

Mr. REID. I now withdraw the motion to proceed to S. 3186.

The PRESIDING OFFICER. The motion is withdrawn.

ADVANCING AMERICA'S PRIORITIES ACT—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 894, S. 3297. With that, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 894, S. 3297, the Advancing America's Priorities Act.

Harry Reid, Jon Tester, Carl Levin, Christopher J. Dodd, Maria Cantwell, Benjamin L. Cardin, Daniel K. Inouye, Hillary Rodham Clinton, Kent Conrad, Bernard Sanders, Patty Murray, Debbie Stabenow, Ron Wyden, Patrick J. Leahy, Max Baucus, Dianne Feinstein, Richard Durbin, Robert Menendez, Sherrod Brown.

Mr. REID. Mr. President, pursuant to rule XLIV of the Standing Rules of the Senate, I hereby certify that, to the best of my knowledge and belief based upon information provided to me by the committees of jurisdiction, S. 3297 does not contain any congressionally directed spending item, limited tax benefit, or limited tariff benefit, as those terms are defined in rule XLIV.

There are no tax or tariff provisions in the bill whatsoever. Nor do I believe the bill contains any "congressionally directed spending items" which rule XLIV defines as "a provision or report language included primarily at the request of a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process."

To clear up any misconceptions, the bill provides only authorizations—enactment of the bills would have no effect on the Federal budget deficit or debt. As the nonpartisan CBO stated in a letter regarding S. 3297, "By themselves—that is, in the absence of subsequent legislation—those authorizations [in S. 3297] do not cause changes in Federal spending or revenues." I wish to ask that a copy of this and a related CBO letter be printed in the RECORD.

As a formal matter, no provision of S. 3297 could qualify as a congressionally directed spending item under rule XLIV because no provision was added

"primarily at the request of a Senator." S. 3297 is a compilation of bills identified by my staff as meeting the following criteria: No. 1. the other Chamber has approved companion legislation; No. 2. the Senate committee of jurisdiction supports the bill, e.g., by approving it in Committee, by assenting to a "hotline," et cetera; No. 3. the bill has broad bipartisan support, and No. 4. to the best of our knowledge the only impediment to enacting the bill was the obstruction of a single Member of the Senate. Bills were included in the package because they met these criteria, not "primarily at the request of a Senator." That is, with one exception noted below, if a bill satisfied these criteria, it was included in the package regardless of whether a Senator requested its inclusion, and if it did not satisfy these criteria, it was not included regardless of whether a Senator requested its inclusion.

The only item in the package that does not meet all of these criteria is the Prenatally and Postnatally Diagnosed Conditions Awareness Act, S. 1810, introduced by Senator BROWNBACK and cosponsored by Senator KENNEDY, because it has not yet been passed by the House. Senator BROWNBACK requested inclusion of the provision in the package, Senator KENNEDY supported the bill, and it apparently has broad bipartisan support. No provision of that act could be considered a congressionally directed spending item, limited tax benefit, or limited tariff benefit.

But because the spirit of transparency underlying rule XLIV is not served by such a formal approach, my staff asked the committees of jurisdiction to identify any item that might be considered a congressionally directed spending item in the respective bills as considered by committee. Each committee indicated that it did not believe any item included in S. 3297 within its respective jurisdiction meets the definition of a congressionally directed spending item.

The Advancing America's Priorities Act includes many important bills, including the following: a bill to promote research into and better care for those suffering from Lou Gehrig's disease; a bill to promote research into and better care for Americans suffering paralysis, a healthcare problem all too prevalent among our brave veterans; a bill to promote research into and better care for individuals who suffer strokes; a bill to promote research into and awareness of postpartum depression; several bills to protect children from exploitation and to crack down on child pornography; several bills to reauthorize successful U.S. foreign policy programs; a bill to promote the safety of families enjoying America's beaches; a bill to help increase the availability of broadband throughout the United States; several bills to improve our understanding of the oceans; and a bill to promote investments in mitigating risks before a disaster strikes, saving

the Federal and State governments money in the long run.

To avoid specious arguments that distract from the substance of these important bills, and in the interest of the broadest possible transparency, I provide here information about each of the items that even might be alleged to be a congressionally directed spending item.

One subtitle in the bill, title VI, subtitle A, authorizes \$1.5 billion in funding for capital investments and preventive maintenance projects for the Washington Metropolitan Area Transit Authority, an authority established pursuant to a compact provided for under Federal law. Over 40 percent of the Washington Metro ridership consists of Federal employees. The Government relies upon Metro for transporting the millions of tourists who visit the Nation's Capital each year, for special events, and for evacuation planning. Since the Metro was first built, the Federal Government has made capital investments in the Metro on three separate occasions: 1969, 1980, and 1990. Apparently, a Republican Senator is claiming this subtitle constitutes an "earmark." Assuming that the term "earmark" is intended to be synonymous with "congressionally directed spending item," this claim appears to be inaccurate. Under this theory of what constitutes a "congressionally directed spending item," nearly every authorization or appropriation relating to an entity within the government of Washington, DC, would be considered an earmark. The House did not consider the legislation to contain an earmark under equivalent House rules. Senators MIKULSKI, WARNER, CARDIN, and WEBB sent a letter supporting inclusion of this provision in the package. It was included because it satisfied the criteria noted above.

Another item in the bill, title VII, authorizes \$12 million for the Smithsonian Institution to construct a greenhouse facility at its museum support facility in Suitland, MD. The lease on the greenhouse currently used by the Smithsonian Institution expires next May. If the Smithsonian Institution does not obtain a new greenhouse facility, it will have to find a way to dispose of the scientifically important National Orchid Collection, over 11,000 orchids, many of which are extinct or threatened in the wild. Further, the greenhouse is important to the historic gardens surrounding the Smithsonian Museums. The provision would not appear to meet the definition of a congressionally directed spending item in any event because it is a House-originated item, the House committee noted that the legislation was requested by the Smithsonian Institution—the authorization is directed to a Federal trust instrumentality, and money appropriated under the provision would be spent under a competitive bidding process. The House committee of jurisdiction stated that it was unclear whether the provision met the definition of a "congressional earmark"

under equivalent House rules. Senators DODD and LEAHY expressed their support for including the provision in the package. It was included because it satisfied the criteria noted above.

One bill in the package—title V, subtitle B, part II, subpart B—authorizes funding for the National Oceanic and Atmospheric Administration, NOAA, to advance undersea technology through the National Institute for Undersea Science and Technology. This technology supports NOAA's Undersea Research Program's, NURP's, regional centers. The National Institute for Undersea Science and Technology was established in 2002 at the University of Mississippi—Oxford, MS—and the University of Southern Mississippi—Stennis Space Center, MS—in partnership with NURP's. The National Technology Institute and undersea regional centers undergo periodic external review. According to the best information available to me, funds under the provision would be administered through a competitive award process, and therefore this provision would not appear to constitute a congressionally directed spending item. A similar provision in a House companion bill was not treated as an earmark under equivalent House rules. According to the best information available to me, Senator COCHRAN requested inclusion of the provision in the original committee-passed bill. The part of the bill in which the provision is located was not included in the package at the request of a Senator; it was included because it satisfied the criteria noted above.

Finally, another item in the bill authorizes \$5 million in funding for the Museum of the History of Polish Jews, Title IV, subtitle F. This provision would not appear to meet the Rule XLIV definition of "congressionally directed spending item" as it is a House-originated item, there is no indication that the House treated it as containing an earmark under equivalent House rules, and it is clear that support for the provision is based on widespread agreement with the policy underlying it, not parochial interests—the House bill passed the House of Representatives by a vote of 407 to 13. The provision was not included at the request of a Senator; it was included because it satisfied the criteria noted above.

Mr. President, I ask unanimous consent to have the two letters to which I referred printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2008.

Hon. HARRY REID,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: The Congressional Budget Office has reviewed S. 3297, a bill to advance America's priorities, as introduced on July 22, 2008. The bill includes numerous provisions that would affect health care, criminal statutes, laws to protect wildlife and the environment, international aid programs, efforts to promote commerce, ocean research, and other government programs.

Most of the bill's provisions would specifically or implicitly authorize increased appropriations for purposes specified in the bill. By themselves—that is, in the absence of subsequent legislation—those authorizations do not cause changes in federal spending or revenues.

Although CBO has not completed a comprehensive review of S. 3297, we have previously prepared cost estimates for numerous pieces of legislation that are similar or identical to most of the major provisions in this bill. Based on those previous estimates and on a preliminary review of S. 3297, CBO estimates that, in total, the bill would authorize the appropriation of approximately \$10 billion over the 2009–2013 period. CBO estimates that, if those sums are appropriated in future legislation, implementing the bill would cost about \$8 billion over the 2009–2013 period.

Some provisions of S. 3297 would establish new federal crimes. Because those prosecuted and convicted under S. 3297 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the relatively small number of cases affected.

S. 3297 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would impose a private-sector mandate on certain entities that handle nonhuman primates, but CBO expects that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted for inflation).

If you wish any further details, we will be pleased to provide them. The CBO staff contact is Kim Cawley.

Sincerely,

PETER R. ORSZAG,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2008.

Hon. KENT CONRAD,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to the questions you posed on July 17, 2008, about the impact on the federal budget from enacting legislation that authorizes future appropriations but does not affect direct spending or revenues. Consequently, this letter does not address legislation that would permit agencies to incur obligations in advance of appropriations (for example, legislation providing new contract authority).

Question #1: Does an authorization of future appropriations provide the authority for federal programs or agencies to incur obligations and make payments from the Treasury?

Answer: No. A simple authorization of appropriations does not provide an agency with the authority to incur obligations or make payments from the Treasury.

Question #2: Can an agency or program spend money without the authority from Congress to incur obligations and make payments from the Treasury?

Answer: No. An agency is not allowed to spend money without the proper authority from Congress to incur obligations. (See 31 U.S.C. §1341, which outlines limitations on expending and obligating funds by officers and employees of the United States Government.)

Question #3: Even if legislation authorizes appropriations for a program, isn't it the case that a subsequent act of Congress is re-

quired before an agency can spend money pursuant to the authorization?

Answer: Yes. For discretionary programs created through an authorization, the authority to incur obligations is usually provided in a subsequent appropriations act. An agency must have such an appropriation before it can incur obligations. (Legislation other than appropriation acts that provides such authority is shown as increasing direct spending.)

Question #4: If no new spending can occur under the authorizing legislation, does it have the effect of increasing the federal deficit and/or reducing the federal surplus?

Answer: No. An authorization of appropriations, by itself, does not increase federal deficits or decrease surpluses. However, any subsequent appropriation to fund the authorized activity would affect the federal budget.

Question #5: Would CBO's projection of federal debt change as a result of enacting legislation that only authorizes future appropriations? Is it not correct that the agency's projection of future debt would be identical both before and after the enactment of such legislation?

Answer: Enacting legislation that only authorizes future appropriations would not result in an increase in CBO's projection of federal debt under its baseline assumptions.

I hope this information is useful to you.

Sincerely,

PETER R. ORSZAG,
Director.

Mr. WEBB. Mr. President, I do not believe that the provisions of title VI, subtitle A of S. 3297 corresponding to the National Capital Transportation Amendments Act constitute a "congressionally directed spending item." However, out of an abundance of caution and after discussions with the Senate Select Committee on Ethics, and pursuant to my best of understanding of Senate rule XLIV, I certify that neither I nor my immediate family has a pecuniary interest in the provisions of title VI, subtitle A of S. 3297, consistent with the requirements of paragraph 9 of rule XLIV of the Standing Rules of the Senate.

Mr. CARDIN. Mr. President, I do not believe that the provisions of title VI, subtitle A of S. 3297, corresponding to the National Capital Transportation Amendments Act of 2007, constitute a "congressionally directed spending item," but out of an abundance of caution, I certify that neither I nor my immediate family has a pecuniary interest in the provisions of title VI, subtitle A of S. 3297, consistent with the requirements of paragraph 9 of rule XLIV of the Standing Rules of the Senate.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Advancing America's Priorities Act. I do not believe that the provisions of title VI, subtitle A of this bill, corresponding to the National Capital Transportation Amendments Act, constitute a "congressionally directed spending item," but out of an abundance of caution, I certify that neither I nor my immediate family has a pecuniary interest

in the provisions of title VI, subtitle A of this bill, consistent with the requirements of paragraph 9 of rule XLIV of the Standing Rules of the Senate.

Mr. LEAHY. Mr. President, I do not believe that the provisions of title VII of the Advancing America's Priorities Act, S. 3297, constitute a "congressionally directed spending item," as defined by Public Law 110-81, but out of an abundance of caution I certify that neither I nor my immediate family has a pecuniary interest in the provisions of title VII of S. 3297, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Mr. DODD. Mr. President, I rise today to thank the majority leader, Senator REID, for including in S. 3297, the Advancing America's Priorities Act, an important initiative to support the horticulture operations of the Smithsonian Institution. Without this needed support, the Smithsonian Institution would not be able to maintain or continue the same level of horticulture services it currently provides.

I additionally want to thank Senator FEINSTEIN, chair of the Senate Committee on Rules and Administration, for her support of this important initiative. I would also like to note the support for this effort of Senators LEAHY and COCHRAN and thank them for their work to preserve the Smithsonian's many valuable contributions.

I do not believe that the provisions of title VII of S. 3297 constitute a "congressionally directed spending item," but out of an abundance of caution I certify that neither I nor my immediate family has a pecuniary interest in the provisions of title VII of S. 3297, consistent with the requirements of paragraph 9 of rule XLIV of the Standing Rules of the Senate.

Mr. President, I urge my colleagues to support this important and needed initiative to support the horticulture operations of the Smithsonian Institution.

UNANIMOUS-CONSENT REQUEST— S. 294

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on S. 294, the Passenger Rail Investment Improvement Act; further, that the Senate disagree to the House amendment, agree to the request for a conference on the disagreeing votes of the two Houses, and the Chair be authorized to authorize conferees on the part of the Senate with a ratio 4 to 3.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. REID. Mr. President, there are a number of individuals who want to speak. I ask consent that the following be the order of the Chair: that Senator BROWN be recognized for 10 minutes, Senator CANTWELL for 1 minute—Senators BROWN and CANTWELL for 1 minute and Senator ENZI for 1 minute. How many minutes is that?

Where I made my mistake is Senator CANTWELL needs 4 minutes. So Senator BROWN, 10 minutes; Senator CANTWELL, 4 minutes; Senator ENZI, 1 minute; Senator CARPER, 1 minute; and then the Senator from Alaska would be given 30 minutes to distribute however she feels appropriate. This is all as in morning business.

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

The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, would the Presiding Officer let me know when I have 1 minute left, please?

The PRESIDING OFFICER. The Senator will be notified.

LIHEAP

Mr. BROWN. Mr. President, with gas prices soaring, the effects are being felt all across my State of Ohio. In the last year and a half, I have held 110 roundtables, talking to people in 75 of Ohio's 88 counties, listening to what they are telling me about gas prices and about other challenges: food prices, the cost of energy to heat their homes—all of those. School districts in Appalachia are contemplating going to 4-day school weeks just to cut down on the amount of gas the buses will use. The bicycle police academy in Columbus is being forced to turn applicants away, as community after community is looking to put police on bicycles in order to keep fuel costs down. Police and fire departments across Ohio are struggling to keep community services going while facing crippling gas prices. Our truckers, our farmers, and our businesses are struggling and are often forced to raise the prices of their goods and services.

This price increase is devastating to our poorest populations, who, come winter, will be facing a double whammy: trying to pay for gasoline to get to work and for either natural gas or heating oil to heat their homes. We are deep into this energy crisis, and while Americans are currently most affected at the pump, we cannot forget that winter is around the corner. Fuel prices are still on the rise. We have witnessed a nearly 40 percent rise in heating oil already this year. That means Americans are going to need all the relief they can get this winter.

When pocketbooks are drained to pay heating bills, families are forced too often to make very difficult decisions. It is money families can use to put food on the table, pay for transportation, buy winter coats or other necessities

for their children. That is why we have LIHEAP, which we just voted on and which, on basically a party-line vote, Republicans oppose. The LIHEAP program is geared toward preventing families from facing this heat-or-eat dilemma. But despite its success, current funding levels do not meet its demands. That is why LIHEAP is so crucial. It would assist the elderly, assist moderately low-income families, and other low-income individuals who already experience financial strain as their wages remain stagnant but they have higher gas prices to get to work, higher food prices, and now, when winter comes, higher prices to heat their homes. The lack of funds to invest in solutions with upfront costs and long-term savings keeps too many low-income individuals in poverty.

An increase in LIHEAP funding would also increase the Weatherization Assistance Program, which prevents families from wasting energy while also providing good-paying jobs.

In Marietta, a few weeks ago, I met a crew of four young men who were learning a skill and assisting the elderly. They were paid \$12, \$13 an hour, fixing up homes, weatherizing them, cutting energy bills for the elderly, for low-income elderly residents of Washington County. They were saving on energy for all of us as energy prices keep going up, and they were learning this trade and making a difference for all of us.

Given current energy strains and current financial strains Americans have already experienced, the time for Congress to act on LIHEAP is now, before Americans get left out in the cold.

HOUSING

Mr. BROWN. Mr. President, I thank the majority leader for bringing the housing bill to the Senate today. It was met in the past by a filibuster, but the good work of Chairman DODD and Ranking Member SHELBY and the majority leader means we finally have housing legislation that will matter to Ohioans and matter to Americans. In Ohio's Morgan County, for instance, a small rural county in southeast Ohio, foreclosures were up 60 percent over last year, and the year, obviously, is only half over. More than 200 families in my State lose their homes every day.

This housing legislation will make a difference in helping people stay in their homes. It will help communities deal with the costs they bear in fixing up abandoned homes, sometimes knocking down those homes because homes that are blighted homes in any community cause the value of homes in the neighborhood owned by people who are paying and keeping up, keeping their houses looking good and paying their mortgages—their homes decline in value because of the foreclosures in their neighborhoods.

This legislation, in addition to all the other things it does, provides help