The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FOOD AND DRUG ADMINISTRATION SAFETY AND INNOVATION ACT

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to concur in the House amendment to S. 3187, the FDA Safety and Innovation Act.

Harry Reid, Tom Harkin, Sheldon Whitehouse, Kent Conrad, Jack Reed, Christopher A. Coons, Mark Begich, John F. Kerry, Charles E. Schumer, Barbara A. Mikulski, Benjamin L. Cardin, Robert Menendez, Joseph I. Lieberman, Mary L. Landrieu, Richard Blumenthal, Patty Murray, Tom Carper.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to S. 3187, a bill to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and medical devices, to establish user-fee programs for generic drugs and biosimilars, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. KIRK), the Senator from Arizona (Mr. KYL), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The yeas and nays resulted—yeas 89, nays 3, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—89

Akaka	Feinstein	Menendez
Alexander	Franken	Merkley
Ayotte	Gillibrand	Mikulski
Barrasso	Graham	Moran
Baucus	Grassley	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Heller	Portman
Blumenthal	Hoeven	Pryor
Blunt	Hutchison	Reed
Boozman	Inhofe	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Roberts
Brown (OH)	Johanns	Rockefeller
Cantwell	Johnson (SD)	Schumer
Cardin	Johnson (WI)	Sessions
Carper	Kerry	Shelby
Casey	Klobuchar	Snowe
Chambliss	Kohl	Stabenow
Coats	Landrieu	Tester
Cochran	Lautenberg	Thune
Collins	Leahy	Toomey
Conrad	Lee	Udall (NM)
Coons	Levin	Vitter
Corker	Lieberman	Warner
Cornyn	Lugar	Webb
Crapo	Manchin	Whitehouse
DeMint	McCain	Wicker
Durbin	McCaskill	Wyden
Enzi	McConnell	

NAYS—3

Burr	Paul	Sanders

NOT VOTING—8

Coburn	Kyl	Shaheen
Hatch	Murkowski	Udall (CO)
Kirk	Rubio	

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. GRASSLEY. Mr. President, 2 years ago a constituent of mine named David Rozga committed suicide shortly after smoking a product called K2—a synthetic form of marijuana.

A week before he passed away David had graduated from Indianola High School.

He was looking forward to attending my alma mater, the University of Northern Iowa, that fall.

David and his friends spent the week after graduation going to parties and celebrating their achievements.

Some of David's friends heard about K2 from some other friends who were home from college.

They were told that if you smoked this product like marijuana you could get a high.

David and his friends were about to go to a concert and thought smoking K2 before would be nothing but harmless fun.

However, shortly after smoking K2, David became highly agitated and terrified.

His friends tried to calm him down and once he appeared calmer he decided to go home instead of going out with them.

Tragically, David took his own life shortly after returning home—only about 90 minutes after smoking K2 for the first time.

The only chemicals in his system at the time of his death were those that comprised K2.

David's tragic death is one of the first in what has been a rapidly growing drug abuse trend.

In the past 2 years, the availability and popularity of synthetic drugs like K2, Spice, Bath Salts, and 2C–E has exploded.

These drugs are labeled and disguised as legitimate products to circumvent the law.

They are easily purchased online, at gas stations, in shopping malls and in other novelty stores.

Poison control centers and emergency rooms around the country are reporting skyrocketing cases of calls and visits resulting from synthetic drug use.

The physical effects associated with this use include increased agitation, elevated heart rate and blood pressure, hallucinations, and seizures.

A number of people across the country have acted violently while under the influence of the drug, dying or injuring themselves and others.

Just a few weeks ago a man in Miami, Florida attacked a homeless man and ate nearly half his face before police had to shoot him to stop him.

Two weeks ago, police in upstate New York tazered a woman who was choking her 3-year-old son after smoking bath salts.

These ongoing and mounting tragedies underscore the fact that Congress must take action to stop these drugs from causing further damage to our society.

I introduced the David Mitchell Rozga Act a year ago last March to ban the drugs that comprised K2.

My colleagues Senators SCHUMER, KLOBUCHAR, and PORTMAN have also joined me to ban synthetic drugs including bath salts and 2–CE compounds.

Today our separate bills are included as part of the House and Senate agreement on the FDA User Fee bill we will be voting on shortly.

I thank all who have worked very hard to get my bill, as well as the other bills banning synthetic drugs, through Congress.

I especially want to thank Mike and Jan Rozga and their family for their tireless efforts to prevent more tragedy from befalling other families.

This legislation will drastically help to remove these poisons from the store shelves and protect our children from becoming more victims. I urge my colleagues to support cloture on this bill.

The PRESIDING OFFICER. The Senator from Connecticut.

NOMINATION OF DONNA MURPHY

Mr. LIEBERMAN. Madam President, I thank my friend and colleague from Washington, Senator MURRAY, for yielding to me for a moment to make a unanimous consent request regarding the nomination of Donna Murphy of the District of Columbia to be an associate judge on the DC Superior Court.

This nomination was favorably reported by the Homeland Security and Governmental Affairs Committee on June 29, 2011. That is almost 1 year ago. For that year, this nomination has been stopped from a vote. I come to the

floor today to say it is time for this to stop.

In fairness to this able nominee, she deserves an up-or-down vote. She would bring a wealth of talent and experience to the job.

Donna Murphy has been a career attorney in the Department of Justice for four administrations—two Democratic and two Republican—and has received strong support from senior officials for whom she worked in each one of those administrations.

John Dunne, the Assistant Attorney General for Civil Rights under President George H.W. Bush praised Ms. Murphy as ''extremely smart, hard-working, and fair-minded.''

Bill Lee, the Assistant Attorney General for Civil Rights under President Clinton recalls Ms. Murphy as ''one of the best lawyers in the Division who was known for her fairness, integrity, smarts, legal skills, dedication and exceedingly hard work.''

Wan J. Kim, the Deputy Assistant Attorney General and Assistant Attorney General for Civil Rights under President George W. Bush recommended Ms. Murphy for the D.C. Superior Court believing that she possessed the qualities he has seen in exemplary jurists. Under Mr. Kim, Donna Murphy received the division's highest award in 2007, the John Doar Award for Excellence and Dedication, an award that was established under the first Bush administration.

So there is no rational reason at all to continue to deny this nominee an up or down vote.

A native of Norristown, PA, Ms. Murphy fell in love with Washington, DC during a visit when she was just 12 years old. She moved here to attend college at American University, where she received her Bachelor of Science in Political Science in 1986.

From American University, she went to Yale Law School—a decision I naturally admire—and received her law degree in 1989.

Since October 1990, she has worked for the Justice Department's Civil Rights Division on a variety of cases, including voting rights, discrimination in credit, housing and public accommodations, and allegations of police misconduct.

It is her work on these police cases that has brought about some criticism, but not much.

Both prior to the Committee's approval of Ms. Murphy's nomination and afterwards, Committee staff investigated the criticism and found no evidence to support the charge that she would be negative to police.

In fact, we have received letters of support for Ms. Murphy from leading police officials, including one group in Los Angeles, CA, for her work in negotiating and implementing consent decrees regarding allegations that the Los Angeles Police Department had been systematically violating people's civil rights.

The Committee received a letter from Gerald Chaleff, the Special Assistant for Constitutional Policing for the LAPD who negotiated the consent decree between the LAPD and Department of Justice. Mr. Chaleff wrote that during negotiation and implementation of the consent decree Ms. Murphy earned the respect and admiration of LAPD personnel with whom she dealt. Mr. Chaleff also notes that contrary to the vague and unsubstantiated allegations made against her, Ms. Murphy at all times acted honorably, ethically, and intelligently.

We have similar letters from law enforcement officials praising her work negotiating similar consent decrees with the Pittsburgh Bureau of Police, the city of Steubenville, OH, and the New Jersey State Police.

It is past time the Senate approve this nomination and send this qualified nominee to the bench and let her serve the city that has been her home for more than 20 years.

Mr. President, I ask unanimous consent that these letters, as well as the letters from former Justice Department officials that I cited earlier, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION,
Washington, DC, August 24, 2011.

Hon. JOSEPH LIEBERMAN,
Chairman, Senate Homeland Security and Governmental Affairs Committee, Washington, DC.

DEAR MR. CHAIRMAN: I write this letter to strongly recommend Donna Murphy to the Superior Court of Washington, DC. I started in the Civil Rights Division at the Department of Justice as an Honors Program hire in 1989, where I served as a prosecutor in the Criminal Section. I have also served as Deputy Assistant Attorney General in the Division, and I now have the privilege of serving as the Assistant Attorney General. During this extensive experience working in the Division, I have had the pleasure of working with Ms. Murphy, who joined the Division in 1990, shortly after I was hired.

Ms. Murphy has also held a variety of positions during her tenure in the Civil Rights Division, including serving as both a trial attorney and also as a manager. Although she began in the Voting Section, she has also served in the Special Litigation Section and the Housing and Civil Enforcement Section. The breadth and depth of her experience in the Division enforcing many of our nation's most cherished civil rights laws is nearly unparalleled. While working with her over the last two decades, I have witnessed her professionalism, intellect, and extraordinary judgment at work. Ms. Murphy treats everyone with respect, and has shown uncommon abilities as a leader. Her tactical and analytical legal skills have allowed her to quickly master new, and complex, areas of the law. The breadth of her experience across three different Sections of the Division illustrates her extraordinary abilities in this regard.

Her commitment to the Department of Justice and to the enforcement of our nation's promise of equal opportunity has been apparent to me from the beginning of my experiences working with her, and it has been apparent to the leadership of the Division in both Democratic and Republican administrations. For example, in 2007, she received the Division's John Doar Award, which is the Division's highest overall award. She has also received the Division's highest litigation award, the Walter W. Barnett Award, in 1995. In addition, Ms. Murphy has consistently received performance awards recognizing her outstanding contributions to the Division's work.

When I returned to the Civil Rights Division in October 2009, I was pleased to find that Ms. Murphy had remained in the Division, as I knew she was someone I could rely upon in helping to ensure full and fair enforcement of civil rights laws. I have the highest regard for her abilities and know her to be a person of great character.

Please do not hesitate to contact me if you have any questions about my experience working with Ms. Murphy.

Sincerely,

THOMAS E. PEREZ,
Assistant Attorney General.

LOS ANGELES POLICE DEPARTMENT,
Los Angeles, California, July 14, 2011.

Re Donna M. Murphy.

Hon. JOSEPH I. LIEBERMAN, *Chairman,*
Senate Homeland Security and Governmental Affairs Committee, Dirksen Senate Office Building, Washington, DC.

Hon. SUSAN M. COLLINS, *Ranking Member,*
Senate Homeland Security and Governmental Affairs Committee, Dirksen Senate Office Building Washington, DC.

DEAR SENATORS LIEBERMAN AND COLLINS: I write in strong support of the nomination of Donna M. Murphy to the Superior Court of Washington, D.C. I am a senior police executive in the Los Angeles Police Department (LAPD). I had a substantial number of dealings with Ms. Murphy in her capacity as Deputy Chief of the Special Litigation Section of the Civil Rights Division of the United States Department of Justice (DOJ) in connection with negotiation and implementation of a Consent Decree with the LAPD and the City of Los Angeles, relating to the conduct and operation of the police department. Ms. Murphy's and the DOJ objective was to improve the LAPD and she at all times acted honorably, ethically, and intelligently. She never exhibited prejudice or bias or rigidity of position. As a lawyer, I can ensure you that Ms. Murphy will have an exemplary judicial temperament, is highly intelligent, and will render equal justice to all, without bias or favor. Her decisions will be firmly based in the law and will be seen by all sides as fair and just.

I was President of the Los Angeles Board of Police Commissioners and a member of the team that conducted the negotiations with DOJ. These negotiations took six months during which Ms. Murphy conducted herself with professionalism and in the manner that all attorneys should when in a similar situation. After the negotiations concluded and the decree approved by the court, I returned to private practice. When William Bratton was appointed Chief of the Los Angeles Police Department (Department), he requested that I join the Department and assist in the Department's compliance with the decree. In that capacity I had the opportunity to observe the conduct of Ms. Murphy and again found her to be professional, intelligent and fair. It has been suggested that because Ms. Murphy worked in the Special Litigation Section, she is somehow biased against the police. Throughout the Consent Decree negotiations and implementation, she manifested a clear understanding of the issues facing the LAPD and, where possible, she suggested resolutions that demonstrated her understanding of the job of the police and the pressures facing the officers performing their duties and never exhibited any indication of prejudice against police officers

or the Department. She earned the respect and admiration of the LAPD personnel with whom she dealt. As the LAPD's executive in charge of implementation of the Consent Decree, I can assure that as difficult as it was, Ms. Murphy never did anything to cause anyone to feel anyway other than that she was fair and only trying to assist.

The Consent Decree was negotiated in perfect good faith by the Special Litigation Section and that the goals and intentions of the Consent Decree were in no way a reflection of anti-police bias. Indeed, the Decree augmented police professionalism, promoted officer safety, helped to restore public trust and confidence, and made the LAPD an even stronger law enforcement agency.

Please let me know if you have any questions about the foregoing. I am available at (213) 486–8730.

Very truly yours,

CHARLIE BECK,
Chief of Police.
GERALD L. CHALEFF,
Special Assistant for Constitutional Policing.

LEWIS, FEINBERG, LEE,
RENAKER & JACKSON, P.C.,
Oakland, California, October 28, 2011.

Re Nomination of Ms. Donna Murphy to the D.C. Superior Court.

Hon. JOSEPH LIEBERMAN, *Chairman*,
Senate Homeland security and Governmental Affairs Committee,
U.S. Senate, Washington, DC.
Hon. SUSAN COLLINS, *Ranking Member*,
Senate Homeland Security and Governmental Affairs Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS: I write in support of the nomination of Ms. Donna Murphy to be a judge of the Superior Court of the District of Columbia. I was Assistant Attorney General for Civil Rights from the end of 1997 to the beginning of 2001 where I became familiar with the work of Ms. Murphy who was an attorney in the Voting Rights and the Special Litigation Sections, two Sections that enforce important civil rights protections. After my time, I understand Ms. Murphy worked in the Housing and General Litigation Section, another high profile Section.

I recall Ms. Murphy as one of the best lawyers in the Division who was known for her fairness, integrity, smarts, legal skills, dedication, and exceedingly hard work. Ms. Murphy was recognized for her skills and abilities by being assigned some of the most significant and sensitive investigations and cases and for being assigned managerial duties supervising teams of other lawyers. I particularly remember her excellent work in supervising a team of lawyers who prepared and filed a police misconduct case against the Los Angeles Police Department. Back then the LAPD was a police department rife with problems that resulted in harm to minority communities as well as lack of law enforcement for those communities. Today the LAPD is appropriately lauded as a department that deals with minority communities with sensitivity and fairness. Much of the credit for the dramatic difference is attributable to the role played by the Division in the case that Ms. Murphy had so much to do with both in its beginnings, the negotiation of a pioneering consent decree and the implementation of the decree with LAPD leaders.

I am happy to join predecessors and successors as former Assistant Attorneys General for Civil Rights from several different Administrations who have joined together to support Ms. Murphy's nomination.

If I can be helpful to the Committee, please feel free to call me.

Sincerely,

BILL LANN LEE.

WHITEMAN OSTERMAN & HANNA LLP,
Albany, New York, October 7, 2011.

Re Nomination of Donna Murphy to the Superior Court of the District of Columbia.

Hon. JOSEPH LIEBERMAN, *Chairman*,
Senate Homeland Security and Governmental Affairs Committee,
U.S. Senate, Washington, DC.
Hon. SUSAN COLLINS, *Ranking Member*,
Senate Homeland Security and Governmental Affairs Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND SENATOR COLLINS: I write to support the nomination of Ms. Donna Murphy to be a Judge on the Superior Court of the District of Columbia. From 1990 until 1993 I worked with Ms. Murphy in the Civil Rights Division of the U.S. Department of Justice where I served as Assistant Attorney General of the Division. During that time, Ms. Murphy was an attorney in the Voting Rights Section and I met regularly with her, reviewing a number of her reports and recommendations concerning very complex and sensitive pre-clearance applications pursuant to Section 5 of the Voting Rights Act.

From those personal interactions, I became very impressed by her legal intellect and her knowledge and commitment to the Division's mission and work. She is extremely smart, hardworking and fair-minded.

In 2007, for her significant contributions to the work of the Division, Ms. Murphy received the Division's highest award—the John Doar Award for Excellence and Dedication. When, as Assistant Attorney General, I initiated that award, I had in mind a recipient with qualities which Ms. Murphy has faithfully demonstrated in the various assignments she has discharged with distinction.

I strongly recommend your confirmation of her nomination and, if I can be of any assistance, would welcome your request.

Respectfully,

JOHN R. DUNNE.

AUGUST 21, 2011.

Re: Donna M. Murphy.

Hon. JOSEPH I. LIEBERMAN,
Chairman, U.S. Senate Homeland Security and Governmental Affairs Committee,
Washington, DC.
Hon. SUSAN M. COLLINS,
Ranking Member, U.S. Senate Homeland Security and Governmental Affairs Committee,
Washington, DC.

I am pleased to write this letter in support of the nomination of Donna M. Murphy to the Superior Court of Washington, D.C. I am a retired police chief and a Past President of the International Association of Chiefs of Police. Since 1998 I have been working with the Special Litigation Section of the Civil Rights Division of the United States Department of Justice (DOJ) in a variety of capacities dealing with police practices and reform. It was during one such assignment that I met and worked with Donna Murphy.

In 1997, the U.S. DOJ and the City of Steubenville, Ohio entered in to a Consent Decree regarding police practices. I was appointed as an agent of the Federal Court to audit compliance with the Decree. As one can imagine, even though the Decree was negotiated and agreed upon by the parties (the City and DOJ) there was considerable institutional resistance to the changes in police practices outlined in its several requirements. Donna Murphy was the supervisor overseeing line attorneys assigned this matter during the period 2000–03, which was a time when there was heightened resistance to the Decree requirements since the easier tasks had been accomplished and we were moving into an area of serious substantive change.

There is little doubt that the persistence and leadership of Donna Murphy; moreover her patience and understanding of the issues and obstacles of concern to the City, and to the members of the Police Department, were the basis for much of the progress made with Decree compliance during her tenure. She consistently sought information to insure she had a clear understanding of the organizational and operational difficulties faced by the police and in my opinion, made decisions that were professional and fair to all concerned. Accordingly, I am pleased to add my support for her appointment to the Superior Court of Washington, D.C.

Please let me know if you have any questions regarding this information.

Very truly yours,

CHARLES D. REYNOLDS,
Police Practices Consultant.

BLACKS IN LAW ENFORCEMENT
OF AMERICA,
Washington, DC, September 26, 2011.

Re Ms. Donna M. Murphy.

Hon. JOSEPH I. LIEBERMAN,
Chairman, U.S. Senate Homeland Security and Governmental Affairs Committee, Washington, D.C. 20510
Hon. SUSAN M. COLLINS,
Ranking Member, U.S. Senate Homeland Security and Governmental Affairs Committee, Washington, DC.

I am pleased to offer this letter in support of the nomination of Ms. Donna M. Murphy to the Superior Court of Washington, D.C. I am a retired D.C. Metropolitan Police Officer and retired Executive Director of the National Black Police Association (NBPA). The NBPA is an advocacy organization established to work on behalf of African Americans in Law Enforcement involving the prevention and intervention of police abuse and misconduct as well as other criminal justice policies and practices that have a negative impact on people and communities of color.

After the establishment of the Special Litigation Section of the Civil Rights Division, the organization began to work very closely with the section and its staff attorneys. Ms. Murphy was assigned to work with a variety of cases involving the investigation of police practices in cities that the NBPA had brought to the attention of the Department of Justice.

Ms. Donna M. Murphy and her staff worked during that time against a great deal of resistance to the necessary changes needed for our nations police departments which most were the results of court ordered consent decree. The National Black Police Association was honored to work with Ms. Murphy and found her very dedicated to the creation of fairness and justice for all involved the consent decree compliance.

So, as a result of the positive and productive relationships created during my tenure as Executive Director of the National Black Police Association, I am please to add my support to the nomination of Donna M. Murphy to the Superior Court of Washington, D.C.

Please let me know if there any additional questions regarding this correspondence.

Sincerely,

RONALD E. HAMPTON,
Director.

UNANIMOUS CONSENT REQUEST

Mr. LIEBERMAN. Madam President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate proceed to executive session to consider the following nominations: Calendar No. 231; that there be

2 hours for debate equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to a vote without intervening action or debate on Calendar No. 231; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order, that any related statements be printed in the RECORD, that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection.

Mr. MCCONNELL. Madam President, Senator DEMINT has some concerns about this nomination. Therefore, at his request, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Madam President, I am going to keep returning to the floor of the Senate in fairness on this nomination. She is such a deserving nominee and at least deserves a vote up or down.

I yield the floor.

Mrs. MURRAY. Madam President, I ask unanimous consent that following my remarks, the Senator from Ohio, Mr. BROWN, be recognized, and following that, Senator WHITEHOUSE be recognized.

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

The PRESIDING OFFICER. The Senator from Washington is recognized.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 3340 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE HIGHWAY BILL

Mr. BROWN of Ohio. Madam President, I come to the floor this evening to discuss the bipartisan transportation jobs bill that has been lingering since March 14. March 14 was pretty early in the construction season. If the House had moved as quickly as they should have, if the House were not, apparently, held hostage by some tea party members who think transportation should be a State issue and the Federal Government shouldn't be involved, there would have been so many more jobs created in the Presiding Officer's State of North Carolina and in Ohio and elsewhere. Those tea party members should think about President Eisenhower's legacy when they talk about transportation being a State and not a Federal issue.

The Senate passed this job-creating economic development bill more than 100 days ago, but this historically bipartisan highway bill remains stalled. We know investments in infrastructure mean jobs directly. We know investments in infrastructure mean economic development in the future. President Eisenhower and Congress established the Interstate Highway System not too many years after I was born, in the 1950s. A generation of Americans was set to work carving freeways, paving new roads, building bridges and tunnels across our great country that allowed people and products to travel across the 48 States.

In the 1950s, the 1960s, the 1970s, and the 1980s, we had an infrastructure which was the envy of the world—an infrastructure the likes of which the world had never seen. Since then, we have not done quite so well. Our Nation used our postwar infrastructure boom to become an economic superpower, similar to how the GI bill helps millions of families who take advantage of it—soldiers, veterans, and families—yet at the same time creating prosperity for the whole country. Infrastructure building helps those men and women who are actually doing the construction, doing the work on the highways and bridges and water and sewer systems, but it also helps the companies and the workers who are manufacturing the steel and the concrete and the glass that goes into infrastructure, and it also helps the prosperity of society as a whole.

A truck leaving Toledo, OH, could be in Miami, FL, in less than a day. A family could drive from one corner of Ohio—from Conneaut, the county my wife was born in—to North Bend on the other end of the State in several hours instead of a whole day.

We know infrastructure investments are forward thinking, with payoffs that last for decades, yet also benefit our Nation—our small businesses, our workers—both today and for generations to come. So it is unacceptable that at a time of still too high unemployment—even though the unemployment rate in my State has dropped between 2 and 3 percent in the last 3 years, it is still too high—Washington politicians, for whatever reason, continue to block progress on this bill.

No one in this Congress should be proud of the condition of our roads or the safety of our bridges. No one in this Congress should be proud of the fact the world's newest airports and most modern train stations are not in the United States of America, as they were in the 1950s, 1960s, the 1970s, and the 1980s. They are being built overseas. No one in this Congress should be proud of creating new hurdles to progress, of obstruction, when the need is so great for us to create new jobs.

Historically, infrastructure has been a bipartisan issue. There is no so such thing as a Democratic or Republican bridge. The most recent extension is slated to expire Saturday at midnight. We can't afford to keep passing short-term extensions. We need to think about consequences for businesses that plan for the long term. Because Congress keeps passing inch-by-inch, month-by-month extensions, businesses can't plan, workers can't plan, State departments of transportation can't plan. It hurts the contractor, who is unsure whether she will have the funds to buy a new bulldozer; the crane operator, who is unsure of where his next job will be; and it hurts the small business owner who sells aggregate to the construction industry. We cannot afford to keep passing the buck with these short-term extensions and disrupting the ability of businesses to plan for the future.

This past weekend I visited El Meson Restaurante, a family-owned restaurant located near the I–75 modernization project in West Carrollton in Montgomery County, OH, in southwest Ohio, near Dayton. I spoke with the owner Bill Castro. I asked him: What happens if the bill expires and this project is delayed? He tells me that construction surrounding the restaurant has already cut into El Meson's profits. I have eaten at that restaurant three or four times. It has always been crowded. The food is good, the hospitality is great, and the owners are friendly and embracing. It is a great place. But because of this delay—which happens from time to time, I understand, and should—he has had to scale back his own salary, rather than lower his workers' wages and reduce the staff. He knows this is good for Montgomery County, for Dayton, and for the Miami Valley, but it is clear if this project gets delayed it will do serious damage to his restaurant and to the other small businesses in the area.

It is clear business owners in my State are doing their jobs. It is time the House of Representatives does its job and works with us to pass this highway bill, then get it back to the Senate and the House so we can vote on it. We know what is at stake: Jobs created by infrastructure investments are almost always good-paying middle-class jobs. Whether they are the construction jobs or the manufacturing jobs producing the products that go into the construction, these jobs typically provide workers with health care and retirement benefits and are the kinds of jobs our neighbors need to create a strong middle class. These jobs enable people to buy a home, to save for their children's college education, and plan for the future.

These investments not only create construction jobs, they improve our Nation's economic efficiency, obviously creating more prosperity. This bill is about rebuilding our infrastructure as much as it is about rebuilding our middle class. It is time for Congress to pass the highway bill. There is simply too much at stake not to.

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. 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.

SUPREME COURT DECISIONS

Mr. WHITEHOUSE. Madam President, this is the week for the Supreme Court to release opinions from dozens of cases that it has been considering over the past term. In most of these

important cases, the Court followed its usual practice of allowing the parties to file detailed legal briefs and to present oral arguments to make their side of the case before the Court reached its decision. In one case, however, it decided an issue vital to the ongoing function of our democracy, and it decided that case without even allowing the parties the opportunity to write legal briefs on the merits and to argue their case before the Court.

In the Montana case, American Tradition Partnership v. Bullock, the Court's five-man conservative bloc doubled down on a historic error they made 2 years ago in Citizens United. Citizens United, I am confident, will mark one of the lowest points in the Supreme Court's history.

The case will ultimately stand alongside Lochner v. New York and other such decisions in the Supreme Court gallery of horrible decisions.

A telltale of these horrible court decisions is that they create rights of the powerful against the powerless, turning the very concept of ''rights'' inside out. Ordinarily, a right is something that stands against power. That is why it is carved out as a right; it is because it offends against the power structure, and yet we value it and we defend it. And our courts have as their very purpose in our system of government the purpose to be the guardians of those rights, the guardians of those rights against whatever the structure of power is in our society. That is why we give judges long or lifetime tenure. That is why conflicts of interest in the judiciary are so particularly concerning. That is why some decisions we take away from officialdom entirely and give them to a jury of our peers. That is why it is a crime to tamper with a jury. We do all of those because we want courtrooms insulated from power so that courts can do the essential work of protecting rights against the predations of power.

Look at the Lochner decision, for instance, and see how that Court turned the whole question of rights inside out. Seeking to defend the prevailing economic power structure, the Supreme Court held that bakers had a constitutional right—under a theory of freedom to contract—to agree to work whatever hours their employers wanted to make them work, without overtime, without rest, a right on the part of the bakers to enter into a contract where their employers could tell them they could make them work whatever they wanted. Looking back now, that seems almost silly, but if you were a judge affiliated with an economic structure that saw workers as essentially disposable, this question of workers' rights to work reasonable hours seems, well, unreasonable. And the Lochner decision justifiably lies on the junk pile of judicial history, a broken monument to the prejudice and error of that Court.

Citizens United and now the Montana decision join this gallery of judicial horribles. Here, the right they turned inside out is the right of free speech, and the power structure served is the vast and unprecedented corporate power structure that exists today.

Under Citizens United, under this inside-out right they have created, you now enjoy the free speech right to hear as much corporate speech as they want to bombard you with. If you are a regular human, you are on your own. If you are a CEO, you can access your corporate treasury to drown out the voices of all of your workers. If you are a massive multinational corporation or if you are a billionaire or a multibillionaire, you now have a right to dominate the paid media airwaves, and we have the free speech right to have to listen to all of that.

At least if you are a billionaire, you are still a human being. And I don't say this judgmentally; this is a legal fact. If you are a corporation, you have no soul, you have no conscience, you have no altruism. You have none of the characteristics that are special to humankind. You are a legal fiction. You are a financial mechanism created for the massing and the efficient use of capital. In the economic sphere, the value of that corporate structure is immense, there is no doubt about it. It has provided great value to our society. But in the political sphere, it is dangerous. But for these five Justices who constantly support corporate interests, to protect the power that comes from being able to provide or promise or threaten massive anonymous expenditures on political attack ads, well, that is just how you see the world.

One day the Citizens United decision will lie next to Lochner on the junk pile of judicial error and prejudice. There is too much wrong with it for it ultimately to survive. But, sadly, today is not that day, and the five conservative Justices have chosen, instead of correcting their error, to double-down on it.

The central and deeply flawed premise of Citizens United was the conservative majority's declaration that vast corporate independent expenditures ''do not give rise to corruption or the appearance of corruption.'' They had no record on which to make that decision. None had ever run in an election before. They had no basis for making that decision, but that was the declaration they issued.

First, whether independent expenditures by corporations pose dangers of corruption or dangers of the appearance of corruption is a factual question that depends on the actual workings of the electoral system. Supreme courts aren't supposed to make findings of fact. So one of the first errors in the Citizens United decision was that they drove off the road of proper judicial procedure, across the rumble strip, and they started making findings of fact—and they did so in a very dangerous way.

The peculiar way the conservative Justices brought the Citizens United question before the Court deprived the Court of any opportunity to consider a record. Ordinarily, the Supreme Court has a record that comes up to it from the court decisions below. But, as my colleagues may recall, the parties in Citizens United did not ask the Court to consider the constitutionality of limiting corporate independent expenditures. That was not addressed below. What happened is that the conservative Supreme Court Justices took it upon themselves to ask a new question and to answer that question they themselves had asked. In doing it this way, the Justices simply declared, with no factual basis, that massive, independent corporate expenditures posed no risk of corruption to our elections. They were wrong, as is obvious to most people.

The case the Court decided today, American Tradition Partnership, created an opportunity for the Court to have dug itself out from the colossal mistake it made in Citizens United. It is an interesting background in comparison to Citizens United because the case came out of Montana, where there is an extensive record within the State of Montana of historical evidence of immense corruption created in that State by corporate influence and corporate campaign money dating all the way back to the copper barons who bought and sold Montana State government in the bad old days. The Montana court also found substantial evidence that Montana voters believe that corporate election expenditures lead to corruption and that this belief has contributed in Montana to widespread cynicism and low voter turnout. Those were findings of fact based on an actual record, and the Montana Supreme Court carefully reviewed those findings of fact. That is what it is supposed to do—not make findings of fact but review them. The Montana court concluded that the State had a compelling interest justifying the law based on the evidence in the record.

The corporations then came in and asked the U.S. Supreme Court to overrule the Montana Supreme Court's decision, arguing that it was inconsistent with Citizens United. At that point, I joined with Senator JOHN MCCAIN, who has long been a national leader on campaign finance issues, in filing a bipartisan amicus brief with the Supreme Court. In our brief, Senator MCCAIN and I challenged that central premise in Citizens United—that phony premise about the corrupting potential of outside political expenditures being nonexistent. The extensive factual record developed in Montana and the facts that have developed since Citizens United on the ground nationally provided the Court with plenty of evidence—evidence that it lacked because of the way it had approached Citizens United.

Our brief showed that Citizens United stood on a pair of false and flawed factual assumptions about our elections. First, the Citizens United decision assumed that outside political expenditures were going to be independent,

that they were not going to be coordinated with political campaigns. Second, the Citizens United majority assumed that there would be disclosure of what special interests were paying for the ads. Both of these assumptions are demonstrably wrong. The ongoing Presidential and congressional races reveal close coordination between campaigns and these so-called independent expenditures. Wealthy donors, who have maxed out their contributions to the candidate, now can use candidate-specific super PACs as convenient proxies to make the functional equivalent of excess campaign contributions. Campaigns and their super PACs have closely connected staff, they have shared consultants, they openly coordinate on fundraising, and they work together on advertising, with super PACs acting, actually, as the successful surrogates for the candidates in States where the candidate has made few appearances or spent little money on advertising. Indeed, in the Republican Presidential primary a candidate-specific super PAC for Senator Santorum spent millions and won the Minnesota primary for Senator Santorum when the candidate himself had no money to spend.

These vast expenditures are not just coordinated closely with candidates and campaigns, they are anonymous, with the special interests behind the ads keeping themselves secret from the American public. As everybody in this Chamber and every American who has a television set knows, the decision in Citizens United opened the floodgates to unlimited corporate and special interest money pouring into our elections. Using phony shell corporations, 501(c) organizations, and super PACs, outside groups can now spend—or, importantly, they can credibly threaten to spend because that can have a big effect in politics—overwhelming amounts of money in support of or against a candidate without any publicly disclosed paper trail.

Although the secretive interests behind the anonymous spending may be hidden from voters, they may be hidden from regulators, they may be hidden from prosecutors, they may be hidden from the media, they will not be hidden from the candidate. They will be well known to the candidate. That alone allows for an undetectable quid pro quo corruption, as the wealthy outside interests can award a candidate with massive, anonymous spending.

Worse than that is a type of corruption I touched on a moment ago when I talked about threats—a corruption made possible by the Citizens United decision that went completely unconsidered by the U.S. Supreme Court. They never even mentioned it. That is the ability to threaten large and secret expenditures without actually having to make them. A candidate could be quietly warned that if they don't take the right position on this issue, if they don't vote right when the amendment or the bill comes up, they will be punished with a large expenditure against them.

Now, how is that a threat under Citizens United? Before Citizens United, if a corporation wanted to threaten a politician, the threat would mean a $5,000 PAC contribution to the politician's opponent. It would mean maybe some fundraising and bundling by the corporate executives and by the corporate lobbyists. I suppose that is something a candidate wouldn't necessarily want, but it is not a very big deal. It happens all the time. And I don't think it throws much weight around here.

Today, after Citizens United, the threat isn't of $5,000 and a couple of fundraisers, the threat is of unlimited, anonymous corporate spending against you—enough to defeat or elect a candidate. And if this threat succeeds, the real danger is that there is no record whatsoever of the corrupt deal for regulators, prosecutors, and media outlets to track.

Sherlock Holmes famously talked in one of his decisions about the dog that didn't bark. In political corruption, we need to be concerned about the ad that didn't run—the ad that didn't run because the politician obediently did what he or she was told.

The brief Senator MCCAIN and I authored laid all of this before the Court. We documented the close coordination between campaigns and this so-called independent spending. We detailed the tangled web of corporate 501(C) and super PAC relationships that allow wealthy interests, special interests, to hide their spending from the public, and we explained the various ways these forms of coordinated identity laundering by special interests create the real threat of quid pro quo corruption. As we said in our brief, ''The campaign finance system assumed by Citizens United is no longer a reality, if it ever was.'' And, frankly, I don't think it ever was.

Confronted with the actual facts on the ground in Montana and nationally, the Supreme Court's conservatives decided they were going to ignore the evidence. There is a blindfold on Lady Justice. But the blindfold on Lady Justice as she holds her scales aloft is supposed to be blindness to the parties who are before her. It is supposed to be blindness to what the interests are. It is not supposed to be a considered and deliberate blindness to the evidence and the facts. But in this case, that is the blindness the Supreme Court has deliberately imposed on itself—or at least the five conservative Justices have.

This conservative bloc has decided to perpetuate the error of Citizens United without considering the facts. Montana will not have an opportunity to file briefs on the merits, explaining the importance of its laws to protect against the corruption that is its historic experience. The attorney general of Montana will not have the opportunity to stand before the Justices to defend his State's law. Once again, the Court has kept from itself any relevant record that might present uncomfortable facts.

In Citizens United, the conservative Justices asked themselves to decide a major constitutional case without any lower court record. And now that they have a fully developed lower court record to proceed on that happens to show how wrong they were, they have no interest in even looking at that record.

We need to act now to fix our broken campaign finance system. The Supreme Court had the chance to correct its error. These five conservative Justices refused to correct their error. They doubled down on their error. They have ignored the evidence of their error that we all see around us, so we cannot wait. We know why they are doing it. We know what is going on. We know it is not going to happen from this Supreme Court, not from those five Justices, so we need to fix this on our own. Americans of all political stripes, whether you are an occupier or tea party, they are disgusted by the influence of unlimited and anonymous corporate cash pouring into our elections, and by campaigns that succeed or that fail depending on how many billionaires support the candidate.

More and more, people in my home State of Rhode Island and around the country believe their government responds only to wealthy special interests. They see jobs disappear and wages stagnate and bailouts and special deals for the big guys and they lose faith that elected officials here in Washington are listening to them.

(Mr. MERKLEY assumed the Chair.)

For now we are left with one weapon in the fight against the overwhelming tide of secret special interest money, and that one weapon is disclosure. Let the sun shine in. At least let the American public know who is behind these massive expenditures.

Earlier this year I introduced the DISCLOSE Act of 2012. I had immense help from the Presiding Officer, Senator MERKLEY, in doing that work. We call it DISCLOSE 2.0. This legislation will shine a bright light on all of this spending by these powerful special interests.

With this legislation, which now has 44 Senators cosponsoring it, every citizen will know who is spending these great sums of money to get their candidates elected and to influence our elections. Passing this law would begin to remove the dark cloud of unlimited secret money that the Supreme Court has cast over our American elections.

The DISCLOSE Act includes a narrow and reasonable set of provisions. We have trimmed it down so that it should have wide support from Democrats and Republicans. A great number of my Republican colleagues in this body are on record that disclosure and transparency are essential in campaign finance, so we have made every effort to craft an effective and a fair proposal while imposing the least possible burden on the covered organizations.

As Trevor Potter, a Republican, former Chairman of the Federal Election Commission, said in a statement submitted to the Rules Committee: Disclose 2.0 is ''appropriately targeted, narrowly tailored, clearly constitutional and desperately needed.''

The same cannot be said for the conservative majority's holding in Citizens United, echoed again today in American Tradition Partnership. The conservative Justices' desire to maintain their error and to keep the corporate money flowing represents a sad, sad day in the history of the Court. It will, as I said earlier, one day be corrected. One day, Citizens United will lie next to Lochner v. New York and other decisions that have disgraced the Court in the past on the junk heap of judicial history. But until that day, it is up to all of us to work together to restore control of our elections, to restore control of our democracy, to put it back in the hands of the American people, to assure that we continue a government of the people, by the people, and for the people—not a government of the big corporations, by the big corporations, and for the big corporations.

I yield the floor.

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I will take a moment to go through the closing script, and in doing so I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO TSA DEPUTY ADMINISTRATOR GALE ROSSIDES

Mr. LIEBERMAN. Mr. President, today I wish to pay tribute to a dedicated public servant, a talented administrator, and a tireless warrior for homeland security. Transportation Security Administration Deputy Administrator and Chief Operating Officer Gale Rossides is retiring at the end of the month, and her departure will be a significant loss not just for TSA and the Department of Homeland Security but for the American people, whom she has served so well throughout her 34-year career in the public sector.

As Chairman of the Homeland Security and Governmental Affairs Committee, I came to understand the central role Ms. Rossides played at TSA. In appearances before the Committee, she impressed me as a knowledgeable and experienced manager whose dedication to the agency helped TSA stay on track through a difficult and chaotic start up and develop into a more mature agency as the years progressed.

Ms. Rossides' institutional memory, alone, will be irreplaceable. She was one of the original six executives hired to build TSA from the ground up in 2001, and in his book ''After: How American Confronted the September 12 Era,'' Steven Brill wrote that ''no matter what was added to her plate, or what she reached out for to put on it herself, she seemed to take it in stride.'' Despite the grueling 13-hour days and 6-day weeks, Ms. Rossides stayed at TSA for 10 years—with a 1-year hiatus as senior advisor to the Under Secretary for Management at DHS. I think it is fair to say that today she is one of the department's most respected senior executives.

Ms. Rossides brought critical management experience to the nascent TSA. In the tense period after September 11, 2001, she led the team of government and private sector officials that trained and certified more than 50,000 screeners in less than 6 months—the largest public mobilization since World War II. She oversaw the debut of TSA's federalized screening force at Baltimore Washington Airport. And she led the effort to develop and implement screener technical training and certification standards.

Throughout her TSA tenure, Ms. Rossides has fostered collaborative partnerships with stakeholders; pushed for more intelligence sharing; created leadership development programs; and developed innovative workforce programs to encourage communication and conflict management. Under her watch, TSA reduced its employee injury and attrition rates and raised employee morale through innovative solutions like providing benefits to part time personnel.

Ms. Rossides moved steadily up the management ladder during her tenure at TSA. She has served as the Associate Administrator/Chief Support Systems Officer, been a Senior Advisor to the Deputy Secretary and the Under Secretary for Management at DHS, and in 2007 she was appointed acting Deputy Administrator, a position that became permanent in January 2008. She has held that position longer than any other in the agency's history.

From 2009 to January 2010, she served as Acting TSA Administrator. As such, she oversaw the implementation of Secure Flight and introduced other key security programs, including measures implemented to detect and deter improved explosives devices that could be concealed on terrorists, in the aftermath of the attempted Christmas Day terrorist attack.

This career arc more than justifies Steven Brill's description of her in his book as ''an incurable workaholic'' who would ''run over or cleverly sidestep almost any obstacle to get to the goal.'' It is a tribute to her character that she remained universally well-liked while doing so.

Before she was hand-picked to help launch TSA, Ms. Rossides had worked at the Bureau of Alcohol, Tobacco, and Firearms, within the Justice Department, for 23 years, where she started as an administrative assistant. She was co-chair of a blue ribbon panel to overhaul ATF after the 1993 siege of the Branch Davidian ranch in Waco, TX. For 8 years, she served as the first assistant director, in charge of all law enforcement, investigative, regulatory, and leadership training at ATF—the first woman to hold such a significant post at the bureau. And she was a member of the Board of Directors of the Federal Law Enforcement Training Center for 6 years.

The American people have been fortunate that Ms. Rossides has given much of her life to the Federal Government. We are certainly better off because of it.

AGRICULTURE REFORM, FOOD, AND JOBS ACT

Mr. McCAIN. Mr. President, I could not support Senate passage of S. 3240, the ''2012 Farm Bill.'' CBO estimates the Senate's Farm Bill will consume a colossal amount of taxpayer dollars—at least $966 billion over 10 years. While I agree that we need nutrition programs to assist low-income families as well as programs to ensure farmers receive a fair return on their labors, the fact remains we are living in an era of crushing national debt and runaway government spending. Ultimately, the American people, both farmers and consumers, lose under this bill.

Farm Bill programs are ripe for reform. Unfortunately, we rejected amendments to fix USDA's sugar programs which cost American consumers $3 billion annually in artificially high sugar prices. We created several new so-called ''shallow-loss'' subsidy programs, which could balloon to $14 billion each year if crop prices drop from today's record high levels and return to average prices. We implemented a new $3 billion cotton program that may exacerbate our ongoing trade dispute at the World Trade Organization. We could have eliminated the outdated mohair subsidies, but didn't, and wound up creating several new and unnecessary subsidy programs for products like popcorn and maple syrup. We've made some progress on imposing stricter payment limits on subsidies and we eliminated wasteful and duplicative USDA programs like the Catfish Inspection Office. Unfortunately, much more remains to be fixed in the Senate's farm bill before I could support it.

ADDITIONAL STATEMENTS

TRIBUTE TO IKE LIBBY

• Ms. SNOWE. Mr. President, today I wish to recognize Mr. Ike Libby, who, with his company Hometown Energy, has worked tirelessly to ease the burdens of rising home heating costs for the people of my home State.

Founded in 2004 by Ike Libby and Gene Ellis, who handles the business aspects of the company and owns a variety store next door, Hometown Energy of Dixfield, ME, supplies heating oil to a region that knows just how cold winter can be. With seven employees, Hometown Energy is a quintessential local small business. Known for its