Mrs. FEINSTEIN. Obviously that is for the purpose of the Senate photograph.

Madam President, I note that 12 o’clock has arrived. We will have a vote on the Feinstein-Alexander amendment No. 2460. I will take a brief moment to describe it.

This is an amendment cosponsored by Senators ALEXANDER, LEVIN, SCHUMER, COCHRAN, BENNETT, WARNER, and I ask unanimous consent to add the name of Senator BOXER.

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

Mrs. FEINSTEIN. Madam President, this amendment simply makes $250,000 available so the Smithsonian can carry out activities under the Civil Rights History Project Act of 2009. Obviously this means this has been authorized. It is also paid for.

This is a joint project between the Library of Congress and the Smithsonian. It has proposed here about the audio recordings of the personal histories and testimonials of individuals who participated in the civil rights movement.

By coordinating the effort at the national level, the project will build upon and complement previous and ongoing documentary work on the American civil rights movement. I think it is a very special effort because it essentially will mean that youngsters who are present in 20, 30, or 40, or 50 years, will be able to have audio and videos that contain the actual photographs and actual wording of people who participated themselves in the great civil rights movement of this country.

I urge my colleagues to support the amendment.

If there are no other comments by the ranking member—would the ranking member like to make a comment? Then we will ask for the yeas and nays.

Mr. ALEXANDER. Madam President, I congratulate the Senator from California for her leadership. We Americans are united by our founding documents and our language and our history, not by our race or ethnicity or where we come from, so therefore we are very hungry for stories about ourselves.

The great writers of American history, such as David McCullough, whose books are sold out immediately, would wish we had the same sort of documentation the Senator from California has proposed here about the writing of the Constitution or the American Revolution or the Civil War or the great world wars. Ken Burns would like to have more of it for his upcoming series on the national parks.

This will mean we will have more of it for the great civil rights struggles of the 1950s and 1960s and 1970s. Alex Haley, the author of “Roots,” said an older person dying is like a library burning down. This will help to make sure we keep those libraries.

Mr. FEINSTEIN. Madam 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 the amendment.

The clerk will call the roll. The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Wisconsin (Mr. Kohn) are necessarily absent.

I also announce that the Senator from Arkansas (Mrs. LINCOLN) is absent due to a death in the family.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

The result was announced—yeas 95, nays 0, as follows:

[Roll call Vote No. 290 Leg.]

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RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEMPE).

DEPARTMENT OF THE INTERIOR, ENVIRONMENTAL, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

The PRESIDING OFFICER. Amendment No. 2436 offered by Senator CARPER.

AMENDMENT NO. 2494

Mr. REID. I ask unanimous consent that the amendment be set aside, and at this time I call up amendment No. 2494.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. Reid) proposes an amendment numbered 2494.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

(Purpose: To provide for an evaluation of the aquifers in the area of the Jungo Disposal Site in Humboldt County, Nevada)

On page 240, between lines 13 and 14, insert the following:

SEC. 423. JUNGO DISPOSAL SITE EVALUATION.

Using funds made available under this Act, the Director of the United States Geological Survey shall conduct an evaluation of the aquifers in the area of the Jungo Disposal Site in Humboldt County, Nevada (referred to in this section as the “site”), to evaluate—

(1) how long it would take waste seepage (including asbestos, discarded tires, and sludge from water treatment plants) from the site to contaminate local underground water resources;

(2) the distance that contamination from the site would travel in each of—

(A) 95 years; and

(B) 190 years;

(3) the potential impact of expected waste seepage from the site on nearby surface water resources, including Rye Patch Reservoir and the Humboldt River;

(4) the size and elevation of the aquifers; and

(5) any impact that the waste seepage from the site would have on the municipal water resources of Winnemucca, Nevada.

Mr. REID. Mr. President, I offer this amendment to address a crisis affecting Native Americans served by the Indian Health Service’s Schurz Service Unit in Nevada.

This amendment to H.R. 2996, the Interior, Environment and Related Agencies Appropriations Act, would direct the Indian Health Service to use any unobligated contract health service funds from fiscal year 2009 to pay the Service’s obligations to private health providers who have treated Nevadans.

The Service’s Schurz Service Unit administers contract health funds for thousands of eligible Indian beneficiaries who receive care from the Fallon Tribal Health Center, Reno-Sparks Health Center, Pyramid Lake Health Center, Walker River Paiute Health Clinic, and other tribal health clinics and stations.

I understand that it may difficult to coordinate care and referrals where the
Indian Health Service administrators contract health funds and the tribes enter Federal contracts or compacts to provide all other health services. But this arrangement does not relieve the Indian Health Service of its responsibilities—timely responses and communications between patients, primary physicians, private health providers and specialists; to ensure that proper procedures and payment schedules are followed at the Indian Health Service Unit, and the Phoenix Area Office or by the State of Nevada and private providers; and to complete payments and reimbursements in a timely and business-like manner. At the Schurz Service Unit, these responsibilities have not been fulfilled, and individuals have suffered because they have been denied care or decided not to seek care because they could not pay for the service.

This amendment would provide immediate relief for some of the problems identified by the Indian Health Board of Nevada, tribal leaders, and private health providers. It would direct the Indian Health Service to pay outstanding contract health obligations incurred by the Schurz Service Unit within 90 days of enactment of this bill. Briefly, these obligations cover debts that the Indian Health Service has approved and date from fiscal years 2000, 2005, 2006, 2007, 2008 and 2009. The oldest obligations, those before October 1, 2003, total less than $1.4 million, while the current fiscal year includes more than $5 million in outstanding bills. There are hundreds of providers who have not been paid for services rendered—services that the Indian Health Service has determined should be paid.

In my home State, Native Americans rely on private and community health providers for a range of services. These providers are critical components in our Indian communities' network of health care. And, unlike other Indian Health Service Units in the Phoenix Area Office, there are no Indian Health Service hospitals in Nevada and Nevada's Indians are expected to travel to the Phoenix Indian Medical Center to be treated for serious health care problems. We must work with private providers so they continue to serve IHS-eligible patients and prevent further erosion of the health care network serving some of our most vulnerable citizens.

I will fight for our Native Nevadans and health providers who are valued members of Indian country's health care team. This amendment does both, by helping the Indian Health Service deal with a critical problem at the federally operated service unit in Schurz and by honoring its obligations with our private care providers. And I believe that by directing this one-time payment, the Indian Health Service, working with tribes and health providers, will be able to implement necessary changes and manage contract health funds for fiscal year 2010.

Mr. President, I ask unanimous consent to set aside the amendment for Senator MCCAIN.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that amendment No. 2461 be called up and the pending business be set aside.

The PRESIDING OFFICER. Is there objection?

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

The legislative clerk reads as follows: The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2461.

Mr. MCCAIN. 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 prohibit the use of appropriated funds for the Des Moines Art Center in the State of Iowa.) On page 135, line 2, insert before the period at the end the following: "; Provided, That none of the funds made available under this Act may be used for the Des Moines Art Center in the State of Iowa.

Mr. MCCAIN. Mr. President, this amendment would simply prohibit the use of funds for the Des Moines Art Center in Des Moines, IA—just one of the 308 earmarks included in this bill which total $246 million. This earmark is like most other earmarks posing as a national spending priority. Many of these earmarks were not authorized and were not competitively bid in any way, and no hearing was held to judge whether these are worthy of scarce taxpayers' dollars.

Every summer we hear news of major wildfires destroying people's homes and businesses across the country. According to the National Interagency Fire Center, over 5.5 million acres of land were scorched this year so far. Spending bills such as this one are vitally necessary for fire suppression activities and forest health programs—programs that save lives and property. As we look for ways to pay for the escalating cost of wildfires, we must also address the mixed messages we are sending to taxpayers about our spending priorities.

Buried in the committee report, as usual, is a $200,000 earmark for historic preservation needs at the Des Moines Art Center in Iowa. I am all for preserving our Nation's historic buildings, but good intentions or not, the process of earmarking is how appropriators steal taxpayers' money for pet projects that wouldn't otherwise win a grant competition or pass a prioritization formula. They are placed above more deserving projects simply because of their "connections" in Washington.

According to an article in the Des Moines Register on February 27, 2009, entitled "Look Out Below: Des Moines Art Center is Adding Space Underground," the Art Center is embarking on a $7.5 million capital improvement project which includes building a $3.5 million basement level "storage addition and a new glass elevator." The Art Center raised this money as part of its ongoing $34 million fundraising campaign launched in 2005.

The multimillion dollar underground addition will double as a ground level "green roof," says the art center's director Jeff Fleming: "People can walk on it without even knowing it's a roof . . . a great space for outdoor gatherings.

The article also notes that the art center will gladly name the new addition to whichever benefactor closes out their $34 million fundraising campaign. Americans are hurting. The unemployment rate is nearly 10 percent. The deficit is estimated to be $1.6 trillion for this year, and the projected 10-year deficit jumped from $7.1 trillion to $9 trillion, et cetera, et cetera. Obviously, it might be nice if we started thinking about the future of America and the future generations who are going to pay the tab for our continued spending.

I am offering this amendment on behalf of taxpayers who will rightfully question what makes the Des Moines Art Center a national spending priority. Why is the Des Moines Art Center allowed to bypass the proper procedures for determining historic preservation spending? Why can't the Des Moines Art Center cough up $200,000 from its $7.5 million capital improvement project? Why can't they address this $200,000 need in their $34 million fundraising campaign?

I urge my colleagues to support this amendment.

I spent, as did many of my colleagues, the last few days at home in Arizona, traveling around my State. When this issue of earmarking and pork barrel spending is brought up, there is a visible reaction. Americans are sick and tired of it. Sooner or later, while those who continue to vote for and support this unnecessary, unneeded pork barrel spending while we have a 10-year $9 trillion deficit, Americans are going to rise up in an even more vociferous fashion than they are today.

I believe what is going on around the country is not just the issue of health care. What is going on around the country is people are sick and tired of being penalized and penalized for their State, for their future and for the future of our Nation. Americans have had enough of it.

I ask my colleagues to vote in support of this amendment, being aware that those on the Appropriations Committee will probably vote to turn down this amendment even though it is only a $200,000 unnessessary spending project. So do so. You have done it in the past. I am going to continue, and the American people need to continue to demand some kind of accountability for this outrageous, out-of-control spending which has mortgaged future
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generations of Americans and, believe me, at least in the State of Arizona, they are sick and tired of it.

Mr. President, I ask for the yeas and nays on this amendment at a time to be determined by the majority leader. The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I ask unanimous consent to proceed as in morning business.

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

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, I rise to call my colleagues’ attention to a truly disturbing development in the health care debate. A colleague of ours—a colleague of ours—has called for an investigation into a major health care company because this company disagrees with the administration’s view about health care legislation that this colleague of ours introduced. Let me say that again. A colleague of ours has called for an investigation of a major health care company because this company disagreed with a bill our colleague introduced.

As a result, the Federal Government has now told all companies that provide Medicare Advantage to stop communicating with their clients about the effects of that legislation. Let me say that again. The Federal Government has now told all companies that provide Medicare Advantage to stop communicating with their clients about the effects of a piece of legislation that is before us, even telling them what they can and cannot post on their Web sites. This gag order, enforced through an agency of the Federal Government at the request of a Senator, is wrong.

It started when a company based in my hometown of Louisville, KY—Humana—had the temerity in the eyes of some of our colleagues to explain to its customers that if Medicare Advantage is cut, as the chairman’s mark requires, it may reduce benefits which, of course, is a commonsense conclusion. This is America, the United States of America. Citizens, either as individuals or grouped together in companies, have a fundamental right—a fundamental right—to talk about legislation they favor or oppose in this country.

This is the right to free speech is at the core of our democracy. Free citizens have a first amendment right to petition their government for a redress of grievances. This gag order on companies such as Humana and those in all our States, in my view, is a clear violation of that right and it is wrong.

Employers who warn their customers about the effects of legislation are not the ones who should be getting warnings. If employers were warned of serious consequences, they are the ones who ought to be getting warnings. Senators who threaten first amendment rights are the ones who should be getting the warnings.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, before the Republican leader leaves, I congratulate him for his statement. Over the years, he has been a consistent defender of first amendment rights even for a great many Americans with whom he disagreed. Senator BYRD, who is the constitutional conscience of the Senate, often encourages Senators to carry with us a little pocket version of the Constitution.

I am reading the first amendment to the Constitution, which the Senator from Kentucky spent a great deal of his career defending:

Congress shall make no law—

No law—

respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. But that is part of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

I ask the Senator through the Chair whether, as he understands the first amendment to the Constitution, it would be clearly unconstitutional for us to pass a law that would tell a major health care company that if they objected to a piece of legislation by informing their customers of its consequences that there would be some penalty?

Mr. MCCONNELL. Mr. President, I say to my friend from Tennessee, he is absolutely correct. There are two obvious violations of the amendment here. One is the right to speak freely and the other is the right to petition Congress for a redress of grievances.

Here you have an industry, the health insurance industry, at least one company of which is communicating with its customers the truth about this legislation and being threatened by a powerful Senator and a government agency to shut up.

Mr. ALEXANDER. Mr. President, as I understand it from reading it in the newspapers some of the big drug companies are lined up with the Obama administration with the Democratic health care bill. I wonder what the Republican leader would think if some Republican Senator called one of the big drug companies and said: You are going to suffer serious consequences or even went to one of the agencies of government and caused them to tell a big drug company that because of their speeches and remarks, they were going to suffer some consequences.

Mr. MCCONNELL. Mr. President, once again, I say to my friend from Tennessee, to call an agency of the government for the purpose of implementing a gag order against a company that is speaking freely about the impact of legislation on its business and its employees is an astonishing thing to behold in the United States of America.

I assume the particular industry the Senator from Tennessee is talking about, which has been out running millions of ads in support of what the administration is trying to do, is not getting such threats.

Mr. ALEXANDER. I assume, Mr. President, that the big drug companies that are running ads against Republican Senators for questioning the health care reform bill, they have a right to do that. I know what is happening with the public is people are seeing the ads and calling me and telling me: Continue to oppose what is going on. But that is part of our system.
I congratulate the Republican leader for bringing to the attention of all his colleagues this action.

Mr. McCONNELL. I thank my friend from Tennessee. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senator from Delaware be permitted to speak in morning business not to exceed 5 minutes.

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

The Senator from Delaware is recognized.

**FIRST STATE ROBOTICS**

Mr. KAUFMAN. Mr. President, imagine a robot that could play ball. Imagine a robot that could actually pick up a ball from the ground, hold on to it, and then, when the time is right, successfully toss it to another robot. Finally, imagine that this robot was built by a group of high school students.

I recently met an extraordinary group of students who turned this vision into reality. As part of Delaware’s Miracle Workers robotics team, students designed and built this robot to compete in the For Inspiration and Recognition of Science and Technology, or FIRST, national robotics competition.

The FIRST Program was founded in 1989 by inventor Dean Kamen to inspire young people to pursue careers in science, technology, engineering, and math. Since that time, FIRST has grown significantly. In 2008, drawing from the support of thousands of volunteers and mentors, sponsorships from some of the world’s largest and smallest companies, educational institutions, and the Federal Government, FIRST introduced nearly 160,000 institutions, and the Federal Government, FIRST introduced nearly 160,000 students from all 50 States and 37 countries to the joys of problem solving and engineering.

In Delaware, participating students spent an entire school year building their robot, which is taller than some adults, decorated in green and black, and even wearing a bow tie. The first half of the year the team was dedicated to learning the basics of engineering, programming, and project management. The remainder of the year was slated for designing, building, testing, and refining the robot for competition. Students worked in specific subteams, including electrical, programming, mechanical, fundraising, publicity, scouting, 3-D animation, Web team, and more. Students engaged with adult volunteers—many of them engineering professionals—who helped train and mentor the team.

Incredibly, these types of programs are not just for those in high school. Delaware’s First State Robotics organization oversees several other programs and provides engineering experience for students from prekindergarten through college. First State Robotics aims to go into K-12 schools, and communities an appreciation for science, engineering, and technology.

The results are remarkable. Ninety-seven percent of First State Robotics participants have attended college, with 82 percent pursuing degrees in science and engineering. Many have earned credits at a local community college for their participation in this program, and several have earned scholarships applicable toward higher education.

Communities also benefit from these programs. Participating students take part in book drives, blood drives, and mentoring. They give robot demonstrations in local schools and community events to promote recruitment and education.

It is clear that First State Robotics is having an incredible impact on students. Alumni of the program are more interested in pursuing careers in the sciences and engineering, and they are involved with their communities as volunteers. Many graduates say that participating in First State Robotics was the most positive and rewarding experience of their lives, and through these experiences they decided to pursue further study of engineering.

We must encourage today’s students to become tomorrow’s engineers by highlighting and promoting programs such as First State Robotics. It is through comprehensive programs such as these that students learn that engineering can be a path to making a difference.

Through hands-on activities, students participating in First State Robotics are given the opportunity to learn that engineers, as the President and the Congress have encouraged, do make a difference in people’s lives and quality of life, and can help us reach the goal of clean water, lifesaving cures for cancer and disease, clean renewable energy, affordable health care, and environmental sustainability.

The national FIRST Program shows how important it is that the American people, the Federal Government, and industries united to support STEM initiatives. These educational programs will lead us not only to new frontiers in health, energy, technology, and security but to new jobs and, ultimately, a sustainable economic recovery.

I know that if given the opportunity, a new generation of engineers and scientists will lead us into the new frontiers, and many FIRST alumni have already done so.

I commend the students of First State Robotics and the dedicated mentors for their shining examples of the miracles of engineering.

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.

Mrs. FEINSTEIN. 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.

Mrs. FEINSTEIN. Mr. President, I compliment the Senator from Delaware. He did go 5 minutes.

I believe Senator BARRASSO has an amendment he wishes to offer.

The PRESIDING OFFICER. The Senator from Wyoming.

Amendment No. 2471

Mr. BARRASSO. Mr. President, I wish to speak on amendment No. 2471.

On Friday, September 11, the Washington Times ran a front-page story on an issue titled “Millions Burnt to DC, Western States Feel Burned.”

That is about right. The story talks about the U.S. Forest Service plans to spend $2.8 million of wildland fire management funds in the District of Columbia. This is ridiculous, it is outrageous, and we should not stand for it.

Mr. President, just to read the first paragraph:

Even with forest fires raging out west, the U.S. Forest Service this week announced it will spend nearly $2.8 million of forest fire fighting money in Washington, D.C., with no national forests and where the last major fire was probably lit by British troops in 1814.

The article continued:

The vast majority of the money—$2.7 million—is going to Washington Parks & People, which sponsors park festivals and refurbishes urban parks in the Washington area.

Mr. President, in Wyoming, we have over 9 million acres of national forest land. There are seven national forests in our State. We face many management challenges in those forests. The agency struggles to meet its basic responsibilities. Over 1 million acres are infested with mountain pine beetle in Wyoming. That is just one species of beetle—a species that has killed over 1 million acres of trees. The devastation continues well beyond just one species in many places. And where the beetle infestation is at its worst—in the Medicine-Bow National Forest—the affected acres have doubled between 2007 and 2008. The problem is severe. It is growing exponentially, and we are facing extreme risk of wildland fire in Wyoming.

So when the U.S. Forest Service recommended $300 million and received that amount of money for Wildland Fire Management in the stimulus package, one would think maybe the agency would use those funds to combat threats to forest health in its lands nationwide. One would think that maybe we would see some real results on the ground in Wyoming and in the State of Colorado. Instead, Wyoming was awarded zero dollars in the first round of U.S. Forest Service projects under the stimulus, and only after the congressional delegation and the Governor of Wyoming appealed to the Department of Agriculture were funds recommended for forest projects in Wyoming. Meanwhile, the agency wants to spend $2.8 million on wildland fire in Washington, D.C!!
The people and forest communities in my State deserve better, and the people of America demand better. Wyoming boasts incredible wildlife populations, unique ecosystems, and breathtaking views. Over half the land in Wyoming is public land. One can see rangelands, alpine forests, glacial basins, and desert landscapes in Wyoming. We host millions of visitors every year who will enjoy Wyoming's wilderness.

The District of Columbia is not under threat of wildland fire. In fact, the government's National Interagency Fire Center defines what qualifies as a wildland fire—and DC does not qualify. Clearly, the District should not receive wildland fire management funds. The U.S. Forest Service should not spend vital funds for wildfire fighting and for prevention in Washington, DC.

I have introduced this amendment with a number of other Senators from the West. Senator KYL and Senator ENSIGN and Senator MCCAIN are cosponsoring, and we want to make sure the U.S. Forest Service is not wasting management opportunities. We will not stand by and watch our State's burn when resources are available to prevent that, and I would ask all Senators to support this amendment.

Mr. President, at this time, I ask unanimous consent to set aside the pending business and call up amendment No. 2471.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming, Mr. MCCAIN, pro- vokes this amendment.

The amendment is as follows: (Purpose: To prohibit the use of wildland fire management stimulus funds in the District of Columbia.)

On page 240, between lines 13 and 14, insert the following:

SEC. 423. PROHIBITION ON USE OF WILDLAND FIRE MANAGEMENT STIMULUS FUNDS IN THE DISTRICT OF COLUMBIA.

Notwithstanding any other provision oflaw, none of the funds made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115) for wildland fire management shall be used in the District of Columbia.

The PRESIDING OFFICER. The Senator, Mr. ALEXANDER, Mr. President. I want to congratulate the Senator from Wyoming on his vigilance. There is no Senator—certainly on this side of the aisle, and I suspect not in this Chamber—who gets up earlier, works harder, or keeps in closer touch with what is going on in Wyoming and in this country than Senator BARRASSO, and he is exactly right on this issue.

The Senator from Wyoming, Mr. BARRASSO, the Senator from California, has made fighting wildfires a major part of her effort this year. She and the administration have included within this appropriations bill the firefighting money that usually is set aside for emergency appropriations. So that money needs to be spent correctly, as it should be. I think Senator BARRASSO and the other Senators who cosponsored it are exactly right, and I agree with the chairman of the subcommittee that it is a good amendment.

Mrs. FEINSTEIN. So we will accept it, Mr. President.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2471) was agreed to.

The PRESIDING OFFICER. The Senator from Wyoming, Mr. BARRASSO. Mr. President, I thank the chairman and Senator ALEXANDER for their gracious reception and acceptance of this amendment in the Chamber with that resounding voice vote in support of the amendment.

AMENDMENT NO. 2472

Mr. President, I also filed amendment No. 2472, and I wish to speak on that amendment at this time.

Mrs. FEINSTEIN. Mr. President, is the Senator calling up that amendment?

Mr. BARRASSO. Mr. President, I am not at this point.

Mr. President, I have serious concerns about the recent Interior Secretary's memo on endangered species. Although I commend the Secretary for attempting to address this issue, I have concerns that we are getting the cart before the horse. Congress has not passed a climate change bill yet. Sweeping regulations are being proposed by the Secretary of the Interior. These regulations put into question the future and our management agreements regarding oil and gas development, renewable energy development, recreational use, and wildlife protection.

Under these rules, a dark cloud is placed over all existing agreements regarding these activities. In addition, all pending decisions regarding both energy development and recreational use will also be put on hold indefinitely. All this will occur through regulations that did not have the approval or the consent of the American people. I would ask my colleagues, no matter where they stand on the issue of climate change, to vote for this amendment. We need to get the order right. First, a climate change bill that has the public's approval; then after that is voted upon, and if approved, let the regulatory process at the agency level begin. That is what my colleagues are voting on if they vote for this amendment.

So I urge adoption of the amendment at the point when it is called up.

AMENDMENT NO. 2473

Mr. President. I also filed amendment No. 2473, and I will also speak on that amendment at this time. That amendment would prevent the Environmental Protection Agency's endangerment finding from going into effect until the EPA grants the petition of the U.S. Chamber of Commerce to have an on-the-record, trial-like proceeding on the scientific data behind the EPA's endangerment finding.

The chamber petitioned the EPA for a trial-like hearing on the scientific data behind the endangerment finding before an administrative judge or EPA official. The chamber stated in their petition that:

An endangerment finding would give rise to the most far-reaching rulemaking in American history. Before embarking on that long, costly process, the people ought to do everything possible to assure the American people of the ultimate scientific accuracy of its decision.

The on-the-record proceeding would be a great opportunity for EPA to ensure transparency. This administration claims to be the most transparent administration in history. What better opportunity to demonstrate this by authorizing the chamber's petition. The行政机关ative proceeding is allowed by law. It will be a short on-the-record proceeding. To deny this request is an admission by the EPA that their work on endangerment can't stand scrutiny. This should be a concern for all Americans at this point.

AMENDMENT NO. 2474

Mr. President, I would like to move on to another amendment which I have filed—amendment No. 2474—and I will speak on it at this point.

This amendment would require the Environmental Protection Agency Inspector general to complete an investigation into the treatment of Dr. Alan Carlin by his superiors at the Environmental Protection Agency. Under this amendment, the endangerment finding cannot go into effect until the investigation is completed.

Dr. Alan Carlin and a colleague prepared a 98-page analysis arguing that the EPA should “take another look” at the EPA's scientific data behind the endangerment finding that carbon dioxide is a threat to public health. According to a report by Kimberly Strassel with the Wall Street Journal, a senior EPA official suppressed this detailed account of the most up-to-date science on climate change. This amendment would require audits about the process behind the substance of the EPA's proposed finding that greenhouse gases endanger public climate change.
health and welfare. On August 21, inside Washington Publishers reported that the EPA is considering scrapping the National Center for Environmental Economics' role in scientific analysis. Well, this would essentially eliminate the EPA officer that Dr. Carlin has worked for decades.

In an editorial in the Washington Times, the paper stated: This attempt to marginalize a true whistleblower smells of insincerity . . . and . . . its implications for economic and environmental policy are dangerous.

This is an administration that claims to put a premium on transparency and openness. Their actions to date have demonstrated neither. My colleague, Senator THUNE, has requested an inspector general's investigation into this matter. I believe the investigation should be conducted and completed before the EPA proceeds further with endangerment.

Mr. President, at this time I ask unanimous consent to set aside the pending business and call up amendment No. 2474.

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARRASSO. Mr. President, I am very concerned by what I am seeing today. My effort in offering this amendment is to promote transparency and good government. Dr. Carlin, a 38-year veteran of the EPA, wrote a report critical of the EPA's process behind the endangerment finding. He said the EPA relied solely on outside sources for their science. He also pointed out that the scientific data they are relying on is 3 years old.

The EPA tried to quash his report. Dr. Carlin's boss warned Carlin to drop the subject altogether. He was told: With the endangerment finding nearly final, there is no need to focus on other issues and subjects. I don't want you to spend any additional EPA time on climate change. No papers, no research et cetera, at least until we see what EPA is going to do with climate.

Mr. Carlin was ordered not to have any direct communication with anyone outside his small group at EPA on the topic of climate change and was informed that his report would not be shared with the agency group working on that very topic. To not even allow the Senate to have a vote to decide whether to investigate this matter looks like political expediency. It is wrong and it should concern all of us who claim to care about transparency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I want to make clear that it would be my intent, should the other two climate change amendments be called up, to object to them. However, this has nothing to do with the distinguished Senator, whom I respect enormously. It does have something to do with putting climate change on this bill.

Mr. President, I suggest the absence of a quorum.
to people who are producing the Na-
tion’s food supply. My amendment
would address this in a very reason-
able way. I call on the Senator from Cali-
foria to work with me in support of
this amendment.
I ask unanimous consent to set aside
the pending amendment and send my
amendment to the desk.

The PRESIDING OFFICER. Is there
an objection?

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objec-
tion is now in order.

Mrs. FEINSTEIN. After the Senator
completes his remarks, I would like
the opportunity to say why.

The PRESIDING OFFICER. The Sen-
ator from South Carolina

MOTION TO RECOMMIT WITH AMENDMENT NO. 2500

Mr. DeMINT. Mr. President, I am dis-
appointed I was unable to offer the
amendment. Certainly it relates to the
underlying bill. Since there are so
many people and jobs across the coun-
dry depending on us doing something
quickly, I send a motion to the desk.

The PRESIDING OFFICER. The clerk
will report the motion.

The bill clerk read as follows:

The Senator from South Carolina [Mr.
DeMINT] moves to recommit the bill H.R.
2996 to the Committee on Appropriations of
the Senate with instructions to report the
following amendment No. 2500:

At the appropriate place, insert the fol-
lowing:

None of the funds made available by this
Act may be used by the Secretary of the In-
terior to restrict, reduce, or reallocate any
water, as determined in—

(1) the biological opinion published by the
United States Fish and Wildlife Service and
dated December 15, 2008; and
(2) the biological opinion published by the
National Marine Fisheries Service and

Mr. DeMINT. Mr. President, I thank
the Senator from California. I look for-
ward to more discussion, because I
know there are many people in the
Senate concerned about the same issue.
There may be better ways to resolve
the problem. I am certainly open to
work with anyone. This is an imme-
diate problem. We cannot continue to
spend trillions of dollars of taxpayer
money to create jobs while we allow
government agencies to shut down jobs
and jeopardize food supply. We need to
be able to act as a body to solve some
small problems instead of what we are
doing here, which is to totally revamp
the health care system or major
changes that do not address the prob-
lems right in front of our face. I en-
courage my colleagues to consider this.
Let’s debate it and discuss it. I believe
we can come up with a solution.

The PRESIDING OFFICER. The Sen-
ator from California

Mrs. FEINSTEIN. Mr. President, I
am rather surprised about this. I don’t
think anyone in my State or in this
body has much time to spend on water in the State of California. The
motion offered by the Senator from South California surprises me since no
one from California has called, written, or indicated they wanted this on the
calendar. No one has indicated to me, as chairman of the committee, in all of
the time Senator ALEXANDER and I have been working on this bill that this is what they wanted. In fact, what
this would do is it would prevent the Secretary of Interior from expending
appropriate funds to restrict, reduce, reallocate water supplies from the Central Valley Project and the California State Water Project under biological opinions
issued by the Fish and Wildlife Service of the United States and the NOAA
fisheries.

The Senator from South Carolina is venturing into a very complicated
area. This would prohibit the approval on two gates. It would prohibit work on
the intertie where water is now being transferred from one system, State-
run, to Federal and back and forth based on need, water transfers in the
hundreds of thousands of acre-feet. It would prohibit work on the Bay Delta
Conservation Plan. It would prevent Federal agencies from working on water quality issues in the
delta.

What is the delta? The delta is a
large inland body of water in northern
California. It is the drinking water for
16 million people. It is the source of
water, some of which trickles down to
southern California. The Metropolitan
Water district, for example, in Los
Angeles uses between 500,000 acre-feet and
a million acre-feet a year of this water.

Jurisdictions all over the State use
some of this water. The agriculture
community uses 80 percent of the
water in the delta. There are enormous
endangered species issues in the delta,
the death of certain kinds of fish, the
nonnative species of fish, deteriorating
levees that when they deteriorate, the
pea soil drifts into the water and cre-
ates all kinds of problems for treat-
ment and would likely collapse in the
instance of an earthquake.

What is happening is a whole effort
to restore the delta, to develop a man-
agement plan for the delta, how to re-
build it, how to shore it up, and also
whether in fact there should be some
conveyance around the delta to bring
some of the water south. This is a very
hot issue in California. It is not a hot
issue in South Carolina, trust me.

It is interesting to me that groups go
to the Senator from California in
stead of to the chairman of the com-
mittee for something which is preemp-
tive and would handcuff the Secretary
of Interior. The Secretary of the In-
terior has appointed his No. 2 person,
David Hayes, to handle western water.
David Hayes has been in California.
He has solved many problems. He came
with me in August to a meeting in the
southern Central Valley to discuss
these problems and say what the De-
partment was prepared to do about them.

On September 30 of this month, the
Interior Secretary is holding a meeting
to announce what actions he is going
to take on 2 Gates, on the intertie, on
water transfers. I don’t understand
why we would want to handcuff the Sec-
retary of the Interior by saying no
money can go for any of these things,
that water has to be released to the
Central Valley with controls on it. This
makes no sense to me.

I see a series of letters that have
come in from people I have talked
with. I know there is a problem with
the biological opinions. There are 30
lawsuits against the biological opin-
ions. I understand that. To that end, I
have been asked to put $750,000 in this
bill to allow the National Academy of
Sciences to come in and do an over-
arching but quick, within 6 months,
looking at some of the experts on this.
That is in the heart of this bill.

The ranking member has agreed to
put this money in this bill for that pur-
pose. It is a complicated and difficult
issue. No one has indicated to me,
how to shore it up, and also
whether in fact there should be some
conveyance around the delta to bring
some of the water south. This is a very
hot issue in California. It is not a hot
issue in South Carolina, trust me.

It is interesting to me—and I am
looking at some of the letters—the peo-
ple who I meet with, whose phone calls
I respond to, who have never called
and said: Look, this is what we need.

I don’t quite understand what is
going on here. That is the reason for
my objection. I am not going to put the
State of California and the bay delta in
the threat of another lawsuit. We have
equally already. Water is huge, com-
plicated, and difficult issue. No one
cares more about it than I do or has
tried harder to sort out the problems.

In a way, this is a kind of Pearl Har-
bor. Everything we are trying to do
will have to work together to put Inte-
rior in the lead, not to handcuff Inte-
rior. That is the reason I objected to
the amendment.

I understand on the motion there will
be a vote. I urge a no vote.

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

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

AMENDMENT NO. 2611

Mr. HARKIN. Mr. President, I rise in opposition to the amendment offered by the senior Senator from Arizona. The amendment, by Senator McCaIN, singles out one instance of congressionally directed funding that I had included in the bill now before us, fiscal year 2010 Interior appropriations. The Senator claims this earmark, which provides $200,000 in funding for repair and renovation of the historic Des Moines Art Center, is somehow inappropriate and should be removed from the bill. Well, it comes as no surprise that I strenuously disagree.

First of all, as a constitutional matter, I think the premise underlying the Senator’s amendment—the idea that Congress has no business directing the expenditure of Federal moneys to earmarks, that there is something inherently wrong or evil in this practice, and that only the executive branch should determine where Federal moneys are spent. Well, I beg to differ.

The Constitution, article I, section 9, expressly gives Congress the power of the purse. The purse, the executive branch can’t spend one nickel unless this Congress gives it the authority to do so. Over the centuries, over the last couple hundred years, we have given to the executive branch the authority to make budgets, spend money on different things across all the different departments and agencies, but if Congress wanted to, we could take it all back. We could take it all back because the Constitution gives Congress the sole power over the purse.

What is more, compared to executive branch individuals, Members of Congress have a much better understanding of where and how Federal funds can be spent most effectively in their respective districts and States, and that is certainly the case with the earmark in question.

I assume the Senator from Arizona doesn’t know a lot about the Des Moines Art Center. Well, let me explain. The center, along with the Des Moines Art Center encompasses three nationally significant buildings, two of which have been listed on the National Register of Historic Places since 2004. One of these buildings was designed by the famous architect, Eliel Saarinen, and another by the world-renowned I.M. Pei. These buildings are architectural gems but, unfortunately, they have suffered from deterioration over the years.

So I secured the modest funding in this earmark—$200,000—for the specific purpose of replacing windows that were causing inconsistent temperatures and high condensation, resulting in damage to the building’s plaster, the wood paneling, and the floors. There is nothing the least bit wasteful or frivolous about these renovations. In fact, they will create jobs and put people to work.

I also wish to point out that this funding is awarded through an authorized program: the Save America’s Treasures. This program was established within the National Park Service to protect America’s threatened cultural treasures, including historic buildings and sites, collections, and works of art, maps, and journals that document and illuminate the history and culture of the United States.

Money for the program is awarded both competitively through grants and through congressionally designated funding. Over the years, the Save America’s Treasures Program has helped to protect many important buildings and artifacts across our country. There is no question that the Des Moines Art Center is both worthy and in urgent need of this modest funding. The buildings of the center, as I said, are architectural masterpieces. They contribute mightily to making Iowa’s capital city a livable, attractive urban center with a lively cultural scene.

Bear in mind that the Des Moines Art Center is a cultural institution in the State of Iowa, drawing hundreds of thousands of visitors not only from Iowa but from around the United States and from all over the world every year. In the last 12 months, the center has served nearly half a million people. School kids from all over our State come into Des Moines in buses from their schools out in the countryside, out in the small districts, to go to the art center to see these magnificent, wonderful works of art and the buildings themselves.

I wish to emphasize that in terms of fundraising for renovations and operations, the art center and the Des Moines community are more than pulling their own weight. The center currently is in the midst of a $34 million fundraising campaign. However, only $7.5 million of that is for capital and building improvement. The remaining $26.5 million is for the center’s operating endowment. That allows the art center to be free and open to the entire community all year-round. Moreover, the $200,000 in Federal funds will leverage $1 million in public and private challenge grants—nearly a bad leveraging of Federal dollars.

The fact is, the Des Moines Art Center is struggling to meet its fundraising targets in any and all ways possible, including in relatively modest increments. The center has received $275,000 from Polk County—that is the county encompassing our capital city of Des Moines. They received $25,000 from the city of Des Moines. At this point, the center has exhausted their private fundraising options. So the $200,000 grant from the Federal Government, along with the additional $1.9 million that it will leverage, is critical to meeting the center’s goal of renovation.

I appreciate this opportunity to share with our colleagues my reasons for including this earmark in the bill before us. I am proud of this congressional funding endeavor. It would go to a worthy and urgent public purpose.

I believe the effort by Senator McCaIN to remove this money from the bill is misguided, and I urge my colleagues to vote against the McCaIN amendment.

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.

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

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

Ms. COLLINS. Mr. President, I call up amendment No. 2496 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 2496.

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

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

The amendment is as follows:

(Purpose: To provide that no funds may be used for the administrative expenses of any official identified by the President to serve in a position without express statutory authorization, and which is responsible for the interagency development or coordination of any rule, regulation, or policy unless the President certifies to Congress that such official will respond to all reasonable requests to testify before, or provide information to, any congressional committee with jurisdiction over such matters and such official submits certain reports biannually to Congress)

At the appropriate place, insert the following:
FUNDING LIMITATION

SJR... None of the funds made available by this Act or any other Act may be used for the administrative expenses of any official identified by the President to serve in a position that creates statutory authority, and which is responsible for the interagency development or coordination of any rule, regulation, or policy that the official or the office of such official directed, of, or any rule, regulation, or policy that the official or the office of such official participated or assisted in the development of, or any rule, regulation, or policy that the official or the office of such official directed be developed by the department or agency with statutory responsibility for the matter.

Ms. COLLINS. Mr. President, I rise today to amend the President to ensure that the so-called czars appointed by this administration can be held accountable to Congress and to the American people.

The effective functioning of our democracy is predicated on open government, on providing a transparent process for the people we serve. It cannot instill trust and confidence in its citizens unless government fosters accountability. It is against that backdrop I raise my concerns regarding the administrative appointments of at least 18 new czars to manage some of the most complex issues facing our country.

I am not talking about traditional offices within the office of the President. I am not talking about, for example, the position of his Chief of Staff or the position of his press secretary. Similarly, I am not talking about officials who have responsibility to coordinate policy across agency lines that are specifically established in law. A good example of that is the Director of National Intelligence. That is a position that was established by Congress and whose head is nominated by the President and confirmed by Congress. So I am not talking about those officials either.

What I am talking about are new positions not created in law that have been established and which have significant policy responsibilities, or so it seems to be perceived. We do not know exactly what the responsibilities are. As I, along with several of my colleagues, including the ranking member of this subcommittee, Senator ALEXANDER, recently expressed in a letter to the President, I am deeply troubled because these czars fail to provide the accountability, transparency, and oversight necessary for our constitutional democracy.

The creation of czars within the executive office of the President elsewhere in the executive branch circumvents the constitutionally mandated advise and consent role our Founding Fathers assigned to the Senate. They greatly diminish the ability of Congress to conduct meaningful oversight to hold officials accountable for their actions, and it creates confusion about which officials are responsible for the government’s policy decisions.

For example, Nancy-Ann DeParle, an individual for whom I have great respect, is the health policy czar within the White House. Kathleen Sebelius is the Secretary of Health and Human Services. Who is making health policy? When it comes to health care? Who do we hold accountable? Well, we know we can call the Secretary of Health and Human Services before us to testify in open session at public hearings, but most likely we cannot call Ms. DeParle before us to testify, even though she has been great about coming up for private meetings.

Senators ALEXANDER, BOND, CRAPO, ROBERTS, and BENNETT joined me in writing to the President to raise these important issues. We have identified at least 18 czar positions where reported responsibilities may be undermining the constitutional oversight responsibilities of Congress or the express statutory assignments of responsibility to other executive officials. Again, to be clear, I do not consider every position identified in various media reports to be problematic. Positions that are established by law or are subject to Senate confirmation, such as the Director of National Intelligence, the Homeland Security Advisor, and the Chairman of the Recovery Accountability and Transparency Board do not raise the same concerns about accountability, transparency, and oversight.

Furthermore, we all recognize that Presidents are entitled to rely on experts to serve as senior advisers. But those czar positions within the Executive Office of the President and in some cases directly appointed by the President do not raise the same concerns about accountability, transparency, and oversight.

Indeed, many of these new czars appear to occupy positions of greater responsibility and authority than some of the highest appointed officials we face for Senate confirmation. Whether in the White House or elsewhere, these czar appointments are not subject to the Senate's constitutional advice and consent role. Little information is available concerning their responsibilities and authority. There is no careful Senate examination of their character and qualifications. We are speaking here of some of the most senior important positions within our government.

The appointment of so many czars has muddied the waters, causing confusion and risking miscommunication going forward. We need to know, with clarity: Who is responsible for what?

Who is in charge—the czar or the Cabinet official? Who can the Congress and the American people hold accountable for government policies that affect their lives?

For these reasons, I offer an amendment that would prevent any more Federal funds from being made available for the administrative expenses of czars until two key conditions are met. I don’t think these conditions are unreasonable. I don’t think they are difficult for the President to meet, but that would take a little cooperation.

First, the amendment I am proposing would require the President to certify to Congress that every one of these positions will respond to reasonable requests to testify before or provide information to any congressional committee with jurisdiction over the matter the President has assigned to that individual.

Second, our amendment would require every czar to issue a public written report twice a year to these same congressional committees. This report would include a description of the activities of the official and the office, any rule, regulation, or policy that the official participated in the development of, or any rule, regulation, or policy that the official directed be developed by the department or agency with statutory responsibility for the matter.

This amendment would represent a significant step toward establishing an oversight regime for these positions that would provide the transparency and accountability our Nation expects from its leaders.

Beyond the specific requirements of this amendment, in the letter we sent to the President, we implored the President to consult carefully with Congress prior to establishing any additional czars or filling any existing vacancies for these positions.

We stand ready to work with the President to address the challenges facing our Nation and to provide our country’s senior leaders with the authority, accountability, and legitimacy necessary to do their jobs. If there are problems, then the administration should come to us. We can work on revamping organizational structures to help eliminate those problems, but we must eliminate the serious problems with oversight, accountability, transparency, and vetting that are associated with the proliferation of these czars.

I urge my colleagues to support what I think is a very reasonable approach to this difficult issue. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I wish to congratulate the Senator from Maine for her leadership on this issue. She has shown great respect for the President’s authority under the Constitution. We all respect that. He has the right to appoint his own advisers, period, and to take their advice and, as
a result, assert some executive privi-
lege. And we don’t inquire into that.
He is entitled to that.

But under the Constitution, article II, section 2, states that the Cabinet of
officials and other appointments of sig-
nificant policy positions should be ap-
pointed by the advice and consent of the
Senate.

It is true a number of Republican
Senators have raised a question about
the 18 new czars appointed by Presi-
dent Obama, who are not confirmed by
the Senate, all of whom are new. They
didn’t exist before. This large number of
new senior positions is of great con-
cern.

Senator Collins, in her letter of Sep-
tember 14 to the President—written
with great respect, signed by Senator
Bond, Senator Crapo, Senator Robert-
ks, Senator Bennett, and myself—
basically made the argument she just
made. She acknowledged the Presi-
dent’s authority under article II to ap-
point officials to be the highest of the
country. But in terms of these specific
responsibilities, the letter asks for
information about the responsibili-
ties of these 18 new czars; of how they
were picked and how they were exam-
ined and whether they would be willing
to testify before us.

In her remarks, Senator Collins
pointed out if we have a Health Sec-
retary and a health czar, who is in
charge? If we have an Energy Secretary
and an energy czar, who is in charge?
Those are the big issues before us. Health
care is nearly 20 percent of the
economy. We have town meetings all
over the country about it. Right after
that comes energy and climate change,
and those are going to be a massive
issues for our country. So it is im-
portant for us to know who is in charge
so they can testify before the Congress
and so we can effect their appropria-
tions if we should choose to do so.

The object of this is the fact that this is not just a con-
cern on the Republican side of the
aisle. The senior Senator in the Senate,
and the senior Democrat—the Presi-
dent pro tempore—is Robert C. Byrd.
Sometimes we call him the constitu-
tional conscience of the Senate. Sen-
ator Byrd was the first Member of this
body to raise questions about the czars.
I am sure he would have done it if
there had been a Republican Presi-
dent—he probably has had many times
before—but he did it even though
there is now a Democratic President.

I think it is important to reflect
upon what he said in his February 23
letter to President Obama. Senator
Byrd said:

As presidential assistants and advisers, these White House staffers are not accountable
for their actions to the Congress, to cab-
inet officials, and to virtually anyone but the President. They rarely testify before
congressional committees, and often shield
the information and decision-making process
behind the assertion of executive privilege.

In today’s White House, White House staff
have been allowed to inhibit openness and
transparency, and reduce accountability.

In speaking about the lines of au-
thority between these new White House
positions—these czars—and their execu-
tive branch counterparts, the Secre-
taries, Senator BYRD said this to the
President:

Too often, I have seen these lines of au-
thority and responsibility become tangled
and blurred, sometimes purposely, to shield
information and to obscure the decision-
making process.

Senator BYRD went on to say:

As you develop your White House organiza-
tion, I hope you will favorably consider the following: that assertions of executive privi-
lege will be made only by the President, or
with the President’s approval; that the
senior White House personnel will be limited
from exercising authority over any person,
any program, and any funding within the
statutory responsibility of a Senate-con-
firmed department or agency head; that the
President will be responsible for resolving
any disagreement between a Senate-con-
firmed President’s authority under article II to ap-
point officials to be the highest of the
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any program, and any funding within the
statutory responsibility of a Senate-con-
firmed department or agency head; that the
President will be responsible for resolving
any disagreement between a Senate-con-
firmed Wh...
The money is being raised to build the civil rights museum, and it will start in the not too distant future at Centennial Park in Atlanta. It will house the papers of Martin Luther King, but there are 10,000 exhibits within the papers of Dr. King. Therefore, Morehouse College has been designated to be the curator and protector of those papers, much as our archivists in the country do for the great historical documents of the United States. This money would go to assist Morehouse College to further protect those papers, which will be in the public domain forever.

I appreciate very much the distinguished chairman allowing me to offer the amendment. I hope at the appropriate time it will be adopted. I think it is an important contribution to the history of our country and future of civil rights and the world.

I yield the remainder of my time. I suggest the absence of a quorum.

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

(AMENDMENT NO. 2504, AS MODIFIED)

Mrs. FEINSTEIN. I ask unanimous consent that the amendment be dispensed with.

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

The amendment as modified is as follows:

(Purpose: To encourage the participation of the Smithsonian Institution in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights Act of 2000.)

On page 219, line 5, before “and including”, insert the following: “of which $5,000,000 may be made available to the Secretary of the Interior to develop, in conjunction with Morehouse College, a program to catalog, preserve, provide public access to and research on, develop curriculum and courses based on, provide public access to, and conduct scholarly forums on the important works and papers of Dr. Martin Luther King, Jr. to provide a better understanding of the message and teachings of Dr. Martin Luther King, Jr.”.

Mr. ISAKSON. First, I thank the chairman for the courtesy of allowing me to call up the amendment at this time and appreciate the courtesy of the Senator from Maine. I have requested in appropriations the designation which is included in this amendment which says the Secretary may—under the line the word “may”—appropriate $5 million to Morehouse College for the purpeseion and the care of the Martin Luther King, Jr., papers in Atlanta, GA, for the civil rights museum of history.

Briefly, not to belabor the point, a number of years ago, as you may know, the family of Martin Luther King put up the King papers for auction to the highest bidder. A number of people in the State of Georgia and the city of Atlanta determined that those papers belonged to the world and raised $32 million to buy themselves to buy the papers to protect them forever for posterity. An issue came up in the U.S. House of Representatives to appropriate that money, and it didn’t happen. Without those bidders, those papers would have gone to the highest bidder. Whether or not it would have remained in the public purview for posterity no one knows. But we do know because of the people and the mayor of Atlanta, Shirley Franklin, the distinguished Representative of our State, had the courage and fortitude and foresight to raise the money, and those papers are now under protection for the people of the world.
The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I believe the regular order is that I am allowed 1 minute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Thank you, Mr. President.

This amendment strikes an earmark of $200,000 for the Des Moines Art Center in Iowa. The center just began a $7.5 million capital improvement project. It is time we got serious. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I join Senator HARKIN in urging a "no" vote, and I argue that absolutely on the floor. I yield my time, and we can go straight to the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been previously ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

I also announce that the Senator from Arkansas (Mrs. LINCOLN) is absent.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Are there any other Senators in the Chamber desiring to vote?

I urge a "no" vote, and I move to table the motion.

The PRESIDING OFFICER. There is still time remaining. The Senator from South Carolina.

Mr. DE MINT. Madam President, this issue shines a spotlight on the utter stupidity of what this body does so often. Lawsuits cut off water to one of the most fertile farming communities in our country that supplies 13 percent of our food supply. About 40,000 people are now out of work because of this arbitrary lawsuit. Now President Obama has declared it a disaster area so we can spend more taxpayer money to bail out the small businesses we are putting out of business.

All this amendment does is restrict the use of funds to cut off water to the farmers in California that affect this whole Nation. It is not a California issue; it is an American issue. It makes no sense in a recession to put people out of work and to arbitrarily, with no good science involved here, cut off water from the farmers of America.

I have a list of farm bureaus throughout California, the National Cotton Council, and people all over this country who are saying enough is enough. Let us use some common sense. Please support this motion.

The PRESIDING OFFICER. Time has expired.

The majority leader.

Mr. REID. Madam President, this will be the last vote of the evening. I will file cloture tonight on this bill and, hopefully, we can move immediately to the Defense appropriations bill.

Mrs. FEINSTEIN. Madam President, I move to table this motion to recommit, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be. The clerk will call the roll.

The legislative clerk called the roll. Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The result was announced—yeas 27, nays 70, as follows:

YEAS—27

Barrasos: Ensign, Kyl
Bunning: Rie, LeMieux
Burr: Feinstein, Lugar
Chambliss: Graham, McCain
Colburn: Gregg, McConnell
Corker: Hutchison, Risch
Cornyn: Inhofe, Sessions
Crpto: Isakson, Thune
DeMint: Johanns, Vitter

NAYS—70

Akaka: Frankov, Nelson (FL)
Alexander: Gilgibbon, Pryor
Baucus: Hagan, Reid
Bayh: Harkin, Reid
Begich: Harkin, Roberts
Benett: Hatch, Rockeffeller
Bingaman: Johnson, Sanders
Bond: Kaufman, Schumner
Boxer: Norris, Shaheen
Brown: Klobuchar, Shelby
Brownback: Kohi, Snowe
Burris: Landrieu, Specter
Cantwell: Lautenberg, Stabenow
Cardin: Leahy, Tester
Carper: Lincoln, Udall (CO)
Casey: Lieberman, Udall (NM)
Coatsman: McCaskill, Voinovich
Collins: Menendez, Warner
Conrad: Merkley, Webb
Dodd: Mikulski, Whitehouse
Dorgan: Markowski, Wicker
Durbin: Murray, Wyden
Feinstein: Nelson (NE)

NOT VOTING—2

Byrd: Lincoln

The motion to table was agreed to.

Mrs. FEINSTEIN. I move to reconsider the vote.

Mr. ALEXANDER. 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 Louisiana.

Mr. VITTER. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2454.

Mrs. FEINSTEIN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2508

Mr. VITTER. Madam President, I find this very frustrating. As I understand it, the Chair who is handling the bill on the floor is not objecting personally but on behalf of Senator NELSON of Florida. I find it frustrating because this is a completely germane amendment to the bill. It is a limitation amendment which is completely germane to the bill. I don't think there is any reasonable argument that something so directly pertinent and germane should not be open for discussion and vote on the Senate floor.

I think, quite frankly, it is unreasonable for Senator NELSON to block an amendment in this way. Having been
forced to do this, I now send to the desk a motion to recommit with instructions so that this amendment can be considered and heard in that manner.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:
The Senator from Louisiana [Mr. Vitter] moves to recommit the bill, H.R. 2996, to the Committee on Appropriations of the Senate with instructions to report back the same to the Senate forthwith with the following amendment No. 2508.

Mr. VITTER. Madam 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 prohibit the use of funds to delay the implementation of the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010-2015.)

None of the funds made available by this Act shall be used to delay the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

Mr. VITTER. Madam President, I will be happy to explain the substance of this amendment. Again, I am forced to file this motion to recommit simply to have a genuine, relevant amendment heard and voted upon with regard to the bill.

What does the amendment do? The amendment is very straightforward. It simply says:

None of the funds made available by this Act shall be used to delay the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program from 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.

We all know we face enormous energy needs in this country. That became particularly acute and particularly obvious last summer when the price at the pump went through the roof and rose to $4 a gallon for gasoline. At that time, people rightly became enraged that we were not doing more to control our own destiny and our own energy future. People started demanding that Congress act, that Congress do something with regard to oil and gas and other energy resources we have right here at home.

That is when the petition began: Drill here, drill now. That is when every Member of this Congress was deluged with calls and e-mails and letters saying: Let’s get control of our own destiny and produce that energy which we have right here at home.

In that time period last year, Congress heard that message loudly and clearly. So for the first time in years, the recommitment of offshore oil and gas production was lifted by Congress, and President Bush similarly lifted a more limited executive moratorium on offshore production. So those barriers and those hurdles were finally lifted because of the demands of the American people, when the American people said very loudly, very clearly: This is ridiculous. We have resources here at home. We have uncontested energy. It is not wise to use the energy resources here at home than being held hostage by foreign powers. That was real progress. That was moving, certainly, in the right direction.

The problem is, the new administration, and the new Secretary of the Interior have made it clear—that despite all of those actions, despite all of that clear communication by the American people, despite Congress taking that historic action of lifting the moratorium, despite the previous administration lifting the executive moratorium—they are not in any hurry and they are not going to take any action in the near future to move forward with the 2010 to 2015 offshore planning area and lease sale.

So what, unfortunately, Secretary Salazar has said pretty clearly is he is not going to take action in the foreseeable future to actually move forward with that going after domestic production and domestic resources. That is something that should cause a serious problem for any administration that is simply saying: We are not in any hurry to get there. We are not going to lift a finger to actually move forward with the concrete work that needs to be done.

That is really inappropriate. That is ignoring the clear clarion call of the American people. So, again, that brings us to my amendment, amendment No. 2454, which my motion to recommit would add to the bill. It simply says:

None of the funds made available by this Act shall be used to delay the draft proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.

The American people have spoken: Drill here, drill now; build an important bridge to the future. No, it is not the future, but it is a necessary bridge to get us there. Let’s adopt that commonsense of the American people. Let’s respond to that clear call of the American people dating back to last summer. Let’s pass this clear limitation amendment, perfectly germane to the American people. So, again, that brings us to my amendment, amendment No. 2454, which my motion to recommit would add to the bill. It simply says:

None of the funds made available by this Act shall be used to delay the draft proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.

The American people have spoken: Drill here, drill now; build an important bridge to the future. No, it is not the future, but it is a necessary bridge to get us there. Let’s adopt that commonsense of the American people. Let’s respond to that clear call of the American people. So, again, that brings us to my amendment, amendment No. 2454, which my motion to recommit would add to the bill. It simply says:

None of the funds made available by this Act shall be used to delay the draft proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.
in fiscal year 2009, for the emergency fund for Indian safety and health. Over the 5-year authorization, $750 million could be spent on public safety, $250 million on health care, and $1 billion for water settlements. The need for increased funding in these three areas cannot be underestimated.

Nationwide, 1 percent of the U.S. population does not have safe and adequate water for drinking and sanitation. On the Nation’s reservations this number climbs to an average of 11 percent and in the worst parts of Indian country to 35 percent. The Indian Health Service estimates that in order to provide all Native Americans with safe drinking water and sanitation systems in their home they would need over $2.3 billion.

The health care statistics are just as startling. Nationally, Native Americans are three times as likely to die from diabetes compared to the rest of the population. In South Dakota, 13 percent of Native Americans suffer from diabetes. This is more than twice the rate of the general population, whereas 5 percent suffer from diabetes. On the Oglala Sioux Reservation in my home State of South Dakota, the average life expectancy for males is 56 years old. In Iraq it is 58, in Haiti it is 59, and in Ghana it is 60—all higher than right here in America. In South Dakota, from 2000 to 2005, Native American infants were more than twice as likely to die as non-Native infants.

Tragically, there are also great needs in the area of public safety and justice. One sobering statistic is that about one in five Native American women will be raped in their lifetime. According to a recent Department of Interior report, tribal jails are so grossly insufficient when it comes to cell space, only half of the offenders who should be incarcerated are being put in jail. That same report found that constructing or rehabilitating only those detention centers that are most in need will cost $8.4 billion.

The U.S. attorney general released a study last year on tribal criminal justice statistics and found homicide rates on South Dakota reservations are almost 10 times higher than those found in the rest of South Dakota. Also, forcible rapes on South Dakota’s reservations are seven times higher than those found in the rest of South Dakota.

There is no better example of these public safety issues as Standing Rock Sioux, a tribe that is located on the North and South Dakota border. In early 2008, the Standing Rock Sioux Reservation had six police officers to patrol a reservation the size of Connecticut. This meant that during any given shift, only one officer was on duty. One day, the only dispatcher on the reservation was out sick. This left only one police officer to act both as a first responder and also as the dispatcher. This directly impacted the officers’ ability to patrol and respond to emergencies, and prevented him from appearing in tribal court to testify at a criminal trial.

Later in the year, I was able to work with my Senate colleagues and the Bureau of Indian Affairs to bring additional police officers to the Standing Rock Sioux Reservation through Operation Dakota Peacekeeper. This effort allowed officers working on the reservation from 12 to 37. This operation, which was a success, was only possible because the Bureau of Indian Affairs was able to dramatically increase the number of law enforcement-officials on the reservation during the surge. And this dramatic increase in officers was only possible because the Bureau had been given additional public safety and justice funds in 2008.

Since its enactment last year, I have been working with my colleagues to ensure that the emergency fund for Indian safety and health is funded as quickly as possible. Earlier this spring, 13 of us sent a letter to the chairman and vice chairman of the Appropriations Committee that the committee increase the allocations in three different bills, including the Interior appropriations bill that we are debating today. As a result of that letter, the allocations in both the Energy and Water Development and Interior appropriations bills were increased by $50 million each, for a total of $100 million. While this funding increase is a positive sign, neither subcommittee directed this additional funding into the emergency fund as requested. Instead, the Energy and Water Development Subcommittee divided the additional funding up between a variety of water settlement projects, and the Interior Subcommittee provided $25 million for public safety construction and $25 million for “public safety and justice programs as authorized by the PEPFAR Emergency Fund.”

While I am pleased to see that there has been a $100 million increase in funding for public safety and water projects, I think more could be done if we deposited funds directly into the emergency fund, which would be allocated to the areas of greatest need. The emergency fund, unlike general appropriations, is needed because the fund allows the relevant Federal agencies to spend the additional resources in those places where there are actual emergencies. It would allow agencies, like the Bureau of Indian Affairs, to begin adding additional operations, like Operation Dakota Peacekeeper, and bring immediate solutions to parts of our nation that are most in need.

That is why I filed my amendment, amendment No. 2503, today. I have filed an amendment that would simply transfer the $50 million increase in public safety and public safety construction funding into the emergency fund. While I do not intend to seek a vote on this amendment today, I am working to do so later in a bipartisan manner for the much needed funding for the emergency fund. Toward that end, I am encouraged by the discussions I have had with several of my colleagues who are willing to continue this effort.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee’s official scoring of H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act for fiscal year 2010.

The bill, as reported by the Senate Committee on Appropriations, provides $32.1 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of $39.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the bill will total $34.3 billion.

The Senate-reported bill matches its section 302(b) allocation for budget authority and is $5 million below its allocation for outlays. No points of order lie against the committee-reported bill.

I ask unanimous consent to have printed in the RECORD a table displaying the Budget Committee scoring of the bill.

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

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<th>Purpose</th>
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<th>Senate-Reported Bill Compared To Senate 302(b) Allocation</th>
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NOTE: Table does not include 2010 outlays stemming from emergency budget authority provided in the 2009 Supplemental Appropriations Act (P.L. 111-32).

The PRESIDING OFFICER. The Senator from California is recognized.

MORNING BUSINESS

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each. I ask unanimous consent for the Senator from Oklahoma to proceed.

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

CLIMATE CHANGE

Mr. INHOFE. Madam President, let me thank the Senator from California for allowing me to go first in this group that I am sure will appear down here to talk in morning business.

As our nation continues to languish in the Senate, President Obama is trying to salvage international climate change talks that are on the brink of collapse. So he gave a