

America still remembers her brave men and women lost in the Marine barracks bombing of 1983. We honor them and their families for their sacrifice. We continue to fight terror today with a steady hand, even if it is at times paired with a heavy heart. And we are proud of the brave men and women who fight for their country against the would-be terrorists of today and tomorrow.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3043, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3043) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

Pending:

Harkin/Specter amendment No. 3325, in the nature of a substitute.

Vitter amendment No. 3328 (to amendment No. 3325), to provide a limitation on funds with respect to preventing the importation by individuals of prescription drugs from Canada.

Dorgan amendment No. 3345 (to amendment No. 3325), to require that the Secretary of Labor report to Congress regarding jobs lost and created as a result of the North American Free Trade Agreement.

Ensign amendment No. 3342 (to amendment No. 3325), to prohibit the use of funds to administer Social Security benefit payments under a totalization agreement with Mexico.

Ensign amendment No. 3352 (to amendment No. 3325), to prohibit the use of funds to process claims based on illegal work for purposes of receiving Social Security benefits.

Lautenberg/Snowe amendment No. 3350 (to amendment No. 3325), to prohibit the use of funds to provide abstinence education that includes information that is medically inaccurate.

Roberts amendment No. 3365 (to amendment No. 3325), to fund the small business childcare grant program.

Coburn amendment No. 3358 (to amendment No. 3325), to require Congress to provide health care for all children in the U.S. before funding special interest pork projects.

Chambliss modified amendment No. 3391 (to amendment No. 3325), to provide for a declaration of a public health emergency with respect to Sumter County, GA.

Cardin amendment No. 3400 (to amendment No. 3325), to provide support to Iraqis and Afghans who arrive in the United States under the Special Immigrant Visa program.

Landrieu amendment No. 3446 (to amendment No. 3325), relative to the Elementary and Secondary School Counseling program.

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

Mr. HARKIN. Mr. President, we entered into a unanimous consent agreement last night. I will repeat it for the benefit of Senators.

Senators should be aware that we will now start a series of debates and we will stack the votes. The first amendment will be the amendment of the Senator from Wyoming, Mr. ENZI, amendment No. 3437. There will be 30 minutes of debate equally divided. That will be the first one.

The second one will be the amendment of the Senator from South Carolina, Mr. DEMINT; that is amendment No. 3387. There will be 20 minutes of debate equally divided.

The third one would be the amendment No. 3365 by the Senator from Kansas, Senator ROBERTS. There will be 10 minutes of debate equally divided.

Then the fourth one would be the amendment No. 3358 offered by the Senator from Oklahoma, Senator COBURN. There will be 20 minutes of debate equally divided. At the end of all of that time, the Senate will proceed to vote on and in relation to those amendments.

We are ready for the amendment of the Senator from Wyoming as soon as he arrives, and he is here.

AMENDMENT NO. 3437 TO AMENDMENT NO. 3325

Mr. ENZI. Mr. President, I call up amendment No. 3437.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 3437.

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

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

The amendment is as follows:

AMENDMENT NO. 3437

(Purpose: To prohibit the use of funds to modify certain HIV/AIDS funding formulas)

At the appropriate place in title II, insert the following:

SEC. \_\_\_\_\_. Notwithstanding any other provision of law, no funds shall be made available under this Act to modify the HIV/AIDS funding formulas under title XXVI of the Public Health Service Act.

Mr. ENZI. Mr. President, at the present time, the last numbers that I saw, Congress's approval rating was 12 percent. There is a reason for that. We have been nibbling around the edges on a lot of things, and we have been doing earmarks. I have an amendment that deals with one of the most egregious earmarks I have seen.

Less than a year ago we passed a bill in this body unanimously, that the House then passed unanimously, that addressed the Ryan White AIDS program, and it included transparency, it included accountability, and it included a change in the formula. The change in the formula gave some protection to those who have had a declining population, but it allowed the

money to follow the people who had the problem.

Today, in this bill, there is an earmark that provides for money now to go to people who may no longer even exist—people who are dead. It is a way that they are trying to change the authorization process we went through so meticulously, so unanimously, in such a way that it undoes it in an appropriations bill. We shouldn't be changing law in an appropriations bill. We especially shouldn't be changing law for a specific area of the country in an appropriations bill. That is why I bring this amendment.

I want to discuss the Ryan White program and the need to ensure that this Labor-HHS bill does not undo our recent work. Last December, after months of negotiations, the House and the Senate passed a new 3-year Ryan White reauthorization. Most importantly, we ensured that those new formulas focused on the lifesaving treatment by including individuals with HIV, not just AIDS.

One of the key items that delayed this reauthorization for months was the careful negotiations surrounding the funding formulas. In that bipartisan, bicameral agreement, we were very clear about the implications of those new formula changes. We provided GAO data runs that were nearly identical to how the funding has been distributed. I hope everybody takes a look at those GAO data runs.

Those funding formulas also included hold-harmless provisions to ensure the formula funding would not decrease by more than 5 percent from the previous year. While I would have preferred no hold-harmless provisions or ones that allowed for more dramatic fluctuations so the money could follow the HIV-infected person, that was what we agreed upon a few short months ago.

We didn't pull the wool over anyone's eyes; we provided clear information about the implications about those funding formulas. Now, with one simple pen stroke, the House majority would like to undo all of those carefully crafted, bipartisan, bicameral compromises and insert a new hold-harmless provision with little thought to how this change will affect others. I am pleased to note that the Senate did not include this egregious provision, and I hope today the Senate will go on record for opposing doing so.

What is even more ridiculous is that this provision primarily benefits San Francisco, a city that continues to receive funding to care for dead people. San Francisco received two-thirds of the \$9 million available, racking up \$6 million of new dollars. All the while, nearly every other city would have reduced funding just so San Francisco can receive more riches. That additional \$6 million is not based on the number of people they are treating or on how many new cases they have. As a hold-harmless provision, it is related to what that city has received before.

As GAO noted in the report last month, even within their current funding, they are receiving money for people who have died. Let me repeat that. GAO, the Government Accountability Office, confirmed that San Francisco currently receives funding under Ryan White for dead people. That is without this additional \$6 million earmark. Now, I don't know about my colleagues, but I find this a little reprehensible. Where I come from, that is called cheating. This is patently unfair to those cities and States that are striving to come up with the moneys for basic HIV/AIDS treatment.

House Democrats reneged on a bipartisan, bicameral solution and are trying to slide this authorizing legislation into an appropriations bill, hoping no one will notice. Well, I noticed. I object to this provision and the implications of it. Rather than providing nearly \$10 million to help those cities that don't need it, why aren't we providing funds to those cities with large numbers of people with HIV?

So I offer my amendment to Labor-HHS, Enzi amendment No. 3437. This amendment is quite simple. It states that the Labor-HHS bill cannot be used to undo all of the work we did on Ryan White. We should not be diverting key funds from cities with rising HIV cases to go to San Francisco—a city that is still receiving funds for treating people who have already died from AIDS. If you support keeping people alive, I believe you should also support my amendment. We did last December. We should again. We need to keep it on track to take care of the problem.

I yield some time to my fellow Senator from Oklahoma, such time as he would like.

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

Mr. COBURN. Mr. President, I wish to make a few comments about what is in the bill and what is going to happen if we don't accept Senator ENZI's amendment.

When we crafted the Ryan White Act, the goal was to make sure the dollars followed the disease and to make sure people who were infected with HIV who had no other means of seeking treatment and having a life that is not the scourge of this disease with the modern medicines that have come about, to create a platform where we could have fair availability for medicines and treatment and care to where the disease is growing.

What has come out of the House, with Speaker PELOSI's direction, is to actually take money from African-American women and the medicines they need to stay alive, or medicines to treat their newborn infants, and send it to San Francisco, which in the last few years has not even spent the entire amount of money that has gone to it.

Senator ENZI is right in the fact that this violates the very agreement we made over a long period of time to get Ryan White funds to start following

the disease. By taking an extra \$6.2 million and sending it to San Francisco, it violates, No. 1, the agreement on that bill, but most importantly, it takes away the opportunity for health for minority women, which is where the disease is growing the greatest amount. We have all these women throughout the country who have been on waiting lists for drugs for treatment. They are getting some, but they are not getting what is going to save their lives. And we are going to steal that opportunity for minority women to be adequately and fairly treated under this bill.

The Ryan White bill we passed last year was a good compromise, knowing that we needed to shift money to where the disease is. What happened in the House bill is we have actually reneged on that commitment. What we are actually saying is that the establishment age groups in northern California deserve more money than a single African-American woman who was infected with HIV and cannot get the medicines to treat her disease. That is the choice.

For the first time, the Ryan White Act changed the direction of where the money went. The Ryan White Act, as we passed it, had the money following the disease, going to those who need treatment rather than to established organizations that are used to a certain budget. So the tragedy will be that if we don't pass the Enzi amendment, we are taking a step backward from the very principle—a public health principle, by the way—that you put the money where the epidemic is. What is in the House bill negates that.

What we are doing is playing politics with the lives of African-American women, who are the fastest growing numbers of people who have HIV in this country. We are taking \$6.2 million away from them and we are putting it in facilities that, quite frankly, have done quite well under the Ryan White Act. The availability, the access, and the programs are at the greatest level in San Francisco as compared to any other place in this country. Yet we choose, if we do not accept the Enzi amendment, to say that is a higher priority than a poor African-American woman in the South. That is the choice.

I support this amendment. I think the Senate, in good conscience, ought to live up to its agreement on the Ryan White Act.

I yield back my time.

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

Mrs. FEINSTEIN. Mr. President, I rise in opposition to the Enzi amendment. I congratulate the chairman and the ranking member for the work they have done on this bill. But this amendment significantly disadvantages at least nine jurisdictions facing HIV/AIDS crises throughout the country because it essentially would prevent any stop-loss provision enacted by the House from going into effect.

Senator ENZI, Senator KENNEDY, and the rest of the HELP Committee worked tirelessly for most of last year to reauthorize the Ryan White CARE Act. I voted for this reauthorization, and I recognized at the time that the method of counting HIV/AIDS victims had to change to more clearly reflect living victims. However, this then mandated huge cuts to vital programs, despite the fact that States and eligible metropolitan areas were assured that no jurisdiction would face destabilizing losses.

The HELP Committee staff provided GAO data during the debate projecting that San Francisco would receive approximately \$17.1 million in fiscal year 2007. But San Francisco did not receive that amount. Their formula award totaled \$14.6 million, which is \$2.5 million less than estimated.

A compromise was to offset losses by clearly making available supplemental award funding so that the Health Resources and Services Administration could consider the funding losses when awarding this supplemental funding. This amendment seeks to do away with all of this.

Despite these estimates and built-in protection, several areas of the country received significant funding cuts when the 2007 awards were announced earlier this year.

The San Francisco eligible metropolitan areas, which also include Marin and San Mateo Counties, lost approximately \$8.5 million. That is just those three counties—an \$8.5 million loss. This accounts for 30 percent of the Ryan White funding—a loss too great for any jurisdiction to absorb in 1 year.

It didn't surprise me when San Francisco lost money in 2007. The city knew it would likely face losses. But the protections put in place clearly were not adequate. The loss of one-third of total funding is clearly destabilizing. To be very candid with you, I find it highly objectionable.

This isn't only unique for San Francisco. Five other cities also lost 20 percent or more of their funding: Hartford, CT, 32.1 percent; New Haven, CT, 23.7 percent; Nassau-Suffolk County, NY, 21.7 percent; Ponce, Puerto Rico, 28.9 percent; Caguas, Puerto Rico, 34.3 percent.

No jurisdiction can absorb cuts of this magnitude in 1 year without significant harm to those they serve. To address this, the House of Representatives included a stop-loss provision to cap the losses faced by these jurisdictions in their version of the fiscal year 2008 Labor-HHS appropriations bill. This provision limits the fiscal year 2007 losses for eligible metropolitan areas, or EMAs, to 8.4 percent—not 30 percent but 8.4 percent—which is a manageable amount. Transitional grant areas will have their losses capped at 13.4 percent.

So there is a willingness to respond to the mandate; that is, change your method of counting and, secondly, absorb reasonable cuts. I don't think that

is too much to ask. I think this is overkill.

I was the mayor who first found AIDS, and I can take you back to 1981 and I can tell you what it was like. You won't like it. What I tried to do in the task force of the Conference of Mayors was to bring mayors into the modern day. San Francisco essentially led the Nation in the fight against AIDS. I think to have to take a 30-percent cut, when we are seeing some regeneration of AIDS, is a terrible mistake.

Senator ENZI's amendment could nullify the House's solution. Let me be clear. Under the House language, San Francisco would still lose \$2.3 million. All of the cities will still face significant cuts. This provision is designed not to stop all reductions but to limit them to a level that can be absorbed in 1 year. The House provided funding for the stop-loss on top of a \$23 million increase for part A of the Ryan White CARE Act. So virtually every area across the country sees an increase in funding. But these areas take a dramatic 30-percent cut in funding. I don't think that is right, and I don't believe we should accept it.

The Government Accountability Office examined the impact this stop-loss provision would have on jurisdictions in 2008. In addition to benefiting the 11 jurisdictions whose cuts are reduced, the House bill results in increased funding for 42 of the remaining 45 jurisdictions. The very minor cuts projected in the remaining three jurisdictions are less than one-tenth of 1 percent. A reduction of 30-percent is simply not manageable.

The provision makes no changes to the underlying reauthorization. It doesn't prevent it from moving forward at all. It caps the total losses faced by any jurisdiction in fiscal year 2007 with a one-time solution. It doesn't reopen the reauthorization so carefully crafted by Senators KENNEDY and ENZI and their committee.

The epidemic, as I mentioned, is far from over in San Francisco. AIDS continues to be the second leading cause of premature death in the city and counting. Nearly 23,000 people are currently living with HIV/AIDS in San Francisco, which is more than at any point in the epidemic. Listen to that—nearly 23,000 people in San Francisco are living with HIV now, and that is more than at any point during the epidemic. In addition, the population of San Francisco living with HIV/AIDS is increasingly impoverished, homeless, and struggling. Many have serious medical needs.

About 2 weeks ago, the San Francisco Chronicle reported that San Francisco doctors diagnosed 15 HIV patients with Kaposi sarcoma. That is a form of cancer commonly found in patients early in the epidemic but had become rare.

I will never forget, in a staff meeting I had with department heads back in 1981, when the director of public health said: Madam Mayor, something is happening. We are finding patients with

large purple lesions all over their bodies, and we don't know what it is.

His name is Merv Silverman. I said: Merv, find out what it is and come back and tell me.

Three weeks later, they came back, and it was the discovery for the first time of AIDS in this country. So I feel very sensitive about it. I started the first AIDS program in the Nation. We funded it with property tax dollars. That is how we became a leader in the area.

To take a 30-percent cut when we have the largest number of HIV/AIDS victims in our history in the city, to me, is discriminatory, wrongheaded, and it need not happen. So I very much hope this body will respond.

I understand Senator ENZI wants to protect the reauthorization and the funding formula he authored, but I think we have to admit that the impact on some areas of the country was not anticipated. Fixing these unintended consequences does not require reopening the legislation. It can be addressed with a one-time solution that will still leave some cities with a decline in funds; that means the House solution of stop-loss.

I urge my colleagues to join me in opposing the Enzi amendment, which would strike a dastardly blow to a city that has seen too much suffering, as well as others.

I thank the chair and yield the floor. The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ENSIGN. I yield to the Senator from Oklahoma.

Mr. COBURN. Mr. President, I wish to make a couple of points.

I know this is a large step down for San Francisco EMA and a smaller step down for some of the others. But the thing that needs to be kept in mind is the amount of dollars spent per HIV patient in those areas is 2½ times what the average is around the rest of the country—2½ times. We spend 2½ times more per HIV case in those areas than we do in North Carolina or Florida or Mississippi or Michigan or Kansas or Texas or Arizona. So what we are talking about is proportionality; giving the same opportunities to everybody who has HIV, not more opportunities.

So with the 30-percent cut, you are still going to be spending 1½ to 1¾ times more per HIV case in San Francisco as you are in the rest of the country. So I appreciate the work of the Senator in the HIV area, which is exemplary, and I understand she would want to protect this, but it is not fair to the rest of the country. It is not fair to tell somebody that you are going to spend 2½ times as much on somebody with HIV in San Francisco as you are in Dallas, TX, or Miami, FL. That is what this amendment is about—keeping the fairness that was in the Ryan White Act.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I don't think it is fair to take a 30-per-

cent cut in 1 year when you have the largest number of HIV/AIDS victims in the history of the epidemic in a city that has suffered such as no other city in America. I am not saying there shouldn't be cuts. I voted for the reauthorization knowing there would be cuts. What I am talking about is the level of cuts and the way these cuts fall because they decimate programs in an area that was ground zero on AIDS in the United States.

If you are going to take cuts, take those cuts so the communities involved in fighting HIV with prevention, with education, with care, with treatment, with drugs, with all of it, can essentially meet the mandate, which is to prevent the suffering of AIDS in HIV patients and also to prevent the disease from spreading. That is not easy to do, I can tell you that firsthand.

You take a 30-percent cut in 1 year and you decimate these programs. That is why the House put the stop-loss in. Take a moderate cut, and we will stand up like men and women and we will take that cut. Take a third cut and it is much more difficult and you affect services to people. That is all I am saying.

So I would very much hope the Senate would understand the need and the compassion to defeat this amendment and, once again, I would urge a "no" vote.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, before we passed the legislation, there were waiting lines in many of the States in this country, lines of people waiting to get treatment and care for AIDS. I am pleased to let you know there are no waiting lines today. No waiting lines anywhere—not in San Francisco, not in Connecticut, not in New Jersey or in New York.

There has been a cut. The cut is guaranteed to be no more than 5 percent under the formula. Now, there has always been supplemental money besides the formula. We did not guarantee the supplemental money. The supplemental money was never guaranteed. And if there are larger cuts, it comes out of the supplemental money, not the formula. So I certainly hope we don't change the formula under the appropriations bill instead of through the proper process, which is authorization.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Department of Health and Human Services in North Carolina with some very pertinent quotes.

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

NORTH CAROLINA DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

October 15, 2007.

Hon. MICHAEL ENZI,  
Ranking Member, Committee on Health, Education, Labor, and Pensions, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ENZI: Thanks to your leadership on the Committee on Health, Education, Labor, and Pensions (HELP), Congress took an important step last year and

modernized the Ryan White CARE Act (RWCA). You and many of your congressional colleagues—both Democrats and Republicans—took a principled stance in order to ensure that patients in need, no matter where they live, can access basic medical services to treat and prevent HIV.

The new Ryan White program funding is having a profound impact in North Carolina. The increase in North Carolina's AIDS Drug Assistance Program (ADAP) eligibility from 125% to 250% over the past two years is the direct result of your legislative initiative, resources provided by the new Ryan White funding and new state investments. The increased eligibility levels will result in approximately 600–750 new North Carolinians having access to ADAP services. The reforms you championed are making a crucial difference in the lives of people living with HIV.

Unfortunately, an effort is underway in the Congress to modify the original intent of the reauthorization—that funding would be based on demonstrated need. As you are aware, according to a Health Resources Services Agency document and the newly-released GAO report that you and your colleagues requested, the impact of the House-passed version of the FY2008 Labor-HHS Appropriations bill that would cap losses for certain EMAs would result in decreased funding for states that would have otherwise received new funding based on higher incidence of HIV.

As a direct result of your efforts last year, North Carolina and other parts of the country that have been hit hardest by new HIV cases now have a fighting chance to effectively increase HIV screening, link infected individuals to care and reduce the number of HIV infections reported from year-to-year. If this attempt to undermine the basic premise of the landmark Ryan White HIV/AIDS Treatment Modernization Act of 2006 is successful, CARE Act funding will be diverted from regions of the country that are most in need of federal assistance. Unless the harmful provision in the appropriations legislation is eliminated, I am gravely concerned for patients who are in desperate need of life-saving medical care, individuals who will be newly infected because their partners did not have access to CARE Act services and ultimately, the future prospects of addressing the HIV epidemic in North Carolina and throughout the country.

Thank you for your leadership on the Health Subcommittee, and thank you for your attention to this important issue.

Sincerely,

EVELYN FOUST,  
State AIDS Director.

Mr. ENZI. Mr. President, I yield the floor, and I reserve my remaining time.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in listening to this debate and having received a letter from the Speaker, the concerns I have are whether there was a disproportionate share going to some localities in California.

If I could direct a question to the Senator from California: What is your response to the concerns raised by the Senator from Wyoming that the formula was settled last year and that this, in effect, reopens the formula and is going to direct funds to areas in your State where those funds could be directed to the same serious problem which Pennsylvania has in our big cities—Pittsburgh and Philadelphia?

If you could first respond on the issue as to whether the formula was resolved last year.

Mrs. FEINSTEIN. Through the Chair, Mr. President, if I may, to the distinguished Senator from Pennsylvania, first of all, it is my knowledge that the cut to San Francisco and to 11 other jurisdictions is very large. With respect to the reauthorization of Ryan White, we do not agree that it applies only to the fiscal year 2007 cuts. It takes resources, actually, from other jurisdictions. The Pelosi fix in the House ensures a significant increase for title I that would both reduce cuts to a manageable level for 11 jurisdictions and still increase for other jurisdictions. So this isn't taking money away from other jurisdictions, as I understand it. The provisions in the House bill increases funding for 42 of the remaining 45 jurisdictions under title I.

Now, I don't know the particulars, to be candid with you, of how these cuts fell, but I do know the cut received in the Bay Area was substantial. I suspect it was from the way they counted AIDS cases, and they knew they had to change the methodology. But basically the point is the cut is substantially large and means you have to cut 30 percent across the board of AIDS programs at a time when San Francisco has the largest number of HIV/AIDS cases in its history—23,000.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time to the Senator? The time is controlled by the Senator from Wyoming and the Senator from California. Who yields time?

Mrs. FEINSTEIN. May I ask how much additional time I have?

The ACTING PRESIDENT pro tempore. A minute 10.

Mrs. FEINSTEIN. A minute 10. I am not sure I should yield it to the Senator.

Mr. SPECTER. That is up to the Senator. I am not decided on how I am going to vote, so you have to decide that question and I will decide—

Mrs. FEINSTEIN. I beg your pardon? Whose side did you say?

Mr. SPECTER. I am considering it.

Mrs. FEINSTEIN. Oh. Then I will yield. If the mind is open, I am happy to yield.

Mr. SPECTER. I know it is unsenatorial to say that, but I haven't made up my mind.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. I was listening to the Senator from Wyoming and the Senator from California and trying to figure it out. I don't want to be too unsenatorial, to think about it, but that is where I am.

Mrs. FEINSTEIN. I would be happy to yield my remaining minute to the Senator from Pennsylvania.

Mr. SPECTER. The problem is one of enormous seriousness, and it is very difficult to find the funding with what we have allocated on our discretionary spending. In a context where some \$36 million is being added in the House bill and some \$6 million has been allocated to San Francisco in the House bill—and

I am very sympathetic to San Francisco's problem and I understand the distinguished Senator from California was mayor of San Francisco and it is within the district of the Speaker of the House, so I understand their interest there—what I am trying to evaluate is whether there is undue funding going because of the prominence of the advocates of the position by the Senator from California.

I think I understand it now and I will weigh and consider it. I thank the Senator from California for yielding me the time.

Mr. ENZI. Mr. President, I yield back the remainder of my time.

Mrs. FEINSTEIN. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Time is yielded back.

Mr. HARKIN. Mr. President, under the unanimous consent agreement entered into last night, I believe the Senator from South Carolina would be recognized next for amendment No. 3387, with 20 minutes of debate equally divided.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the Roberts amendment first, and then we would, after the disposal of the Roberts amendment, then proceed to the DeMint amendment.

The ACTING PRESIDENT pro tempore. Is there objection? The chair hears none, and it is so ordered.

The Roberts amendment has been proposed and is now pending. The Senator from Kansas.

AMENDMENT NO. 3365

Mr. ROBERTS. Mr. President, I rise in support of the Roberts amendment, No. 3365, to fund a small business childcare grant program. The program was authorized earlier this year as part of the supplemental spending bill. It does have wide bipartisan support at this time, as well as last Congress when it was unanimously approved by the HELP Committee as part of the Child Care Community Development Block Grant.

This program is different from other childcare initiatives because it specifically targets small businesses and because it encourages them to work together. These small businesses are the lifeblood of many urban and rural communities. These grants will allow the local convenience store or the beauty shop, the auto shop, the implement dealer, the bank, to cooperatively work together to offer their employees quality childcare while they work. Right now, these daycare facilities are simply not available.

My program is also different from other grants because it encourages sustainability and ownership over these childcare facilities. With an annual increasing match requirement and a 2012 sunset provision, my program offers a fiscally responsible approach to plugging the lack of childcare for many hard-working American families.

I wish to thank Senators SPECTER, HARKIN, KENNEDY, DODD, and SALAZAR

for their support of this program in the supplemental spending bill. I am proud this was a bipartisan effort from the get-go, and I want that to continue. If you support hard-working American families, if you support small business and community development, if you support fiscal responsibility, then simply support this amendment.

Let me say I recognize and appreciate the concern of my good friends and colleagues, Senators COBURN and DEMINT. They feel this program could be duplicative. I do not think it is because the program targets small businesses and encourages them to cooperate with other entities to develop sustainable childcare facilities. Because of the matching and sunset requirements—50 percent the first year here, 67 percent the second year, and the third year, 75 percent, and then it sunsets—I think we are much more fiscally responsible.

There was a suggestion to use TANF funds. These are being held by States in emergency contingency accounts in case of a sudden economic downturn. This would be another allowable use of these funds. That is not the case. This is apples and oranges. This is a fiscally responsible plan on the part of the States and we should encourage that.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself about 3 minutes.

The amendment offered by Senator ROBERTS is a good amendment. This was authorized in the emergency supplemental bill for fiscal year 2007. The grants are for small businesses that want to partner with each other or other organizations to establish employer-owned childcare programs. Funds can be used for startup costs, technical assistance, and training and special services for sick kids or children with disabilities.

The program is authorized at \$50 million in fiscal year 2008. As the Senator said, funding was not included. I think it is time we do fund it. I have long been a supporter of expanding the role of small businesses in providing the kind of childcare that their employees need.

I think the amendment of the Senator will further that goal, and I offer my support to the Senator's amendment and I hope the Senate will adopt it.

I yield back whatever time we may have.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Without objection, that amendment is agreed to.

The amendment (No. 3365) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3387 TO AMENDMENT NO. 3325

Mr. DEMINT. Mr. President, I ask unanimous consent the pending amendment be set aside and amendment No. 3387 be called up for immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 3387.

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

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

The amendment is as follows:

(Purpose: To replace non-competitive earmarks for the AFL-CIO with competitive grants)

Beginning on page 4, strike line 22 and all that follows through line 7 on page 5, and insert the following: "workers: Provided further, That \$3,700,000 shall be for competitive grants, which shall be awarded not later than 30 days after the date of enactment of this Act".

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I do want to make sure we have called up amendment No. 3387. I appreciate the chairman agreeing to this slight change in the purpose statement, not the legislative language.

This amendment is part of an effort to clear up what a lot of us have called the culture of corruption over the last several years. A lot of this has come from Americans connecting the dots between the earmarks that we give to our favorite causes back home and many of the campaign contributions and political support that we get back here in Congress. While motivations are generally good, at best the appearance of what is going on here has alarmed the American people.

My earmark amendment today addresses two specific earmarks in the appropriations bill that is in front of us. One of the earmarks provides \$1.5 million for the AFL-CIO Working for America Institute and \$2.2 million for the AFL-CIO Appalachian Council. These funds come in the form of what are referred to as noncompetitive grants, according to the text of the bill and the committee report—which means no one else can compete to deliver the services that are intended by the bill, that these are a specific earmark to divisions of the AFL-CIO.

These earmarks are problematic because they fund two organizations that are not competitive. They provide funds that could be better spent to achieve the mission of the Department of Labor set out by Congress in the Workforce Investment Act of 1998. Rather than continuing to give these groups handouts without any competition, we should force them to compete with other organizations so Americans

get the most value for their tax dollars. That is exactly what my amendment will do. It replaces these two earmarks that total \$3.7 million with competitive grants.

Let me be clear. I am not taking the money out of the bill. The money is still there for the purposes for which it is intended, but it allows organizations to compete to deliver these services so that the taxpayers get the most for their money.

Let me say a few things about the performance of the AFL-CIO organization so my colleagues understand why there is such concern. The AFL-CIO Working for America Institute originally received grants under the Workforce Investment Act. The grants were given to national organizations for the purpose of providing technical assistance in setting up systems of local and State workforce investment boards for the purpose of helping unemployed workers get the training and the jobs they need.

After 3 years, these capacity-building services were no longer needed, and the grants were terminated. However, the Working for America Institute failed to complete its mission in 3 years, so the Department gave it a fourth year of funding. After the fourth year, the Department terminated its contract with the Working for America Institute and explained:

It is difficult to make the case that the AFL-CIO should receive yet a fifth year of funding for organizational purposes when the other national organizations were able to achieve their goals in 3 years. Additionally, given that there are so many workers seeking training or retraining opportunities, we believe the Department of Labor's emphasis is rightly placed on promoting employment and reemployment projects having measurable outcomes.

The Department believes the technical assistance given by the institute is duplicative and less effective than a similar program already funded in their Employment and Training Administration. It said:

We should focus limited financial resources on programs that deliver actual training services to workers, rather than pour additional funds into organizational infrastructure. After 4 years, the AFL-CIO should have developed sufficient ability to participate effectively in the Workforce Investment Act system.

Despite these failures, Congress overrode the Department and earmarked funds for \$1.5 million in fiscal year 2005 in the appropriations bill in that year, and it continued the project through June of this year. Now this appropriations bill is trying to do the same thing again. This is a clear example of Congress interfering with agency decisions because of parochial or political interests. Congress should not fund a program that is duplicative and not a critical priority for an agency. It should have to compete for funds like every other organization.

Let me address the second earmark in this bill. The AFL-CIO Appalachian Council had a longstanding sole-source

contract with the Department of Labor that spanned several decades. The purpose of the contract was to provide career technical training and career transition services at job placement centers in Pittsburgh, PA, Charleston, WV, and Batesville, MS. It is important to note that the council does not manage or run these three centers. It simply provides the training, placement, and transition services.

The Department of Labor reviewed the council's performance in 2004 in light of the new requirements of the Workforce Investment Act. The review resulted in the Department terminating the council's sole-source contract because it was no longer the only and unique provider of career transition services and because it experienced a steady decline in program performance over a 5-year period.

Despite these failures, Congress stepped in and earmarked \$2.2 million for the council in fiscal year 2005, forcing the Department to continue the contract. Following this, the Department canceled the contract again, but Congress reversed the agency's decision a second time with another \$2.2 million earmark in 2006.

After the second year came to a close, the Department reviewed the performance outcomes of the council. In 2006, the council placed 265 graduates in apprenticeship programs and 71 graduates in jobs matching their vocational training. With the earmark funded at \$2.2 million, the cost of each of these graduates was \$6,547. Each of the council's 21 staff members placed less than 2 students per month in a registered apprenticeship program. Despite being given a second chance by Congress, the Department terminated the contract again this year.

Unfortunately, the appropriations bill we are considering gives another earmark to the council to continue the services and designates it a non-competing earmark, which means no one else can compete to do the service right. Here we have two examples of earmarks that circumvent the normal competitive process and abuse the American taxpayer.

The AFL-CIO has plenty of funds to continue these programs. In 2006, the AFL-CIO reported \$96 million in assets and \$157.2 million in receipts. Their top five executive officers made from \$179,000 to \$291,000 a year, with 204 employees making more than \$75,000 a year. Of their disbursements, about \$30 million, or nearly 40 percent of their total receipts, went for political activities and lobbying.

The AFL-CIO should either fund the program itself or help the institute develop a competitive grant proposal, but these organizations should not get a handout. My amendment, as I said before, does not eliminate the funds, but it does require the AFL-CIO to compete based on real criteria and accountability to deliver the services for the American taxpayer.

I urge my colleagues to support my amendment to turn these noncompeti-

tive grants into competitive grants so we accomplish the purpose in an accountable way. I ask my colleagues to vote for my amendment later on this morning. I appreciate their support.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

Mr. SPECTER. How much time do we have, Mr. President?

The ACTING PRESIDENT pro tempore. There is 10 minutes in opposition. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the two programs which have been commented on by the Senator from South Carolina are very good programs, contrary to his assertions. The AFL-CIO Appalachian Council is a nationally recognized provider of educational training service. It was founded in 1964 and the council has represented Alabama, Georgia, Kentucky, Maryland, DC, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. I believe if the Senator from South Carolina looked closely at what has happened in his own State, which has been a beneficiary, he would find it has been a good program. The council operates major employment and training programs through the Department of Labor and Job Corps, as well as employee assistance programs, and provides funding for recruitment/replacement of some 1,000 Job Corps students in long-term jobs.

When you talk about the Job Corps, you are talking about a group of young people who might well be at risk. With the rising rates of violence in major American cities—two of them in my State, Pittsburgh and Philadelphia; Philadelphia had 406 homicides last year—taking some of these at-risk students off the streets, young people off the streets, and providing job training is very important.

The Working for America Institute, which is a program very near and dear to the heart of the senior Senator from West Virginia, Mr. BYRD, has an important retraining component of our manufacturing base, where we have seen too many high-paying jobs shipped overseas. During the current administration, more than 3 million American manufacturing jobs have been lost. We are dealing with an area of some of the Rust Belt States where job training and job development is very important and the Appalachian Council runs through those States and provides a very important service.

When the Senator from South Carolina talks about a political factor, that depends upon the eye of the beholder. These programs have worked very well. They are a very modest allocation with a total of \$3.7 million tackling an issue of job training in an area which has been beset by unfair foreign competition. They have been very carefully considered by the subcommittee, very carefully considered by the full committee, and they have been a part of

the budget for a considerable period of time. They have established their bona fides and their worthwhile nature.

I believe they are worth the money. I urge my colleagues to reject the DeMint amendment.

I yield to my distinguished colleague from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. I wish to join with Senator SPECTER in opposing the DeMint amendment, which would strike two congressionally directed fundings in the bill—one for the Appalachian Council, and the other one would be for the Working for America Institute.

This institute was created, first of all, in 1989 and then in 1998 was spun off and made into a totally separate non-profit organization with a functioning board of directors and everything else. They have over 30 years of experience in the field of job training, workforce development. They work with businesses, the private sector, they work with unions, and they work with communities. The institute has basically been a showcase of how to pull people together and get people together for workforce development. It is doing great work, and it benefits communities throughout the United States. In fact, I had the list of some here. Just last year alone, the institute provided assistance to Portland, OR, the Ohio State Workforce Board, the National Governors Association, and the National Alliance of Workforce Boards. So you can see they do things all over the country.

I point out that this institute received funding through the Department of Labor for over 30 years, through Republican and Democratic administrations. I can go back to Nixon and Ford and Carter, all through the Reagan years, the first Bush administration, the Clinton administration, and actually the first part of this Bush administration until just a couple of years ago when the Department of Labor decided to cut all funding for it. So we had to come in here a couple of years ago and put directed funding in there for the institute. It was widely supported.

So when the Senator from South Carolina says that: Well, we will just make it competitive. Well, the Department will not do it anyway. They are not interested in it. They will not put it out for competitive grant. So this is another instance where I think congressionally directed funding has validity because we have looked at these programs from a bipartisan standpoint, and we agree they should be funded, even though the Department of Labor does not want the funding.

Now, the second issue I wanted to address is—I do not know whether I caught the Senator from South Carolina correctly, but I heard something about lobbying and political activity. I just wanted to make it very clear that section 503 of the bill reads—and I will read it in its entirety:

No part of any appropriation contained in this Act shall be used, other than for normal

and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or video presentation, designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

B. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

So the recipients cannot do it, and they cannot hire lobbyists, either, to lobby for them for any legislation pending before the Congress. So I wanted to make it clear that none of this money can be used for lobbying or for any kind of partisan activities, nor can it even be used for them to hire a lobbyist or a lobbying firm for that activity. So I wanted to make that clear.

I support the Senator from Pennsylvania. The Appalachian Council has done a great job. They are doing great work in a number of States. The Working for America Institute, again, is one that has proven its worth. It has been widely supported throughout America, through business concerns, and State workforce investment boards all over this country.

Now is not the time to pull the rug out from underneath them. So I would join with Senator SPECTER in opposing the DeMint amendment.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a supplemental comment or two. The Job Corps program, which is part of this overall operation, funds young people ages 16 through 24. In Philadelphia, there is a program which places graduates with 61 major health care employers in higher skill jobs which are in great demand in Philadelphia. That attacks an area of great importance, considering the homicide rate in Philadelphia, much of which is caused by young people, so many at-risk youth. This goes right to the heart of a very serious problem, to support the funding.

I want to supplement that, too, with the hearing which we held on July 22, 2004, where we had extensive testimony taken on the subject to establish the value of the program.

How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. Just under 1 minute 50 seconds.

Mr. SPECTER. We reserve the remainder of that time awaiting the argument of the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina. The Senator has 30 seconds.

Mr. DEMINT. Mr. President, I agree with all the purposes the Senator stated, all of the ideas of getting teenagers to work in Philadelphia. All of those things are good. I am not taking argument with any of them. If the AFL-CIO

is the best source to deliver these services, there should not be any problem with this at all. All we are asking is to make this a competitive grant so that we can have criteria and accountability in a system so that what we want to accomplish will actually get accomplished. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. When you talk about accountability, it is present. It is an open book. The Job Corps is administered by the Department of Labor. It is not unusual to have a sole-source contract. When you have somebody like the AFL-CIO, which has so much knowledge, and so many of their experts are at work on this program, it makes very good sense to give the opportunity to carry out the program. It is all subject to the review by the Department of Labor. I think the quality of this program speaks for itself. There is agreement on it. It has an important purpose. I believe the record shows that these funds have been wisely spent.

I yield the floor.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. HARKIN. Mr. President, I move to table the DeMint amendment and ask for the yeas and nays.

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

There is a sufficient second. The yeas and nays are ordered. Under the previous order, that vote will occur after debate on the Coburn amendment.

AMENDMENT NO. 3358

Mr. HARKIN. Mr. President, now we are going to go to the Coburn amendment.

I ask unanimous consent that the vote sequence be changed and that the vote in relation to the Coburn amendment be second in the sequence; that the remaining provisions remain in effect.

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

The Senator from Oklahoma.

Mr. COBURN. Mr. President, amendment No. 3358 is a pending amendment we discussed this last Friday. I believe under the unanimous consent agreement I have 10 minutes, and those in opposition do also. I am going to speak a few moments, if I may.

What the country is looking for us to do is to choose priorities, to make good choices about the priorities of what we do with their money. Quite frankly, there has not been a top-down review on all the Government programs, ever. We have had very limited oversight hearings, which should be the No. 1 part of our job. And we have in front of us a bill that has \$400 million in directed earmarks, which we think, through what the appropriations process has brought to us, is an important priority.

What this amendment says is that we are going to give the Members of the

Senate an opportunity to vote on whether those are the most important priorities or whether we ought to have children's health care because what this amendment does is redirects this money in abeyance until we say we have the kids in this country covered.

There is a large debate over the SCHIP bill that the President recently vetoed. There are a lot of things wrong with it. It is not wrong to help poor kids get health care. Nobody in the Senate opposed that. What they did oppose is changing, under the guise of a debate for children, a debate of having the Government start running all of the health care for kids. What it did do is spend \$4,000 to buy \$2,300 worth of care, and a lot of other things.

So what this amendment is about is asking the Senate to choose—choose your directed earmarks for back home or make a statement that says: We really believe kids health care is important, and we are not going to spend the money on directed earmarks until we have solved that problem.

I know this makes some of my colleagues bristle, that we would challenge the direction. This is not saying specific earmarks are not good ideas. A lot of the earmarks in this bill are good ideas. What it does say is: Should they be a priority before we take care of one of the greatest problems this country is facing, which is health care? Are we going to go after and really change health care to where we get value, we get controllable costs, we get freedom of choice, or are we going to continue to do the same thing of putting earmarks into bills and ignoring the big problems that are in front of us?

So what this amendment says is that until the Secretary of HHS, whoever they may be, certifies that we have the kids under 18 in this country covered, we should not be spending money on directed political benefits for ourselves and our careers; instead, we should be spending our time solving the health care needs of the kids in our country.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time in opposition? The Senator from Iowa.

Mr. HARKIN. Mr. President, I assume it comes as no surprise that I oppose the amendment offered by the Senator from Oklahoma.

I appreciate that the amendment of the Senator from Oklahoma raises again the issue of children's health care. I think that debate should go on since the plight of poor children in this country needs as much attention as we can give it. But I do not think this amendment is serious about addressing the health of children. The amendment does not put any money into it at all; it just says that we will not have any congressionally directed funding until every child in America has health care coverage. I believe that is the way it is worded. So it really does not fund it. It does not do anything at all. I think it is the kind of thing that kind of gives Congress a bad name in that we say we

want to do these things, but we do not provide any funding for them.

We really already know how to increase the number of children insured in this country—by providing an increase in the SCHIP bill program. The Senate recently voted 68 to 31 to do that—68 to 31, pretty overwhelming. That bill would have provided insurance to millions of children who do not have any. Well, maybe the Senator from Oklahoma did not agree with how that was done but, nonetheless, 68 Senators did agree on both sides of the aisle on that approach.

So, again, if the Senator was really concerned about the plight of these children, I would suggest that rather than voting against the SCHIP bill, which obviously provides some guidance and direction, that there is another way of doing it. Again, I point out that the Senate voted overwhelmingly to do that.

That vote on SCHIP was a key one on children's health insurance, not a completely unrelated vote dealing with congressionally directed spending, which is what this is.

I say to my friend from Oklahoma, if he wants more kids to have health insurance, then vote for a bill that would provide more health insurance to kids. If it is not the SCHIP bill, then what is it? It has been suggested that maybe a vote for the Coburn amendment might be a nice cover vote for those who oppose the SCHIP bill. I don't think so. Perhaps more and more people are finding out that a vote against the SCHIP bill was not a very popular one, as we hear from communities and States. But an amendment such as this doesn't change the facts about the SCHIP bill, one way or the other.

I also disagree with the Senator's implication, if I might say, that congressionally directed projects in the bill are unworthy of Federal spending. I am proud of the projects I included in this bill. I will be glad to defend every one of them. Again, with the transparency we have that came with the new ethics reform bill, all of these have been spread upon the record. We know who asked for them and we know how much money is involved. I am happy to defend every one of the ones I put in there. I should add that many of the projects the Senator wants to eliminate are, in fact, directed to children's health. Let me cite a few examples.

There is congressionally directed funding for St. Francis Hospital in Delaware to expand prenatal maternity and pediatric services to indigents. There is funding for the Youth Crisis Center in Jacksonville, FL to address the serious health consequences facing runaway and homeless youth. There is funding for St. Luke's Regional Medical Center in Boise, ID to expand pediatric services. There is funding for the St. Louis Children's Hospital in St. Louis for neonatal intensive care unit expansion. There is funding for the Mississippi Gulf Coast Children's Health Project which uses mobile units

to provide primary care to indigent children along the gulf coast. There is funding for Child Sight in New Mexico, a vision screening and eyeglass program especially for Native Americans on reservations. There is funding for St. Anthony's Hospital in Oklahoma City for construction of a newborn nursery. All of these would be cut out if the amendment were adopted. They are good provisions, and they will go a long way toward helping children's health in all of these instances.

Again, I don't see this as a serious means of doing anything to help children's health. It is an attack on congressionally directed funding to which the Senator is opposed. As I said, I support congressionally directed funding. I always have. I especially support it now with the new provisions on transparency and accountability as a result of the ethics bill we recently passed.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SPECTER. How much time remains?

The ACTING PRESIDENT pro tempore. The opposition has 4 minutes 50 seconds. The proponents have 6 minutes 50 seconds.

Who yields time?

Mr. HARKIN. I yield to the Senator whatever time he requires.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. I thank the chairman.

Mr. President, the Senator from Iowa, chairman of the subcommittee, has already advanced the substantive argument about our efforts to deal with health care for children. I have supported it with a very solid vote. We will take care of that issue. The President has vetoed the bill, and I and others have signified our willingness to vote to override. It was not overridden in the House. The President has signified his willingness to negotiate. There are some who do not want to negotiate on the congressional side. I believe that is a mistake. If they want to attach political blame to the President if the program should lapse, ultimately, we will have a negotiation because the American people would see through the facade and understand that those who refuse to negotiate are the ones responsible if the program lapses and is terminated. We will take care of congressional and Federal action for children's health.

What the amendment seeks to do is to eliminate earmarks. Earmarks have a specific congressional designation budget-wise and are vitally important projects, such as the dredging of the Delaware in Philadelphia to provide a 45-foot channel which traditionally has been the responsibility of the Federal Government under constitutional provisions on waterways and related matters. It would eliminate flood control, which is vital. It would eliminate many items where there is congressional expertise and understanding.

Take the budget that is on the floor now. It is \$152 billion. We have allo-

cated \$400 million, which is about one-quarter of 1 percent. So 99¾ percent goes to the bureaucrats in the Department of Education, the Department of Health and Human Services, and the Department of Labor. I suggest that is an imbalance. People in the House of Representatives know their districts much better than people sitting downtown in big bureaus in Washington. Senators know their States better than the bureaucrats. I dare say the astute Senator from Oklahoma, the proponent of this amendment, knows what is going on in Oklahoma better than the bureaucrats and would be in a better position to identify projects which are worthwhile. But to limit congressional control to one-quarter of 1 percent is certainly not appropriate, certainly not overbearing. I wouldn't call it de minimis because no dollar amount is de minimis. We understand it is not the Government's money; it is the taxpayers' money.

The Senator from Iowa has made a very fundamental point. In fact, he made a couple of fundamental points; in fact, he has made several fundamental points. One is the transparency. It is all out in the open. We are prepared to debate any move to strike any of the so-called earmarks. Earmarks has become a dirty word. But when you reach a real need somewhere and have an application for Federal funds that a Member of the House or the Senate understands, and in the broader context of one-quarter of 1 percent, I don't think that goes too far to having Members who know their States and know their districts make those allocations.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COBURN. Mr. President, may I inquire as to the remaining time?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes 50 seconds, and the opposition has 23 seconds.

Mr. COBURN. I thank the Chair.

I stand somewhat amused that we are so powerless that the bureaucracy is going to decide where everything goes. Earmarks are not the only way to decide how the budget is put out, and the fact that we use the excuse that we don't have any control, it is called oversight. Last year in the last Congress more oversight hearings were held by myself and TOM CARPER, true oversight hearings, than all the rest of the Senate. The fact is, we don't want to do the hard work of oversight because it is easy to earmark something. But in fact, in dredging, you can hold the Corps of Engineers to a priority list. You can bring them before Congress and say: Why aren't you dredging this? How is this a priority against something else? We don't do the hard work of oversight. That is our problem. Instead, we want to do it the easy way.

I don't deny these are good projects. They are. I am not saying they are not. What I am saying is, what about the long term? What about the fact that a



child born today is inheriting \$400,000 in unfunded liabilities and that earmarks happen to be the tool that allows us to spend more than we should, not directly through the earmarks but by voting for bills that should not be voted on? But because we have an earmark in the bill, we vote for the bill.

We have an unfunded liability right now on Medicare of \$34 billion. We are never going to be trusted to fix that problem when we can't be trusted to have an arm's-length separate allocation and look at what the problems are in front of us in terms of labor, health, and human services.

I don't deny what people want to do in this bill could be prioritized. But the number of requests were 36,000 this year. The fact is, can we get what are priorities for this country if we continue the process of using earmarks?

How about children's health? Yes, we passed a bill. We passed a bill that truly wasn't paid for unless we want 22 million Americans to start smoking. We passed a bill that said: We are going to pay \$4,000 to buy \$2,300 worth of care. We are great stewards when it comes to the American taxpayers' money on this new SCHIP bill. There is no question we are going to get an SCHIP bill. That SCHIP bill is going to truly reflect the needs of the poor people who are not eligible for Medicaid. We are going to put the money there we need to accomplish that. But to confuse that bill with a process which has got us \$9.5 trillion in debt and hung every one of our kids out to dry, that is what this amendment is about. It is the process I am attacking.

I am not attacking individual Senators. I am saying if we are going to get control of the spending, at some point in the future we have to look at the process and how it works. For us to say it is easier for us to earmark than to hold the bureaucracy accountable means we are not doing our job. We can hold the bureaucracies accountable. All we have to do is have an oversight hearing three times a week and make them come up here and explain how they are spending their money. They will start spending on priorities Americans want. We don't have our hands tied behind us just because we don't do earmarks.

The real question America is asking is, are we going to change our ways about real priorities, the real future for our country, or are we going to continue the same old process that has brought us all the corruption we have seen come through the House in the past that leads to conflicts of interest?

We talk about transparency. We gutted the transparency rules as far as appropriations are concerned in this bill and in our ethics bill, because no longer do you say who is getting it or what it is for. You only say where it is going. The very things that are in the House bill in terms of transparency are not available to us in the Senate, so we can't claim transparency. We are going to get transparency in September of

next year when the transparency bill comes about.

Senator HARKIN mentioned that we didn't offer an option. Senator BURR and I both did, the Every American Kid Insured Act. We talked about it on this floor during the debate on the SCHIP bill. There are other ways to do this. Give them all a tax credit. Let them buy the insurance. We have 9 million kids out there uninsured, 3 million more within 1 year. There are ways for us to solve that. But this is not a farce amendment. This is an amendment about a very real problem. Will we have the right priorities when it comes to this country or are we going to send \$42 million to international labor organizations with no accountability whatsoever from the United Nations? That is what we are doing. That is what this bill does. We have another \$400 million worth of earmarks that are not competitively bid and will never be overseen, and you will never see where the money goes. So the question on the amendment is, will we change the process.

It is a serious amendment. We should not be earmarking things until we do our business of taking care of kids' insurance.

With that, I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 23 seconds remaining for the opposition.

Mr. HARKIN. Mr. President, I point out that the Coburn amendment doesn't put 1 cent into helping children's health, not 1 penny. Yet in the bill itself, as I pointed out, there are a number of programs that actually go to help children's health all over this country. The Coburn amendment would eradicate those.

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

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

At the moment there is not a sufficient second.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I do want to give the yeas and nays to the Senator. I was just going to move to table the amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second on the amendment itself?

Mr. HARKIN. Yes.

The ACTING PRESIDENT pro tempore. There appears to be a sufficient second.

The yeas and nays were ordered.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, parliamentary inquiry: As to the unanimous consent request that we agreed to, was it not agreed to that we were going to have votes on these amendments up or down?

Mr. HARKIN. No.

Mr. COBURN. That was not part of the unanimous consent agreement? Fine.

Mr. HARKIN. Mr. President, I say to my friend from Oklahoma, it was on or in relation to. So, yes, ask that again.

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

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered on the amendment itself.

The Senator from Pennsylvania

Mr. SPECTER. Mr. President, on the matter of management, after these votes we will move ahead to take up any other amendments that any Senators wish to offer. We had an understanding to conclude this bill by 12:30 today, and we are anxious to come as close to that time as we can. If Senators want to pursue any other amendments, they ought to consult with the managers immediately or we intend to go to third reading to complete this bill.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. Mr. President, I say to my friend from Pennsylvania, I think we are getting close. With these three votes coming up now, hopefully we are just a few amendments away from completing the bill, and hopefully we will have it done early this afternoon. I had hoped we would have it done by 12:30, but that does not look possible. But we are getting close. I hope when Senators come over to the Chamber we can work out some other amendments that are pending at this time, and perhaps we can get a consent to limit the number of amendments and bring closure to this bill sometime early this afternoon.

AMENDMENT NO. 3437

The ACTING PRESIDENT pro tempore. Under the previous order, the question recurs on the Enzi amendment. There is 2 minutes evenly divided.

The Senator from Wyoming.

Mr. ENZI. Mr. President, again, I would ask that Senators support my amendment to strike what we are talking about, which is an earmark of \$6.2 million for San Francisco and another \$3 million for a few other towns.

We are changing law that we passed less than a year ago under an authorization process. It is much harder to pass an authorization bill than it is an appropriations bill. We should not be changing formulas under an appropriations bill.

The GAO numbers that we said would happen are approximately what has happened. Of the \$9 million, San Francisco gets \$6.2 million. They already get twice as much per HIV/AIDS case as any of the rest of the towns. We put in a hold harmless provision so nobody would lose more than 5 percent of their money. We have been staying by that. We did not guarantee supplemental money. That was done less than a year ago. This is an earmark.

There were waiting lines for people who needed HIV treatment and care. There are no waiting lines today. What we did last year worked. We should not change it under appropriations now.

I ask that you vote for my amendment.

The PRESIDING OFFICER (Mr. CASEY). The Senator's 1 minute has expired.

There is 1 minute in opposition to the amendment.

Who yields time?

Mr. HARKIN. Mr. President, since no one wants to be recognized in opposition, I yield back the time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3437.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "no."

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—65

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Dole	McConnell
Bennett	Domenici	Mikulski
Bingaman	Dorgan	Murkowski
Bond	Durbin	Nelson (FL)
Brown	Ensign	Nelson (NE)
Brownback	Enzi	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Salazar
Cardin	Gregg	Sessions
Carper	Hagel	Shelby
Casey	Harkin	Smith
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Sununu
Coleman	Isakson	Tester
Collins	Kohl	Thune
Conrad	Kyl	Vitter
Corker	Levin	Voivovich
Cornyn	Lincoln	Warner
Craig	Lott	Webb

NAYS—28

Akaka	Kerry	Rockefeller
Baucus	Klobuchar	Sanders
Bayh	Landrieu	Schumer
Boxer	Lautenberg	Snowe
Byrd	Leahy	Specter
Cantwell	Lieberman	Stabenow
Feingold	Menendez	Whitehouse
Feinstein	Murray	Wyden
Inouye	Reed	
Johnson	Reid	

NOT VOTING—7

Biden	Kennedy	Obama
Clinton	McCain	
Dodd	McCaskill	

The amendment (No. 3437) was agreed to.

AMENDMENT NO. 3358

The PRESIDING OFFICER. There are now 2 minutes equally divided on the Coburn amendment.

Who yields time?

Mr. HARKIN. Mr. President, first, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, we now proceed to 2 minutes on the Coburn amendment. After that, then we will have 2 minutes on the DeMint amendment and vote. These will be 10-minute votes as per the prior agreement.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, this is a straightforward amendment. It is an amendment about where our priorities lie. Do they lie in our directed spending or do they lie with the children of this country who aren't covered?

It is a very simple amendment. I know there are things in the bill for children, but the fact is out of the 9.5 million who are uncovered, we have 3.6 million who have not been covered for a year.

So this amendment simply states we are not going to spend any money on the directed spending until the HHS Secretary certifies that we have done our job in terms of taking care of the kids. Whether that is the SCHIP bill, negotiations with the administration or whatever it is, we are not going to spend the money.

Mr. HARKIN. Mr. President, I ask the Senate please be called to order.

The PRESIDING OFFICER. The Senate will come to order.

The senior Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the issue of providing health care for children will be taken care of on the SCHIP bill, which ultimately will be subject to negotiations between the President and the Congress. The allocations on earmarks amount to approximately one-quarter of 1 percent. Ninety-nine and three-quarters percent will go to the bureaucrats in the departments.

Members of the Senate and House have more knowledge about what is going on in their districts and their States, and this is a very modest application for very worthwhile programs. The Senator from Oklahoma conceded in the argument earlier that he is not challenging the worthwhileness of any of these programs. Any of them are subject to attack to be stricken, and they are all defensible.

I ask that the amendment of the Senator from Oklahoma be rejected.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I move to table the Coburn amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—68

Akaka	Grassley	Nelson (NE)
Alexander	Gregg	Pryor
Baucus	Hagel	Reed
Bayh	Harkin	Reid
Bennett	Hatch	Roberts
Bingaman	Hutchison	Rockefeller
Bond	Inouye	Salazar
Boxer	Johnson	Sanders
Brown	Kerry	Schumer
Byrd	Klobuchar	Shelby
Cantwell	Kohl	Smith
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Cochran	Levin	Stevens
Coleman	Lieberman	Sununu
Collins	Lincoln	Tester
Conrad	Lugar	Voivovich
Craig	Menendez	Warner
Domenici	Mikulski	Webb
Dorgan	Murkowski	Whitehouse
Durbin	Murray	Wyden
Feinstein	Nelson (FL)	

NAYS—26

Allard	Crapo	Kyl
Barrasso	DeMint	Lott
Brownback	Dole	Martinez
Bunning	Ensign	McCaskill
Burr	Enzi	McConnell
Chambliss	Feingold	Sessions
Coburn	Graham	Thune
Corker	Inhofe	Vitter
Cornyn	Isakson	

NOT VOTING—6

Biden	Dodd	McCain
Clinton	Kennedy	Obama

The motion was agreed to.

AMENDMENT NO. 3387

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand there will now be 2 minutes prior to the vote on the DeMint amendment, which we already have moved.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. DEMINT. Mr. President, I appreciate my colleagues' attention. I would first like to ask unanimous consent to add Senator ENZI as a cosponsor of my amendment.

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

Mr. DEMINT. Mr. President, I want to make clear to my colleagues that my amendment does not remove any money from this bill for its intended purpose. In fact, the amendment addresses the Workforce Investment Act, money that goes to training and job

placement in several places in the country. My amendment only changes the language from a sole-source non-competitive grant, which we would refer to as a direct earmark, to a competitive grant.

We have all seen that the competitive grant system is a better way to deliver Federal money to specific causes that we support as a Senate because there are criteria, there are standards, and there is accountability. So we are not excluding the AFL-CIO as a provider of the services that we intend, but it opens it for competitive bids. And it is important to realize that the Department of Labor, after judging the performance of the AFL-CIO, has found the performance lacking and has discontinued the contracts.

So please open this for competitive bidding. Please vote no on the motion to table.

The PRESIDING OFFICER. The senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this program has been in operation for decades and has proven to be very effective. A hearing held by the subcommittee back on July 22, 2004, went into some of the detail. The program addresses job training and Job Corps. One program, illustratively, in Philadelphia seeks to give training to young people who are at risk, come from broken families—no father and a working mother. It is directed toward training across the Appalachian Council, States in the Rust Belt, which have been hit very hard by unfair foreign competition, to have training and to have workmanship skills developed.

It has been a successful program, and it ought to be retained. Vote aye to table.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—60

Akaka	Brown	Coleman
Baucus	Byrd	Collins
Bayh	Cantwell	Conrad
Bennett	Cardin	Domenici
Bingaman	Carper	Dorgan
Bond	Casey	Durbin
Boxer	Cochran	Feinstein

Harkin	McCaskill	Sanders
Inouye	Menendez	Schumer
Johnson	Mikulski	Smith
Kerry	Murkowski	Snowe
Klobuchar	Murray	Specter
Kohl	Nelson (FL)	Stabenow
Landrieu	Nelson (NE)	Stevens
Lautenberg	Pryor	Tester
Leahy	Reed	Voinovich
Levin	Reid	Warner
Lieberman	Roberts	Webb
Lincoln	Rockefeller	Whitehouse
Martinez	Salazar	Wyden

NAYS—34

Alexander	DeMint	Isakson
Allard	Dole	Kyl
Barraso	Ensign	Lott
Brownback	Enzi	Lugar
Bunning	Feingold	McConnell
Burr	Graham	Sessions
Chambliss	Grassley	Shelby
Coburn	Gregg	Sununu
Corker	Hagel	Thune
Cornyn	Hatch	Vitter
Craig	Hutchison	
Crapo	Inhofe	

NOT VOTING—6

Biden	Dodd	McCain
Clinton	Kennedy	Obama

The motion was agreed to.

Mr. KERRY. Mr. President, I ask unanimous consent the order be delayed so the manager can propose a unanimous consent so that I can offer an amendment.

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

The Senator from Iowa is recognized.

AMENDMENTS NOS. 3351, AS MODIFIED; 3376, AS MODIFIED; 3397, 3401, 3430, 3436, 3418, AND 3388 EN BLOC

Mr. HARKIN. Mr. President, if the Senator from Massachusetts will withhold for a second, I have two modifications I send to the desk, a modification of amendment No. 3351, a Smith amendment, and amendment No. 3376. I have two modifications I send to the desk.

The PRESIDING OFFICER. Without objection, the amendments are so modified.

Mr. HARKIN. Mr. President, I call up amendments No. 3351, as modified; 3376, as modified; 3397, by Senator LAUTENBERG; 3401, by Senator CARDIN; amendment No. 3430, by Senator FEINGOLD; amendment No. 3436, by Senator HATCH; amendment No. 3418, by Senator LIEBERMAN; and amendment No. 3388, by Senator DEMINT. These have all been agreed to. I ask for their immediate consideration en bloc.

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

Without objection, the amendments will be considered en bloc.

If there is no further debate, the amendments are agreed to without objection, en bloc.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 3351, AS MODIFIED

At the end of title II, add the following:

SEC. \_\_\_\_\_. (a) The amount made available under the heading "AGING SERVICES PROGRAMS" under the heading "ADMINISTRATION ON AGING" in this title shall be increased by \$10,000,000 of which—

(1) \$5,000,000 shall be used to carry out part B of title III of the Older Americans Act of 1965 (42 U.S.C. 3030d) for fiscal year 2008 (for supportive services and senior centers to allow area agencies on aging to account for projected growth in the population of older individuals, and inflation);

(2) \$2,000,000 shall be used to carry out part C of title III of such Act (42 U.S.C. 3030d-21 et seq.) for fiscal year 2008 (for congregate and home-delivered nutrition services to help account for increased gas and food costs); and

(3) \$3,000,000 shall be used to carry out part E of title III of such Act (42 U.S.C. 3030s et seq.) for fiscal year 2008 (for the National Family Caregiver Support Program to fund the program at the level authorized for that program under that Act (42 U.S.C. 3001 et seq.)).

(b)(1) The 3 amounts described in paragraph (2) shall be reduced on a pro rata basis, to achieve a total reduction of \$10,000,000.

(2) The amounts referred to in paragraph (1) are—

(A) the amount made available under the heading "SALARIES AND EXPENSES" under the heading "DEPARTMENTAL MANAGEMENT" in title I, for administration or travel expenses;

(B) the amount made available under the heading "GENERAL DEPARTMENTAL MANAGEMENT" under the heading "OFFICE OF THE SECRETARY" in this title, for administration or travel expenses; and

(C) the amount made available under the heading "PROGRAM ADMINISTRATION" under the heading "DEPARTMENTAL MANAGEMENT" in title III, for administration or travel expenses.

At the appropriate place in title II, insert the following:

SEC. \_\_\_\_\_. (a) Notwithstanding any other provision of this Act, there shall be made available under this Act a total of \$7,500,000 for the National Violent Death Reporting System within the Centers for Disease Control and Prevention.

(b) Amounts made available under this Act for travel and administrative expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$7,500,000.

AMENDMENT 3397

(Purpose: To require the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, to submit a report to the Committee on Appropriations of the Senate on workers' compensation set-asides under the Medicare secondary payer set-aside provisions under title XVIII of the Social Security Act)

At the appropriate place in title II, insert the following:

SEC. \_\_\_\_\_. (a) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives on workers' compensation set-asides under the Medicare secondary payer set-aside provisions under title XVIII of the Social Security Act.

(b) The report described in subsection (a) shall contain the following information:

(1) The number of workers' compensation set-aside determination requests that have been pending for more than 60 days from the date of the initial submission for a workers' compensation set-aside determination.

(2) The average amount of time taken between the date of the initial submission for a workers' compensation set-aside determination request and the date of the final determination by the Centers for Medicare & Medicaid Services.

(3) The breakout of conditional payments recovered when workers' compensation is the primary payer separate from the amounts in Workers' Compensation Medicare Set-aside Accounts (in this section referred to as "WCMSAs").

(4) The aggregate amounts allocated in WCMSAs and disbursements from WCMSAs for fiscal year 2005 and fiscal year 2006.

(5) The number of conditional payment requests pending with regard to WCMSAs after 60 days from the date of the submission of the request.

(6) The number of WCMSAs that do not receive a determination based on the initial complete submission.

(7) Any other information determined appropriate by the Congressional Budget Office in order to determine the baseline revenue and expenditures associated with such workers' compensation set-asides.

AMENDMENT NO. 3401

(Purpose: To express the sense of the Senate that the Secretary of Health and Human Services should maintain "deemed status" coverage under the Medicare program for clinical trials that are federally funded or reviewed as provided for by the Executive Memorandum of June 2000)

On the appropriate place, insert the following:

SEC. \_\_\_\_ . It is the sense of the Senate that the Secretary of Health and Human Services should maintain "deemed status" coverage under the Medicare program for clinical trials that are federally funded or reviewed, as provided for by the Executive Memorandum of June 2000.

AMENDMENT NO. 3430

(Purpose: To require the Comptroller General of the United States to submit a report to Congress on student preparation techniques for standards-based assessments)

At the end of title III, add the following:  
SEC. \_\_\_\_ . (a) Not later than May 31, 2009, the Comptroller General of the United States shall submit a report to Congress on student preparation techniques to meet State academic achievement standards and achieve on State academic assessments.

(b) The report required under subsection (a) shall include a compilation of data collected from surveying a representative sample of schools across the Nation to determine the range of techniques that schools are using in order to prepare students to meet State academic achievement standards and achieve on State academic assessments, including the extent to which schools have—

- (1) extended the school day;
- (2) hired curriculum specialists to train teachers or work with individual students or small groups of students;
- (3) de-emphasized academic subjects of which State academic achievement standards and assessments are not required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);
- (4) used commercial test preparation material;
- (5) provided increased professional development for teachers;
- (6) targeted low-performing students for specialized instruction or tutoring;
- (7) instituted formative or benchmark exams;
- (8) distributed old exam questions to teachers and students and focused instruction on these old exam questions;
- (9) increased instructional time on tested subjects; or
- (10) used any other techniques to prepare students to meet State academic achievement standards and achieve on State academic assessments.

(c) The data collected pursuant to this section shall be reported—

- (1) as data for all schools; and
- (2) as data disaggregated by—
  - (A) high-poverty schools;
  - (B) low-poverty schools;
  - (C) schools with a student enrollment consisting of a majority of minority students;
  - (D) schools with a student enrollment consisting of a majority of non-minority students;
  - (E) urban schools;
  - (F) suburban schools;
  - (G) rural schools; and
  - (H) schools identified as in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316).

(d) The representative sample described in subsection (b) shall be designed in such a manner as to provide valid, reliable, and accurate information as well as sufficient sample sizes for each type of school described in subsection (c).

AMENDMENT NO. 3436

(Purpose: To assess the impact of education funding in western States with a high proportion of public lands)

At the appropriate place, insert the following:

"Provided further, That the Secretary of Education shall assess the impact on education felt by students in States with a high proportion of Federal land compared to students in non-public land States. The study shall consider current student teacher ratios, trends in student teacher ratios, the proportion of property tax dedicated to education in each State, and the impact of these and other factors on education in public land States. The Secretary shall submit the report not later than 1 year after the date of the enactment of this Act."

AMENDMENT NO. 3418

(Purpose: To prohibit the use of funds to close a field office of the Social Security Administration before submission of a report justifying the closure)

At the appropriate place, insert the following:

SEC. \_\_\_\_ . None of the funds appropriated or otherwise made available in this Act or any other Act making appropriations to the agencies funded by this Act may be used to close or otherwise cease to operate the field office of the Social Security Administration located in Bristol, Connecticut, before the date on which the Commissioner of Social Security submits to the appropriate committees of Congress a comprehensive and detailed report outlining and justifying the process for selecting field offices to be closed. Such report shall include—

- (1) a thorough analysis of the criteria used for selecting field offices for closure and how the Commissioner of Social Security analyzes and considers factors relating to transportation and communication burdens faced by elderly and disabled citizens as a result of field office closures, including the extent to which elderly citizens have access to, and competence with, online services; and
- (2) for each field office proposed to be closed during fiscal year 2007 or 2008, including the office located in Bristol, Connecticut, a thorough cost-benefit analysis for each such closure that takes into account—
  - (A) the savings anticipated as a result of the closure;
  - (B) the anticipated burdens placed on elderly and disabled citizens; and
  - (C) any costs associated with replacement services and provisional contact stations.

AMENDMENT NO. 3388

(Purpose: To prohibit the use of funds by cities that provide safe havens to illegal drug users)

At the appropriate place, insert the following:

SEC. \_\_\_\_ . Notwithstanding any other provision of this Act, none of the funds appropriated in this Act may be allocated, directed, or otherwise made available to cities that provide safe haven to illegal drug users through the use of illegal drug injection facilities.

AMENDMENTS NOS. 3350 AND 3446 WITHDRAWN

Mr. HARKIN. Mr. President, regarding amendment No. 3350 by Senator LAUTENBERG and No. 3446 by Senator LANDRIEU, I ask unanimous consent they both be withdrawn.

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

The Senator from Massachusetts is recognized.

AMENDMENT NO. 3398 TO AMENDMENT NO. 3325

Mr. KERRY. Mr. President, I know we want to and need to break for recess in a moment so I will not be very long at all. I call up amendment No. 3398. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 3398.

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

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

The amendment is as follows:

AMENDMENT NO. 3398

(Purpose: To provide funding for the Fire Fighter Fatality Investigation and Prevention Program)

At the appropriate place in title I, insert the following:

SEC. \_\_\_\_ . To enable the National Institute for Occupational Safety and Health to carry out the Fire Fighter Fatality Investigation and Prevention Program, \$5,000,000, which shall include any other amounts made available under this Act for such Program. Amounts made available under this Act for travel expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$2,500,000.

Mr. KERRY. Mr. President, in February of this year, I sent a letter to the inspector general for the Department of Health and Human Services regarding a report from the Centers for Disease Control that actually blocked an investigation into the death of six firefighters whose personal safety equipment had failed them between 1998 and the year 2000. In the response to me, the inspector general reported that funding of the current funds that exist in the Firefighter Fatality Investigation and Prevention Fund within the National Institutes of Occupational Health and Safety is flat. Their resources are such that they have had to

pick and choose where they can conduct those kinds of investigations.

Every year, about 100 firefighters die in the line of duty in America and about 87,000 are injured. This fund is an investigative fund that helps find ways in which we can protect firefighter lives—whether there is a certain kind of equipment that might have made a difference or a certain procedure that might have made a difference. Obviously, for those fire stations, fire houses with the losses or those that face a future risk, to know we are selectively choosing where we investigate and where we do not does not do the job. We need to investigate all of those fatalities, and we need to do everything possible to provide our firefighters the procedures and equipment necessary to save lives.

This funding will add an additional \$2.5 million to that investigative fund and allow us to complete our responsibility to those courageous firefighters across the country.

I ask unanimous consent a letter from the International Association of Fire Fighters and the International Association of Fire Chiefs be printed in the RECORD.

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

October 18, 2007.

Hon. JOHN F. KERRY  
304 Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR KERRY: On behalf of the International Association of Fire Chiefs, representing nearly 13,000 chief fire and emergency officers, and the International Association of Fire Fighters, representing more than 280,000 professional fire fighters and emergency medical personnel, we are writing to express our strong support for your amendment to the FY 2008 Labor, Health and Human Services, Education and Related Agencies Appropriations Act providing \$5 million for the Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) of the National Institute for Occupational Safety and Health (NIOSH).

Of the 1.1 million fire fighters who selflessly serve their communities and their country, approximately 100 die on the job each year. Additionally, the National Fire Protection Association estimates that 80,100 fire fighter injuries occurred in the line of duty in 2005 alone. The FFFIPP is instrumental in discovering the primary factors contributing to fire fighter deaths and recommending ways to prevent future deaths and injuries.

Since its inception in 1998, the FFFIPP—in cooperation with fire departments and fire fighters around the country—has conducted over 300 fatality investigations. The findings and recommendations of these investigations have led to increased awareness of fire fighter safety and health hazards, and led to numerous cooperative efforts among and between the fire service and NIOSH to improve fire fighter safety and health.

Despite such successes, fatality investigations are not as common nor as comprehensive as they should be. According to a recent report by the inspector general of the Department of Health and Human Services, such shortcomings are caused, in part, by a lack of resources.

Congress clearly intended for NIOSH to thoroughly investigate every fire fighter

line-of-duty death. By doubling the funding allocated for the FFFIPP in FY 2007, your amendment will allow NIOSH to better fulfill its Congressional mandate and help prevent fire fighter injuries and deaths.

Thank you for your leadership in protecting the health and safety of our Nation's first responders. We look forward to continue working with you to prevent future deaths and injuries among fire fighters.

Sincerely,  
CHIEF STEVEN P. WESTERMANN, CFO,  
President, International Association  
of Fire Chiefs.

HAROLD A. SCHAITBERGER,  
General President, International  
Association of Fire Fighters.

Mr. KERRY. I think both sides have now agreed to this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HARKIN. Mr. President, can we withhold for a second? The amendment by the Senator from Massachusetts is accepted on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 3398) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KERRY. I thank the Chair and the distinguished manager.

#### RECESS

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

Thereupon, the Senate, at 12:41 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2008—Continued

The PRESIDING OFFICER. In my capacity as a Senator from the State of Delaware, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative 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.

Mrs. FEINSTEIN. I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

#### CALIFORNIA WILDFIRES

Mrs. FEINSTEIN. Mr. President, I wanted to take a few minutes to do what Senator BOXER did yesterday, which is essentially to update the Senate on the catastrophic fires in California. I offer these words on behalf of Senator BOXER and myself.

Today there are 14 fires, big fires, burning in California. The bulk of them

are uncontained and out of control. The containment factor is very small. More than half a million people have been told to evacuate their homes. More than 309,000 acres have been destroyed by fire, over 400 miles, from north of Los Angeles to San Diego and now across the Mexican border, and more, we fear, will be destroyed.

The deaths, fortunately, today are limited to one, with 34 injured throughout southern California, some of them firefighters. High wind and high temperatures persist. A red flag warning is in effect for the California coast from Monterey to the Mexican border. More than 1,000 homes have been destroyed; 11,500 are now threatened. Today more than 100 commercial buildings have been destroyed, and 2,000 are threatened; 52 outbuildings have been destroyed and 550 are threatened.

Health warnings have been issued because of smoke and particulate matter. As you know, these fires are driven by hurricane and gale-force Santa Ana winds, which are hot and contrary to the prevailing westerly flow, east to west. They are fueled by bone-dry brush from years of drought and virtually no humidity. Humidity is below 10 percent.

Fires are raging still in Malibu, at Lake Arrowhead in Irvine and Santa Clarita. The Arrowhead area is particularly dangerous because there are half a million acres of pine-beetle infested dead trees waiting to go up.

Of course, they are raging in San Diego County, which is bearing the brunt of two major fires which well could join. Already, the 300,000 people in San Diego County alone have been told to evacuate. More than 10,000 of them are now taking refuge in Qualcomm Stadium, home to the San Diego Chargers. These people will be there for 48 to 72 more hours and possibly more.

Sanitary supplies are going to become a problem. It is going to be a real effort to get food and water to these evacuees and the hundreds of thousands of people displaced around southern California.

Both Senator BOXER and I spoke to the Governor, and he has declared a seven-county disaster area. Yesterday the President declared southern California a disaster area to be able to speed the Federal Emergency Management Agency's relief, which is critical.

This is going to be a real test of FEMA. We are going to learn whether FEMA actually learned from the hurricane in New Orleans, a test of whether FEMA has gotten its act together post-Katrina.

FEMA must act quickly and urgently to get help to California. The State is going to need cots; it is going to need blankets; it is going to need water, food, and, most importantly, those sanitary facilities that are needed for the people who are camping out today, sleeping in cars, located in schools, or in Qualcomm Stadium.