

to have that done by the end of the fiscal year, which is in a couple days. Because we have not passed a single appropriations bill, we have to roll up everything all into one giant bill and either take it or leave it. It is called the continuing resolution. It continues to fund the Government, in this case, for another roughly 6 months. There is no opportunity to amend it. It is a take-it-or-leave-it proposition, and it is wrong. Because what happens is that bills that could not possibly pass on their own are added to this must-pass legislation, putting us in this absolute difficult political bind. The Hobson's choice: If you vote for it, you are saying yes to a broken system, to over 2,000 earmarks, to \$34 billion in spending that is added to the national debt above and beyond the budgeted amount that otherwise is necessary to run the Government. So there is the pressure to vote for that. Yet there is no way for us to take each of these items out and say we would have voted to amend them out of the bill if we would have had a chance to do so, except to oppose the entire legislation.

Let me give you some illustrations of this. Because this is done on a take-it-or-leave-it basis, I would have to vote against a bill which, first of all, funds the Department of Defense, which I want to fund, and the homeland security and military construction efforts. It funds border enforcement, which is important for my State of Arizona, and, importantly, it removes the moratorium on offshore drilling, which is a policy Republicans have pushed very hard to achieve. So those are good things in the bill that I wish to register my support for.

But am I forced to take all the other things in order to register my support for these things? Here is what we are asked to swallow. According to the House Budget Committee, there are 2,627 congressional earmarks. They total \$16-plus billion. Now, my colleague, JOHN MCCAIN, has made it clear that if and when he is elected President, this process is going to stop. But Senator SESSIONS and I wish to make the point that it should stop now. We do not need one last orgy of earmarks before the reformers come to town and say: It is stopped. I am going to veto the legislation.

Now, what of these earmarks? Well, there are some very good projects, I suspect. Here is one, for example: \$23 million for biomedical research at a particular State university. Now, one of the best biomedical research facilities is in the State of Arizona in Phoenix. I would love to have them be able to bid on that \$23 million research grant. They would have a good chance of getting it because they are good. They do great work there. Why does this particular State university get the money instead?

There is a \$2 million study of animal hibernation. Now, there may well be some scientific reason to understand why animals—I mean, I think I know

why they sleep over the winter, but there has to be something about that that is important to some scientists. But do we need to add that to the national debt or could it compete with other kinds of projects? That is the problem with this kind of bill: the take it or leave it.

What you would like to do is establish priorities and say: All right, maybe an animal hibernation study is a good thing, but is it so important we need to add it to the national debt? That is the question—no debate, no amendment, take it or leave it.

There is \$44 million for a drug center for the military that it says it does not need, but it is important for a particular Member's district. Once again, prioritize. Some of these things may be good, but how about if you had them compete with other good things and the best ones are funded and the ones that are not so good do not get added to the national debt?

There is a huge amount of money in here for the so-called CDBG disaster funds. Now, these are Community Development Block Grants, ordinarily considered to be long-term projects. In fact, this CDBG funding is to provide assistance for long-term rebuilding of communities, not emergency recovery. We have emergency recovery money in here for various emergencies or disasters, and I do not object to that funding. But why do we need to put in an emergency supplemental that is not paid for but is added to the Federal debt? This long-term spending money, it should not be in here.

There is a total of \$34 billion, as I said, in this unfunded emergency spending, about \$16 billion, as I said, in earmarks. Another one of the elements is about \$7.5 billion for the so-called auto bailout loans. There is money to our big auto companies. Now, it may be that you think our big auto companies need a little help from us taxpayers. I am not sure that is true. One of the reasons they say they need help is that the Government has put so many new obligations on them for fuel efficiency standards and other things that they need to retool in order to pay for them. Maybe we should not have put those obligations on them in the first place.

But, in any event, there is something eerily familiar about this loan. Do you remember in our financial market problem we are working on over this weekend, part of the issue is the fact that a lot of loans were issued to people with almost no payments due for several years. Low interest or no interest or no principal has to be paid, and then all of a sudden people find out after 5 years they have a big balloon payment they have to make and they cannot afford it. So you come in and foreclose on the home. People criticized the mortgage brokers who enticed them into those kinds of loans.

Guess what kind of a loan this is for the auto companies. No principal, no interest for 5 years. What happens after 5 years? They are going to be back in

here saying: Thank you for the \$25 billion that we have not had to pay interest or principal on. We are going to have a hard time to pay that principal and interest now. Could you give us another hand?

We are criticizing these folks who sold mortgages to people who could not afford them by having these no-interest and no-principal payments. Yet that is exactly what we are doing with these auto companies right now. Oh, they are happy to have the money, I know.

Then, we have \$2.8 billion in emergency funds for LIHEAP. That is above the regular appropriation, which is about twice again as much. So it is over \$5 billion. My colleague from Alabama said, there is one little problem with this other than the fact it is a huge amount of money and not paid for, it is also very unfair. We come from States that are more in the South and in the West, and it is not a matter of stifling hot summers. The reality is the fuel oil to fuel heat in the winter is a whole lot cheaper than the electricity bill in Phoenix, AZ, or Yuma, AZ, in the middle of the summer, and people die from situations that arise from the fact that they cannot air-condition their home. However, with all this, Arizona gets a little less than 1 percent of the funding under the formula. Now, the Governor of Arizona, a Democrat, Governor Janet Napolitano, and I have both written letters to our colleagues, Democrats and Republicans, saying this is not fair. Phoenix is the fifth-largest city in the country. Arizona is a big State now, and it gets very hot throughout the summer months, and electricity bills are too high for a lot of people to afford. However, 1 percent is enough.

Let me conclude by saying, as I said in the beginning, it is with great reluctance that we oppose a continuing resolution such as this. But there are so many things I have discussed, and more which I could, that require I register an objection and for which I am required to vote no.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I have business to bring before the Senate, and I understand this will not count against my time. May I ask the Presiding Officer?

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

Ms. LANDRIEU. I thank the Chair.

#### JUDICIAL ADMINISTRATION AND TECHNICAL AMENDMENTS ACT OF 2008

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3569, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (S. 3569) to make improvements in the operation and administration of the Federal courts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, today the Senate has passed the Judicial Administration and Technical Amendments Act of 2008, a bill to provide important assistance to the men and women who comprise our Federal judiciary system. I am pleased the Senate has given its unanimous support to this important legislation.

I thank Senators SCHUMER and SESSIONS for moving this bill through the Senate. Four years ago, a similar bipartisan measure I introduced never moved out of Committee in a Republican Congress. I am glad that, in a Democratic Congress, the bill we pass today has not suffered a similar fate. I hope the House of Representatives will promptly consider this bipartisan measure, and the President will sign it into law.

This bill is intended to improve the administration and efficiency of our Federal court system by replacing antiquated processes and bureaucratic hurdles with the necessary tools for the 21st century. Those who honorably serve on our Federal judiciary do not deserve to experience unnecessary bureaucratic delays in fulfilling their constitutional duties. Their dedication to defend our Constitution, and deliver justice in a neutral and unbiased manner, ought to be met by an equal commitment from Congress to provide the tools for them to fulfill their critical duties as effectively and efficiently as possible.

The legislation we pass today contains technical and substantive proposals carried over from previous Congresses. It also contains additional proposals that the Federal judiciary believes will improve its operations and allow it to continue to serve as a bulwark protecting our individual rights and liberties.

First, the provisions in the bill facilitate and update judicial operations. For example, the bill would authorize realignments in the place of holding court in specified district courts. It also would remove a "public drawing" requirement for the selection of names for jury wheels, which is now a function performed more efficiently by computers. These provisions would add convenience to the men and women—who as lawyers, litigants, and jurors—appear before our Federal courts.

Second, the bill contains provisions that would improve judicial resource management and strengthen the constitutional protection of Americans' right to serve on juries. The bill would make a juror eligible to receive a \$10 supplemental fee after 10 days of trial service instead of 30 days. Juries serve to vindicate the rights of all Americans, including the poor, the powerless, and the marginalized. I am glad this

bill takes steps to ensure that economic hardship will not be an obstacle to an individual performing his or her duty to serve on a jury. Equally important, the bill takes important steps to ensure that no American will be threatened or intimidated from exercising their right to serve on a jury.

Third, in the area of criminal justice, numerous provisions in the bill would also clarify existing law to better fulfill Congress's original intent or to make technical corrections. In particular, I am glad the bill would explicitly authorize the Director of Administrative Office to provide goods and services to pretrial defendants and clarify similar authority recently made available for postconviction offenders through the Second Chance Act of 2007. Under current law, there is no explicit statutory authority to provide for services on behalf of offenders who do not suffer from substance abuse problems or psychiatric disorders. This provision would fill in that gap by providing services to pretrial defendants to ensure their appearance at trial.

I am also pleased that the bill contains a provision, similar to the JUDGES Act that I cosponsored in 2003, that would reverse the troubling and ill-conceived provisions in the so-called Republican Feeney Amendment that limited the number of Federal judges who can serve on the Sentencing Commission. Our Federal judges are experts on sentencing policy, and I am glad this restoration has been included.

I thank the organizations that have supported this bill. I am especially grateful to the Administrative Office of the Courts who, on behalf of the Judicial Conference, sent us policy recommendations from the Federal judiciary. Many of those recommendations are included in this bill, and I commend them for working so hard to enact this measure.

Our independent judiciary is the envy of the world. Yet in these changing times and circumstances, the judiciary needs improvements to increase its efficiency and administrative operations. With passage of this bill, the Senate has taken an important step to ensure that the Federal judiciary has the tools to keep up with the changes and challenges of the 21st century.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 3569) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3569

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Judicial Administration and Technical Amendments Act of 2008".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Change in composition of divisions of western district of Tennessee.
- Sec. 3. Supplemental attendance fee for petit jurors serving on lengthy trials.
- Sec. 4. Authority of district courts as to a jury summons.
- Sec. 5. Public drawing specifications for jury wheels.
- Sec. 6. Assessment of court technology costs.
- Sec. 7. Repeal of obsolete provision in the bankruptcy code relating to certain dollar amounts.
- Sec. 8. Investment of court registry funds.
- Sec. 9. Magistrate judge participation at circuit conferences.
- Sec. 10. Selection of chief pretrial services officers.
- Sec. 11. Attorney case compensation maximum amounts.
- Sec. 12. Expanded delegation authority for reviewing Criminal Justice Act vouchers in excess of case compensation maximums.
- Sec. 13. Repeal of obsolete cross-references to the Narcotic Addict Rehabilitation Act.
- Sec. 14. Conditions of probation and supervised release.
- Sec. 15. Contracting for services for pretrial defendants and post-conviction supervision offenders.
- Sec. 16. Judge members of U.S. Sentencing Commission.
- Sec. 17. Penalty for failure to appear for jury summons.
- Sec. 18. Place of holding court for the District of Minnesota.
- Sec. 19. Penalty for employers who retaliate against employees serving on jury duty.

#### SEC. 2. CHANGE IN COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

- (1) in paragraph (1)—
  - (A) by inserting "Dyer," after "Decatur,"; and
  - (B) in the last sentence by inserting "and Dyersburg" after "Jackson"; and
- (2) in paragraph (2)—
  - (A) by striking "Dyer,"; and
  - (B) in the second sentence, by striking "and Dyersburg".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—The amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the United States District Court for the Western District of Tennessee on the effective date of this section.

#### SEC. 3. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

(a) IN GENERAL.—Section 1871(b)(2) of title 28, United States Code, is amended by striking "thirty" in each place it occurs and inserting "ten".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009.

**SEC. 4. AUTHORITY OF DISTRICT COURTS AS TO A JURY SUMMONS.**

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

- (1) by striking “shall” and inserting “may”; and
- (2) by striking “his”.

**SEC. 5. PUBLIC DRAWING SPECIFICATIONS FOR JURY WHEELS.**

(a) **DRAWING OF NAMES FROM JURY WHEEL.**—Section 1864(a) of title 28, United States Code, is amended—

- (1) in the first sentence, by striking “publicly”; and
- (2) by inserting “The clerk or jury commission shall post a general notice for public review in the clerk’s office and on the court’s website explaining the process by which names are periodically and randomly drawn.” after the first sentence.

(b) **SELECTION AND SUMMONING OF JURY PANELS.**—Section 1866(a) of title 28, United States Code, is amended—

- (1) in the second sentence, by striking “publicly”; and
- (2) by inserting “The clerk or jury commission shall post a general notice for public review in the clerk’s office and on the court’s website explaining the process by which names are periodically and randomly drawn.” after the second sentence.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 1869 of title 28, United States Code, is amended—

- (1) in subsection (j), by adding “and” at the end;
- (2) by striking subsection (k); and
- (3) by redesignating subsection (l) as subsection (k).

**SEC. 6. ASSESSMENT OF COURT TECHNOLOGY COSTS.**

Section 1920 of title 28, United States Code, is amended—

- (1) in paragraph (2), by striking “of the court reporter for all or any part of the stenographic transcript” and inserting “for printed or electronically recorded transcripts”; and
- (2) in paragraph (4), by striking “copies of papers” and inserting “the costs of making copies of any materials where the copies are”.

**SEC. 7. REPEAL OF OBSOLETE PROVISION IN THE BANKRUPTCY CODE RELATING TO CERTAIN DOLLAR AMOUNTS.**

Section 104 of title 11, United States Code, is amended—

- (1) by striking subsection (a);
- (2) by redesignating subsection (b)(1) as subsection (a) and subparagraphs (A) and (B) of that subsection as paragraphs (1) and (2), respectively;
- (3) by redesignating subsection (b)(2) as subsection (b);
- (4) by redesignating subsection (b)(3) as subsection (c); and
- (5) in subsection (c) (as redesignated by paragraph (4) of this section), by striking “paragraph (1)” and inserting “subsection (a)”.

**SEC. 8. INVESTMENT OF COURT REGISTRY FUNDS.**

(a) **IN GENERAL.**—Chapter 129 of title 28, United States Code, is amended by inserting after section 2044 the following:

**“§ 2045. Investment of court registry funds**

“(a) The Director of the Administrative Office of the United States Courts, or the Director’s designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director’s designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on out-

standing marketable obligations of the United States of comparable maturity.

“(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).”

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end the following:

“2045. Investment of court registry funds.”

**SEC. 9. MAGISTRATE JUDGE PARTICIPATION AT CIRCUIT CONFERENCES.**

Section 333 of title 28, United States Code, is amended in the first sentence by inserting “magistrate,” after “district.”

**SEC. 10. SELECTION OF CHIEF PRETRIAL SERVICES OFFICERS.**

Section 3152 of title 18, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer appointed by the district court. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3602 of this title.”

**SEC. 11. ATTORNEY CASE COMPENSATION MAXIMUM AMOUNTS.**

Section 3006A(d)(2) of title 18, United States Code, is amended by adding “The compensation maximum amounts provided in this paragraph shall increase simultaneously by the same percentage, rounded to the nearest multiple of \$100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant to paragraph (1) for time expended since the case maximum amounts were last adjusted.” at the end.

**SEC. 12. EXPANDED DELEGATION AUTHORITY FOR REVIEWING CRIMINAL JUSTICE ACT VOUCHERS IN EXCESS OF CASE COMPENSATION MAXIMUMS.**

(a) **WAIVING MAXIMUM AMOUNTS.**—Section 3006A(d)(3) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

(b) **SERVICES OTHER THAN COUNSEL.**—Section 3006A(e)(3) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

(c) **COUNSEL FOR FINANCIALLY UNABLE DEFENDANTS.**—Section 3599(g)(2) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

**SEC. 13. REPEAL OF OBSOLETE CROSS-REFERENCES TO THE NARCOTIC ADDICT REHABILITATION ACT.**

Section 3161(h) of title 18, United States Code, is amended—

- (1) in paragraph (1)—
  - (A) by striking subparagraphs (B) and (C); and
  - (B) by redesignating subparagraphs (D) through (J) as subparagraphs (B) through (H), respectively;
- (2) by striking paragraph (5); and
- (3) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

**SEC. 14. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.**

(a) **CONDITIONS OF PROBATION.**—Section 3563(a)(2) of title 18, United States Code, is amended by striking “(b)(2), (b)(3), or (b)(13),” and inserting “(b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or”.

(b) **SUPERVISED RELEASE AFTER IMPRISONMENT.**—Section 3583(d) of title 18, United States Code, is amended by striking “section 3563(b)(1)” and all that follows through “appropriate.” and inserting “section 3563(b) and any other condition it considers to be

appropriate, provided, however that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with section 3583(e)(2) and only when facilities are available.”

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 3563(b)(10) of title 18, United States Code, is amended by inserting “or supervised release” after “probation”.

**SEC. 15. CONTRACTING FOR SERVICES FOR PRETRIAL DEFENDANTS AND POST-CONVICTION SUPERVISION OFFENDERS.**

(a) **PRETRIAL SERVICE FUNCTIONS.**—Section 3154(4) of title 18, United States Code, is amended by inserting “, and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guidance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required” before the period.

(b) **DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—Section 3672 of title 18, United States Code, is amended in the seventh undesignated paragraph—

- (1) in the third sentence, by striking “negotiate and award such contracts” and inserting “negotiate and award contracts identified in this paragraph”; and
- (2) in the fourth sentence, by inserting “to expend funds or” after “He shall also have the authority”.

**SEC. 16. JUDGE MEMBERS OF U.S. SENTENCING COMMISSION.**

Section 991(a) of title 28, United States Code, is amended in the third sentence by striking “Not more than” and inserting “At least”.

**SEC. 17. PENALTY FOR FAILURE TO APPEAR FOR JURY SUMMONS.**

(a) **SECTION 1864 SUMMONS.**—Section 1864(b) of title 28, United States Code, is amended by striking “\$100 or imprisoned not more than three days, or both.” each place it appears and inserting “\$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.”

(b) **SECTION 1866 SUMMONS.**—Section 1866(g) of title 28, United States Code, is amended by striking “\$100 or imprisoned not more than three days, or both.” and inserting “\$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.”

**SEC. 18. PLACE OF HOLDING COURT FOR THE DISTRICT OF MINNESOTA.**

Section 103(6) of title 28, United States Code, is amended in the second sentence by inserting “and Bemidji” before the period.

**SEC. 19. PENALTY FOR EMPLOYERS WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY.**

Section 1875(b)(3) of title 28, United States Code, is amended by striking “\$1,000 for each violation as to each employee.” and inserting “\$5,000 for each violation as to each employee, and may be ordered to perform community service.”

**AUTHORIZING FUNDING FOR THE NATIONAL CRIME VICTIM LAW INSTITUTE**

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3641, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.