants may be earmarked and would not have to be competitively bid. I believe it is important the American people know we competitively bid for contracts and we competitively bid for grants on the basis of priority and merit. Therefore, I am in opposition to this amendment and in support of my amendment.

The PRESIDING OFFICER. Is there further debate on the Murray amendment?

Mr. COBURN. 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 amendment No. 1468.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Florida (Mr. MARTINEZ).

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

The result was announced—yeas 67, nays 24, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—67

Akaka	Grassley	Murray
Alexander	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Bayh	Hatch	Pryor
Begich	Hutchison	Reid
Bennet	Inouye	Roberts
Bingaman	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown	Kerry	Shaheen
Brownback	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Cochran	Levin	Udall (NM)
Collins	Lieberman	Voinovich
Conrad	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	McConnell	Whitehouse
Feingold	Menendez	Wicker
Feinstein	Merkley	Wyden
Franken	Mikulski	
Gillibrand	Murkowski	

NAYS—24

Barrasso	Crapo	Kyl
Bennett	DeMint	Lugar
Bunning	Ensign	McCain
Burr	Enzi	Risch
Chambliss	Graham	Sessions
Coburn	Gregg	Shelby
Corker	Isakson	Thune
Cornyn	Johanns	Vitter

NOT VOTING—9

Bond	Dodd	Martinez
Burris	Inhofe	Reed
Byrd	Kennedy	Rockefeller

The amendment (No. 1468) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1434 TO AMENDMENT NO. 1373

Mrs. MURRAY. Mr. President, I believe Coburn amendment No. 1434 is in order.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, this is a simple amendment. It is a commonsense amendment. It says we should competitively bid contracts at the Department of Homeland Security, and we should competitively bid grants. If you vote against my amendment, you are saying we should not. That is all there is to it.

Mr. President, I yield back.

The PRESIDING OFFICER. Is the Senator offering the amendment?

Mr. COBURN. Mr. President, I actually have to offer the amendment. I call up amendment No. 1434 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1434 to amendment No. 1373.

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

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

The amendment is as follows:

(Purpose: To prohibit no bid contracts by requiring the use of competitive procedures to award contracts and grants funded under this Act)

At the appropriate place, insert the following:

COMPETITIVE BIDDING

SEC. ____. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(b) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant unless the process used to award such grant uses competitive procedures to select the grantee or award recipient.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senate just adopted an amendment that ensures that the government contracts are competitively awarded. The amendment Senator COBURN is now offering will undo everything we just did to assure that all businesses—small business, minority-owned businesses, women-owned businesses, businesses owned by service-disabled veterans—

will be eligible to bid on these contracts.

I urge the Senate to vote no.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The 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 Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Florida (Mr. MARTINEZ).

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

The result was announced—yeas 31, nays 60, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—31

Barrasso	Ensign	McCaskill
Brownback	Enzi	McConnell
Bunning	Feingold	Risch
Burr	Graham	Sessions
Carper	Grassley	Shelby
Chambliss	Gregg	Thune
Coburn	Isakson	Vitter
Corker	Johanns	Webb
Cornyn	Kyl	Wicker
Crapo	Lugar	
DeMint	McCain	

NAYS—60

Akaka	Gillibrand	Murkowski
Alexander	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Bayh	Hatch	Nelson (FL)
Begich	Hutchison	Pryor
Bennet	Inouye	Reid
Bennett	Johnson	Roberts
Bingaman	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dorgan	Lincoln	Voinovich
Durbin	Menendez	Warner
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NOT VOTING—9

Bond	Dodd	Martinez
Burris	Inhofe	Reed
Byrd	Kennedy	Rockefeller

The amendment (No. 1434) was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1415

Mrs. MURRAY. Mr. President, the next amendment in order is the Grassley amendment No. 1415. I have told the Senator we are willing to take it on a voice vote if he wants to offer it.

I call up amendment No. 1415.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1415) was agreed to.

AMENDMENT NO. 1430 TO AMENDMENT NO. 1373

Mrs. MURRAY. Mr. President, the next amendment and final amendment in order is the Sanders amendment. I believe the Senator will speak.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, this amendment is cosponsored by Senator CASEY, Senator CARPER, and Senator KERRY. It is also supported by the National Volunteer Fire Council representing the interests of over 800,000 volunteer firefighters.

At a time when due to the economic crisis fire departments all over this country are laying off firefighters, and in rural America volunteer fire departments are finding it increasingly difficult to attract and retain those firefighters who not only help us, saving our property and our lives, but also are involved in EMS services, we are putting some of that $100 million directly into recruitment and retention for volunteer firefighting efforts. The offset is the science and technology fund, which I have nothing against, but I think the priorities now have to be for firefighting and for volunteer fire departments.

I yield 15 seconds to Senator CASEY.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS], for himself, Mr. CASEY, Mr. KAUFMAN, and Mr. KERRY, proposes an amendment numbered 1430 to Amendment No. 1373.

The amendment is as follows:

(Purpose: To increase funding for firefighter assistance grants and recruitment and retention grants)

At the appropriate place, insert the following:

SEC. _____. FIREFIGHTER ASSISTANCE GRANTS AND RECRUITMENT AND RETENTION GRANTS.

For an additional amount for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) under the heading ''FIREFIGHTER ASSISTANCE GRANTS'' under the heading ''FEDERAL EMERGENCY AND MANAGEMENT AGENCY'' under title III there are appropriated $100,000,000, of which $50,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $50,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a) : *Provided*, That of the $50,000,000 made available under this section to carry out section 34 of that Act (15 U.S.C. 2229a), $20,000,000 shall be available for recruitment and retention grants under that section. The total amount of appropriations under the heading ''RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS'' under the heading ''SCIENCE AND TECHNOLOGY'' under title IV of this Act is reduced by $100,000,000.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise in opposition to this amendment. I also want fire grants. I want everybody to understand that the committee amendment already has $810 million in it for fire grants. That is an increase of $35 million. We just adopted another amendment to add $10 million to this.

The offset that is in this bill will eliminate all the technology development and design to address capabilities. It decimates the counter-improvised explosive device—IED—technology. It specifically eliminates mass transit-specific counter-IED technologies. It decimates cyber-security research and development. The Senate computers are being attacked today. It eliminates the research to make sure we can stop that. It eliminates development and assessment of high throughput cargo screening technology. The list goes on.

I believe we should be doing all we can for our firefighters. Even the International Association of Firefighters does not support this amendment—although I appreciate the Senator offering this amendment, and I agree with what he would like to do. But the offset decimates much of the technology we need to protect our citizens.

I urge a ''no'' vote.

Mr. SANDERS. Mr. President, 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. 1430.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote aye.

Mr. KYL. The following Seantors are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Florida (Mr. MARTINEZ).

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

The result was announced—yeas 32, nays 58, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—32

Baucus	Franken	Schumer
Bennet	Harkin	Shaheen
Boxer	Johanns	Snowe
Brown	Johnson	Specter
Cardin	Kaufman	Tester
Carper	Klobuchar	Thune
Casey	Kohl	Udall (CO)
Dorgan	Lincoln	Warner
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Sanders	

NAYS—58

Akaka	Barrasso	Begich
Alexander	Bayh	Bennett

Bingaman	Grassley	Murkowski
Brownback	Gregg	Murray
Bunning	Hagan	Nelson (NE)
Burr	Hatch	Nelson (FL)
Cantwell	Hutchison	Pryor
Chambliss	Inouye	Reid
Coburn	Isakson	Risch
Cochran	Kerry	Roberts
Collins	Kyl	Sessions
Conrad	Landrieu	Shelby
Corker	Lautenberg	Stabenow
Cornyn	Levin	Udall (NM)
Crapo	Lieberman	Vitter
DeMint	Lugar	Voinovich
Ensign	McCain	Webb
Enzi	McCaskill	Wicker
Gillibrand	McConnell	
Graham	Menendez	

NOT VOTING—10

Bond	Inhofe	Reed
Burris	Kennedy	Rockefeller
Byrd	Leahy	
Dodd	Martinez	

The amendment (No. 1430) was rejected.

Mr. REID. Mr. President, I move to reconsider.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RISK MAPPING, ASSESSMENT, AND PLANNING PROGRAM

Mr. MENENDEZ. Mr. President, I rise for the purpose of entering into a colloquy with the Senator to highlight a serious concern with regard to FEMA's subcontracting practices related to the Risk Mapping, Assessment, and Planning Program.

Mrs. MURRAY. I welcome a colloquy with my distinguished colleague.

Mr. MENENDEZ. I thank the Senator. I have constituents back in my home State of New Jersey who have highlighted a concern with a current FEMA solicitation for their Risk Mapping, Assessment, and Planning Program. I am concerned that this solicitation shuts out both small and medium sized businesses. After Hurricane Katrina, FEMA was, rightly so, criticized for issuing sole-source contracts to three very large companies. We need to be sure this pattern is not repeating itself.

I agree that updating the Nation's flood map is critical to managing and reducing the Nation's flood risk, but operating the program to benefit taxpayers by utilizing local, highly qualified businesses, I am sure, will produce the best results for the region, the State, and the country as well.

In addition, I believe that taking local companies, with over a decade of experience and a track record of success, out of regional Indefinite Quantity and Indefinite Delivery contract work is counterproductive and has the potential to cost the taxpayers more money while providing an inferior product.

Mrs. MURRAY. I thank the Senator from New Jersey for highlighting this issue. I agree that the flood-map program is an instrumental tool in reducing the loss of life and property from floods. The Homeland Security Subcommittee will work with the Senator to review the recent contract solicitation. I am committed to ensuring that DHS invests acquisition dollars in projects that are well planned, competitively awarded, well managed, closely overseen, and best able to serve local needs.

Mr. MENENDEZ. I appreciate the Senator's comments on that. This is not just about the State of New Jersey, which has had a number of flooding problems in the past, but this is an important concern of fairness to address the issue of flooding across the country as well. I thank the Senator for her interest and willingness to work with me on this issue.

Mr. LIEBERMAN. Mr. President, I rise to say a few words about the fiscal year 2010 appropriations bill for the Department of Homeland Security.

First, let me thank my colleagues who have worked to develop this legislation, especially Senators BYRD and VOINOVICH, the chairman and ranking member, respectively, of the Appropriations subcommittee on Homeland Security. I also thank Senators INOUYE and COCHRAN, the chairman and ranking member of the full Appropriations Committee. Finally, thanks also to Senator MURRAY for her skilled management of the appropriations bill in Senator BYRD's absence.

The bill before us is a fair, carefully balanced, and well-considered spending plan for the Department of Homeland Security. The resources provided in the bill are sufficient to carry out the Department's core missions of protecting the homeland against the threat of terrorism, securing our borders, enforcing our immigration laws, and preparing for and responding to terrorist attacks and natural disasters. While there are many programs and activities at DHS deserving of funding above the level provided in this bill, we are in a time of serious economic challenge, and obviously tough choices had to be and were—made in putting this legislation together.

This bill reflects the priorities of a department that has made great strides in the last 6 years but still faces many hurdles before we can say it has fulfilled the mission Congress laid out for it in 2002. Senator COLLINS and I have worked together since DHS was created—alternating as chairman and ranking member of the primary authorizing committee for the Department—to strengthen the Department's ability to carry out its many national security missions, to strengthen its management, facilitate its integration, and to hold its leadership accountable to an American public that has a right to be safe and secure within the borders of our own nation.

In May, I wrote to Chairman BYRD and Ranking Member VOINOVICH setting forth what I believed to be the most significant appropriations priorities for the Department, and I am grateful that a number of my recommendations have been incorporated into this bill. Let me briefly discuss a few sections of this bill that I believe are particularly important to our homeland security.

First, I am pleased the Appropriations Committee recognized that the Department's management and operations accounts need adequate funding if DHS is to succeed as it must. Secretary Napolitano has emphasized the need to create ''One DHS'' where the Department's many components are working closely together. To accomplish this, the offices for policy, human capital, acquisition, and information technology need additional resources, and all received significant increases in their budgets. The additional investments in acquisition oversight is particularly gratifying, as it will improve the Department's ability to oversee the $12 billion it spends each year on contracts with the private sector to better ensure our tax dollars are not wasted on bloated or ineffective programs.

In previous years, these management and operations accounts have often been used as offsets for amendments. I would urge my colleagues to refrain from offering amendments that would take away funds from management and operations; these funds are critical to the success of the entire Department.

Second, this bill, together with the funding provided in the fiscal year 2009 supplemental, significantly increases resources for combating violence on our southern border and includes the bulk of the $500 million in border security funding Senator COLLINS and I successfully added to the Senate budget resolution in March. The FBI has said that the Mexican drug cartels are the No. 1 organized crime threat in America today, replacing the Mafia, and now DHS will be able to send over 500 additional law enforcement officers to ports of entry. Almost half will help conduct southbound inspections to interdict the illegal flow of cash and guns into Mexico that is fueling the cartel-driven violence.

The funding will also add hundreds of ICE investigators to work on drug, currency, and firearms cases in the border region and will expand the Border Enforcement Security Task Force fusion centers that ICE has established along the southwest border. This funding was badly needed to help Federal, State, and local law enforcement agencies take down these sophisticated and dangerous drug-and-human smuggling networks. The Mexican drug cartels represent a clear and present threat to homeland security, and I remain fully committed to working with the administration to support our Federal law enforcement agencies in this crucial fight.

Third, this bill continues funding for the Homeland Security Grant Programs that our first responders need to prepare for acts of terrorism and natural disasters at the State, local, and tribal levels. Funding for the State Homeland Security Grant Program, which provides basic preparedness funds to all States and is the largest of DHS's grant programs, remains steady from last year at $950 million, including $60 million for grants focused on border security, essentially the full level authorized by Congress in the implementing recommendations of the 9/11 Commission Act of 2007. Funds for Urban Area Security Initiative, UASI, grants, which provide resources to the

Nation's highest risk metropolitan areas, are increased by nearly $50 million over last year.

I am also pleased that funding for SAFER grants , which assist local fire departments with the cost of hiring new firefighters, was doubled to $420 million for fiscal year 2010. In this era of budget constraints, this funding will help ensure that communities are able to continue to staff their local fire houses. The Appropriations Committee has also wisely restored a significant portion of the funding cut from the President's budget for assistance to firefighter grants. These grants fund essential equipment, vehicles and training for firefighters. However, the $380 million for these grants represents a cut of nearly one-third below the fiscal year 2009 appropriation.

Fourth, this bill wisely supports the administration's request for a significant increase in funding for cybersecurity at DHS, which has been identified as one of our top national security priorities. The Department needs resources to protect Federal civilian networks from cyber-related threats and to work with the private sector to protect their networks and infrastructures. The Homeland Security and Governmental Affairs Committee is currently working to develop legislation that strengthens the government's authorities with respect to cybersecurity, so this funding decision is particularly important.

This bill makes other essential homeland security investments in port security, transit security, science and technology, and biosecurity, all of which are critical to the overall security of the Nation.

I am concerned that the bill cuts funding for FEMA's main operating account, making it difficult for FEMA to continue implementing the critical improvements necessary for it to become, nearly 4 years after Hurricane Katrina, the ''new FEMA.''

Also, insufficient funding has been appropriated for the Secret Service to make necessary improvements to its information technology systems, and, in particular, to complete essential work to allow secure communications between the Secret Service's White House detail and its field office.

Despite these particular concerns, however, I believe that overall this is a strong and essential piece of legislation. I thank the leadership and the members of the Appropriations Committee for their work on this bill and strongly urge my colleagues to support its passage.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this has been a long day, but I appreciate everyone's cooperation. It has taken a long time to get to where we are. We set out this week to accomplish a few things, and with the cooperation of the Members, we have been able to do it. We don't have to vote tomorrow; we don't have to vote over the weekend. Our first vote next week will be at 5:30 p.m. on the nomination of the Census Director, Mr. Groves. That is on cloture with Mr. Groves.

We are coming in at 10 a.m. tomorrow, but there will be no votes. Monday, we will be in at 11 a.m. Senators LEVIN and MCCAIN will begin managing the Defense Authorization bill, and we appreciate being able to start that. There are a lot of very big, important amendments on that bill.

Next week is the only disjointed week of this work period. As I indicated earlier, we will have no votes after 2 p.m. on Tuesday, and Friday has been long announced as a no-vote day, which means the following 3 weeks are going to be very grueling, and everyone should understand that.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we are now moving to final passage on the Homeland Security Appropriations bill. I thank all our Senators, especially Senator VOINOVICH, for his cooperation. I want to thank all our staff members, and I will submit their names for the RECORD. I thank everyone for helping us move this bill forward.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I would be remiss if I didn't thank, first of all, the chairman of our subcommittee, ROBERT BYRD, for the cooperation he has shown me and his staff. I particularly thank Senator MURRAY. I think this is my first opportunity to do one of these bills on the floor of the Senate, and it has been an interesting experience for me.

I also particularly thank Chuck for his work, and my great staff here, because without them, we wouldn't have been able to get this job done. I thank all of you for your cooperation in making this all happen.

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

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

Under the previous order, the substitute amendment, as amended, is agreed to.

The amendment (No. 1373), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill as amended, pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from Rhode Island (Mr. REED), and the Senator from West Virginia (Mr. ROCKEFELLER) would each vote ''aye.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Florida (Mr. MARTINEZ).

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

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—84

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murkowski
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Gregg	Nelson (FL)
Bennet	Hagan	Pryor
Bennett	Harkin	Reid
Bingaman	Hatch	Risch
Boxer	Hutchison	Roberts
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Cochran	Kyl	Tester
Collins	Landrieu	Thune
Conrad	Lautenberg	Udall (CO)
Corker	Levin	Udall (NM)
Cornyn	Lieberman	Vitter
Crapo	Lincoln	Voinovich
Dorgan	Lugar	Warner
Durbin	McCaskill	Webb
Enzi	McConnell	Whitehouse
Feingold	Menendez	Wicker
Feinstein	Merkley	Wyden

NAYS—6

Bayh	Coburn	Ensign
Burr	DeMint	McCain

NOT VOTING—10

Bond	Inhofe	Reed
Burris	Kennedy	Rockefeller
Byrd	Leahy	
Dodd	Martinez	

The bill (H.R. 2892), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

VOTE EXPLANATION

• Mr. REED. Mr. President, I was necessarily absent for tonight's votes on H.R. 2892, the Department of Homeland Security Appropriations Act, as I was attending a wake for a Rhode Island constituent. Had I been present for the vote on final passage, I would have voted in favor of this legislation.•

The PRESIDING OFFICER. Under the previous order, the Senate insists